FAREWELL TO A CHAMPION

Contributed by Ken Randall, Midland County

On Friday, January 6, 2012, our friend, colleague, and RAM co-founder, Jon Ferrier passed away unexpectedly at the age of 60. A gifted person, Jon was an interesting mix of hippie, humorist, and wise professor. Most of all, he was a good friend.

In a legal field full of bright people that includes attorneys, judges, court administrators, and referees, Jon always stood out as the person with answers and special insight on difficult issues. Bill Camden, Jon’s former boss and Director of the Kent County Friend of the Court, called Jon “the smartest person I have ever known.” Jon’s impressive gift of memory persuaded him to appear on the TV show Jeopardy. (Somewhere in the RAM archives we have a tape.)

Equal to his intellect was Jon’s commitment to public service. He served on many boards of directors, and as president of both RAM and the State Bar Family Law Section. Jon was a perennial speaker at conferences throughout Michigan (including I.C.L.E. and the Michigan Judicial Institute) and even across the nation. He served as a Kent County family court referee for twenty-six years before he retired from that position in 2007. He was named an honorary Lifetime Member of the Friend of the Court Association as well as a Lifetime Honorary RAM Member. Jon served on innumerable State committees throughout his career and, in turn, helped improve Michigan’s Court Rules, Child Support Formula, legislation, and judicial ethics. An eloquent and prolific writer, Jon authored many articles for various publications including the Referees Quarterly.

Above all, Jon was a champion of the underdog. He al-
ways examined the status quo, and questioned if there was not a better way to do things that would benefit the ordinary person. A strong advocate for plain English and for access to justice, Jon created the Domestic Relations Education Program series in Kent County. He also served on the board of directors for the Legal Assistance Center in Grand Rapids.

In 2006, Jon received the State Bar’s prestigious Champion of Justice Award, the highest honor ever bestowed upon a referee by the State Bar. Jon accepted the award with his wife and best friend, Kayne Ferrier, by his side.

After turning in his referee robe, Jon worked a brief stint in private practice with Rhodes McKee PC in Grand Rapids. Eventually he retired for good in March 2011. Thereafter, he enjoyed reading, listening to music (Jon played bass in a band in his younger years), and birding. He shared with me in the summer of 2011 that he and Kayne were taking lessons on bird identification, and that he was getting better at identifying “LBJs” (little brown jobbies).

Jon’s wit, kind heart, and laughter will be missed by all who knew him. Jon would have been successful at whatever occupation he had chosen. We are all lucky that he chose to become a referee. He is survived by his wife, Kayne, and his daughter, Valerie.

This article undoubtedly is best concluded by Jon himself. The following quotation is from his January 10, 2007 listserv email to all “referees and refereoos,” as he sometimes called us.

My Esteemed Colleagues:

I will be deployed as a 17th Circuit Court Referee (Family Division) for the last time on January 19. From 3 to 5 that afternoon, in the Jury Assembly Room, 1st Floor, Kent County Courthouse, 180 Ottawa, NW, Grand Rapids, I will toe the mark and take my medicine!

Anyone who has been waiting to use that banana cream pie at just such an occasion is welcome to step up and pitch one at me.

It’s been a pleasure working with all of you in RAM. Hell, it’s been a good part of why I was able to suck it up and endure the past 10 years. If I don’t descend into madness shortly (too late?), I’ll send back bulletins from the Great Beyond of retirement, in hopes you avoid my mistakes. From “the Beast that shouted love at the heart of the world”: love to all and good luck. But remember - you have to be willing to shake hands with good luck.

Already gone, feeling stoned,
Jon
BYE-BYE... SO LONG, FAREWELL!

Contributed by Jon Ferrier | Re-printed from Referees Quarterly Volume IX, Issue 4

Fans of President Eisenhower’s valedictory address wherein he warned of the rise of the military-industrial complex will be disappointed if they harbored hope of finding such eloquence in this, my official Ta-ta to the Referees I have known and loved and to the Referees Association of Michigan, which I helped create. Those readers seeking new material are also apt to be somewhat let down since, in many ways, I’ve been singing the same song all my career. Should anyone still be reading at this point, I press on in gratitude for your faith, hope and charity.

On August 13, 1981, President Reagan signed the Consolidated Omnibus Budget Reconciliation Act into law at the “Western Whitehouse.” That Act reduced funding for Legal Aid (where I was working at the time), and also made child and spousal support arrearages non-dischargeable in bankruptcy, among its many provisions. I’ll never forget the photo of the President and his pals, sitting outside in a thick fog, signing the bill that would provide the springboard for my career as a Referee.

When I became a Referee, I was initially deployed to hear “welfare show causes.” These were domestic relations cases where payers of support had arrearages that were assigned to the State due to children’s receipt of public assistance. In those ancient days, only the payer of support was notified of the hearing (speeding things up considerably!), and the payer’s only option normally was to bring money, or bring his toothbrush.

Over the years, the scope of my Referee work expanded gradually. Doug Dok and I would conduct “support reviews” in his office, where a payer of child support (payee again not notified) would be invited in to see if Dok and I could cajole the poor sap into coughing up a few more bucks in child support. An additional $5-$10 per week was considered success. $15 extra per week was a coup!

Next, the Prosecutor’s office starting bringing their child support hearings before us, and with the Coming of Camden in 1985, Referees in Kent County started resembling little phony-baloney Judges more and more.

[Continued on Page 4]
In 1997, I participated in the planning of the Family Division of the 17th Circuit Court. Referees in these parts had been boasting for years about how we were doing so much of the Court’s work that they decided to make us regret our words by having us do even more such work (one’s reward in life for a job well done is often more of the job to do).

So our Referees started hearing pro confesso divorces, PPO termination motions, property and spousal support issues, on a regular basis. In 2004, with 6 Family Division Judges to pair up with 6 Family Division Referees, the Referees became fully “fungible,” meaning that all Referees heard all cases within the jurisdiction of the Family Division – no more “Juvenile Court” and “Domestic Relations” Referees: just “Circuit Court Referees,” reflecting our expanded jurisdiction.

About 10 years ago, I began thinking I was beginning to understand how to be a Referee. It involved development (finally!) of skill like being able to look a litigant directly in the eye, no matter what they were saying or how they were saying it; remembering to separate my own, stupid problems from those of the folks coming before me, to avoid taking out my internal pique on them; realizing that even though I still believed I knew more than anyone else in the room, there was no point in acting like it (and besides, you’ll be dismayed to know that it’s occasionally not true!) In short, it involved gaining a lot of experience in the law, learning about human nature, growing up a bit (again, finally!), and discovering an unexpected compassion for the families forced to come to me for decisions.

Around 5 years ago, when I could see that I would not forever be able to hold back the expansion of my personal work into the Children’s Law field (delinquency, child protection, etc.), I started planning to retire. I had noticed, over the years, that many people who retire seemed to die within a very short time after they stopped working. We had three women in a short span at the old FOC office who died within a year after they retired. Most frightening of all, our former County Controller (now called “Administrator”) retired after 28 years of faithful County public service, and he was fishing a stream in Colorado one month after he retired when he was struck by a bolt of lightning and killed. Happy Retirement!!

I decided that I would attempt to cheat death by acting like I was retired be-
before I actually put my papers in to wind up the career. I thought that way, at least I would enjoy a few good years before the Grim Reaper came to visit. Those who know me have therefore had to suffer through my Hippie Renaissance, when I grew my hair for a couple of years before finally cutting it off in June of 2005 and giving it to Locks for Love (and thereby keeping my marriage going for a bit longer!) You’ve had to suffer through my insufferable, overweening ego splashed with the gallons of ink the Quarterly’s editors have been kind enough to let me spew. You’ve had to swallow my cynicism, sarcasm and hypocrisy as blathered at countless MJI, ICLE and other seminars over the years, and I can only now say: I’m sure I’ve been a trial, and I’m sorry for all the noise I have made, and will continue to make.

But here’s the thing: Do this, what I am doing, if you can. Get out while you’re still young, because tramps like us, baby we were born to run!

Seriously, consider this take on life: it consists of three parts. 1. Childhood and education; 2. Work and family-building; 3. Adulthood. Why should part 3 last any less long than parts 1 and 2? When I ended part 1, I had no clear idea of what would happen in part 2, any more than I do now of what will happen in part 3, but I know this: My “plan” is to strive to be the only thing I’ve ever wanted to be: a free human being. I was lucky enough to have attended St. John’s College in Annapolis, where that’s the goal: making free human beings. I’m slowly approaching that ideal.

This year, the State Bar honored me by naming me one of its Champions of Justice. As you may know, Ken Randall had nominated me for both the Frank J. Kelley Distinguished Public Service Award, and the Champ. The Bar picked Judge Doug Hillman and G.R. City Attorney Phil Balkema for the Kelley Award, but decided I was a Champ.

I felt surprisingly burdened by the selection. I mean, what better title could any lawyer possibly hope for than to be called a Champion of Justice? Beats “Distinguished Public Servant” all to hell, as far as I’m concerned. The problem is, if you take the time to review some of the past winners of the Champ, you’ll see that I was astoundingly inducted into their company for some mysterious reasons – certainly not because my career can compare with Soapy Williams’s, Carole Chiamp’s, Judge Damon Keith’s, or so many others who have been honored with the award over the past 20 years. The way I felt, if I started thinking that I actually deserved the
the award, then I probably didn’t.

My bent of mind led me to wonder, if I’m a Champion of Justice, who’d I beat to gain the title? Who was the Challenger of Justice? And then it hit me: Justice has many challengers; it needs its many Champions. And to bring back (and hopefully keep in your head all day) the teachings of Freddie Mercury and Queen to all of you: WE ARE THE CHAMPIONS! People like you and me who spend our days in doing what Justice actually is: constantly pursuing it. I’ll try it again, hopefully less obscurely: Justice is the never-ending pursuit of itself.

We do it for any number of reasons. One of my favorites is that this work has never been boring, not once, for more than 25 years – not many lines of work can provide that perk for their practitioners. We do it because we’re idealists. We do it because we have healthy egos, and we think we know what we’re doing. But mostly I believe we do it because we are True Believers. We think that the peaceful resolution of disputes is a crown jewel of the USA system of government. We think lots of process is due, and we try to provide it. We know that it’s not the public’s fault that our laws and rules and policies drive them crazy, and we take that into account when discounting their rude behavior. In short, we do it because we’re not bad people, really, and we’ve been given a tremendous opportunity to form our lives and careers into Forces of Light.

Like Keith Moon and Frank Sinatra, I hope I die before I get old (Keith made it, Frank’s another story). And if I do, it’s OK, because I’ve had a hell of a life, a hell of a career, and it’s largely because people like you, Dear Reader, have made it possible. You’ve given me a lot of slack, a lot of affection, a lot of support, a lot of just plain Love over the years, and I am so grateful, I can’t express it any better than this.

I retire now from the Field of Honor, bloodied, lame, out-of-breath, but still kicking and ready to become an Adult.

I’ll be waiting for you, just a little ahead. Come visit me at the Che Guevara Institute of Continuing Philosophy up on Bass Lake in Pierson. We’ll look out at the green herons and pileated woodpeckers together and realize that life is beautiful, and we have lived it well.

My Friends, My Fellow Referees: Thanks for everything. My heart has always soared, like the eagle, in your esteemed company. Be seeing you.
Art and poetry are not words we usually associate with juveniles locked up in detention centers. However, during the months of September, October and November of 2011, art and poetry flourished within the walls of the Genesee Valley Regional Center, a residential detention center in Flint which houses youth ages 10-17 who have been court-ordered into secure detention. For twelve weeks, artists and poet members of the Buckham Fine Arts Project, an artist run co-operative gallery in downtown Flint, conducted twice weekly Visual Art and Spoken Word Poetry workshops at the detention center, in a three month pilot project funded by the Ruth Mott Foundation’s Share Art Flint Program. The project concluded on December 2, 2011 with an exhibit and reception at Buckham Gallery, and the publication of a book highlighting the work created during the Spoken Word Poetry workshops.

Studies have shown that arts based programming in juvenile detention settings can be an effective tool in the effort to rehabilitate and reintegrate youth who have come into contact with the juvenile justice system. Specifically, it has been shown that arts programming decreases the anger, depression and anxiety of detained youth while increasing the impulse control, emotional expression, coping and social skills and compliance with rules in these same youth. Through the use of expressive arts, such as poetry and visual art, youth are able to have enjoyable positive creative experiences that enable them to build a more positive self-image and pro social identity.

The pilot project was designed so that each of GVRC’s three housing wings received 4 weeks of Visual Art and Spoken Word Poetry programming. Two 90 minute Visual Art workshops were held each Tuesday evening; while two 90 minute Spoken Word Poetry workshops, were held each Wednesday evening. In the Visual Art workshops, painter Todd Onweller used artistic concepts and skill building to both increase personal awareness and enhance positive social interaction amongst the youth. The workshops in each wing culminated with the creation of a mural in which the participants learned to work cooperatively, while still expressing their own individual creativity. In the Spoken Word Poetry workshops, Dr. Traci Currie and James Thigpen, Jr. challenged the participants to explore their own feelings and helped enable them to use language as a means of self-expression and of communication. By the final
The writing of the youth reflected the harsh realities of their lives and the losses they have suffered:

I was born in a small town called Flint, Where boys hustle and mothers struggle to pay rent. Man it’s real where I live, kids having kids OG’s coming home from doing the lil bid, they got the block hot now people getting knock now, It used to be fight and get knocked down,

No it’s run up with chapp you get shot now, used to be 10 or 15 now it’s to you rot now, it used to be a couple murders it’s been a lot now, where I’m from it’s man up child you gotta stop now, man it’s like people don’t feel How I feel, they don’t live where I live, they don’t know in 810 either it’s kill or be killed.

Missing 6-8-09 R.I.P When you left I was only 7. Why did you have to leave? When I asked God to pray for I didn’t mean take you away. I miss you!! And you left this hole empty. How do I find the Right one to fill that hole? I look and look but don’t find I know As you watch me look, you say, "I hope you find. "I’m missing you Please come back. My mom misses you. Everyone is missing that Lovely smile that everyone loves so much, that soldier that fought For our freedom. ILY Daddy.

One young woman, who had been detained 7 times over the past year, began the 6 page story of her life with:

“What lies behind these eyes. Born fighting for my freedom, and I’ll die fighting for my life”
“I will be a change. Rearrange this life to one better— one that doesn’t cause myself and others strife. Learn from mistakes— Erase the hate. I’m the change— I WILL CHANGE! I control nobody but myself. No one has faith in me, but I will have faith. I will make it through. This is my life I can handle it. This isn’t the end. Just the beginning.”

And hopefully, this is not the end and “just the beginning” for the Share Art Program at GVRC. Organizers are currently seeking funding for a continuation and expansion of the program. Future plans include gender specific programming for the girls in the detention center and an After-Care program aimed at youth who have been discharged from detention and are on probation.

For further information about the Share Art Program contact Shelley Spivack at sspivack@umflint.edu.

Photo: Art produced during the "Share Art" Program.
The issue, as to whether the trial court during the initial custody hearing was required to determine an established custodial setting and apply the Change of Domicile factors under MCL 722.31, was addressed in Kessler v. Kessler __Mich App_ (2011) #302492 12/6/11. At the initial custody hearing, in a case where the parties resided together pending the divorce and initial custody determination, plaintiff requested custody and permission to move to Florida. During the hearing, the trial court, noting that neither party had custody, then addressed the best interests factors and awarded defendant primary custody using a 'preponderance of evidence' as the standard of proof. The plaintiff appealed. The Court of Appeals held that the trial court was not required to address the request to change domicile and apply the factors in MCL 772.31 at the initial custody hearing as the requirement to address those factors does not arise until after a custody order is in effect. The Court of Appeals did reverse, however, stating that the trial court failed to make specific factual findings and determine whether there was an established custodial environment during the initial custody determination. If an established custodial setting exists at the initial custody proceeding, the party requesting a change of that environment must establish, by 'clear and convincing evidence,' that the requested change is in the best interests of the child.

The presumption that a child born during a marriage is the child of the husband was applied in a unique manner in People v. Zajaczkowski __Mich App_ (2011) #295240 7/26/11. Defendant was convicted of 1st Degree CSC. The victim, who was his 15 year old half-sister, was the daughter of his legal father. If the victim had not been related to the defendant, the maximum charge would have been 3rd degree CSC. Despite the fact that prior to trial genetic testing had indicated that his 'legal' father was not his 'genetic' father, defendant's parents' divorce judgment referred to defendant as "the minor child of the parties". The Court of Appeals, holding that the strong presumption of the legitimacy of a child born during a marriage "was not overcome by proper parties with clear and convincing evidence in a court of competent jurisdiction," affirmed defendant’s conviction, noting that the defendant did not have legal standing to collaterally challenge his own paternity.

While the U.S. Supreme Court has addressed payer’s right to counsel in child support contempt cases, the Michigan Supreme Court is considering whether the elimination of the defense of inability to pay in felony non-support cases is unconstitutional. The U.S. Supreme Court in Turner v. Rogers, __US__ (2011) Docket [Continued on Page 11]
No. 10-10 6/20/11 held that the 14th Amendment does not require the trial court to provide counsel to an indigent support payer in a child support contempt proceeding, even if that individual faces incarceration, if the custodial parent is not represented by counsel and the State provides alternative procedural safeguards to the payer. However, the court must, in the alternative: give adequate notice that the ability to pay support is a critical issue in a child support contempt proceeding; use a form or equivalent to obtain relevant financial information from the payer; allow the payer an opportunity to respond to statements and questions about his or her financial status; and make express findings that the payer had the ability to pay support. Michigan court rules and statutes do not currently require such alternative requirements, although some courts may be considering their own local procedural safeguards.

While ability to pay was cited as the key issue when considering contempt pursuant to Turner, a criminal defendant in Michigan facing several years in prison for non-payment of support under MCL 750.165 is precluded from raising inability to pay as a defense, People v Adams 262 Mich App 89 (2004). The Michigan Supreme Court is considering the constitutionality of the elimination of the inability to pay defense in felony non-support cases. Three consolidated cases were argued October 6, 2011. In People v Likine _Mich App_(2010) #290218 lv granted _Mich_(2010) # 141154 11/30/10, Ms. Likine was ordered to pay $1131 month child support based on imputation of $5,000 month income; she has been drawing $603 month Social Security Disability since January 2006, and her support has since been modified based on her mental health disabilities. The payer in People v Parks Unpub Mich Ct App # 291011 lv granted Sup Ct  #141181 is a rural doctor who claims he was improperly imputed with the income of an urban physician in a group practice and that he is unable to pay the $761 per week support that was ordered. The payer in People v Harris Unpub Mich Ct App # 297182 lv granted Sup Ct  #141513 is a welder who claims degenerative disc disease and problems with drugs and alcohol have limited his ability to work.(These same impairments were the basis of unsuccessful SSD claims.) It is unknown when the Supreme Court will issue its opinion.

Although unpublished, of particular interest to Referees is Forty-Fourth Circuit Court v Ingham County Employees Ass’n/Public Employees Representative As-
sociation Unpub Mich Ct App #299447 11/1/11. The Michigan Employment Relations Commission (MERC) had held that Friend of the Court and Juvenile Court Referees could petition for a representation election under MCL 423.201 et seq, the Public Employees Relations Act (PERA), despite contrary prior rulings. The Court of Appeals reversed the MERC decision in the unpublished opinion, finding that FOC and Juvenile Referees are not covered under PERA because they have quasi-judicial functions.

Domestic Relations: Proposed Court Rules  Contributed by Ed Messing

MCR 3.204 Proposed amendment would eliminate the requirement to file a supplemental complaint regarding custody, parenting time, and/or support proceeding in a prior action involving the same parents, and instead require either a motion in the same proceeding, or a new complaint in the same county if a motion is not appropriate and there is jurisdiction to proceed in that county. Whenever possible all actions involving the children of the same parties should be administered together and consolidated. ADM File No. 2006-04, comments due 4/1/12.

MCR 3.210 Proposed amendment would adopt the Michigan Judges’ Association proposal for Defaults in Domestic Relations proceedings. ADM File No. 2010-32, comments due 4/1/11

MCR 3.220 Proposed amendment would require the Court to impose deadlines on an arbitrator for presentment of a Judgment or Order. The deadline may only be extended by court order. If the parties fail to submit a Judgment or order pursuant to the arbitration award by the deadline, the arbitrator must prepare and file the same within 14 days after the deadline or be subject to possible sanctions unless delay was caused by the parties. The court may assess sanctions on a party who causes delay. The arbitrator may issue an interim award which automatically becomes an order unless a party motions to correct errors or omissions within 14 days after the award, and an interim award automatically becomes an order upon the arbitrator’s denial of a proper and timely motion. The arbitrator is responsible for submission of an interim order. ADM File No. 2010-33, comments due 4/1/11.

ADM File 2005-11 Proposes 2 alternative amendments to the Code of Judicial Conduct regarding contributions to Judges, participation of Judges in management of law related organizations or agencies, participation of Judges in Fundraising Activities of specific organizations, and allowing a Judge to accept a testimonial. Comments due 3/1/11.
In re Robinson, 490 Mich 881; 804 NW2d 109 (2011) (Supreme Court #143274, October 5, 2011)

The Court of Appeals reversed the trial court’s order terminating the parents’ parental rights, finding that it was not in the child’s best interests to terminate (#300648). In lieu of granting leave to appeal, the Supreme Court reversed the Court of Appeals in part and reinstated the trial court’s order of termination. The Supreme Court agreed with the Court of Appeals and the trial court that there was clear and convincing evidence that a statutory basis was met, but disagreed with the Court of Appeals regarding the child’s best interests. Although the parents made attempts to improve their circumstances, the effort was recent and, given the prolonged history of problems, did not show a sufficient or maintained improvement. The legislature removed the word “clearly” from the statute regarding best interests (MCL 712A.19b(5)), but regardless of the burden of proof or standard of review that is applied, the evidence at the trial court overwhelmingly supported termination.

In the Matter of Hudson, ____ Mich App ____; ____ NW2d ____ (2011) (Court of Appeals #302214, October 11, 2011); lv to app denied Mich ____; 805 NW2d 444 (2011)

The mother of the children at issue had previously given birth to a son, giving him up for adoption. The mother located the now 14-year old son through My Space and engaged in a sexual relationship with him. She pled guilty to CSC 1st degree and was sentenced to prison for a minimum of 9 years. The trial court terminated her parental rights to the children at issue. On appeal, the mother argued that terminating her parental rights under the two sections pertaining to sexual abuse of a child or a sibling of a child, being 19b(3)(b)(i) and 19b(3)(k)(ii), was not proper because the son was not her “legal” child and, therefore, not a “legal” sibling to the children. Sibling is not defined in the juvenile code, nor is there any case law defining sibling, so the Court used the dictionary. The dictionary defines sibling as “one of two or more individuals having one or both parents in common.” The mother is the biological mother of the son and all the other children at issue here, and the children share some of the same genetic makeup, so they are siblings. There is no basis to distinguish between “legal” and “biological” siblings. In addition, “harm” refers to emotional harm as well as physical harm and if a respondent’s behavior deprives the child of a normal home, leaving the child in a situation that requires counseling, harm has occurred. As a result, the Court affirmed the trial court’s termination of the mother’s parental rights.

[Continued on Page 14]
In the Matter of Plump, ____ Mich App ____; ____ NW2d ____ (2011)  
(Court of Appeals #302995, October 11, 2011)

The mother argued that the trial court erred in terminating her parental rights because the Department of Human Services had failed to recognize domestic violence as an issue and had not provided her with services to rectify that issue. The Court disagreed in affirming the trial court’s decision. The children were removed from the home for the second time due to the mother providing marijuana to a teenage friend of her oldest child, and smoking marijuana in front of the teenagers and the children at issue. Services included victim domestic violence counseling in this case as well as in her prior neglect case. The mother stopped participating in the domestic violence counseling and was not successful with other services. She failed to benefit from the reasonable services provided to her. The trial court’s order was properly based upon the mother’s own behavior and not based upon her being a victim of domestic violence.

In the Matter of Schwarz, unpublished Court of Appeals #302750, October 20, 2011

The child’s mother is deceased and a guardianship with the maternal grandparents was established in Oakland County. The petitioner was appointed as the GAL in the guardianship. Petitioner filed a petition in Oakland County seeking to terminate the father’s parental rights, alleging that the trial court had jurisdiction under MCL 712A.2(b)(4). Evidence admitted at the trial established that, at the time the petition was submitted, the child was residing with the grandparents in South Carolina. The trial court dismissed the petition stating that the child was not “found within the county”, and the court thereby lacked jurisdiction. Petitioner appealed and the Court reversed. Whether the court has subject matter jurisdiction depends upon the nature of the allegations, not their truth or falsity. The phrase “found within the county” is not limited to the child’s physical presence within the county at the time the petition is filed, but also includes situations where the offense against the child occurred. The offense alleged to have occurred in this case was the father’s failure to comply with a court-structured plan adopted by the Oakland County Probate Court in the guardianship proceeding. If the probate court adopted the plan, and the respondent father resided in the county during the time he was required to comply, and he failed to comply without good cause, the child would be “found within the county” even though he was not physically present as the offense against the child occurred within the county.
Michigan recently enacted the Young Adult Voluntary Foster Care Act (YAVFC) in an effort to increase positive outcomes for youth who age out of foster care without having been reunified with a parent, adopted, or placed under a guardianship. The YAVFC allows youth to voluntarily agree to foster care placement after their NA court case has been closed. Additionally, other new statutes enacted at the same time will extend subsidy assistance payments for adoption and juvenile guardianships to age 21 if the youth meets specific requirements of the YAVFC Act. Here are quick reference summaries of the new statutes and program requirements.

**Young Adult Voluntary Foster Care Act - MCL 400.641 – 400.671**

The Act does not become effective until the Title IV-E State Plan is approved by the federal DHHS. Funding is not available for the program until the Plan is approved.1

- Allows youth to contract with DHS to voluntarily remain in foster care until age 21.
- Youth must be attending school, working at least part-time or be medically determined unable to attend school or be employed.
- The contract with DHS and the youth must be voluntary and cannot be signed while the court continues to have NA jurisdiction over the youth.
- A youth must have been dismissed from court ordered foster care at age 18 or after to qualify.
- At any time between the dismissal of the court case and age 21, the youth may return to the DHS office in the county they currently reside and request services through the YAVFC Act.
- A youth can directly receive the funding that would be paid to a foster home, if the child is living independently.

**Court requirements:** The Federal Title IV-E program requires the court to review the contract and make a best interest determination within 6 months of DHS and the youth signing a contract under the YAVFC Act. (The new case code will be VF.)

- DHS will file a petition with a copy of the contract and any other relevant information with the court within 150 days of entering into the contract with the youth.
- The court will have 21 days to issue a best interest determination. If the determination is not made within the 21 days, the youth will lose federal funding and DHS will be forced to cancel the contract with the youth.
- Once the court has issued a best interest determination, the court may close the file.

---

1 DHS has a target date of April 1, 2012 for implementing the program. [Continued on Page 16]
Subsidized Juvenile Guardianships

The provision does not become effective until the Title IV-E State Plan is approved by the federal DHHS. Funding is not available for the program until the Plan is approved.

- Juvenile guardianship subsidy can continue for a guardian caring for a youth who is attending school, working part-time or is medically determined unable to attend school or be employed.
- A guardian must provide DHS proof that the requirement is met and request the continuation of the subsidy before the youth turns 18.
- Court requirement: The Federal Title IV-E program requires the court to hold a hearing to review the subsidized juvenile guardianship once each year after the child turns 18, until the juvenile guardianship is dismissed. The court must determine the guardianship continues to be in the youth’s best interest.

Adoption Subsidy

The provision does not become effective until the Title IV-E State Plan is approved by the federal DHHS. Funding is not available for the program until the Plan is approved.

- Adoption subsidy can continue for an adoptive parent caring for a youth who is attending school, working at least part-time or is medically determined unable to attend school or be employed.
- An adoptive parent must provide DHS proof that the requirement is met and request the continuation of the subsidy before the youth turns 18.
- Court requirement: None.

UPCOMING EVENTS

- **Thursday. February 16, 2012. 10:00 a.m.**
  RAM Board of Directors Meeting
  State Bar in Lansing, Michigan

- **Thursday. April 19, 2012. 10:00 a.m.**
  RAM Board of Directors Meeting
  State Bar in Lansing, Michigan

- **Wednesday-Friday. May 23-25, 2012.**
  RAM Annual Conference
  Park Place Hotel in Traverse City, Michigan
  (Further details to be announced.)
Happy New Year! As many of you know, I have been on a strict diet and exercise program and have lost a considerable amount of weight. I have a new granddaughter and a grandson on the way. As I will soon be retiring from my position with Macomb County, I am examining my options for what to do next with my career. It is a good time to evaluate where I am and where I hope to be. I think the same can be said for RAM.

Our organization has been in existence since 1984. Some of our founding fathers and mothers are still members of our organization. Some are judges or retired. Some, sadly, are no longer with us. Over the years we have participated on many boards, committees and panels across the state. We have influenced the creation and modification of guidelines, court rules, and statutes. We have made countless rulings and recommendations that have impacted families throughout the state. Most importantly, through our work individually and as an organization, we have had a significant effect on the lives of hundreds of thousands of children. So, what's next?

I believe we need to transform RAM into a more formidable organization. We can do this only by increasing our membership. We increase our membership by showing our value to non-members. To do that, we have to enhance our value as an organization. We enhance our value by increasing our membership. It is the proverbial vicious circle.

To begin the process of strengthening RAM as an organization, I am involving us in a strategic planning process through the State Bar. I believe we will be able to gain members through proper planning. I would also like to see us align ourselves with other Bar associations. We could do this by having joint sessions, inviting members of other associations to our meetings, and working together on a variety of mutually beneficial projects. We have done this in the past with the Family Law Section. We have a representative on the Family Law Section board and many of our members belong to that section. We have invited judges to our conference. We have worked with various groups on the committees and panels on which we serve. We need to do more.

I would like to see us invite members of other Bar associations, such as the Children's Law Section, Michigan Judges Association, and Michigan Probate Judges Association, to our meetings and conferences. We should reach out to these organizations to find common interests that we can pursue jointly. These efforts will make us more worthwhile to current members as well as prospective members and will enhance our value in the legal community.

Let's begin to reinvent ourselves together in 2012.

On a sad note, elsewhere in this issue you will find an article by Ken Randall on the passing of Jon Ferrier. Jon was a much valued member of our organization. He brought wisdom and laughter to every meeting he attended. He will be sorely missed.
WHO WE ARE

The Referees Association of Michigan (RAM) is recognized by the State Bar of Michigan as a special purpose organization. The Association consists of both Juvenile Court and Friend of the Court (collectively referred to as “Family Court”) referees throughout the State of Michigan. RAM’s primary function is to educate its members by providing a forum for communication, by holding an annual training conference, and by providing a quarterly publication, called Referees’ Quarterly. RAM also offers guidance to both the State Legislature and Michigan Supreme Court regarding proposed amendments to statutes and court rules. Collectively, the referees who comprise RAM’s membership preside over 100,000 family law hearings every year.

2011-2012 Board of Directors & Committees

Officers:

President
Paul H. Jacokes
Macomb County
pjacokessr@yahoo.com

Vice President
Shelley R. Spivack
Genesee County
sspivack@co.genesee.mi.us

Executive Secretary
Sahera Housey
Oakland County
houseys@oakgov.com

Recording Secretary
Amanda Kole
Macomb County
amanda.kole@macombcountymi.gov

Treasurer
Michelle S. Barry
Oakland County
barrym@oakgov.com

Board Members:

Arthur Spears
Oakland County

Kristi Drake
Lenawee County

Ron Foon
Oakland County

Deborah McNabb
Kent County

Kathleen M. Oemke
Livingston County

Nancy Parshall
Isabella County

Kenneth D. Randall
Midland County

Committees/Liaisons:

SCAO Liaison
Dan Bauer

Conference
Mark Sherbow
Sahera Housey
Libby Blanchard

Law & Court Rules
Ron Foon

Membership
Kristi Drake
Nancy Parshall

Awards
Kathy Oemke

Family Law Liaison
Traci Rink

Publications
Ken Randall
Shelley R. Spivack

Ethics
Lorie Savin

Technology
Deb McNabb

Since 1984
“Compassionate justice helping children.”

www.referees-association.org