THANK YOU for the honor and privilege of allowing me to be your president. This is my final article as your president and it will serve to review some of the things that have transpired during my tenure and will continue:

1. **Child support** - RAM has a workgroup that will address post majority support. This is important as we know that the current laws do not address the changes that we have seen over the many years. This workgroup will assist in proposing legislative changes. It will address the definition of high school, when a child is in a dual-enrollment program receiving both high school and college credits, alternative high schools, internet or on-line programs, and the requirement that the minor resides full time with the recipient of support.

2. **Referee Authority** – This workgroup will review the expansion of a referee's authority and contempt powers.

3. **Community Outreach** – This workgroup will seek to educate the public and improve public perception of custody, parenting time and child support matters.

4. **Mandatory Custody** – Many members of RAM as well as other stakeholders in the family law arena have been reviewing proposed changes to the Child Custody Act. HB 4691 requiring joint custody was introduced in 2017. It passed out of committee and is technically on the house floor. In the meantime, the Family Law Council (FLC) has worked over many months on HB 4691 and alternative bills that could be suggested to the legislature. There are two proposed drafts for bills that the
FLC has been working on with many robust meetings to discuss these alternatives. After many meetings and revisions, the FLC at their May 5, 2018 meeting voted to support the “simple” bill. This draft bill addresses the issues that the proponents of HB 4691 seek to change. The FLC and the subcommittee workgroup continue to work on this simple alternative and hope to have a proposed bill they can take to other stakeholders for their support.

5. **20 year review** – The family court was started 20 years ago. This was a highly contested issue that eventually passed, and it required the courts to have a one family, one judge court. The idea was to provide families with consistency and continuity in their family law cases. The FLC has a 20-year review committee to determine how this is working and if there should be any changes to the current system. Many family law practitioners believe there should be a dedicated family bench. The idea is that if you run for a family law seat, that is the seat you will maintain for your duration on the bench. There is still a lot of discussion about this issue. There are views for and against this approach.

**RAM CONFERENCE**

I am pleased to report that the 2018 conference was one of the most successful and well received conferences ever. This is in large part to many people who helped put it together, including Kate Weaver, Amanda Kole, Michelle Letourneau-McAvoy, Kathy Oemke, Ilyssa Cimmino, Rebecca Decoster, and Mark Sherbow, to name a few. And, of course, the RAM Board is always so supportive of the conference and what the committee decides. THANK YOU.

We were honored to have Justice David Viviano from the Michigan Supreme Court at the conference. We were also pleased to be welcomed by the Midland County Judges, Chief Judge Stephen Carras, Judge Doreen Allen and Judge Michael Beale. Judge Tracey Yokich, Macomb County Circuit Court Judge and current President of the Michigan Judges Association, and Judge Lisa Gorcyca, Oakland County Circuit Judge were also in attendance. We also appreciate obtaining continued financial support for the conference from both SCAO’s Child Welfare Services Division and the Michigan Inter-Professional Association on Marriage, Divorce and the Family.

I am honored to be a member. RAM is an organization comprised of dedicated, knowledgeable and thoughtful referees. I hope our organization continues to grow and continue to have a positive impact and role in all the families and children we serve.

Thank you,

*Sahera*
On September 30, 1996, Governor John Engler signed into law PA 388 of 1996 (MCL 600.1001, et seq., MSA 27A.1001, et seq.). This historic legislation creates a Family Division of the Circuit Court and represents the most sweeping reorganization of the courts in decades. As children of the nineties, we are often asked to define our mission. My mission, as chairperson of the State Bar Family Law Section, is to write a comprehensive explanation of the new legislation. At the moment, that may be more akin to Mission Impossible, as the family divisions have not yet been constituted, and the model will be different in each of the 57 judicial circuits of the state. I will attempt to tell you where we have been, and, I hope, where we are going as we embark upon this enormous task of court reorganization.

BACKGROUND—THE FAMILY COURT MOVEMENT

Since the establishment of the Family Law Committee of the State Bar of Michigan in 1949, the committee, and later the Family Law Section, has taken a position in favor of the formation of a Family Court. For more than 40 years, proposals were written and revised. Judges and legislators were lobbied for their support, and the council voted numerous times to continue to endorse the concept. Our support for a family court was not based upon any widespread dissatisfaction with the willingness or ability of circuit judges to hear family issues. Rather, it came about in an effort toward progressive reform.

Family law attorneys have long recognized that the cases we handle are unique, and require skills beyond legal expertise. More than in any other type of litigation, emotions may interfere with the application of sound judgment and legal principles. Family law practitioners know that it is necessary to have a bench that has the time and patience to recognize and sort out these emotional issues. Often, merely providing a forum for an injured party to air grievances is sufficient to resolve a case.

To deal effectively with cases that may go on for years in the post-judgment phase, we have always advocated for a permanent bench. We believed that the need for consistency was essential to the operation

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of a high quality court. The pressures on our courts of a burgeoning criminal caseload and ever more complex civil litigation often has resulted in family law cases receiving less than their fair share of the judges’ time and attention, despite the good intentions of attorneys and judges.

So why now? While we would like to take credit for years of brilliant work, we recognize that numerous factors came into play. In many ways, the timing was right. Term limits have focused legislators on trying to accomplish their objectives in a shorter span of time. One area of great concern to their constituents has been the treatment of family law cases. Those of us who work in the courts believe that we are dedicated and provide good public service. We know that the system has some flaws, as is true in any bureaucracy. We were unprepared, however, for the public hearings held by Senator Geake several years ago throughout the state. In the course of those hearings, disgruntled “customers” of our courts expressed not only outrage, but in some instances, threatened murder and mayhem.

The criticism extended well beyond the Friend of the Court to attorneys, judges, and the court system overall. The Legislature took notice. Whether we felt the criticism was fair begs the question. Many of the people we serve are very upset and unhappy. This comes at a time when the reputation of judges and attorneys is at an all time low.

The other issue, of course, was money. The Legislature and governor were being asked to appropriate more funds and create new judgeships. Before doing so, they wanted some assurances that the existing resources were being used as efficiently as possible. For these, and the myriad of other reasons, the family court concept was an idea whose time had come.

The legislative process took almost two years to accomplish. The resulting law did not resemble the Family Court that the section had long advocated. Numerous compromises occurred along the way. The final product, however, represents an exciting opportunity to structure the family division in each circuit to meet the needs of the local community.

**PA 388 OF 1996**

A Family Division of the Circuit Court will be created in every judicial circuit of the state, effective January 1, 1998. Each circuit was required to submit an operating plan to the Michigan Supreme Court by July 1, 1997. The plans were to be formulated by the chief judges of the circuit and probate courts, and approved by the State Court Administrative Office (SCAO). SCAO is authorized to develop and implement a plan for any circuit that fails to file an operating plan on time. A newly constituted bench consisting of probate and circuit judges will be assigned to the family division.” MCL 600.1013(3); MSA 27A.1013(3), provides that “the trial court assessment commission shall review the number of judges assigned to the family division

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of each judicial circuit and determine whether the number of judges assigned to the family division reasonably reflects the caseload of that family division, and shall make appropriate recommendations for the continuation of, or changes in, the number of judges so assigned."

The legislation as presently written, requires that once assigned to the family division, a judge will remain there for the balance of his or her term, or may be reassigned if a change occurs in the caseload of the family court or upon recommendation of the Trial Court Assessment Commission. As this article is being written, however, amendments are being proposed to the legislation that would eliminate the provision requiring that a judge serve the balance of his or her term in the family division. As a substitute, the legislation would contain the following policy statement:

“A plan required under subsection (1) shall provide that the duration of a judge’s assignment to the family division be consistent with the goal of developing sufficient expertise in family law to properly serve the interests of the families and children whose cases are assigned to that judge. The chief judge of the circuit court shall have the authority and flexibility to determine the duration of a judge’s assignment to the family division in furtherance of this goal.”

If adopted, this provision will allow local circuits greater flexibility in assigning judges to the family division. The chief judge of the circuit, however will face greater pressure to ensure that the goals of a meaningful family division have been met.

Jurisdiction of the family division is set forth in MCL 600.1021; MSA 27A.1021. Except as otherwise provided by law it will have exclusive jurisdiction over the following:

1 MCL 600.1003; MSA 27A.1003.
2 MCL 600.1011(1); MSA 27A.1011(1).
3 MCL 600.1011(2); MSA 27A.1011(2).
4 MCL 600.1013(1); MSA 27A.1013(1)
5 MCL 600.1011(3); MSA 27A.1011(3)
- Divorce actions (including alimony, property division, child support, custody);
- Actions under the Friend of the Court Act and the Family Support Act
- Actions under the Child Custody Act; Adoptions;
- Cases involving children incapable of adoption;
- Name changes;
- Juvenile cases;
- Cases involving the status and emancipation of minors;
- Paternity actions;
- Interstate support and income withholding actions;
- Cases involving parental consent for abortions performed on unemancipated minors; and
- Personal protection orders.

The family division also will have ancillary jurisdiction over cases involving guardians and conservators and cases involving treatment, or guardianship, of mentally ill or developmentally disabled persons under the mental health code.

One of the cornerstones of the family division legislation is the concept of one judge, one family. MCL 600.1023; MSA 27A.1023, provides: “When two or more matters within the jurisdiction of the family division of circuit court involving members of the same family are pending in the same judicial circuit, those matters, whenever practicable, shall be assigned to the judge to whom the first such case was assigned.” The provision was included in an effort to achieve consistency for families faced with actions in more than one court. It also is intended to increase efficiency so that court services are not duplicated. The difficulty in implementation will be to define “family.”

Family relationships in today’s society often are extremely complex. Many families include stepparents and siblings, as well as half siblings. In some instances, unmarried parents or partners live in the household. Finding an adequate definition of “family” and a system for identifying when a family has more than one action pending in a jurisdiction will be essential elements of the implementation process.

6 MCL 600.1021(2)(a) –(b); MSA 27A.1021(2)(a)-(b).
7 MCL 600.1043; MSA 27A.1043.
8 MCL 600.1019; MSA 27A.1019.
The family division will be assisted by the Friend of the Court offices in each circuit, the family counseling services created under the family counseling services act (MCL 551.331, et seq.), the county juvenile officers and assistant county juvenile officers, and all other state and public agencies that provide assistance to families or juveniles. Training for the circuit and probate judges assigned to the family divisions is to be provided by the Michigan Judicial Institute. The statute is designed to provide a specialized family division within each circuit court, but allow flexibility in the formation and constitution of the divisions so that local needs and customs can be accommodated.

Numerous issues must be addressed as the implementation process proceeds. The merger of many Probate and Circuit Court responsibilities will require coordination of both staff and facilities. Some departments may be changed or eliminated while new ones may have to be developed. In many counties, the courts are located in different facilities. Even within a particular courthouse, it may be necessary to move judges and their staffs around so that members of the family division can be adjacent, or at least in closer proximity, to one another.

The reorganization also will create new challenges for the county clerks and their staffs. Case filings and management will have to be adapted. Another area of concern is information management. In some counties the Probate and Circuit Court computer systems are incompatible. Data cannot be exchanged easily between the existing systems. Many of these problems will exist for years.

Missing from the new statute is any mention of additional funding to the courts to assist with the implementation or operation of the new family divisions. Each circuit is required to look to its own resources in formulating the required family division plans. While increased funding may not be required to design a plan, serious questions have been raised about the feasibility of long term operations without additional resources. At some point, our concern for providing better and more efficient services to families may well translate into the need for greater funding.

**FUTURE OF THE FAMILY DIVISIONS**

As we formulate our plans for the new family divisions in Michigan, it is useful to look to the experience of Family Court plans in our sister states. Currently, the largest state with a Family Court system is New
Jersey, where the family division is attached to the highest level trial court. Judges are allowed to rotate in and out of the family division. Attorneys and litigants have expressed overall satisfaction with the New Jersey system.

In his treatise on family courts, Judge Robert Page of New Jersey, has set forth a blueprint for the successful development of a Family Court system. He states: “The primary indicator of the establishment of a comprehensive family court is the placement of cases involving both juvenile delinquency and divorce within one single court system….All jurisdictional case types should be combined at the highest judicial level whenever possible.”

Judge Page has set out four basic elements that must be incorporated when establishing a Family Court system. “First, as a court, it must strictly adhere to legal and equitable principles and refuse to act without a solid legal basis. Second, the Family Court system should be recognized as a social service delivery system which requires and provides necessary services either directly, or by way of referral to outside agencies. Third, as a unified case processing and management system, the family court provides substantial screening, assignment and monitoring of cases. Finally, the organizational structure and administration of a total Family Court system needs to ensure that it functions in accord with established principles and standards.” Judge Page also stresses that an evaluation process must be set up at the outset to monitor the development of the family court and institute changes as needed.

In Michigan, the statutory scheme for creation of the new family divisions allows for the incorporation of these basic elements. Each judicial circuit will be given the flexibility to adapt the basic principles according to local needs and customs. The referee system is currently in place both at the Probate and Circuit Court levels to assist with the ever increasing number of hearings.

The Friend of the Court offices are in place throughout the state to assist the court with investigations and recommendations in family cases. We have many dedicated judges, administrators and court personnel who are working hard to meet the challenges inherent in this massive structural change. The Supreme Court has made a commitment to remain actively involved and oversee the process on a statewide level.

Finally, local bar associations and the State Bar, through the Family Law Section, Juvenile Law Section and the Bar leadership are committed to assisting with the transition.

10 Id., at 9.
Family Court systems currently exist in Rhode Island, Hawaii, South Carolina, the District of Columbia, Delaware, Vermont, Florida, Nevada and New Jersey. Pilot programs exist in Kentucky, Maine, Missouri, Virginia, Oregon and Kansas. As of January 1, 1998, Michigan will become the largest state in the nation to adopt a family court model. Looking at systems around the United States, it is clear that we have all the necessary resources to implement a successful system. There will be great interest in our transition and an opportunity for our state to take a national leadership role. Most importantly, we can significantly improve the administration of justice for the benefit of all the citizens of our state.

Hon. Linda S. Hallmark is Chief Judge Pro Tempore of the Oakland County Probate Court. Judge Hallmark was appointed to the Court in 1997. From 1998 to 2017 Judge Hallmark served in the Oakland County Family Division. She was Presiding Judge of the Family Division from 2000 to 2004. In 2000 Judge Hallmark was appointed by the Michigan Supreme Court to serve as Chief Judge of the Oakland County Probate Court for a two year term. She was reappointed to serve as Chief Probate Judge for the 2002-2004 term, 2011-2013 term and 2016-2017 term. Judge Hallmark previously served as a Referee for the Oakland County Friend of the Court. She was the longest-serving member of the Governor’s Task Force on Child Abuse and Neglect, and is a member of the Women Lawyers Association of Michigan, the Michigan InterProfessional Association and the Family Court Forum. Judge Hallmark is past president of the Women Officials’ Network and the recipient of the Wonder Woman of 2009 Award. A Fellow of the Michigan State Bar Foundation and Oakland Bar Foundation, she has served as chair of the State Bar’s Family Law Section Council, president of the Referees Association of Michigan, chair of the Oakland County Bar Association’s Family Law Committee and member of the Attorney Discipline Board and State Bar’s Representative Assembly. Judge Hallmark is a lecturer at the BiAnnual New Judges School and is a frequent presenter for the Michigan Judicial Institute, ICLE, State Bar of Michigan, Oakland County Bar Association, Women Lawyers Association and American Bar Association. Judge Hallmark has also authored articles on both Probate and Family Law topics.
THE FAMILY COURT AT 20 YEARS:
A RETROSPECTIVE
by Lynda Pioch, Van Buren County

Twenty years old! Michigan’s Circuit Court Family Division is now officially two decades old, thanks to the January 1, 1998 effective date of hard-won legislation that finally declared, “Each judicial circuit shall have a family division of circuit court.” MCL 600.1003. The Circuit Court Family Division jurisdiction is extensive and enables one judge to address all cases affecting a family. MCL 600.1021. Before the creation of the family division, justice in domestic relations cases was often delayed while more high-profile, head-line grabbing criminal cases and big-ticket civil lawsuits were addressed by the courts. Truth be told, as recalled by practicing family law attorneys, the low-profile criminal and small-ticket civil suits were also addressed before the domestic relations cases.

Attorney Carol Breitmeyer recalled a scenario from the early 1990s that will be familiar to many who practiced in the decades before the family division was created. Her client, a parent appearing at the courthouse for a morning motion hearing found herself scrambling, without a cell phone, to make child-care arrangements while the judge ignored their place on the docket. Clearly, the case would not be heard until matters considered more important were concluded. The judge kept attorney and client waiting until late afternoon, all the while demonstrating his lack of interest in spending time to address the “family law” subject matter he was dreading.

In many circuits, the attorneys were aware that certain sitting judges had little working knowledge of nor interest in developing any expertise in “divorce law,” never mind the complex issues that arise in domestic relations cases. Many attorneys and clients, arriving prepared to present evidence, were met with impatience and were unable to get the rulings needed to allow the parties to plan life after divorce for themselves and their children. Attorneys were told to ask the clerk for another date, which they understood was code for, “come back with a settlement, or this will likely happen again.”

It’s no wonder that attorneys who were practicing family law sought for decades to change the process. As early as the late 1950s, Michigan attorneys in the State Bar’s Family Law Section saw a need to change the legal landscape to include a forum that included courts with specially trained judges to improve access to justice for parties in family law cases. Bassett, A History of Michigan’s Family Court, 96 Mich B J 7, 32-34 (2017).

In 1985, State Representative Ethel Terrell introduced legislation to form a family division of the circuit court. Id, p 33. The bill did not gain traction, but practicing attorneys, including members of the Family Law Section,
still believed a family division would best serve the state. Scott Bassett was a member of the Family Law Section Council and drafted a proposal that was presented to and adopted by the Family Law Section. Id. Although most State Bar leadership was opposed, Attorney Bassett enlisted the strong support of the State Bar President George T. Roumel, who advocated for a family division in his 1986 article *Give Family Cases Their Due*, 65 Mich B J 522 (1986).

Finally, in November 1995, *Joint Resolution S* was introduced in the Michigan House by Representative Michael Nye. The resolution described a family division in each trial court with jurisdiction as suggested in the Family Law Section’s proposal. It also included a specialized, non-rotating bench, an issue that became an obstacle to its passage. Ultimately, Linda S. Hallmark, a referee and the Chair of the Family Law Section at the time, was involved in high-level negotiations that led to passage of revised legislation that established the family division, but did not include the separate election of family division judges. *Bassett, supra, p 34.* (Also, please see Judge Hallmark’s original article reprinted in this issue of the *Quarterly.*)

On September 30, 1996, Governor Engler signed PA 388 of 1996, giving the Family Division jurisdiction as we know it today. Circuits were instructed to submit plans to the Supreme Court for approval by July 1, 1997, so that each would have a Family Division by 1998. *Selleck, ‘One Judge, One Family’: Celebrating 20 Years of Michigan’s Family Division, SCAO-Connections Newsletter, p 2 (1-12-2018).*

The term “one family, one judge,” now defines the courts’ intention in addressing family law cases. “It encapsulates the goal of achieving consistency for families faced with actions in more than one court, thereby eliminating duplication and increasing efficiency in the courts.” Id.

In 2018, the Family Division receives glowing reviews for the simplicity of its “one family, one judge” concept. Attorney James Alle, who practiced for 20 years before its inception, and has continued 20 years since, states, “Unequivocally, the creation of the Family Division has been a success.” He also stresses that the “one family, one judge” concept has met the priority of “consistency in fair and equitable rulings in issues involving families.”

Attorney Alle, who served on a Bench-Bar Liaison Committee when the Family Division was created, also makes an important observation that it fulfills a goal implicit in the dogged effort to establish the Family Division on behalf of Michigan families. Attorney Alle notes that domestic relations practice is “difficult and the
stress on families going through the process takes a toll," but that in his experience of over 40 years, the Family Division has “lessened that emotional impact greatly.”

Michigan and the world have seen many changes in the last 20 years. Judge Kathleen A. Feeney, appointed to the Family Division bench in 2000, reminds us how time flies by speeding us through the memory lane of technology—from Palm Pilot to Blackberry to iPhone. She reminds us that in 1998, before video-streaming and on-line everything, we used to stop at Blockbuster and shop at Sears.

Considering the changes in domestic relations practice that have occurred in those same two decades, Judge Feeney aptly states that “the term ‘business as usual’ has not been heard at the courthouse for years,” and points to the “advent of trauma-based assessments and therapies … to provide healing and future growth.” She cites the recent innovation of problem-solving courts for adults and children, including Mental Health Court, Truancy Court, and Girl’s Court that have been created to treat families’ needs now, so that future court intervention can be avoided.

Judges and attorneys who practice in the Family Division know that constant exposure to the darkest times in litigants’ lives is grueling, heartbreaking, and emotionally draining, but Judge Feeney reminds us of our mission by asking, “Isn’t that why we do what we do—to help each family, each child address and resolve the conflict or crisis in his or her life?”

The creation of the Family Division has assisted families by simplifying the process of accomplishing that mission, by ensuring that courts are aware of any intersecting cases and can therefore address all of their issues. Judge Feeney also likens the Family Division’s role as a conduit to “a service-rich community,” a court that can assist parents, children, and families by directing them to “people and places that can support their emotional, physical and spiritual needs as they make their way in this world.”

There are more opportunities now for attorneys and judges to attend seminars that educate on family law issues and enable bench and bar to share their experience. The Family Law Section continues its efforts to improve practice in the Family Division by keeping its members actively informed and contributing to discussions about changes to laws and court rules.

Attorney Breitmeyer echoes the thoughts of many when she states that as judges have increased their expertise in problem-solving and more attorneys have devoted their practices to family law, the skill level of bench and bar has improved. She notes that the Family Division bench has become more resolution-oriented, encouraging mediation and collaborative processes that were not discussed before the Family Division was established. With the hindsight of twenty years, it now seems clear that these two improvements would not have occurred without the “dedicated docket” that elevated family law cases and accorded them the respect they
deserve.

Quantifying the time and effort that went into establishing and then developing the Family Division over the past 20 years is impossible. In 2018, we owe our many thanks to those who envisioned the positive benefit a dedicated Family Division of the Circuit Court would have for Michigan and then kept working and striving for decades until they found a way to make it happen for us all in 1998. As the courts continue to improve and innovate, 2038 should be a very good year for families and attorneys who appear in the Circuit Court’s Family Division.

Referees Quarterly thanks all who shared their thoughts, especially Attorney James C. Alle, Attorney Carol F. Breitmeyer, and The Honorable Kathleen A. Feeney.
20 YEARS OF FAMILY COURT BLISS
by David Elias, Macomb County

I was sworn in as an attorney in November 1978 and became employed by the Macomb County Friend of the Court Office in July 1979. 20 years later, the Family Division of the Circuit Court was created in the State of Michigan. As the second longest tenured referee in the state, I have witnessed the continual evolution of family court dynamics.

To contrast then and now, I recall conducting a custody evidentiary hearing in the early 1980’s when the parties came to an agreement to share joint custody of their children. I telephoned the Chief Circuit Court Judge, as all of the judges at that time handled domestic, civil and criminal matters, and advised the Court that I would be down with a settlement. The judge called me into his chambers to inquire as to the specifics of the parties’ settlement. When I informed him that the parties had agreed to share custody, he gruffly responded that he would not approve a shared custodial arrangement because, in his experience, it was simply not in the best interests of the minor children. At that juncture, I informed the parties of the judge’s position and suggested to them that they share custody in any fashion they thought best served their children, but we would have to place the settlement on the record with custody being awarded to mother.

During the ‘80s and the early ‘90s, it was my experience that the field of domestic law was the neglected stepchild of the Circuit Court. Often, judges would simply not conduct trials in domestic relations cases. I once worked on a case that had been pending for over five years. Hence, the creation of the Family Division of the Circuit Court in 1998.

I recall the initial meetings with the judges assigned to the Family Division in Macomb Circuit Court: the Honorable Peter Maceroni, the Honorable Don Miller, the Honorable Lido Bucci and the Honorable Antonio P. Viviano. The Macomb Circuit Family Division and domestic relations issues gained instant status due to these four individuals. It was also important that Chief Circuit Court Judge Maceroni joined the Family Division. Significantly, the division’s initial four judges were men; because in 1978 there were no women Circuit Judges in Macomb County. How times have changed for the better where the Family Division in Macomb Circuit now consists of two women judges out of four positions. Since 1998, three of the four positions were held by women at various times.

New practices and policies were needed, and the bench met with the local bar to gain their perspective and input. Unfortunately, while some members of the bar complained, few offered constructive suggestions. First, a status conference procedure was implemented. Second, date certain settlement conferences were established.

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Finally, all domestic relations cases were carefully monitored, tracked, and worked in an efficient manner to resolve the litigants’ disputes in a timely manner. Prior to 1998, Referees in Macomb County Circuit Court began hearing motions where they were given the dignity of formal hearing rooms and the ability to preside over those motion hearings in robes (a concept which was controversial at the time). The motion hearing practice continued. Macomb County Referees continued to conduct evidentiary hearings, and they also began conducting mediations, facilitations and, on occasion, arbitrations.

Since 1998, the domestic relations docket has been elevated to the same plane as the civil and criminal dockets in Circuit Court. The creation of this Family Division has been a boon to the many who we assist to conclude one of the most difficult chapters in their lives.

Just as importantly, as society has changed, so has the law which reflects the mores and folkways of society. In this current era of political unrest, those mores and folkways change day to day based upon Twitter comments. Nonetheless, our domestic relations/family court arena is more progressive and positive today than it has ever been.

Some of the most important areas of progress involved the basics of domestic relations law. In 1978, child support varied widely from county to county. In Macomb, child support was calculated by applying a percentage of only the payor’s net income, i.e. 10% per minor child, up to 50% for five or more children, to establish a child support obligation. With implementation of the Michigan Child Support Formula, a plethora of factors are now applied to establish uniform child support obligations that have lifted some recipients out of poverty and ensure consistency and fairness across the state.

In 1978, parenting time for the non-custodial parent, overwhelmingly fathers, was minimal. It was not enforced with the same vigor as it has been enforced since 1998 by the Family Division. Laws and procedures have been established and implemented to ensure that children have a strong bond with both of their parents.

Much like child support, spousal support was less progressive in 1978 as compared to post-1998. While spousal support still varies from county to county in 2018, the “fairness” gap has narrowed significantly since 1998.

Examples of changes from 1978 to 1998 to 2018 range from the complex area of QDRO’s, pre-nuptial agreements, technological advances for paternity testing and its effects on paternity proceedings, the
implementation of the Revocation of Paternity Act, and the simple local processing of child support payments to the creation of MISDU. Finally, there is no greater domestic relations societal change since 1998 to 2018 than the legal recognition of same sex marriage and our responsibility to assist the bench, bar and litigants in same sex divorce.

From my perspective, the past 20 years have been terrific ones, not only for the work we do day in and day out to assist the bench, but for the professional friendships we make and the guidance we provide to people in need. How times and thoughts have changed from a time when the Chief Judge would not approve a shared custodial arrangement to a present day typical custody resolution where two good parents share time with their children to the best of their ability accommodating the practicalities of their lives.

Lastly, as I reminisce, I think about all the friends I’ve made over the years, some of whom are no longer with us: Referee Jon Ferrier, Referee Phil Ingraham and Referee Arthur Spears. I recently remarked to Judge Mark Switalski that he and I were the “new old guys.” His response was that we were just “the old guys.” Well, I might be old but I’m young at heart, and I treasure all the friendships I have made from 1978 to 1998 to 2018.

Your colleague and friend,

Dave Elias
Governor Snyder submitted his Fiscal Year 2019 budget proposals in February to a joint meeting of the House and Senate Appropriation Committees. Those committees are now tasked with review of the proposal and passing a comprehensive set of appropriations. This seems to be the number one focus in the legislature at this time but there has been some movement on certain bills below, while other relevant bills have been introduced but no progress made. Bills currently are “alive” until the legislature adjourns in December 2018.

Efforts to put a part-time legislature proposal on the November 2018 ballot fell short of the necessary 315,854 valid signatures to get placement on the ballot.

**DOMESTIC RELATIONS**

**HB 4691: AMEND CHILD CUSTODY ACT TO MICHIGAN SHARED PARENTING ACT**

The family law community has been abuzz about the introduction of House Bill 4961. Rep. Jim Runestad (R-White Lake), chair of the House Judiciary Committee introduced House Bill 4961 which would amend the Child Custody Act to the Michigan Shared Parenting Act. The bill would require mandatory joint custody absent limited circumstances. This bill was referred to the Committee on Judiciary and is now referred for a second reading. The Referees Association of Michigan has submitted a letter opposing the bill to the committee. See this issue’s President’s Corner for the latest on the Family Law Section’s work on this topic.

Status: This bill has been referred for a second reading with the House Judiciary Committee (no movement since June of 2017).

**HB 4751: PRENUPTIAL AGREEMENTS**

This bill would legislatively overturn *Allard*. Again, the Family Law Section contributed their position with suggestions (most amendments ignored those suggestions including requiring the prenuptial agreement be presented prior to thirty days before the wedding date). The Act specifies that a contract relating to property made between individuals in contemplation of marriage remains in full force after the marriage CONTINUED ON NEXT PAGE
takes place. Under the bill, a prenuptial agreement would be unenforceable if a party against whom enforcement was sought proved either of the following:

• The party's consent to the contract was the result of fraud, duress, or mistake.
• Before signing the contract, the party did not receive adequate financial disclosure, including disclosure of assets in a domestic asset protection trust.

The court could refuse to enforce a term of the contract or the entire contract if, in the context of the contract taken as a whole either of the following applied:

• The term was unconscionable at the time the contract was signed.
• Enforcement of the term could be unconscionable for a party at the time of the enforcement because of a material change in circumstances arising after the contract was signed that was not reasonably foreseeable at the time it was signed.

The court would be required to decide the question of unconscionability as a matter of law.

Status: This bill has passed through the House and placed on order of the third reading with substitute S-1 since January 30, 2018.

SB 0650 AMEND SOCIAL WELFARE ACT

This bill would amend the Social Welfare Act to include a good cause exception to the identifying of a father (and ultimate establishment of paternity) of a child that is a product of criminal sexual conduct.
Status: This bill is on the Senate floor for the consideration of the full Senate.

NEGLECT/JUVENILE

SB 0419/0420/0421: AMEND JUVENILE CODE, AMEND CHILD PROTECTION LAW AND AMEND CHILD ABUSE AND PROTECTION ACT

This package of bills would amend the Juvenile Code, the Child Protection Law and the Child Abuse and Protection Act to expand the definition of neglect given the recent Michigan Supreme Court decision In re Hicks/Brown and the Michigan Court of Appeals decision, In re Gach. Under the bill, neglect would be defined to be where the person responsible for a child's health or welfare failed to provide adequate food, clothing, shelter, or medical care though financially able to do so or when offered financial or other reasonable means to do so.

CONTINUED ON NEXT PAGE
Status: This package of bills has been signed into law by the Governor on March 15, 2018, with immediate effect.

**HB 5202/5203/5204/5205/5206: AMEND PROBATE CODE**

This package of bills would amend the Probate Code to add new jurisdictional grounds to allow the courts to take jurisdiction over a juvenile under 18 years old who has engaged in conduct that would be a violation of certain criminal statutes related to prostitution and commercial sexual activities. Specifically, it would exempt the offenses listed from the offenses for which a juvenile may be subject to delinquency proceedings. They essentially decriminalize and raise the age for these offenses which would either be delinquency offenses, or possibly dependency cases.

Status: Referred to the House Committee on Law and Justice.

All of the above legislation can be accessed at: [http://www.legislature.mi.gov/(S(gw41t0asyldke545yfbmwhra))/mileg.aspx?page=home](http://www.legislature.mi.gov/(S(gw41t0asyldke545yfbmwhra))/mileg.aspx?page=home)
DOMESTIC RELATIONS CASE LAW UPDATE

Cases can be accessed by docket number at the Court’s website at http://courts.mi.gov/opinions_orders/opinions_orders/pages/default.aspx

By Ed Messing, St. Clair County

In Ludwig v Ludwig, __ Mich __ #157312 5/23/18, the Michigan Supreme Court reversed the Court of Appeals’ decision (#336938 & #336978) and remanded the parenting time matter back to the trial court via order in lieu of granting leave to appeal. The court found that the order providing that the therapist was to determine the “frequency, duration, and method of continued contact” following an initial video conference between the child and defendant constituted a modification of the parenting time. Therefore, the court was required to conduct an evidentiary hearing to determine if this process was in the child’s best interest prior to entering the order.

The Circuit Court originally granted an ex parte PPO to petitioner in TM v MZ, __Mich__(2018) #155398 5/18/18, for Respondent’s alleged harassment of her in a variety of Facebook posts. Respondent objected to and requested termination of the PPO on the basis that there were no allegations that he had physically contacted or made threats of violence against Petitioner. The court denied Respondent’s request but amended the order to only prohibit posting a message through any medium of communication, or any electronic medium. Respondent’s appeal was dismissed as moot, as the PPO had expired pending appeal. The Supreme Court reversed the dismissal of the appeal in a memorandum opinion and remanded the matter to the Court of Appeals for consideration on the merits. The court held that the appeal was not rendered moot as the court could still render a remedy to Respondent, as if he is successful on appeal, the trial court would be required to update LEIN to identify the ex parte PPO as improperly issued and rescinded.

Sheardown v Guastella, __Mich App__ (2018) #338089 5/15/18. The parties were in a romantic relationship when Defendant entered into an agreement with Plaintiff and a sperm donor, with the sperm donor agreeing not to seek paternity, custody, or parenting time of any child born from inseminations, and Plaintiff and Defendant stating their intent to become the legal parents, and file for Plaintiff to adopt any child born as a result of insemination. Defendant gave birth to a child, MEG as a result of the agreement, but the parties never married, and Plaintiff never filed a petition for adoption of Meg. After the parties separated, Plaintiff filed a custody action, but the court dismissed the action on the basis that Plaintiff lacked standing to file for custody as she was not the legal or biological parent of the child. The Court of Appeals held that: the

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The Child Custody Act was not unconstitutional as applied to these parties, as they were still in a relationship after the Obergefell decision struck down Michigan’s statutory prohibition against same-sex marriage, but the parties never married and Plaintiff never petitioned for adoption of the child; Plaintiff was not subject to dissimilar treatment compared to a heterosexual unmarried individual; Obergefell was limited to the constitutional right of same-sex couples to marry; and later decisions prohibit limitations of government benefits to same-sex married couples which are offered to married heterosexual couples. Therefore, there was no violation of the equal protection clause or the due process clause.

In Safdar v Aziz, _Mich_(2018) #15611 3/27/18, _Mich App_(2017) #337985 9/7/2017, Defendant moved to change domicile and legal residence of the children to Pakistan while her appeal regarding attorney fees in the judgment was pending. Defendant alleged that Pakistan had become a party to the Hague Convention after the judgment was entered, which would now allow her to request a change of the child’s domicile to Pakistan. The trial court dismissed Defendant’s motion on the basis that it lacked jurisdiction to hear the motion due to the pending appeal. The Court of Appeals reversed, as a motion affecting custody may be heard pending appeal of the attorney fee issue pursuant to MCL 552.17(1). The Supreme Court affirmed the Court of Appeals, but on a different basis: that MCL 722.71(1) grants the trial court continuing jurisdiction to hear future custody issues.

Establishing residency for subject matter jurisdiction to file for divorce is separate and apart from establishing a home state under the Child Custody Act. Both parties in Ramamoorthi v Ramamoorthi, _Mich App_(2018) #336845 3/8/18, were born in India, moved to, and then built a home in, Michigan. The parties and their children moved to India in 2014 and moved between the two countries a number of times, with the children eventually remaining in India. Plaintiff became a U.S. citizen and expressed her desire to move back to Michigan with the children. Defendant then physically beat Plaintiff over the course of a week, took away her passport and jewelry, and left her locked in her apartment while his brother ministered to Plaintiff’s injuries. After Plaintiff escaped from her apartment, Defendant filed for divorce in India and forced Plaintiff to sign away her property rights, but no divorce judgment had been entered. Plaintiff then moved back to Michigan and filed for divorce.

The trial court properly determined that it had subject matter jurisdiction over the non-custody issues because Plaintiff had intended to return to Michigan but was prevented from leaving India. She was therefore a resident of Michigan for at least 180 days prior to filing the divorce complaint, and there was no Indian divorce judgment. The court erred when awarding sole legal and physical custody of the children to Plaintiff, however, as the children had not “lived in” the state for the last six months and Michigan was not the children’s “home state” under the UCCJEA. The Court of Appeals remanded the matter back to the trial court to determine whether the court should have declined jurisdiction over the divorce under the doctrine of forum non conveniens, as most of the witnesses and the children were in India.

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In Taylor v Taylor, _Mich App _ (2018) #336193 2/22/18, Plaintiff’s five year old child was born during her marriage to Defendant after the parties separated. The parties agreed Defendant was not the child’s biological child, and a DNA test determined that there was 0% probability that Defendant was the child’s biological father. The trial court dismissed Defendant’s motion for paternity determination and to add the alleged father as a party, on the basis that Defendant failed to raise the issue within three years of the child’s birth. The Court of Appeals reversed, holding that a presumed father, in a divorce action, may contest the paternity of a child born during the marriage despite the fact he did not raise the issue within three years of the child’s birth under MCL 722.1441(2).

Change of custody, parenting time, and legal residence resulting from the determination of the child’s initial kindergarten enrollment in shared custody cases continues to be a hot topic. In Griffin v Griffin, _Mich App_ (2018) #338810 1/30/18, the parties shared equal custody when Plaintiff was granted a change of domicile to Illinois with Defendant maintaining legal residence of the child four hours away in Holt, Michigan. Ten months later Plaintiff moved to change custody and parenting time as the child would be starting kindergarten and the current schedule was unworkable. The court found that both parties were good parents and found by a preponderance of evidence that the best interest factors favored custody with Defendant during the school year and Plaintiff during the summer. The Court of Appeals reversed, as the burden of proof to change the parties’ shared custodial environment is clear and convincing evidence. The dissent notes that the court should consider the fact that the child cannot attend school on alternate biweekly periods in two separate states.

Retting v Retting, _Mich App_ (2018) #338614 1/23/18. The court entered a judgment of divorce pursuant to a memorandum acknowledged and signed by the parties after a mediation session which resolved all disputes for the divorce. The trial court denied Defendant’s motion to set aside the settlement memorandum and motion for reconsideration. The Court of Appeals affirmed. The agreement was scrutinized at a court hearing before the court accepted the agreement as valid as it had been signed by the parties, and the court was not required to expressly articulate each of the best interest factors as it was implicit in the court’s acceptance of the agreement that the court determined that the custody and parenting time provisions were in the child’s best interest.

In Eppel v Eppel, _Mich App_ (2018) #335653 1/9/18, the Final Uniform Spousal Support Order provided that in addition to the base spousal support award, Defendant was required to pay 19.5% of gross bonuses and deferred compensation, and 19.5% of the fair market value upon vesting of any restricted and performance shares of stocks of his prior employer provided to Defendant by his employer. Defendant

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received 2,500 shares from his employer and purchased another 1,150 shares available to him through an
employee stock option program. The trial court was found to have properly vacated the arbitrator’s award of
19.5% of the 1,150 shares that Defendant had purchased from his former employer under the stock option
program but erred by vacating the award of 19.5% of the remaining 2,500 shares which were clearly covered
by the terms of the final USSO and was within the authority of the arbitrator. The trial court erred in remanding
the issue of attorney fees based on need to the arbitrator, as attorney fees had been considered previously
but not awarded by the arbitrator.

JUVENILE CASE LAW UPDATE

By Ariana Heath, Genesee County

Delinquency - Published Cases

In Re Kerr, People v Kerr, Court of Appeals No. 335000, March 13, 2018. Two delinquency petitions were filed
against a juvenile; both were CSC charges. Petitioner filed a notice of intent in both cases to introduce other
acts evidence under MCL 768.27a. The statute pro-
vides, in part, “in a criminal case in which the defendant
is accused of committing a listed offense against a mi-
nor, evidence that the defendant committed another list-
ed offense against a minor is admissible and may be
considered for its bearing on any matter to which it is
relevant.” Essentially, the petitioner intended to use the acts alleged in each petition in the trial on the other
petition. Respondent objectied and argued juvenile delinquency proceedings are not criminal cases and the
statute did not apply. Trial court ruled in respondent’s favor. COA held juvenile delinquency proceedings are
closely analogous to the criminal process and, relying on People v Watkins (491 Mich 450, 818 NW2d 296
(2012) which held MCL 768.27a to prevail over MRE 404(b)), ruled MCL 768.27a embodies substantive policy
considerations around criminal law and there is no provision in the juvenile code or court rules that conflicts
with or parallels it. It was error on the part of the trial court to rule it did not apply to juvenile proceedings. Pur-
suant to Watkins, evidence admissible under MCL 768.27a remains subject to MRE 403, but in its analysis
the trial court must weigh the propensity inference in favor of the probative value of the evidence rather than
in favor of its prejudicial effect. Reversed and remanded.
Abuse/Neglect - Published

*In re Williams*, Supreme Court No. 155994, May 18, 2018. Father was a member of the Sault Ste. Marie Tribe of Chippewa Indians. DHHS instituted child protection proceedings against him and the children were placed in foster care. Before the court terminated his rights, father voluntarily released his rights. DHHS did not object and the court accepted. Before the adoptions were finalized, father filed notice to withdraw his consent pursuant to MIFPA’s withdrawal provision found in MCL 712B.13(3). Trial court denied his request because he released his children to DHHS rather than to a specific adoptive parent. Court of Appeals affirmed but for different reasons. The Michigan Supreme Court reversed, stating the plain language of MCL 712B.13(3) entitled him to withdraw his consent because there was no final order of adoption.

After father released, the tribe intervened and objected to the adoption by the foster parents under ICWA and MIFPA. The children were placed with new foster parents. After learning that the original foster parents’ petition to adopt had been denied, father filed a request to withdraw his consent to the termination under MCL 712B.13(3). The Supreme Court noted that father consented to the termination for the express purpose of adoption by executing a release pursuant to §§ 28 and 29 of the Adoption Code and that his release to DHHS rather than a specific adoptive parent has nothing to do with his ability to withdraw his consent. The Michigan Supreme Court further noted the referee that accepted father’s release did not use the proper form and should have used the SCAO form “Release of Indian Child by Parent.” MSC stated the referee’s failures during the consent process should not impact his withdrawal demand. MSC further stated if a parent of an Indian child willingly consents to the termination of his parental rights for the purposes of adoption, the parent can rely on the added protection of MCL 712B.13(3) and he cannot be denied the coverage because he was a participant in an involuntary child protection proceeding. Finally, MSC said father could withdraw his release but he is still subject to MCL 712B.15 and DHHS may refile a termination petition. A parent is not entitled to return of the Indian child to him or her, but instead the child returns to the position the child was in before the consent, in this case, foster care. **Reversed and remanded.**

*In re R. Smith*, No. 339478, April 24, 2018. Mother’s child faced significant medical issues. CPS initially petitioned for lack of proper medical care and inappropriate home environment. Services were provided, but mother did not make progress and a termination hearing was held. Trial court terminated mother’s rights and she appealed. While the appeal was pending, the child passed away. COA ruled the case was not moot because collateral legal consequences still existed, such as a prior termination affecting any new children born or possibly impairing the mother’s ability to get certain jobs. The Court upheld the termination. **Affirmed.**

*In re Piland*, Court of Appeals No. 340754, May 15, 2018. Mother gave birth to child at home with the assistance of a midwife. The day after the child’s birth, the midwife visited and expressed concern the child was suffering from jaundice. She suggested the parents take the child for medical care, but they did not. She
contacted a doctor with their permission, but they failed to reply when the doctor’s office tried to reach them. The child died. The parents did not contact emergency medical services but prayed for the child’s resurrection. The doctor who performed the autopsy stated the child likely would have survived if they had sought medical treatment. The parents stated they chose to believe in the “word of God” and any medical condition that could not be treated with basic first aid should be left in the hands of God. DHHS filed a petition. The parents’ other children were removed. Approximately two months later, the trial court returned the children home on the condition the parents comply with a safety plan and refrain from using physical discipline. Six days later, parents requested the trial court amend the order to provide that the parents “may only use physical discipline of any kind upon the children as permitted under Michigan law” on the basis that they had a sincerely held religious belief that physical discipline should be used. The children were removed again after the parents said they would not obey the order. Parents requested a jury instruction at the adjudication based on MCL 722.634 which provides that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide medical treatment shall not be considered negligent for that reason alone. Petitioner argued the term negligence is a tort concept and the statute should not apply in the context of child neglect. The trial court agreed, ruling negligence law has nothing to do with the law in child protection proceedings. Interlocutory appeal followed. COA overturned the trial court and ruled the statute is a provision of the Child Protection Law and the jury instruction was necessary. Reversed and remanded.

In re MGR, Court of Appeal Nos. 338286, 340203, February 27, 2018. In consolidated appeals out of the Oakland Circuit Court this case addresses adoption and paternity proceedings. Child placed with adoptive parents immediately after birth. Adoptive parents filed for adoption. Putative father initiated simultaneous proceedings for paternity and custody. Trial court commenced a section 39 hearing where putative father appeared by phone. Trial court then indicated it would take no action in the adoption case until a resolution was reached in the paternity action. Prospective adoptive parents appealed that order and COA ordered the trial court to continue the adoption proceedings. Trial court recommenced the section 39 hearing and concluded putative father had properly appeared via telephone. Trial court further determined he was a “do something” father and declined to terminate his parental rights. Prospective adoptive parents appealed and argued the trial court committed clear legal error when it failed to terminate father’s parental rights because he did not personally appear and that the trial court erred when it adjourned the adoption proceedings. The Court of Appeals affirmed the trial court’s conclusion that father properly appeared and dismissed the other argument as moot. After the trial court entered its opinion and order refusing to terminate father’s parental rights, it entered an order of filiation in the separate paternity action. Therefore, he was no longer a putative father but a legal father and the COA ruled the issue was moot because there was no relief available. MCL 710.39(1) and (2) expressly address the termination of a putative father’s rights in the course of an adoption, which he no longer was. His rights could now only be terminated pursuant to MCL 712A.19b and section 39 no longer applies. Affirmed.
In re Ballard, Court of Appeals Nos. 339312, 339313, 339314, February 27, 2018. In these siblings’ juvenile guardianship proceedings, the Court of Appeals determined that MCL 712A.19a(14) grants the court authority to order parenting time in such a juvenile guardianship. Reversed and remanded.

Abuse/Neglect - Unpublished Cases of Interest

In re Churchill/Belinski, Court of Appeals No. 337790, March 15, 2018. Mother appealed an order of jurisdiction. COA was fairly critical of both petitioner and respondent. Petition raised allegations that mother was forcing one of her children into a gender role the child did not want. There were also concerns regarding the other children, including the safety of respondent’s home. COA “reluctantly” affirmed the trial court’s decision. But notably, the COA said and emphasized, “our conclusion that the law absolutely cannot countenance and absolutely deems abusive, forcing a particular gender on a child against the child’s wishes, no matter in which way the gender is forced. In other words, it would constitute abuse to force a child who is transgender to conform to any particular gender identity, as well.” COA also emphasized that the complex and strange facts of the case may limit any applicability of the opinion to any other case. Affirmed.

In re Hoffman, Court of Appeals No. 338105, February 22, 2018. The COA vacated a trial court order terminating respondent’s parental rights. Trial court ordered petitioner to provide any needed accommodations under the ADA. COA remanded for trial court to consider whether petitioner met its burden of making reasonable efforts toward reunification in light of In re Hicks/Brown. Efforts cannot be reasonable unless petitioner reasonably modifies its services as necessary to accommodate a parent’s disability. The trial court should have determined whether the petitioner had accommodated respondent’s disability and considered the impact of any failure to do so. The Court remanded and said the trial court should consider whether petitioner reasonably accommodated respondent’s disability as part of its effort towards reunification. Reversed and remanded.

In re Hammond, Court of Appeals No. 339592, January 23, 2018. Father’s parental rights were terminated in October 2015 and soon thereafter, the trial court issued an amended termination order which added language terminating father’s child support obligation. Over a year later, DHHS filed a motion to set aside the amended order. DHHS argued the amended order had been entered without any notice to the prosecutor or DHHS and that terminating father’s support obligation was a violation of In re Beck (488 Mich 6; 793 NW2d 562 (2010)). The trial court agreed and granted DHHS’ motion. Father appealed. COA gave specific directions to guide the parties and trial court. One, DHHS was to identify a procedural rule regarding relief from judgment upon which it could rely to advance its motion. Two, if the rule allows DHHS to go forward, the court shall determine whether the family court that entered the amended termination order constituted a court of competent jurisdiction under Beck. Third, if the trial court was a court of competent jurisdiction (that it had the authority to modify or terminate father’s support obligation), the court was to determine whether the service, notice, or other arguments raised by DHHS justify setting aside the amended termination order within the parameters of any governing procedural rule or rules. Reversed and remanded.
Please take note of the changes to financial reporting for judicial officers! The SCAO 17 financial report is due on Tax Day of each year.

Order

February 28, 2018
ADM File No. 2017-04

Amendment of Canon 4 of the Michigan Code of Judicial Conduct

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Canon 4 of the Michigan Code of Judicial Conduct is adopted, effective immediately.

[Additions to the text are indicated in underlining and deleted text is shown by strikethrough.]

Canon 4. A Judge May Engage in Extrajudicial Activities

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, the judge is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law. A judge should regulate extrajudicial activities to minimize the risk of conflict with judicial duties.

A judge may engage in the following activities:

(A)-(D) [Unchanged.]

(E) Financial Activities.

(1)-(3) [Unchanged.]

(4) Neither a judge nor a family member residing in the judge’s household should accept a gift, bequest, favor, or loan from anyone except as follows:

(a) A judge may accept a gift or gifts not to exceed a total value of $400,375, incident to a public testimonial; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice.
(b) [Unchanged.]

c) A judge or family member residing in the judge's household may accept any other gift, bequest, favor, or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge, and if the aggregate value of gifts received by a judge or family member residing in the judge's household from any source exceeds $1,140,375, the judge reports it in the same manner as compensation is reported in Canon 6C. For purposes of reporting gifts under this subsection, any gift with a fair market value of $150 or less need not be aggregated to determine if the $375 reporting threshold has been met.

(5)-(7) [Unchanged.]

(F)-(1) [Unchanged.]

Staff Comment: This amendment increases the acceptable value for a gift given incident to a public testimonial, and likewise increases the threshold amount for disclosure of a gift. This increase is the first revision since the $100 value threshold was adopted in 1974.

The threshold amount for reporting gifts is widely variable among the states and federal government. The disclosure threshold for reporting gifts in other states, established by statute or court rule, ranges from $50 to $500. Many states do not have a threshold amount at all; instead, such states may prohibit the acceptance of gifts from certain classes of donors, or alternatively allow judges to accept a certain class of gifts without regard to value for specific events, such as a wedding, or 25th or 50th wedding anniversary. The Court also considered the increase in the value of money since the $100 threshold was adopted. According to the American Institute for Economic Research, the value of $100 in today's economy is $495.92.

The Court used the federal disclosure rule and threshold as its model. For federal judges, the gift disclosure amount is $375, as established by the Judicial Conference. The instructions for submitting the annual disclosure report require a federal judge to:

Report information on gifts aggregating more than $375 in value received by the filer, spouse and dependent child from any source other than a relative during the reporting period. Any gift with a fair market value of $150 or less need not be aggregated to determine if the $375 reporting threshold has been met.
Thus, similar to the federal rule, the amendment increases the disclosure threshold to $375, but requires gifts to the judge and his family members from a single source to be aggregated for purposes of reporting. Gifts with value less than $150 would not need to be included in this aggregate amount. Further, the amendment does not change the restriction that a gift may be accepted under this subsection only if the donor is not a party or other person whose interests have come or are likely to come before the judge.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.
This year’s Annual Conference at the H Hotel in Midland provided a wealth of knowledge, great networking opportunities, and included important RAM business. Many thanks go to Co-Chairs Sahera Housey and Kate Weaver who, with the help of their committee, put together this successful event.

Judge David Lawson, from the US District Court for the Eastern District of Michigan, incorporated an evidence refresher while discussing the challenges of handling digital and electronic evidence. By the end of his lesson, we were all making the correct decisions on admissibility in his hypotheticals.

Dr. Richard Wooten did an admirable job helping us understand the role of psychological assessments and strategies to optimize outcomes in court, while also entertaining us with exercises that show the limits of our own memory. And on the subject of diagnostic tools, Smart Start’s Heather Stapula reviewed the devices available and being developed that are used to screen for alcohol and drugs.

Joshua Kay, from the U of M Child Advocacy Law Clinic, had the challenging task of selecting and presenting the top twenty child welfare cases everyone should know and providing a legal update for neglect and termination proceedings. This was followed up by Ed Messing’s annual case law update on everything related to family and juvenile court.

At this year’s annual membership meeting, members voted on the new board and voted to modify the By-laws to increase the annual membership dues from $25 to $35. Additionally, the creation of three workgroups was announced, and members are encouraged to volunteer for these groups and/or get involved in other work with RAM. Contacts for the workgroups are as follows: Post Majority Support - Michelle Letourneau-McAvoy; Expansion of Referee Authority – Amanda Kole; and Community Outreach (to Educate & Improve Public Perception on Custody and Parenting Time) - Lorie Savin.

Last, but certainly not least, congratulations go to this year’s award recipients:

- Kate Weaver, Presidential Award recipient for her continued commitment and dedication as Co-Chair of the Conference Committee.
- Janet Mendez, Service to the Board Award recipient for her commitment and diligence as Secretary.
• Lynn Perry, Valuable Member Award recipient for her commitment and efforts in representing RAM on juvenile law issues.

• Sahera Housey, Past President Award recipient for her commitment to furthering RAM’s mission and her dedication to the practice of family law.
UPCOMING

- RAM Board Meeting
  Thursday, **July 12, 2018**
  10 a.m.
  State Bar of Michigan
  Lansing, MI

- MJJ New Referee Training
  **August 14 & 15, 2018**
  Michigan Hall of Justice
  Lansing, MI

- RAM Board Meeting
  Thursday, **September 27, 2018**
  Noon, Location TBD
  Grand Rapids, MI

- SAVE THE DATE
  Thursday, **October 4, 2018**
  Family Division Summit
  The Inn at St. John’s
  Plymouth, MI

Sahera Housey presents award to Lynn Perry as Kristi Drake observes
MISSION STATEMENT

Founded in 1984, the Referees Association of Michigan (RAM) is a special purpose bar organization recognized by the State Bar of Michigan that consists of attorneys who serve as juvenile and domestic relations referees throughout the State. RAM’s primary focus is to educate its members through an annual training conference, its publication, Referees Quarterly, and a listserv. RAM’s mission is also to contribute to the improvement of the legal system by appointing members to serve on numerous State Bar and State Court Administrative Office committees, and by offering comments to proposed legislation and court rules.

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