

NW FAMILY TIES



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Make Plans Now for the Third Annual WA AFCC Conference

Pre-Conference Social Hour

Friday April 5, 2013

Key Note, Plenary and Workshops

Saturday April 6, 2013

Pinnacles of Practice in Times of Challenge



Up to 6 hours CLE (approved WSBA), CE for NASW approved.

Sessions in the program are under review by the AFCC organization for continuing education credit. The AFCC parent organization is approved by the American Psychological Association to sponsor continuing education for psychologists. AFCC maintains responsibility for this program and its content

THIRD ANNUAL CONFERENCE PLANS UNDERWAY— MARK YOUR CALENDER

Get Ready for an outstanding line-up of Training Opportunities at the 3rd Annual WA AFCC Conference to be held Saturday, April 6th 2013 at the Washington Athletic Club in Seattle.

PINNACLES OF PRACTICE IN TIMES OF CHALLENGE



The day begins with a plenary session by Dr. Manny Tau — **Violence Risk in the Post-Powell Era**. Learn about safety measures for conducting parenting evaluations and developing parenting plans. Then join a distinguished group of family law judicial officers from King County, Mason County, and Kitsap County in a **Judicial Officer Forum** to discuss key concerns and best practice ideas.

The afternoon provides *seven break-out meetings to choose from including* sessions on Predatory Behaviors and Digital Malice (Cyberstalking) (Dr. Manny Tau), Voice of the Child (Lynne Smith), International Relocation (Leslie Shear, J.D.), Working with Never Married Parents (Mindy Mitnick, Ed.M.), Reunification Interventions (Dr. Bruce Harshman), Best Practice Standards for GALs and Psychologists (Dr. Melanie English, Dr. Natalie Novick Brown, David Hodges, M.A.), and Research on Child Informed Mediation (Robin Ballard).

Registration information will be available in January so watch for additional news or check the website for details. Attorneys, GAL's, mental health professionals and others will find this to be another worthwhile day of presentations, discussions, networking and sharing of information.

APRIL 6th
2013
8:30 to 4:30



Washington Athletic Club
1325 6th Ave., Seattle

WA CHAPTER ACHIEVES CHARTER STATUS

The local WA AFCC chapter received Charter status from the parent AFCC group in June 2012. With two successful conferences and with growing numbers of AFCC members in our state, the WA AFCC was awarded Charter status in record time. The AFCC Board gave approval at the June

AFCC Conference in Chicago. The Washington Chapter joins thirteen other chapters that include Arizona, California, Colorado, Florida, Louisiana, Massachusetts, Minnesota, New York, Missouri, Texas, New Jersey, and Ontario. WA AFCC members receive reduced rates for training sessions. Closer

professional networking and participation in the seminal efforts to enhance the quality of parenting evaluations are among the exciting aspects of membership.



ASSOCIATION OF
FAMILY AND
CONCILIATION COURTS

PRESIDENT'S MESSAGE



Daniel Rybicki, Psy.D.

“A growing statewide awareness has begun regarding the value of attending to national practice standards and professional guidelines for conducting parenting evaluations.”



Hon. Chief Justice Gerry Alexander (ret.) above Felicia Malsby & Carol Bailey below



We have entered a new phase of development for our state chapter with the achievement of Charter Status. Our Council Representative is now able to fully participate in AFCC Council decision-making and our state chapter is able to market our training opportunities and achievements on the AFCC website.

A growing statewide awareness has begun regarding the value of attending to national practice standards and professional guidelines for conducting parenting evaluations. Better ethical practices and increased focus on current research are among the positive contributions that our newly developed state chapter has brought to the attention of attorneys, GALs, and judicial officers in several jurisdictions.

We have launched task force work groups to begin to flesh out ways to generate enhanced communication and networking amongst evaluators in the field. This should assist Guardian Ad Litem to receive useful continuing education training and remain more current with new approaches to assessment and intervention. There is also a team of professionals seeking to develop enhanced methods for peer review and support. If you haven't yet joined WA AFCC, this might be a great time to get on board and participate in shaping the development of this organization. Membership in AFCC is required and brings with it reduced rates for regional and annual conferences such as the 50th Anniversary event which will take place in Los Angeles in June 2013. Access to all the

current and back issues of *Family Court Review*, the truly outstanding interdisciplinary journal, will keep you up to date with research and innovations in assessment and intervention.

I am excited to report that our chapter leadership will go through a major transition as our new President-Elect, Dana Dean Doering, takes over the helm in April. I will serve as Past President and assist with the annual conference planning. As we move into the next stage of our organization, I want to express my sincere gratitude for having had the opportunity to serve as the Founding President. This has been a labor of love and an opportunity to give something to our community at a level that goes beyond the case-by-case service that my forensic practice has allowed. I am enthused to see that other professionals have embraced the value of having a state chapter and have become more and more involved in the operations and plans. Fractured families will benefit from our shared efforts and children will have the best possible outcomes for their future as improved parenting evaluations and interventions assist the court. To all that have shared in this journey so far, I say...



SECOND ANNUAL CONFERENCE SUCCESS

Nearly 100 people attended the 2 day conference held last April at the WA Athletic Club. Former WA Supreme Ct Justice Gerry Alexander gave the keynote speech. His many years of distinguished service were recognized with a plaque.

Dr. Matt Sullivan presented a 6hr workshop on Parenting Coordination while other training sessions included workshops on the Voice of the Child, Abusive Use of Abusive Use of Conflict, Solution Focused Legal Services, and Collaborative Law offered by Gary Schreiner & Michele

Unsworth, Daniel Rybicki, Wendy Hutchins-Cook, Carol Bailey, and Felicia Malsby. Saturday offered plenary sessions by Dr. Matt Sullivan on Court Ordered Therapy, and Drs. Kuehnle and Drozd on Research Guided Parenting Plans. Six other workshops were offered on Relocation and 191 travel restrictions (by Catherine W. Smith), DV and Gatekeeping issues (Bill Austin, Leslie Drozd and Nancy Olesen), GAL practices Coast to Coast (David Hodges, Robert Zibbell & Dan Rybicki). Presentations on Risks for Violence in Evaluations and

Applying Research to Evaluations were presented by Drs. Poppleton, Tutty, and Lee.

Once again, feedback from the attendees was that this event provided some of the most useful and on-point training that they had received in years. Several persons joined the AFCC and Washington Chapter immediately following the event. **Recordings of these sessions are available for download and purchase at our website.**

Matt Sullivan right



ABUSIVE USE OF CONFLICT — SURVEY RESEARCH FINDINGS

BY DANIEL RYBICKI, PSY.D.



Abusive use of conflict is a concept which has not been clearly defined in either the psychological literature or in the prevailing statutes and legal opinions cited in

Washington state laws. Our WA AFCC workgroup has conducted an extensive review of the literature that includes a review of reported and non-reported legal opinion as well as a review of legislative hearings on this topic. Some of those legislative hearings trace back to the original discussions that led to the passage of the Parenting Act of 1987. When that important piece of legislation was passed, there was a shift in the approach taken to custody disputes to focus primary attention on the best interests of the children and on the quality of the parent-child relationship (evident in the RCW 26.09.02 criteria). With consideration of the RCW 26.09.187 and the additional examination of the RCW 26.09.191 limitation factors, judicial officers were directed to weigh the evidence and develop parenting plans which were predictive of optimal adjustment and future stability for children in contested custody disputes.

Within the “191 limitation” factors is the rather vague term **“abusive use of conflict.”** This condition is said to exist when a parent’s role in conflict creates a “danger of serious damage to the child’s development.” It is said to exist when conditions are present that create the risk, although it does not require that any specific harm has yet taken place for the child. The term is designed as a forward looking prediction of risk. Unfortunately, there was no clarification on the methods to determine that risk. There were no guidelines in place for weighing or considering the level or degree of risk, the level of certainty of the prediction, or the question of whether or not a single parenting act would suffice or if a pattern of behavior must be established. These important issues were left to the trier of fact to sort out the nuances of the law. As a result, a range of cases have made claims of abusive use of conflict (AUC) as a basis for modifying or restricting parental access to minor children.

Decisions have been rendered by commissioners and judges across a range of circumstances and, to date, there have only been a very few number of cases that have reported decisions on which to argue the merits of a case in point. There are a number of unreported cases that give some sense of the range of issues, but they are not considered dispositive of the legal argument. A systematic review of Lexis Nexus conducted in January 2012 reveals some 37 cases that address issues of abusive use of conflict; however, only a handful of those cases (7) offered reported opinions. Those reported cases include the following: *Burrill v. Burrill*, 113 Wash.App. 863 (2002); *In re Marriage of Katare*, 125 Wn.App.813, 105 P.3d 44 (2004); *In re Marriage of Lawrence*, 105 Wash.App. 370, 382, 40, P.3d 1192, 2002); *In re: Marriage of Schwary*, 121 Wash.App. 1007

(Wash.Ct App.2004); *In re: Marriage of Shyrook* 76 Wash.App. 848 (1995); *In re: Marriage of Watson* 130, P.3d 915, 2006; *Kirshenbaum v. Kirshenbaum*, 84 Wash.App. 798 (1997).

There are a variety of circumstances and conditions that have been cited in these cases which reflect factors that seem to trigger consideration of abusive use of conflict. Among those issues are the following: alienation and restrictive gatekeeping; undermining of the value and/or authority of the other parent; character assassination; visitation interference or blocking access by an overprotective parent; blaming the other parent for the disturbed situation; using the children as tools or pawns; coaching, coercion, pressuring and manipulating the children; anger problems and high conflict conditions; oppositional parents lacking in insight who can’t cooperate; bullying and domineering; taking unilateral actions and engaging the children in the conflict; making unfounded domestic violence allegations; and making unfounded child sexual abuse allegations. Psychologists and other mental health professionals might not be surprised to see this type of listing of issues given our experience with working with high conflict custody cases. It would seem that the term “abusive use of conflict” is a catch-all phrase which addresses overly litigious parents, parents embroiled in a high conflict custody dispute, or parents who allow the conflict to spill over into disturbed parent-child relationship dynamics. Subcategories of disturbance might include alienation and generation of false allegations that cover a host of wrongful behavior. It may be helpful in its breadth, but confusing in its lack of definition or clarity. Attorneys might be more comfortable with the lack of clarity since it allows for a case-by-case consideration of elements which may be unique.

In order to examine how professionals working in this field have viewed abusive use of conflict, this author prepared a survey measure which was distributed to over 1,300 family attorneys and mental health professionals in the custody evaluation field. About 120 professionals responded and the vast majority of those were family law attorneys (76%). Only about one third of those responding acknowledged receiving any training in the concept and very few were able to report any familiarity with the few reported legal citations in the field. Despite this lack of focused training in the area of abusive use of conflict, about 65% of those responding reported representing clients in cases where AUC was raised as a concern.

Survey questions were asked regarding the respondent’s knowledge and familiarity with key citations and with the range of issues and concerns that were included in the definition of the term. Detailed discussion of those results goes beyond the scope of this current report, but it was clearly evident from these findings that there are a number of family situations that raise concern about possible abusive use of conflict. However, it was also apparent that definitions and criteria were sorely lacking for determining the presence, level and extent of abusive use of conflict. Making false allegations, engaging in parental alienation, recurrent use of derogatory language, and recurrent high conflict behavior such as seeking a protective order when unwarranted or engaging in recurrent litigation were among

ABUSIVE USE OF CONFLICT RESEARCH FINDINGS (CONTINUED FROM P.3)



AUC as Moving Target



those behaviors cited most frequently.

Behavioral indicators of risk or harm to the child were also listed and rank ordered. Among those tell-tale signs of possible abusive use of conflict were such things as: plummeting grades; self-injurious behavior; acting out in school; emotional distress; abuse of alcohol or drugs; running away; oppositional behaviors; poor school attendance; deterioration in the parent-child relationship; children becoming parentified or pulled into the conflict; and evidence of a parental loyalty bind. These were features listed and described by the respondents, although there was no empirical evidence to move past these as professional speculation or reasoned conjecture.

The respondents expressed concern about “actions or neglects” by the parents which might also be considered predictive of possible abusive use of conflict. Such actions as criticizing the other parent, arguing at exchanges, using the children as spies or pawns, grilling the children after visits, and failing to put the children’s needs first were among those red flags. Other features included evidence of parents discussing the legal case with the child, encouraging the child to sabotage the other parent, undermining the child’s visits to the other parent, or demonstrating a lack of insight as to the value of the other parent. There was a converging opinion that complex family dynamics are often oversimplified when legal arguments are raised about abusive use of conflict. There was also concern that the label might be used at a certain point in time in the divorced family system which did not reliably predict continued problems into the future. Problems that earned the label might not persist into the future. Questions were raised about the wisdom of providing a permanent parenting plan restriction based on situations that might be more fluid or open to better intervention. A majority of those responding (76.9%) believed that the concept was used too broadly or simply misused as part of a barrage of legal argument. It was said that far too often in high conflict cases, judges would contend that it “takes two to tango” such that the offenses of each parent would simply cancel each other out. There was also some concern that a central problem in many AUC suspected cases centers on parenting style differences which are not tolerated when one or both parents have prominent narcissistic features to their personality. It was said the AUC may be alleged in cases where unfinished business from the former marital relationship combines with some “clueless parenting” to project blame onto the other parent. The tactic was seen as being used by a controlling and aggressive parent against a tired, weakened parent at some point in the history of conflict where the victim parent tries to assert themselves. Fundamentally, the literature review and judicial review combined with the survey of professionals to determine that this is a concept whose boundaries, parameters, levels and criteria remain rather uncertain.

We're on the Web!
WWW.WA-AFCC.NET

Helping Families in Times of Crisis



WA-AFCC

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UPCOMING TRAINING EVENTS OF INTEREST

AFCC 50th Anniversary Conference

Riding the Wave of the Future: Global Voices, Expanding Choices

May 29-June 1, 2013

JW Marriott Los Angeles L.A. Live
Los Angeles, California www.afccnet.org

 **Seattle Collaborative
12 hour Basic Training**

March 22-23, 2013 www.collabtraining.com

