

REFEREES' QUARTERLY

DECEMBER, 2008
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WAYNE B. v GRANHOLM **HIGHLIGHTS OF DHS SETTLEMENT AGREEMENT**

Contributed by Shelley R. Spivack
Genesee County Family Court Attorney Referee

On August 8, 2006 attorneys from Children's Rights, a national child welfare organization in New York, filed a federal class action lawsuit in the Eastern District of Michigan alleging that the State of Michigan had violated the constitutional rights of children in foster care. The suit claimed that DHS, which operates the 7th largest foster care system in the country with approximately 19,000 children in care, failed to provide safe, stable, and permanent homes for children in foster care. The suit also claimed that DHS failed to provide for the health and educational needs of these children.



A court ordered analysis of 460 of the children in foster care, as well as several reviews by independent experts, found widespread deficiencies in the management of the child welfare system. The reports concluded that DHS management "fails to meet even minimum standards of practice in its operation and administration of the child welfare system in Michigan, resulting in severe and ongoing harm to children in foster care."

Next RAM Board Meetings:

February 12th – State Bar of Michigan Building, 10am
April 9th – State Bar of Michigan Building, 10am
May 22nd – at RAM Annual Conference

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On July 3, 2008, four days prior to trial, a settlement agreement was reached. U.S. District Judge Nancy Edmunds approved the settlement on October 24th. The agreement puts the state's foster care system under Federal Court oversight until Michigan has fulfilled all terms of the agreement and has remained compliant for 18 months. A Federal Monitor has been appointed to oversee compliance.

The agreement overhauls the structure and management of DHS, reduces caseloads of both caseworkers and supervisors, and reforms supervisory and caseworker qualifications and training. In addition it sets specific performance outcomes, changes licensing requirements of placements, and requires the hiring of a medical director to ensure proper medical, mental health and dental service to children in foster care.

As Referees there are several provisions which will directly impact our work:

- All children placed by DHS must be placed in licensed foster homes or in a licensed facility. If a child is placed in care after 10/1/08 and is placed with relatives, the relatives must be licensed (unless exceptional circumstances have been documented and approved.) Children may be placed with a relative pending licensing for 90 days if the relative meets licensing requirements and is willing to become licensed. All home studies for such relatives must be completed within 30 days.
- For children who were placed with relatives prior to 10/1/08, DHS shall implement procedures to license all currently unlicensed caregivers.
- DHS must implement concurrent planning, which entails planning for possible adoptive placement while still pursuing reunification (unless it is documented as clearly inappropriate).
- Where the permanency goal has been changed to adoption, the termination petition must be filed within 2 weeks of the goal change.
- Independent Living and Emancipation are prohibited as Permanency Goals. The goal must be changed at the next review hearing. If the goal is changed to Another Permanent Planned Living Arrangement (APPLA) the child must be 14; DHS must exhaust every effort to either return the child home, place the child with relatives or place the child for adoption; the foster parents must agree to continue to care for the child; and the Director of the Bureau of Child Welfare must approve the plan.
- No child under the age of 16 shall be placed in an independent living placement.
- Abuse and neglect wards shall not be placed in a detention facility unless it is pursuant to a delinquency charge. If there is a delinquency charge, DHS must move the child within 5 days unless the court orders otherwise over DHS objection.
- DHS shall establish a statewide centralized CPS hotline and shall designate a special unit to investigate all allegations of abuse and neglect of children in foster care.
- DHS shall ensure that children in foster care have access to appropriate services, including medical, dental, mental health and appropriate educational services.

It is important to remember that these are only highlights of the agreement and that differences are bound to arise between DHS and the courts regarding the Agreement's interpretation. The entire agreement can be accessed through the Children's Rights website: www.childrensrights.org and further information can also be obtained through SCAO. We will keep you updated in the Newsletter and on the Listserv of new developments.

Contributed by Shelley R. Spivack



RAM MEMBERS SHARING THEIR EXPERTISE

Traci L. Rink gave two presentations this quarter. Her first presentation, “Change of Domicile and UCCJEA,” was at the Hall of Justice for the Michigan Judicial Institute (MJ) Domestic Relations Division Conference on November 5, 2008. Traci’s second presentation, “Making Sense of the UCCJEA,” was given on November 20, 2008 at the Seventh Annual Family Law Institute in Plymouth .

RAM member **Kent Weichmann** also presented at the Family Law Institute conference on the subject of “Understanding and Working with the New Child Support Formula.”

Ed Messing, Jr. spoke at the November 5, 2008 MJ) conference. Ed presented information on two topics: a “Statutory, Court Rule, and Case Law Update,” followed by a Roundtable Discussion titled “Effective Child Support Enforcement Alternatives and Best Practices.”

Retired lifetime RAM member, **Jon Ferrier**, addressed the referees at the MJ) conference on November 5th, discussing “Fact Finding and Opinion Writing.”

Amanda Kole gave a presentation to the UAW Lawyers in Detroit on December 5, 2008. She spoke on a panoply of family law issues including: child support under the new formula, FOC policies, pro per litigants, mediation and interstate actions.

Shelley Spivak was cited in an article in the Flint Journal about her AWOL docket. The link to the article is:

http://www.mlive.com/flintjournal/index.ssf/2008/12/genesee_county_cuts_down_on_mi.html

* * * * *

(If you are a referee and you have given a presentation since the last *Referees’ Quarterly*, please contact Linda Weiss or Ken Randall so that we may post your information. Thanks!)

THE PRESIDENT'S CORNER

Contributed by Art Spears, RAM President

I concluded my last article for the Referees Quarterly with the thought that we, as judicial decision makers, should utilize empathy as a guide to the conduct of our hearings, to better respond to the needs of the litigants before us and to make our decisions ones we can have more confidence in. In this issue, I would like us to address the idea of collaboration as a tool in our arsenal.

I have just taken part in some early planning sessions with respect to the concept of “Problem Solving Courts” and the overriding theme of these programs is that our court acts in collaboration with other agencies and other courts. The natural tendency of a court decision process is to deliver an order and expect that someone will comply and then employ a series of sanctions and punishments when they do not. The simplest example is an order to pay child support in a certain sum, by a certain date or on a regular recurring basis. The respondent fails or refuses and is then held in contempt and subject to a variety of sanctions, the most familiar of which is incarceration. Judicial officers naturally like to issue orders and have those orders complied with, precisely and on time and sometimes do not respond well to attempts to meddle in their decision making.

But we all have experience with the wide range of life circumstances which might bring a litigant back into our court for failure to comply, and as the scope of our decision making expands to other areas such as parenting time, custody, domicile, etc, so does the scope of potential reasons why a litigant cannot or will not comply.

A recent conference call sponsored by the Federal Office of Child Support on this very topic (referred to as “Affinity Call Re: Problem Solving Courts”) was very instructive on this theme. The principal caller/participants were Michigan Supreme Court Justice Maura Corrigan, Wake County (North Carolina) District Judge Kristin



THE PRESIDENT'S CORNER, Con't from Page 4...

Ruth and Davidson County (Tennessee) Juvenile Court Referee Scott Rosenberg. The essence of their analysis was to identify the nature of a particular person's non-compliance (substance abuse, criminal record, unemployment, education), then begin the process of collaboration with other stakeholders in the IV-D agency and outside the agency to assist in a solution that will actually make the case and the person better than when we first found it.

R.A.M. has long existed on a collaboration/problem solving model, both in our domestic relations referees and our referees on the juvenile side. Inclusion of other agencies in our work (drug treatment, Work First programs, wraparound services, etc) will continue to go a very long way in enabling, again, better decision making.

Paul Jacokes, our esteemed Vice President, from Macomb County, has agreed to participate on this Problem Solving Courts Committee and, knowing how Justice Corrigan ensures that action will be taken, I am certain we will be hearing from Paul soon about the implementation of these new tools with which to address the problems that confront and confound us daily.

Contributed by Art Spears.

MARK THE DATE!!

Next Board Meeting:

**State Bar of Michigan Building
Lansing, MI**

**Thursday, February 12, 2009
10:00 a.m.**



Tying the Knot, and Other Strange Wedding Traditions and Laws

Contributed by Ken Randall



Hopefully this article finds all who read it happy and healthy during this holiday season. It's a good time of year to take stock in what we have, and to be thankful for small blessings, family and friends. My holidays are off to a wonderful start. I got engaged (to Anne) over Thanksgiving break, which brings me to the subject matter of this article. The whole idea of marriage makes me think of all the strange legal requirements and quirky customs associated with weddings.

As referees, we see the backside of marriage, what happens when they fail. It's odd to examine weddings and marriage from the start, that surreal time when the world seems perfect, and divorce is the last thing on anyone's mind.

Cultures throughout the world have unusual traditions when it comes to marriage. Yet, for all the diversity, there is one common denominator: ritual. Newlywed couples in all cultures know they have gone through a certain rights of passage after they have completed their ritual. So how about the strange traditions?

The title of this article references "tying the knot." It's an expression we all have heard and recognize as a euphemism for marriage. Do you know where it originated? It's a fossil phrase, relic from a different millennium that has been handed down linguistically to the present day, though the literal meaning has been almost forgotten. The phrase comes from the Pagan tradition derived from the Celtic/Druid ceremony of hand-fasting. The bride and groom would have their hands bound together with a ceremonial chord, and the tying of the knot symbolized the completion of the wedding ceremony. This practice may also be the origin of the phrase "the ties that bind."

Of course many cultures symbolize marriage not with knots, but with rings. The custom of a "ring finger" has many different variations. In parts of India, for example, the thumb is the ring finger. In early Greece, the index finger was considered the ring finger. Today the third is used because of an ancient belief that the "vein of love" went through the third finger straight to the heart.

Because the United States is a great melting pot of different cultures, we have perhaps the world's greatest variety of wedding traditions including: jumping over a broom (Cajun and early African American), spitting on the bride for good luck (Greek Orthodox), pipe smoking (Native American, esp. Algonquin), and breaking a glass (a Jewish tradition that always looks like fun).

At most of the weddings that I have attended there is a moment when the groom tosses the bride's garter (usually to a disheveled group of disinterested young men who have their hands buried deep into their pockets). Do you know why a groom throws the garter? It always seems like a strange, if not embarrassing, custom. But upon examination, the custom pales to the embarrassment of the actual tradition. As we all know, under common law, marriage requires consummation to become legal. Historically, the consummation was witnessed by wedding guests shortly after the "I dos." After consummation, the groom would lift up and throw to the witnesses an undergarment to prove his deed. Yikes! Suddenly a garter toss doesn't sound so bad! (And what about those poor newlyweds with performance anxiety?) Cooley Law School's distinguished professor, Jack Rooney, would quip, "I was asked, 'On your wedding night, were you a man or a mouse?'" He'd wink to the class and say, "I was a RAT!" Sexual relations have long been a requirement to "seal the deal." The garter represents the deed has been or will be done.

Wedding laws are no less strange than the nuptial traditions. For example, in some states, you don't even have to be present at your own wedding to become married. Proxy marriage allows a third person to stand up for either the bride or groom during a ceremony. Proxy marriages accommodate those who are unable to attend their own wedding, usually because of military service. Montana actually recognizes a **double** proxy marriage. In other words, a couple can get married even though neither the bride nor groom is present. (I mean, come on folks, just how busy can you be? And how about the common law consummation?)

Another legal oddity is the secret marriage. Both California and Michigan allow couples to wed, but keep the marriage records sealed. One may rightly guess that such laws were passed to allow couples from feuding families, say the Hatfields and McCoys, to marry without causing further ruckus. Generally speaking, secret marriage laws were passed to protect the married couples from revealing the circumstances of their marriage. More recently, secret marriage laws have been used as a way to avoid paparazzi by such stars as Tom Cruise and Katie Holmes, as well as Brandy and Janet Jackson. Michigan law has allowed for secret weddings since 1897. See MCL 551.201-201; MSA 25.51-54. A violation of the confidence is a misdemeanor.

State marriage laws routinely set age and relation requirements. For example, a surprising number of jurisdictions allow first cousins to get married. Usually the married cousins must be over 50 or 60 years old. States also impose minimum age requirements for the young. For example, in Missouri, no one under 15 may be married without judicial approval. In New Hampshire, a 13 year old girl may be married if approved by the parents. In Arkansas, for a brief period (when a minimum age was mistakenly left out of legislation), children of any age could get married with parental consent. Even toddlers. The loophole was closed in April 2008.

Michigan once had a law stating, "No ...idiot... shall be capable of contracting marriage." MCL 551.6; MSA 25.6. As many hearing officers may have surmised, that law was repealed, so now *any* idiot can get married. (The Webster's definition has, of course, changed over the years.)

The myriad of wedding laws and traditions out there is mind spinning. Just as impressive are the different kinds of weddings now available: church, civil, destination, proxy, double-proxy, same-sex, double, multiple, secret, shotgun and common law to name a few. It is with the above strange laws, traditions and choices that Anne and I now contemplate our wedding. Who knew it was so complicated? Suddenly, Vegas doesn't look so bad!

December 10, 2008

History of the Friend of the Court

Contributed by William D. Camden, Kent County FOC

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HISTORY OF THE FRIEND OF THE COURT SYSTEM

By William D. Camden
Kent County Friend of the Court

Arising out of the British Common Law, children were historically considered property of parents. This view was dominant until late in the 19th Century in the United States. There were no laws against child abuse because children were considered chattel of the parents. Similarly, there were no laws against animal cruelty for the same reason. Animals were considered to be property of the owner.

A significant event occurred in 1859 when Charles Darwin published his seminal work entitled Origin of the Species. This book for the first time linked humans to other members of the animal kingdom.

In the mid-1800s, citizens in the city of New York became quite concerned about treatment of milk horses used in the daily commerce in that city. These citizens formed "The Society For The Prevention of Cruelty to Animals", an organization which still exists today, to lobby for laws to protect the milk horses. This initiative was successful and around 1870, it became a crime to mistreat animals in the city of New York.

As people were becoming more aware of the plight of these milk horses a very popular book entitled Black Beauty was published in 1877. This book was about a once beautiful horse that had been reduced to a broken down milk horse in the city of London, England, and it was extremely popular in the United States. The book reinforced the value of the New York City law in the minds of Americans.

In 1874, a physician in the city of New York was found to have badly battered his young adopted daughter. The prosecutor wanted to press charges but found no applicable law which would make the battering a crime, since children were considered property. This innovative prosecutor seized upon the law prohibiting cruelty to animals and relied on the Darwinian assertion that humans were of the animal kingdom. He successfully prosecuted the case under the milk horse ordinance. This case is known as In Re: Mary Ellen.

The furor resulting from the prosecutor's need to rely on a law protecting animals caused the formation of "The Society For The Prevention Of Cruelty to Children", which was actually formed as an arm of the "Society For The Prevention Of Cruelty to Animals" and to this date remains a division of the older society. The new society began lobbying for separate courts to protect battered children.

HISTORY OF THE FRIEND OF THE COURT SYSTEM

A parallel movement had begun with respect to delinquency of children arising out of a highly publicized case in New Jersey where a twelve-year old boy was hung in accordance with the laws of that day because of a theft. The first juvenile court in the Country was established in Cook County, Illinois to deal with delinquency, neglect, and dependant children's issues. In 1917, the state of Michigan attempted to form a juvenile court, but the statute was ruled unconstitutional. The Constitution was subsequently amended and the Juvenile Court was established as an arm of the Probate Court in 1919.

Prior to that, the Circuit Court Probation Office had been responsible for supervising all minor children in need of supervision. These children fell into three categories: 1) children in orphanages; 2) children who were indentured; and 3) children of divorce. The 1919 legislature abolished indenture and placed dependant, neglected, and delinquent children under the auspices of the new Juvenile Court, leaving children of divorce with Circuit Court.

Thus in 1919 the Michigan Friend of the Court System was created. Friend of the Court is the English translation for the very old latin term "amicus curiae"; a term meaning a disinterested third-party opinion designed to assist the court in arriving at a judicial decision.

The Friend of the Court Office was charged with investigating and making recommendations with respect to custody, visitation, and support. The office was further charged with enforcing the circuit court orders with respect to those three areas and with collecting child support, alimony, etc. It is interesting to note that the role of the Friend of the Court has changed very little since 1919. Even though there have been enormous procedural changes involving the use of referees, various procedural changes, reporting requirements, and tax intercepts, the only important substantive change has been the additional requirement that each Friend of the Court provide mediation services, a requirement created in 1983 by the Michigan legislature.

The Director of each Friend of the Court office is personally titled "Friend of the Court". This person was appointed by the governor upon the recommendation of the Chief Judge until approximately 1983, at which time the law was changed to simply make the appointment by the Chief Judge.

MICHIGAN LEADERSHIP

It is important to note that the role of the Friend of the Court is comprehensive. We are the investigative and enforcement arm of the Circuit Court in all domestic relations cases; i.e., not only divorces, but also family support orders, paternity actions, interstate cases, etc. Our jurisdiction extends to all aspects of child support, alimony, visitation establishment and enforcement, custody arrangements, etc. For the citizens of Michigan that represents "one-stop shopping" in the domestic relations area. Although child support enforcement and visitation enforcement are not legally related, professionals in the Friend of the Court system in Michigan have consistently taken the position that there is a direct

HISTORY OF THE FRIEND OF THE COURT SYSTEM

causal relationship between effective child support enforcement and visitation enforcement. Our legislature has indirectly seen this relationship in passing the law known as the Support and Visitation Act. Nowhere else in the Country is this relationship so completely acknowledged. In fact, in no other state is there any public agency designated to handle visitation enforcement complaints. While leadership by Michigan can be demonstrated in a number of areas, there is none so vivid as the area of child support collections. To illustrate how good our Friend of the Court system is in this area, keep in mind that the total population of the state of Michigan is only about four percent of the National population (9,436,628 out of 255,077,536) yet Michigan collected almost ten percent of the total child support collected in 1993 (\$874,483,000 out of \$8,909,166,000). In gross dollars collected, Michigan has led every year since records have been kept (1975) with the exception of two years (1985 and 1991), when Pennsylvania collected more. (1994 Green Book).

FUTURE TRENDS

In Michigan, there are two prevailing and parallel "movements" which have been apparent for several years as attempts to make the system the best it can be. The first of these is an attempt to make the system more "user friendly". We therefore see such things as orientation projects, brochures and literature, radio and television informational talk shows, in pro per procedures, and various in-service training programs including this one presented by the Michigan Judicial Institute. All of the emphasis in this movement presumes that the system remains essentially adversarial in nature.

The second movement focuses on alternatives to litigation as dispute resolution. This movement takes as its basic tenet that the courtroom should be the forum of last resort and not the first resort and that litigation should be what happens when all other reasonable efforts fail. The presumption here is that conciliation and mediation resolves differences just as well, or better, and does not leave the psychological scars resulting from confrontation. The most important dynamic here is the healing process of collaborative dispute resolution.

PROFESSIONAL ORGANIZATIONS

A. FRIEND OF THE COURT ASSOCIATION

This organization is restricted in membership to each of the Friends of the Courts. However, a number of Assistant Friends of the Courts have been actively involved as non-voting members and this association also has associate members who are line staff people. The purpose of the Friend of the Court Association is to provide a representative organization for the Friends of the Court in the state of Michigan, to promote and maintain proper standards of efficiency within the domestic relations system, and to encourage progressive legislation, resolutions, and other desirable programs representing the common interests of the children and their families involved

HISTORY OF THE FRIEND OF THE COURT SYSTEM

in domestic relations problems in the state of Michigan. The Friend of the Court Association Board of Directors is comprised of eight Regional Directors from across the State, the immediate Past President, and the President elected at large at the annual Friend of the Court Conference.

B. MICHIGAN ASSOCIATION OF COURT MEDIATORS

This organization was founded in 1985 to provide a forum for education and training for court mediators. Court mediators must operate within parameters of state and federal law that do not govern other mediators. They are therefore specialists within a specialized field and benefit greatly from having this organization.

C. REFEREE ASSOCIATION OF MICHIGAN

This organization was also founded in 1985 to provide a special education and training forum for referees. This organization was subsequently expanded to include membership for juvenile court referees.

D. REGIONAL FAMILY SUPPORT COUNCILS

In 1975, former Friend of the Court (now retired) George Westfield, from Berrien County saw the need for an umbrella organization to help with training and coordination of services provided by support specialists of the Department of Social Services, the civil division of the Prosecutors Office, and the Friend of the Court Office. At that time, there was no training to speak of offered by anyone for any of these line workers. Mr. Westfield initiated the formation of the Southwestern Michigan Family Support Council. Subsequently, the Southeastern Michigan Family Support Council, the Central Michigan Family Support Council, and the Northern Michigan Family Support Council were formed for regional coordination and training. In several counties, there are similar county family support council meetings with just the line workers in those counties taking part.

E. MICHIGAN FAMILY SUPPORT COUNCIL

In 1982, it became clear that there was a need for a statewide training and educational organization similar to the regional family support councils. The Michigan Family Support Council was therefore formed. This organization has become one of the best of its kind in the country.

Contributed by William D. Camden, Kent County Friend of the Court



CASELAW, STATUTE AND COURT RULE UPDATE
(Citation to the Court docket number and date of decision)

Contributed by Ed Messing

DOMESTIC RELATIONS

This month's cases involve the application of contract principles to domestic judgments. Supreme Court denied leave in **Walters v Leech __Mich App __(2008) (#277180 7/22/08)**, which held that a child support lien cannot attach to entireties property because the payer's spouse was not a child support debtor (**SC# 137174 11/25/08**).

Haas v Hatz __Mich App__(2008) (#279648 11/13/08) held that the trial court properly granted summary disposition in denying Defendant's request for a mortgage lien based on his disproportionate contribution toward the marital home, because the plain language of the prenuptial contract provided for a 50/50 split of proceeds from sale of all assets and did not provide for a lien.

Although the Courts have repeatedly held agreements that *limit* child support as void against public policy, the court in **Holmes v Holmes __Mich App__(2008) (#**held that a voluntary agreement to pay *additional* child support which is incorporated into the divorce judgment is enforceable. The consent judgment incorporated a settlement contract which provided for child support of \$1263/month based on an average of the sole custody and SERF formula calculations which was fixed for 1 year, thereafter reviewable only if either party has an increase in income, and the Husband waived the application of SERF for 10 years. The parties also agreed Husband would pay 25% of any bonus he received as support. When the Husband motioned for modification and application of SERF 10 years later, court held that while support payments from his regular income would be based on SERF, but the Husband was required to continue to pay 25% of any bonus because the court was bound by the terms of the parties contract which exceeded the formula amount.

MCR 2.107 Effective 1/1/09 will allow service on attorneys or delivery to a party by e-mail means if agreed to between the parties.

2008 PA 300 10/8/08 A person employed in a "Professional Capacity" with FOC is now required to make a report to Child Protective Services if he or she has reasonable cause to suspect child abuse or neglect. DHS must now provide CPS reports to the FOC, notify the FOC with an open case of a CPS investigation or change in child's placement, and report if unsubstantiated complaints are made by a parent more than 3 times in 1 year or more than 5 times total. DHS must also provide non-custodial parents with change of custody information if the custodial parent is suspected of abuse.

CASELAW, STATUTE AND COURT RULE UPDATE, *con't*

JUVENILE LAW

The Supreme Court reversed the Court of Appeals, in lieu of granting leave to appeal, in **In re Ross (SC #137045 9/17/08)**. Respondent suffers from depression, had a history of alcohol and marijuana abuse, and the children exhibited developmental delays; more than 2 years had elapsed between exercise of jurisdiction and termination. The Court of Appeals had reversed the termination of Respondent's parental rights under MCL 712A.19(b)(3)(c)(i), (g), and (j) in a 19 page unpublished opinion (#282514 7/10/08), citing testimony of counselors and other providers that did not support termination of parental rights. The Supreme Court found that the Court of Appeals had erroneously substituted its judgment for that of the trial court and rendered a decision contrary to clear and convincing evidence that supported termination of parental rights.

The original petition in **In re Jenks __Mich App__(2008) (#284387 11/20/08)** involved environmental neglect, but termination of respondent father's parental rights was granted after he admitted to sexual abuse of his step-daughter. The court determined that MCL 712A.19b(3)(b)(i) had been amended to allow termination when the minor children's sibling is sexually abused by a parent who was not the victim's parent. Termination was proper as the court found clear and convincing evidence that there was a reasonable likelihood that the children would suffer from injury or abuse in the foreseeable future in respondent's home, and further that respondent had committed sexually abuse involving penetration of the children's sibling.

The Indian Child Welfare Act (ICWA), 25 USC 1901 *et seq*, requires that, before terminating parental rights of an Indian child based on termination of a parents rights to another child due to physical abuse, the court must make findings that DHS has made active efforts to provide remedial services and rehabilitative programs designed to prevent the break up of the Indian family, and that those efforts proved unsuccessful. **In re Roe __Mich App__(2008) (#283642 9/25/08)**. The Court in Roe further held that this finding, specifically referencing the ICWA, must be made by clear and convincing evidence, overruling **In re Kreft 148 Mich App 682 (1986)** and **In re Morgan, 140 Mich App 594 (1985)**. The **Roe** court further defined "active efforts" as including service provided prior to the current proceedings when there is clear and convincing evidence that providing additional services would be futile.

In re Ultera __Mich App__(2008) (#280531 9/23/09) involved termination of the rights of a parent who had substantially failed, without good cause, to comply with a limited guardianship plan for a psychiatric evaluation before visitation, resulting in a disruption of the parent-child relationship. While the court erred by repeated adjournments, **MCR 3.972(A)** does not provide a sanction for violation of the 6 month time limit. The adjournments were not prejudicial or reversible error as some of the adjournments were occasioned by respondent and she could have benefited had she used the extra time to improve herself. While the court admitted extensive hearsay evidence during the initial dispositional hearing, some of the hearsay was admissible, and there was clear and convincing admissible evidence supporting the court's finding.

JUVENILE LAW, con't

MCR 3.901 & 3.930 Effective 1/1/09, the new MCR 3.930 requires that Exhibits introduced into evidence at or during Court Proceedings must be received and maintained pursuant to the Supreme Court File Management Standards. Upon conclusion of trial or hearing exhibits may be retrieved by the submitting parties, and if not retrieved within 56 days the court may dispose of exhibits without notice to the parties; weapons and drugs shall be returned to the confiscating agency upon conclusion of trial or hearing for proper disposition. Any confidential exhibits retained by the court must be maintained in a confidential manner.

MCR 3.903 & 3.920 Effective 1/1/09 provides that proof of service on, and information about the identity or location of, a foster parent, pre-adoptive parent, or relative caregiver is part of the confidential file. References to FIA changed to DHS.

MCR 3.928 which was adopted immediately pending comments is retained.

ADM File No. 2008-29 proposes MCR 3.979 and amendments to MCR 3.901, 3.903, 3.921, 3.965, and 3.975 - 3.978 to effectuate recent Juvenile Guardianship statutes, 2008 PA 199-203. <http://courts.michigan.gov/supremecourt/Resources/Administrative/2008-29.pdf>

ADM File 2008-40 proposes amendment to Juvenile Court Standards and Administrative Guidelines for the Care of Children.
<http://courts.michigan.gov/supremecourt/Resources/Administrative/2008-40-11-25-08.pdf>



2008 Christmas Luncheon – Redwood Lodge
- Photographs by Ken Randall

*The Redwood Lodge, site of the 2008 RAM Christmas Luncheon.
Unique décor, great food!*



Shelley Spivak



Art, are those antlers on your head?

2008 Christmas Luncheon – Redwood Lodge

- Photographs by Ken Randall

The St. Clair County Contingent



*Sahara Housey and Libby Blanchard
talking with Paul Jacokes*

Listening to the conversation



*Nancy Thane proclaiming her loyalty to
the Lawyers' Fan Club!*

2008 Christmas Luncheon – Redwood Lodge
- Photographs by Ken Randall

*Lots of good conversation
before the luncheon*



*Paul Jacokes and Erin Magley are
making a list & checking it twice...*



Amanda Kole and Paul Jacokes

2008 Christmas Luncheon – Redwood Lodge

- Photographs by Ken Randall

Good friends, good conversation...



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