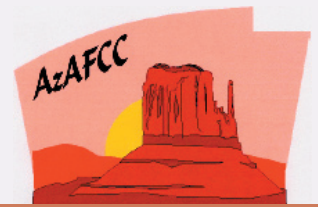


The Newsletter



Fall 2011

Arizona Association of Family and Conciliation Courts

Welcome

to the Fall Newsletter of the Arizona AFCC.



I hope you find the contents worthwhile and informative. It is my honor this year to serve as your President along with a dedicated and energetic Board of Directors. Mark your calendar now for the weekend of February 3, 4 and 5, 2012. This year we will convene once more in Sedona for the 31st year of our nationally recognized educational programs for family professionals.

When you are at the conference, please stop me for a moment and introduce yourself. I urge you to attend and invite as many of your colleagues as possible.

The Sedona Conference is a chance to visit with old friends and make new ones. The Board has worked all year to bring you the best. We will have an exciting conference dedicated to professional development and networking. You will be able to see and participate in programs that only come with the interdisciplinary mission at the core of AFCC. Hear what Judges, Psychologists, Psychiatrists, Lawyers, Evaluators, Mediators, Clinicians, Researchers, Doctors and Social Workers think of the major themes in your field. Your family can likewise enjoy the many attributes unique to Sedona. The program is designed with plenty of time to relax and enjoy the amenities in and around our conference venue.

Honorable K.C. Stanford
of Pima County, AZ
AzAFCC President

Mark Your Calendar!

*Annual 2012
AzAFCC Conference
February 3-5, 2012*



*Hilton Sedona Resort and Spa
90 Ridge Trail Drive,
Sedona Arizona 86351*

Phone: 928-284-4040 or 877-273-3762
www.hiltonsedona.com

www.azafcc.org



AFCC Events

AFCC Conferences
AFCC and AAML Conference
Advanced Issues in Child Custody:
Evaluation, Litigation and Settlement
September 15-17, 2011
Westin Philadelphia
Philadelphia, Pennsylvania
Conference Brochure (PDF)
Online Registration
Exhibiting Information

AFCC Regional Training Conference
Working with High Conflict and Violent
Families: A Race with No Winners
October 27-29, 2011
Hyatt Regency Indianapolis
Indianapolis, Indiana
Conference Brochure (PDF)
Online Registration
Hotel Reservations
Scholarship Application

AFCC 49th Annual Conference
Attachment, Brain Science and
Children of Divorce: The ABCD's of
Child Development for Family Law
June 6-9, 2012
Hyatt Regency
Chicago, Illinois
Call for Proposals (PDF)
Online Proposal Submission

AFCC 10th Symposium on Child
Custody Evaluations
November 1-3, 2012
Arizona Grand Resort
Phoenix, Arizona

AFCC 48th Conference Review

by: Karey O'Hara Brewster
Ad Hoc Student Representative of the
Board of Directors of AZ AFCC

Having attended several conferences of the Arizona Chapter of AFCC, I had high expectations of the AFCC 48th Annual Conference in Orlando. It was my first National conference and my experience far exceeded my initial expectations.

The preconference institute presented by Dr. McIntosh, Dr. Holtzworth-Munroe and Ms. Ballard introduced two specific models of mediation, Child Informed and Child Inclusive Mediation. These models include a separate child consultant to provide a specific focus on the child/children's overall developmental and emotional needs. The presenters were able to provide the audience with balanced, comprehensive and interactive information about two approaches to traditional divorce mediation. Dr. McIntosh developed the models of mediation and conducted initial research on them. Dr. Holtzworth-Munroe and Ms. Ballard are conducting a randomized controlled trial of the interventions at Indiana University.

The plenary session addressed the theme of gender, intimate partner violence research and political activism through a respectful and lively debate with diverse perspectives and audience interaction. It was an opportunity to address controversial topics in a respectful manner by professionals representing different theoretical viewpoints.



As a student member, it was extremely advantageous for me to have multiple opportunities to meet and visit with prominent researchers, scholars and practitioners in the field. The Students and Young Professionals Networking meeting was an informal opportunity to interact with other students, professors, scholars and practitioners to make connections and share ideas. The Silent Auction and Annual Banquet provided opportunities to meet new colleagues. I was impressed by the overwhelming enthusiasm of the seasoned professionals in welcoming and learning about students who are just entering the field.

The posters were a highlight of the conference. They provided a great opportunity for students, academics and practitioners to share their research, discuss ideas and inspire future collaborations. They were a great display of the quality work being done by young researchers and professionals that have worked in the area for years.

The workshops I attended were diverse and provided me an opportunity to gain insights about all areas of the family court system. Most workshops included multiple presenters with diverse perspectives and enhanced learning, regardless of the audience members' area of expertise. As a graduate student I appreciated the balance between presenting empirical evidence and clinical expertise. I believe the presenters knew their audience well and met the needs of all in attendance.

The only drawback, as with all conferences of this size, was insufficient time to attend every workshop; however, the USB drive that was provided at registration was a great idea. It allowed exposure to all workshop material and is useful as a future reference tool. I have already referenced the collection of electronic information in my own work and research.

I am grateful to the Arizona chapter and the National AFCC organizations for providing me scholarship assistance to attend this inspiring conference. I look forward to being a long-term member of AFCC and to working toward contributing to the field as a new researcher.

Orlando Parent Organization Conference

Review by Honorable K.C. Stanford of Pima County, AZ

Warning:



I am known not to sugar coat my views.

Reader discretion advised.

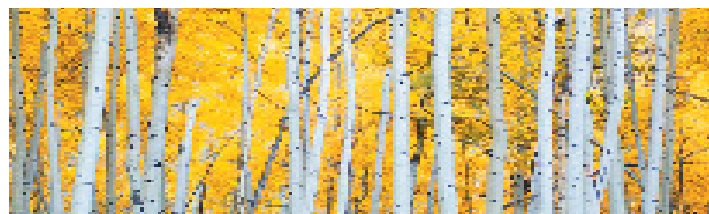
I attended the conference on June 23, 24 and 25, 2011. Let me tell you about Orlando. Such conferences can be expensive for our average member who will need to balance the time and cost with the value received. For example: the hotel cost was \$550 for three nights. The registration with a speaker/chapter president discount is \$ 225. The airfare was \$ 409. The travel time was a full day on each end, one plane change and 3 time zones. That said, you can find top-of-their field presentations from national and international researchers and practitioners in both the plenary and small sessions.

Choice not variety is the concern as AFCC offers about 90 sessions in 3 days. For example I attended a program with the sleep-inducing title of "Determining Methodologically Sound from Unsound Social Science Research." The presenters were Robert Kelly and David Mar-

tindale. You could tell they loved their subject matter and were passionate to talk about it. I thought I was in for a long lecture and to my delight found a lively and interactive discussion of the concepts of belief, hypothesis and generalization. I was reminded that all researchers and all research are not equal. Rigorous testing by their peers and thoughtful consideration of testing bias (whether intentional or unintentional) by the consumer is required before we take a statistic or a conclusion by an expert at face value.

Although the presentations are the core, the camaraderie and networking are equally important. You will get to meet the folks you read or study and take their measure. You will get to know those who are in the same boat with you and gain insight and inspiration in your chosen field. You will also have the time to relax and gain some perspective on your work. Sometimes you meet your future employer.

Next year in 2012 the AFCC 49th annual conference will be in Chicago. If cost is a concern, check out 2013, the 50th will be in Los Angeles. LA will be a lot less expensive for Arizonans to attend. You can let your Arizona Chapter Board members know you would like to attend and they can help you find a travel companion or roommate. Another cost saving idea is to apply for a scholarship or choose to attend as a sheppard. Sheppard's are the people who sit in the back of each session and monitor the handouts or helps with audience microphones. The two can often be combined. Where there is a will, there is a way. If you make it, look me up.



Behavioral Health Ethics: Knowing One's Limitations is Part of Knowing One's Strengths

Panelists: Faren Akins, Ph.D., J.D., John DiBacco, Ph.D., Joel Glassman, Ph.D.

This program hosted at AzAFCC's Sedona Conference last January explored identifying and avoiding unethical multiple roles. Topics included:

1. Contemporaneous and sequential role conflicts in Family Court appointments;
2. Testing the limits of authority granted to the 3. Parenting Coordinator;
4. Risk management when conducting a Limited Family Assessment; and
5. Can the Therapeutic Interventionist ethically recommend increases in parenting time.

The Ethics panel explored examples of problems that might be encountered due to multiple relationships. The 2002 APA Ethics Code details the parameters:

3.05 Multiple Relationships

(a) A multiple relationship occurs when a psychologist is in a professional role with a person and (1) at the same time is in another role with the same person, (2) at the same time is in a relationship with a person closely associated with or related to the person with whom the psychologist has the professional relationship, or (3) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.

A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks

exploitation or harm to the person with whom the professional relationship exists. Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical.

Panelists discussed issues that arise with Simultaneous Roles, such as sitting on an organizational board while also accepting an appointment to conduct a Comprehensive Custody Evaluation, Parenting Coordinator, or Therapeutic Interventionist assignment involving someone else on the organization board.

Examples of Sequential Roles included switching from Child Custody Evaluator to a Parenting Coordinator in the same case, or switching from Child Custody Evaluator to therapist. Key issues in either case are whether the role you are being asked to accept will impact objectivity and neutrality. Full disclosure of any past or potential role conflict should be made as soon as it becomes known.

APA's Ethics Code is mirrored by AFCC's Model Standards for CCE (2006) Standard 8.1 Maintaining Objectivity which requires Evaluators shall recognize that their objectivity may be impaired when they currently have, have had, or anticipate having a relationship with those being evaluated, with attorneys for the parties or the children, or with the judges. Evaluators shall recognize that relationships cannot be time delimited; specifically, prior relationships or the anticipation of future relationships may have the same deleterious effects upon evaluator objectivity as current relationships would have.

Conflicts as a Parenting Coordinator are described by Guideline III - Conflict of Interest (AFCC Guidelines for PC-2005):

A. A conflict of interest arises when any relationship between the PC and the participants or the subject matter of the dispute compromises or appears to compromise a PC's impartiality.

- B. A PC shall disclose potential conflicts of interest as soon as practical after a PC becomes aware of the interest or relationship giving rise to the potential conflict.
- C. After appropriate disclosure, the PC may serve with the written agreement of all parties. However, if a conflict of interest clearly impairs a PC's impartiality, the PC shall withdraw regardless of the express agreement of the parties.

Also consider Guideline IV – Dual Sequential Roles (AFCC Guidelines for PC-2005):

A. (2) A mediator or custody evaluator shall be cautious about becoming a PC in the same case, even with the consent of the parties, because of the differences in the role and potential impact of the role change.

(3) A PC shall not become a custody evaluator either during or after the term of a PC's involvement with the family. A conflict of interest arises when any relationship between the PC and the participants or the subject matter of the dispute compromises or appears to compromise a PC's impartiality.

Faren Akins also gave a presentation on the similarities and differences between Daubert and Frye standards for admitting expert opinions as they may impact child custody evaluators.

Frye v. United States, 293 F. 1013 (D.C. Cir. 1923) held that "an expert's scientific testimony must be based upon principals of "general acceptance" in their field.

Daubert v. Merrell Dow Pharmaceuticals, Inc., 43 F.3d 1311 (9th Cir. 1995) held that indicators of scientific validity included:

1. Empirical testing: the theory or technique must be reliable and testable.
2. Subjected to peer review and publication.
3. Known or potential error rate.
4. The existence and maintenance of standards and controls concerning its operation.

5. Degree to which the theory and technique is generally accepted by a relevant scientific community.

Rules of Evidence used in Federal cases are based upon Rule 702:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if

1. The testimony is based upon sufficient facts or data,
2. The testimony is the product of reliable principles and methods, and
3. The witness has applied the principles and methods reliably to the facts of the case.

Arizona's Rule of Evidence 702 closely mirrors the Federal Rule 702: If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

The Arizona Legislature tried to change the criteria for establishing expert testimony by passing Arizona Statute 12-2203, which follows the Federal trend, which tends to follow Daubert and details that testimony is admissible if the court determines that:

1. The witness is qualified to offer an opinion as an expert on the subject matter based on knowledge, skill, experience, training or education.
2. The opinion will assist the trier of fact in understanding the evidence or determining a fact in issue.
3. The opinion is based on sufficient facts and data.
4. The opinion is the product of reliable principles and methods.
5. The witness reliably applies the principles and methods to the facts of the case.

The court shall consider the following factors, if applicable, in determining whether the expert testimony is admissible:

1. Whether the expert opinion and its basis have been or can be tested.
2. Whether the expert opinion and its basis have been subjected to peer reviewed publications.
3. The known or potential rate of error of the expert opinion and its basis.
4. The degree to which the expert opinion and its basis are generally accepted in the scientific community.

The clash of Frye (Arizona's previous approach) versus Daubert (used more in Federal cases and in some other states) was highlighted in *Lear v. Fields*, 599 Ariz. Adv. Rep. 37 (2011) wherein the Court ruled A.R.S. §12-2203 to be unconstitutional because the "legislature essentially has rewritten the rule (i.e., AZ Rule of Evidence 702) to Daubert and has adopted the federal test for determining the admissibility of expert testimony, a test our supreme court rejected."

The Court rejected this shift based upon a separation of powers issue. The legislature doesn't get to determine rules of evidence and standards for expert testimony. Those come under the purview of the Judiciary.



Happy Halloween!

President:

Hon. K.C. Stanford
Pima County Superior Court
110 W. Congress St.
Tucson, AZ 85701
Tel: 520-740-3336
e-mail: kstanford@sc.pima.gov

President Elect:

Barbara Atwood, J.D.
University of Arizona
James E. Rogers College of Law
P.O. Box 210176
Tucson, AZ 85721
Tel: 520-621-1912
Fax: 520-621-1940
email: atwood@law.arizona.edu

Vice President:

Faren Akins, Ph.D., J.D.
7702 E. Doubletree Ranch Road, Suite 300
Scottsdale, AZ 85258-2168
Tel: 480-946-6828
Fax: 480-419-4177
e-mail: dr.farenakins@cox.net

Secretary:

Edith Croxen, J.D.
Law Offices of Edith A. Croxen, PLLC
729 North Fourth Ave.
Tucson, AZ 85705
Tel: 520-624-8050
Fax: 520-624-6315
e-mail: EACLAWOFFICES@aol.com

Treasurer:

Kathy McCormick, B.S., C.P.
Alternative Dispute Resolution Coordinator
Arizona Superior Court
Yavapai County Courthouse
Prescott, AZ 86301
Tel: 928-777-3066
Fax: 928-771-3389
email: kmccormi@courts.az.gov

