

Minutes
State Bar Domestic Violence Committee Meeting
March 11, 2011

Present: Mary Lovik, Rebecca Shiemke, Leslie Hagen, Delores Hall, Hon. Amy Ronayne Krause, Gail Krieger, Jennifer Lamp, Sarah Mason, Lori Pourzan, Amanda Chubb

Excused: Ashley Lowe, Janet Prater, Sarah Prout

Feb 11, 2011 minutes will be emailed for an e-vote

SBM Diversity and Inclusion Pledge

Greg Conyers, the Director of Diversity, explained the pledge to support diversity and inclusion in the profession. He and President Jenkins are encouraging individuals and organizations (including bar committees) to sign onto the pledge. Bar entities are also encouraged to establish a permanent work group to focus on diversity, to look for collaboration and training opportunities with other groups and to look internally to increase diversity in membership. For additional information and to sign the pledge, go to the state bar website under the “diversity and inclusions” tab. Greg is also available by email or phone for questions or as a resource.

Current Projects

- Mediation / conciliation in FOC proceedings: The work group has been in touch with some of the State representatives, including Judah Garber from the Friend of the Court Assoc, Doug Van Epps from the SCAO Office of Dispute Resolution and will be meeting with them on March 30 to discuss concerns and responses.
- Revisions to Health Care Law Section brochure: The work group drafted comments on the brochure, which addresses medical reporting requirements in domestic violence cases, which has been submitted to Amanda and Elizabeth Lyon, our Bar contacts. They are working with the brochure drafter, who appears to be open to our suggestions for improvements.
- Family Law Journal: Jeannine Laible’s article was submitted to the Journal and will be in the April issue. We only have 3 more articles scheduled. Members were encouraged to volunteer to write an article or approach colleagues who may be interested. Topics may be submitted to the co-chairs any time.
- Sexual Assault PPO court forms: On March 3rd the SCAO forms committee met and adopted our proposal for new and modified forms with some minor non-substantive modifications. Next step is the instructions must be amended. SCAO staff will draft new instructions and send them to our committee for comments. Anyone interested in participating in the review process, please contact the co-chairs.
- Michigan Bar Journal Issue: All first drafts have been submitted to the Bar editors and we await their review and comments. Co-chairs will be meeting with the editors to discuss the process and will advise authors.

Legislation

ADM 2010-17, amendment to MCR 3.707: This amendment would clarify that a respondent may file a motion to modify or terminate an *ex parte* PPO within 14 days of service and that the rule does not apply to a PPO issued after a hearing. At the last meeting we decided to study the proposal more. Discussion from both meetings:

- It is intended to address the problem in *Gupton v Johnson* (unpublished COA No. 288847, 1/29/2010), where a PPO was issued after a hearing, of which respondent had notice and an opportunity to be heard, and within 14 days after the PPO was issued respondent filed a motion to terminate.
- It was noted that the many courts issue PPOs after a hearing, rather than *ex parte* and that under the current rule, those courts are required to hold a second hearing if respondent files a motion even after a PPO is issued following a hearing, as was the case in *Gupton*.
- Hearings on a motion to modify/terminate a PPO are usually frivolous, duplicative and vexatious since they come almost immediately after a hearing to issue the PPO.
- Such hearings are problematic for domestic violence survivors who are forced to needlessly face the abuser and again defend the PPO.
- As amended, the rule would seem to foreclose respondent from filing a motion to modify/terminate a PPO issued after a hearing. However, remedies exist for such cases, including:
 - If respondent believes a PPO was issued in error after a hearing, respondent's remedy is to file an appeal with the Court of Appeals, not a motion to terminate.
 - If during the course of a PPO respondent believes petitioner is acting inconsistent with the order, if the facts support it respondent's remedy to petition for a PPO, not file a motion to terminate the PPO.
 - If the PPO conflicts with a later custody order, the current rules already provide that the judges are to communicate and that the PPO takes precedence.
- The purpose of a PPO is to protect a named party from the harmful acts of another. Once the court makes a determination (particularly after a hearing) that a PPO is appropriate, the order should continue until the court-identified expiration date or until the protected party, with the court's concurrence, believes it is no longer necessary. That call should be made by the protected party.

Those members present proposed that the committee support the amendment for all the reasons stated above. However, since there was no quorum, Amanda will email members a summary of the committee's proposal, allow a week for any discussion and then take an electronic vote.

Good of the Order

Next meeting: April 12, 2011 at 3:00 p.m.