

Family Law

The newsletter of the Illinois State Bar Association's Section on Family Law

Chair's Column: Civility Guidelines for Family Law Practitioners

BY STEPHANIE L. TANG

With courts starting to reopen again for in-person proceedings, there are sure to be some bumps down the road as people emerge from quarantine. One thing to keep at the top of all attorneys' minds is how to maintain civility between lawyers, particularly in family law cases. Not only is maintaining civility the kind thing to do,

but it is mandated in some degree by the Illinois Supreme Court Rules, Illinois Rules of Professional Conduct, and depending on the county, local court rules (e.g., Cook County Local Rule 13.11).

The preamble to the Illinois Supreme Court Rules outlining lawyers'

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Quadrennial Review Update: Child Support Advisory Committee Holds Town Hall Meetings

BY JESSICA PATCHIK

The summer has wound down. The morning air has grown a bit crisp. Our children are back in school, and Walmart is displaying Christmas décor. Throughout all of this, the Illinois Child Support Advisory Committee's quadrennial review of the Illinois child support guidelines continues. As mentioned in a previous

article, 45 CFR 302.56(h)(3) requires that a state, as part of its quadrennial review, must provide a meaningful opportunity for public input, including input from low-income custodial and non-custodial parents and their representatives. The Child Support Advisory Committee

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responsibilities provides, “[a] lawyer should use the law’s procedures only for legitimate purposes and not to harass or intimidate others.” Illinois Rule of Professional Conduct 4.4(a) expands upon this general premise by elaborating, “a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.” In addition to these rules, which all states adopted from the American Bar Association’s Model Rules of Professional Conduct, many state and local bar associations have adopted additional civility rules specifically for family law practitioners. These guidelines specifically address the emotional and highly contentious nature of family law cases.

Ten of these rules resonated with me and I wanted to share them as a reminder:

1. An attorney should discourage and not abet vindictive conduct.
2. An attorney should treat all participants with courtesy and respect in order to minimize the emotional intensity of a family dispute.
3. An attorney representing a parent should consider the welfare of a minor child and seek to minimize the adverse impact of the family law proceeding on the child.
4. A lawyer for one parent should not meet with, confer with either in person or by telephone, or discuss the litigation with, the minor child or children of the parent/client.
5. A lawyer for one of the parents should not encourage or permit a client to commence or obtain a psychiatric or psychological evaluation of the child or children, which evaluation is intended to be used in the course of the litigation, without prior stipulation of the parties or other court order.
6. An attorney should not file frivolous litigation and non-essential

pleadings and should attempt to reach out to opposing counsel to reach an agreement or settlement of issues where possible.

7. An attorney should confer in good faith with opposing counsel on scheduling matters and be respectful and courteous in all oral and written communications with opposing counsel.
8. An attorney should not assist a client in pursuing a claim for allocation of parental responsibilities where the purpose of the claim is to obtain bargaining leverage in order to achieve a purely economic objective or for hostile or vindictive purposes.
9. An attorneys should not engage in conduct, oral or written, that promotes animosity and rancor between the parties or their counsel.
10. Where a client has an exaggerated or unrealistic view of his or her options in any given situation, explain matters as carefully as possible in order to assist the client to realistically assess the situation.

(Sources: American Bar Association Section of Family Law Civility Standards, Massachusetts Bar Association Family Law Civility Guidelines, State Bar of California Guidelines of Civility and Professionalism, Monterey County Bar Association Guidelines of Civility and Professionalism.)

Although these guidelines are merely aspirational as opposed to citable authority, following them will help streamline cases, reduce tensions between parties and attorneys, and promote healthy family relationships following divorce/parentage proceedings. Above all, remember that the family law community in Illinois is relatively small and being uncivil or unprofessional to an opposing attorney will likely mean that lawyer will pass that experience to others and this will be a disservice to your future clients, as well as to yourself.

Interested in learning more about this

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topic? Consider attending the University of Illinois College of Law's symposium on Navigating the Intersection of Advocacy and Professionalism on October 7, 2022! Judge Debra Walker, Executive Director of

the Illinois Supreme Court Commission on Professionalism Erika Harold, Brad Trowbridge, and I will be speaking on domestic relations law ethics and professionalism. ■

Quadrennial Review Update: Child Support Advisory Committee Holds Town Hall Meetings

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started planning for public input during the height of Covid-era social gathering restrictions. As such, the first challenge was figuring out how to obtain real input from the public when the public wasn't allowed to gather. After much brain storming, the Committee decided upon a twofold approach, which arguably provided better public access and participation than traditional the pre-covid method of touring the state like Barnum and Bailey attempting to gain an audience.

First, the Child Support Advisory Committee developed a Child Support Court Experience survey to obtain quantitative information from members of the public who are directly impacted by the child support guidelines. As many jurisdictions were, and still are conducting remote court proceedings, the Committee was tasked with distributing the survey to as many people as possible within the target demographic. The Department of Healthcare and Family Services posted a direct link to the survey from their Child Support Services homepage. The Committee also developed a flyer with a QR code linked to the HFS Guidelines Review page with instructions on how to access the survey. The flyer was then distributed statewide by HFS legal partners and CSAC community partners. As a small example (and for shameless self-promotion), for a period of four months, the DuPage County State's Attorney's Office IV-D Unit included the flyer in all outgoing correspondence to parties with pending litigation, posted the flyer in the circuit court clerk's office, and made flyers available at courthouse Zoom kiosks and in the law library.

The survey itself asked questions about the responding party's age, level of education, and income, as well as details about the

party's court order. Questions included: Is the responding party currently ordered to pay support? Was the party present for entry of the support order? Was the number of overnights spent with the child(ren) taken into consideration? Did the party present financial information to the Court? Was there a multi-family adjustment made to the support calculation? Does the party support other children? Was medical insurance addressed? Does the party understand how support was calculated?

The responses to the questions above are currently being compiled and put into a format that will hopefully give the Child Support Advisory Committee valuable insight as to how well Illinois' child support guidelines meet the federal requirements set forth in 45 CFR 302.56(c).

Second, the Child Support Advisory Committee hosted a series of 22 virtual Town Hall meetings from March through the end of June 2022. [Sidebar: The Committee was so concerned with getting real life, people at attend, that even the smallest task of picking a day of the week and time of day for the Town Hall meetings was task. When do most people get home from work? What night do most people not "go out"? What time do most people cook dinner? When do people put the kids to bed? How long should the meetings be to have adequate discussion time, but not bore people to death?] Meetings took place Wednesday evenings from 6:30 to 8:00pm, and were scheduled by region, each region having two consecutive Wednesdays, except for Cook County, which had four meetings. The Committee hoped that dividing the state into regions would encourage localized participation while still allowing anyone from anywhere to join any given meeting. The Committee again relied on HFS and its legal partners as well

as CSAC community partners to publicize the meetings through the internet and flyers containing registration information.

Meetings were formatted in a way that the Committee hoped would maximize discussion amongst the participants, while at the same time limiting focus to the requirements of 45 CFR 302.56(c). Each meeting was hosted by a moderator who was charged with greeting the public and explaining the purpose of the meeting, explaining the ground rules, and introducing the evening's panelists. Each meeting included two to four panelists, usually members of CSAC, who were assigned to each of the 302.56(c) factors. Panelists posed open ended questions to meeting participants about shared parenting, blended families, extracurricular expenses, healthcare costs, emancipation events, incarceration of payor parents, basic family needs, and the child support guidelines in general.

Participants were encouraged to raise their virtual hands and share their opinions and concerns, as well as post their questions and comments in the virtual chat. The chat feature allowed participants who may not have been comfortable speaking publicly to share their thoughts with the group. Additionally, panelists used interactive surveys throughout the meetings to capture data, as well as facilitate discussion. Each meeting was recorded, as was all survey data and chat discussion. The input gathered from the Town Hall Meetings is presently being compiled and analyzed by the Child Support Advisory Committee and will be utilized in the Committee's report to the General Assembly, which is due on December 31, 2022.

On a personal note, I wrote this piece to be informational, but more importantly because I am so proud to be a part of this

Child Support Advisory Committee and its quadrennial review of the child support guidelines. The Committee works hard and is committed to doing a great job. I cannot share with you the data currently being compiled by CSAC for its recommendation to the legislature. I can tell you that I participated in 20 of the 22 Town Hall meetings, and as much as I needed a glass of wine by the end, each meeting left me feeling energized. I can tell you that about 20 other people, both live and behind the

scenes volunteered 22 of their Wednesday nights to help facilitate something they believed in. I can tell you that with each meeting the conversation brought new insight. Participants were open, honest, and respectful of each other, even when they agreed to disagree. Most importantly, participants knew that they were heard, and thanked the Committee for fostering open, honest, and transparent conversation. Based upon the positive feedback, the Department of Healthcare and Family Services plans on

creating a community-based panel to keep an ongoing dialogue about the child support guidelines. Stay tuned for updates. ■

How to Improve Public Confidence and Trust in the Justice System—Judge John Carr and the Importance of the Golden Rule

BY HON. JEANNE M. REYNOLDS

Public trust and confidence in the legal profession and judiciary today is at an all-time low. The pandemic and current state of political polarization has not helped. This problem will not be solved by the constant criticism of our justice system by the political left and right organizations or certain social media platforms, who selectively report stories as “fact” without full context, do not adhere to accurate fact finding, or provide objective legal analysis. Worse, society today seems to accept “anonymous” rants unfairly demeaning a judge’s integrity or maligning a lawyer’s competence without consequence. Lawyers and judges are under vitriolic attack.

Lawyers are required to know the law, uphold all ethical rules, and professionally advocate for their clients. Judges are also required to be independent of bias or politics, to follow the law, adhere to the ethical cannons, and provide justice to all people. The Illinois Supreme Court rightly recognizes the shortcomings of our current justice system and its Access to Justice Campaign seeks to instill confidence back in our legal system as the people’s court. Although Access to Justice is a

great way to improve public perception, implementation of such remains a challenge. The government’s prosecutors and public defenders are besieged with obscenely high caseloads and lack of adequate staff, funding, and resources. Many legal providers suffer from the same issues and cannot address the legal needs of the poor much less those of modest incomes. The wealthy corporations are unhappy with the high cost of litigation, lengthy delays in getting their cases to trial, lack of courtroom technology, and the ability to facilitate an expedient conclusion. The justice system must evolve and grow with our nation’s needs. At a minimum, we as Judges and Lawyers can support organizations providing free or low-cost legal services to those populations most needing support.

Lawyers and judges must get more involved in the community and promote the good works done by the bar associations and legal societies. The ISBA Family Law Section Council (FLSC) includes over 60 members who attend monthly Saturday morning meetings and report on case rulings and analysis across all counties in the state of Illinois. Each member agrees to participate in

one or more of its 18 subcommittees, to write legal articles for its newsletter, to collaborate with other agencies, review and revise form pleadings and orders to encourage uniformity and ease for self-represented litigants, and provide comment and review on all pending bills affecting family law issues. The extraordinary lawyers and judges also volunteer their skills and talents to better train and educate attorneys through its informative and innovative CLE programs. The FLSC also mentors young lawyers and encourages legislative modifications to the IMDMA and Parentage Act.

In addition, we can learn from judicial icons, attorney leaders, and legal trailblazers! My colleague, mentor, and dear friend, Judge John Carr (1944-2022) recently died way too soon at the age of 78. He was a highly respected attorney for over 35 years before he joined the bench and had already earned a stellar reputation for his integrity, intellect, and kindness to all members of our legal community. Judge Carr was a true “lawyer’s judge.” He understood the demands of practicing law with a heavy case load and demanding clients and was

willing to do whatever he could to make it easier on the attorneys. Judge Carr firmly believed that he could improve our justice system and he did. Judge Carr encouraged a collaborative settlement approach utilizing attorneys, experts, therapists, mediators, and the litigants to find creative solutions for all parties—or at least one the parties could live with. He was a keen listener, analyzed the evidence, and finalized his ruling as soon as possible to allow the parties to move forward. It would not be unusual for Judge Carr to hear cases past 7:00 p.m. or even as late as 10:00 p.m., or to conduct pretrial conferences on a Saturday if that is what worked best for the lawyers. Judge Carr non-legal talents included his witty sense of humor, softball coach extraordinaire, the ability to fix a leaky faucet, and to repair an antique watch. Judge Carr truly loved being a judge and had the ability to decipher complex legal issues, to see the best in people, and to find kind words of encouragement to everyone in the courtroom.

I must confess that I religiously read the daily obituaries and hate to miss a wake or funeral. My family teases that I am a professional wake-goer. I do love

the celebration of a life well earned, funny stories, and sharing a laugh or even a few tears with the family of my deceased friend. Judge Carr's wake and funeral were packed with lawyers, judges, policeman, firemen, friends, and family—all sharing stories. I just wished Judge Carr had been there to hear them.

I was honored and humbled to have been appointed an associate judge 15+ years ago. There were 31 associate judges in my class. After a few months in traffic, I was "promoted" to parentage at 32 W. Randolph Street. It was an eye opener on many fronts. The toughest part was that I had very limited experience in domestic relations and none in parentage. Thanks to the graciousness of so many family law practitioners and domestic relations judges, I was welcomed into the family law bar, educated on the many statutory interpretations and nuances, and encouraged to speak at various CLE seminars. I have been a proud member of the ISBA Family Law Section Council for 12 years. I adhere to the advice of the great Judge John Carr and the many gracious members of our FLSC to always abide by the golden rule: Do no harm. I cannot say that

it all clicked instantaneously, but I have truly enjoyed learning from the incredible family law bar and am a better judge today thanks to all of you.

Special thanks to Chief Judge Timothy C. Evans and my presiding judge, Judge Grace Dickler, for allowing me to participate in the ISBA FLSC. I so value the friendships made on the FLSC including but not limited to: Judge Arnold Blockman (Champaign County), Judge Tim McJoynt (DuPage County), Judge Pamela Loza (Cook County), Judge Kevin Busch (Kane County), Pam Kuzniar (Queen of all CLE Programs), Past ISBA Presidents Umberto Davi, Judge Richard Felice and Anna Krolikowska, Bill Scott, soon to be Justice Debra Walker (Cook County), David Levy, Michael Levy, Steve Rakowski, Robin Miller, Lisa Nuyuli, Arlette Porter, Nancy Chaouan Shafer, Lane Harvey, Sally Kolb, Curtis Ross, Matthew Kirsch, Richard Wilson, Stephanie Tang, Rachel Toft, Michael Strauss, Susan Rogaliner, soon to be Judge Tamika Walker, ISBA President Rory Weiler, and Richard Zuckerman. ■



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