

## Summary of Symposium

On October 22, 2009, Child Welfare Services (CWS) hosted the Lawyers for Families Symposium: *Strengthening Legal Representation for Families in Child Welfare Proceedings*. Approximately 90 people attended, including judges, court administrators, referees, legislators, legislative staff, attorneys, and community leaders. In the morning, Judge Leonard Edwards, retired California Superior Court judge, gave an inspirational talk regarding the importance of effective legal representation for parents. The ABA presented the findings of its Michigan report, *Legal Representation for Parents in Child Welfare Proceedings: A performance based analysis of Michigan practice*. In a panel discussion, representatives from Connecticut and Washington discussed how their respective states have improved legal representation for parents.

Additionally, Marc Dedenbach, an attorney from Genesee County, gave a thought provoking speech focused on the importance of parent attorneys. During lunch, Nancy Colon, a “parent partner” from Wayne County, discussed her personal experience in the child welfare process and highlighted the importance of her attorney’s support throughout her case.

After lunch, three discussion groups met and discussed the report’s recommendations and determined what actions should be taken to implement changes for low or no cost, to improve the quality of representation for parents in the child welfare system. The three discussion groups included: Judicial Leadership; Practitioners; and Community Leadership.

### Judicial Leadership

There was a general agreement that mandatory continuing legal education requirements (CLEs) are appropriate for judges and attorneys. Justice Corrigan indicated that in the past the State Bar of Michigan (SBM) presented a proposal for mandatory CLE’s but the Supreme Court did not believe that it was adequate and asked for re-submittal of the proposal. A new proposal has yet to be presented to the Supreme Court due to significant varied opinions within the Bar.

Since the counties are in a contractual relationship with the appointed attorneys, it was generally agreed that including training requirements in the contracts would be an appropriate way to require training until mandatory CLE’s are in place. Training could be offered at the local level through the local bar or the court during “brown bag” lunches and at the state level through the State Court Administrative Office (SCAO), CWS. Several judges were concerned about all day trainings and the difficulty for attorneys to attend even when the training is offered free of charge. It was suggested that more CWS web-based training be made available. (CWS’s 2010 training plan includes more web-based training and several trainings are currently archived on the web-site)

Additionally, judges agreed that if attorneys appear to have difficulties on a case, the court is in a position to recommend training to expand an attorney's knowledge and skill set. Several counties are already requiring up to 10 hours of annual training for their court appointed attorneys in their respective appointment areas. Further, courts are within their right to demand quality representation and to remove attorneys who are not meeting to expectations. Strong judicial leadership in this area is important.

Encouraging the creation of a local neglect attorney bar association or group is also an excellent way to support the importance of this area of law and promote the importance of quality representation for parents. It was agreed that there is a need to raise the level of respect for attorneys who represent parents in abuse and neglect cases. Courts can do this by communicating and collaborating with the local bar on a regular basis; asking for input into problem solving techniques; and informing them about trainings, changes in laws or court rules, or other issues about which the court is aware. This can help build not only a sense of community among the attorneys but a sense of pride in working with parents. Additionally, when the attorneys are included and encouraged to provide input, they are more likely to support systemic changes as they are vested in the solutions.

Judge Edwards suggested an annual luncheon to "Honor the Heroes" who work with families in these cases. He has done this in CA with much publicity and success. It builds community awareness, support and respect for this work. Additionally, similar to an Adoption Day, he holds a Reunification Day to honor those families that have successfully had their children returned to their care. This also raises the level of awareness and creates a more positive attitude toward parents involved in the child protection system.

It was generally agreed that attorneys should improve consistency in meeting with clients prior to hearings, in their office, or at a client's home. Attorneys may be advocating in court and appearing to do this well; however, if they are not meeting with the client, they may be missing critical information that is relevant to the proceedings. Brief contact in the hallway, without any privacy, is a common practice that must be discouraged. The group debated the idea of drafting a statute requiring parent attorneys to meet with their clients, similar to the lawyer guardian ad litem (L-GAL) statute. No consensus was reached on this issue, but the pros and cons were thoroughly vetted. Such a statutory change would be required before any court rule changes could be made. It was agreed that courts should start asking more questions to identify the attorney's efforts to meet with the client, find the client, etc. This would create an expectation from the bench that meetings are expected, and attorneys will likely respond positively to these higher expectations. Further, a judge can reinforce the importance of the attorney - client relationship and remind the parent to maintain contact with his attorney.

Another topic discussed in depth was how courts can create an environment that shows respect for these types of cases, the families involved, and the attorneys that represent the parties. The environment of the court room creates a statement about the

work that occurs when court is in session. Ensuring that families and attorneys have judges' undivided attention in court hearings is something that can be done without any expense. Additionally, some suggestions were made to create a family friendly environment. These include hanging family friendly art in the courtroom. Local churches may be willing to donate art work, or the court could take some children's art projects and frame them. This creates an atmosphere that shows respect for families and family issues. Additionally, having culturally relevant magazines in waiting rooms, which could also be donated, is helpful in creating a family friendly and accepting environment. Often doctor offices will donate magazines once they are 2 months old.

Other amenities were discussed that generally improved practice. One Michigan County has dedicated a room to attorneys which includes a computer, printer, copier and telephone to allow them to handle other matters while they are waiting. Documents such as affidavits of paternity, power of attorney for minors, etc. can be kept in these rooms to help assist clients at the court house. Another county has added a copier in the hallway with codes for each agency so if additional copies of documents are needed they can be copied and billed to the appropriate agency.

*It was agreed that the bench sets the standards and expectations in the court.* If more is expected, more will typically be achieved. How the court room operates can have a significant effect on how attorneys respond and how they represent clients. Several ways of scheduling a court docket to respect everyone's time were discussed. It was generally believed that scheduling specific times for each hearing is the best way to create the docket, although making the switch from current scheduling methods to a set hearing may be difficult, especially in larger jurisdictions.

## **Practitioners**

Attorneys clearly appreciated the opportunity to participate in the Symposium and suggested that they need to be better represented on statewide child welfare committees. Their overall concern was that parent attorneys need to have input on Michigan's state plan to address these issues. The attorneys agreed that they can be and need to be "change makers" working towards improved reunification rates and suggesting ways that money can be saved in the system. The attorneys felt their voice is best heard by SCAO through CWS and that involvement in CWS committees was a good way to continue to have input. They discussed having a "point person" for the group. It should be noted that several of the attorneys at the Symposium have become actively involved in one of the two Quality Representation sub-committees.

Attorneys also agreed that CLE's should be mandatory and that an annual parent attorney conference should be instituted, similar to the Criminal Law conference. The idea of creating an associated group with requirements for membership, such as minimum training, was discussed as a way to raise the level of representation and the expectations from parent attorneys. Further, it was agreed that a mentoring or shadowing

program would be appropriate for this area of law. Several participants indicated that neglect and abuse is very different from other areas of law and a disadvantage for the client is created when these cases are treated more like criminal matters.

Attorneys from all over the state agreed that they face many challenges in this area of law that they do not necessarily encounter in other practice areas. They expressed concerns that courts do not seem to respect what they do for parents, refuse to allow them to put testimony on the record, don't appear to give their clients the same attention during hearings as the caseworker, etc. Additionally, the time at which they come into a case can have major effects on their ability to advocate. It was agreed that early appointment was crucial. Another issue that was raised was the lack of a requirement to receive reports in a timely manner prior to hearings so they can be reviewed with clients. Michigan law requires that an L-GAL receive the report five days in advance of the hearing, but this statute does not include parent's counsel. Putative fathers and court docketing systems were also main concerns.

The attorneys discussed several possible statutory and court rule amendments including requirements in the rules of evidence to apply in termination of parental rights cases, the need for counsel for all parties to the case, not just the named respondent, and amendments to include parents' attorneys as well as L-GALs for issues such as DHS reports.

Finally, the issue of compensation was identified as a critical issue. The group believed that an expectation for parent representation has been low partially due to the low compensation rates. Therefore, people have tended to be more willing to look the other way as long as the most basic needs of representation are met. This should not continue to be an acceptable practice and stakeholders need to fight for appropriate pay for attorneys.

### **Community Leadership**

The community leadership group discussed the use of a multidisciplinary approach to representing parents. It was agreed this should be the standard since this is the standard in several places around the country now. The standard for a multidisciplinary approach to representation of parents includes at least two other people on the parent attorney's team, a social worker and a parent partner. These team members work with the parent's attorney, not for the agency. A social worker and a parent partner are very important components to help advocate for parents.

The members of this group believed that attorneys should focus on their role as "counselor at law" as one of being a *problem solver*, not simply a litigator. They felt that the attorneys should treat these cases as they would other types of cases by interviewing witnesses, investigating facts, recommending mediation, etc. It was also recognized that the parent's attorney needs to be able to collaborate with the agency to solve the issues within the family and be familiar with the services available in the community.

The community leadership group focused on the idea of an administrative structure. They identified several issues, such as local control, funding, evidence of improved outcomes, and county buy-in. One solution recommended was having a state wide system with some local controls still in place such as the system currently used by the State Appellate Defender's Office (SADO). Additionally, they recommended a pilot program to collect data which can then be used to expand the program around the state. Any pilot should incorporate the multidisciplinary approach, early appointment of counsel, enhanced training, and collaboration with other stakeholders. Further, special attention should be paid to attorney caseloads. It is important for any pilot to have state/county financial support.

Another topic discussed in this workgroup was training. Permanency planning conferences (PPCs), formerly known as team decision making, were identified as the number one area that currently needs training. The group noted that this issue should be addressed by DHS, which should focus on training and policy for successful PPCs.

The members of this group are committed to continuing this discussion and working with the State Bar for systemic improvements.

In summary, all of the groups agreed on several issues, including the importance of mandatory CLE's, compensation issues, the need for enhanced judicial leadership and higher expectations from the bar. Michigan may have a long way to go to making changes, but clearly those in attendance believed that now is the time for change and are supportive and willing to work toward those changes.