

Winter News

President's Message

Leonard Tanis, JD

As your current President let me initially state how honored and humbled I am at being in my current position. I have served on the Board of Directors for several years and observed the incredible job done by my predecessors: Fran Fontana, Beth Lieberman, Barb Pevny, Kate McNamara, Armand Lebovits and several others. They have worked tirelessly to build this organization into what it is today. I hope to continue that growth during my term.

Speaking of growth, some of you may know that the AFCC ran a contest last year with a prize of \$5,000 to the chapter that had the largest percentage increase in membership over the year. We won that contest with the great work of our Membership Committee. They ran the same contest this year, but divided it into six-month segments, the first of which ended on November 30th. We were neck and neck with Missouri until the last day when they managed to squeak out a win. Again, the Membership Committee did yeoman's work in obtaining 47 new members in 6 months! Colorado, a relatively less populated state, is now one of the largest chapters in the organization. Each of you can help us continue that trend by inviting colleagues you know to become members. There is information available on our website on the 10 best reasons to join AFCC, which you can download and provide to them.

One of the really great things the prize money has allowed us to do is to expand our programming. Last year we began with meetings in Northern Colorado between Weld and Larimer counties, which have been very well attended. They resumed in September this year (see Bob Smith's review on page 6) and I attended the one on December 4th, which featured a marvelous presentation on handling stress and compassion fatigue in our work by Sarah Myers, J.D., L.M.F.T.

This year we were able to begin similar meetings in Southern Colorado in the Springs. The first one was sold out (see Stacey Mesias' review on page 5) and I attended the second one on September 27th, which was again well attended, in which The Honorable Elizabeth Strobel from Weld County and Kate McNamara, Ph.D., presented on Trauma Informed Courts. These events also have brought new members into the organization, but more importantly allowed us to expand

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Disclaimer: The opinions expressed in the articles published or referred to in the COAFCC newsletter are those of the authors and do not necessarily reflect the positions of the Association of Family and Conciliation Courts or the Colorado Chapter of AFCC. Additionally, the products and services advertised in this publication are not endorsed by either the AFCC or the COAFCC.



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PRESIDENT'S MESSAGE
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our educational efforts. Plans are to further expand soon to the Western Slope and towards our southern border, including Grand Junction and perhaps La Junta or Durango.

Plans are already in place for our Annual Spring Conference and Membership Meeting on April 26, 2019, featuring Dr. Benjamin Garber presenting on child development, "Family Law Through the Developmental Lens: Assessing and Including the Voice of the Ever-Maturing Child." See page 3 for more information on this event and please mark your calendars now and plan to attend. We have also scheduled our Fourth Annual Fall Conference to be held in Breckenridge over the Columbus Day Weekend, October 11-13, 2019. Featured presenters are Robin Deutsch, Ph.D., and Matthew Sullivan, Ph.D., who will present on interventions for resist/refusal dynamics. This event is a great time to share time with friends and colleagues, spend some time in the mountains in the fall, all while learning from some of the top experts in the country. I hope to see you all there!

Upcoming AFCC Events

AFCC 56th Annual Conference:

The Future of Family Justice: International Innovations



May 29—June 1, 2019

**Westin Harbour Castle
Toronto, Ontario, Canada**

FEATURING:

Justice Claire L'Heureux-Dubé (Ret.), Supreme Court of Canada

Chief Justice Diana Bryant (Ret.), Family Court of Australia

The Right Honourable Sir Ernest Ryder, Senior President of Tribunals,
United Kingdom and Lord Justice of Appeal, England and Wales, London, UK

Justice George Czutrin, Senior Family Judge, Ontario, Canada

For more information go to www.afcnet.org



**Dedicated to
improving the lives of
children and families
through the
resolution of family
conflict**

Benefits of Membership:

- Be part of a vibrant network of Colorado family law professionals
- The COAFCC semi-annual newsletter is packed with local news, articles, links to resources, and more
- Discounts for COAFCC conferences & training programs
- All the benefits of AFCC membership: Subscription to Family Court Review; discounts for malpractice insurance & publications; access to the Parenting Coordination Listserv
- Support & advocacy for local community networking
- Representation on COAFCC Board of Directors
- Participation on committees, task forces & projects
- Mentoring and consultation from experts around the state

COAFCC 2019
Spring Conference
&
Annual Members Meeting & Elections
April 26, 2019



***Family Law Through the
Developmental Lens:***

***Assessing and Including the
Voice of the Ever-Maturing Child***

Featuring

Benjamin Garber, PhD

The one day conference will focus on the question of what is emotional maturity and how can it be assessed? Practical examples of lifespan development and emotional maturity will be presented as they pertain to family law decision making and a child's capacity for "reasoned and independent" preferences. The conference will also focus on eliciting the child's voice in family law matters. Professionals will be informed about dynamics that can confound or corrupt a child's voice including systemic/family pressures. Family law professionals will gain skills to assess and address when and how these pressures bear on each individual child's presentation. Practical tools for assessing maturity and eliciting the child's voice in the midst of high conflict family dynamics will also be offered including, the "Process Oriented Observational Protocol" and the "Query Grid" as aids to interviewing children and observing parent-child interactions.



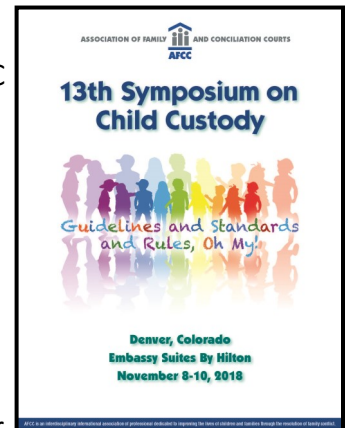
Dr. Ben Garber is a New Hampshire licensed psychologist, parenting coordinator, expert consultant to family law matters across North America, speaker and author. Dr. Garber is a former Guardian ad litem. Dr. Garber has advanced degrees in psycholinguistics, developmental and clinical child psychology from the University of Michigan and The Pennsylvania State University. He completed an internship in clinical child and family psychology at the Institute of Living in Hartford, Connecticut. He is co-founder of the Parenting Coordination Association of New Hampshire, winner of the March of Dimes "Distinction in Media Excellence" award, and an acclaimed educator and author in numerous areas of child and family development and family law. Above all else, across roles and titles and jurisdictions, Dr. Garber is an unwavering advocate for children.

More information and registration details coming soon!

AFCC 13TH SYMPOSIUM ON CHILD CUSTODY

Katie Hays, JD

Colorado attorneys and mental health professionals felt there was no place like home on November 8 through 10, 2018 when Denver hosted the 13th Annual AFCC Symposium on Child Custody: Guidelines and Standards and Rules, Oh My! The national symposium kicked off in downtown Denver on Thursday, November 8 with pre-symposium institutes providing invaluable training on Parent-Child Contact Problems, Evaluations in Cases Involving Intimate Partner Violence, Interviewing Children, and Testimony in Child Custody Disputes.



Our very own Dr. Kathleen McNamara contributed her usual flair and expertise in the opening session on the implications of guidelines and standards for Parenting, Policy and Practice. Friday's sessions kicked off with a dynamic panel including our own purple-loving Fran Fontana discussing the AFCC Model Standards of Practice of Child Custody Evaluation. This panel provided practical tips and input on how the model standards assist in our practices and also how they can be improved.

Workshops continued throughout the day Friday, November 9 covering issues from multi-directional and intergenerational gatekeeping to social media, to Rorschach testing, Oh My! Friday night brought the ever-popular and well-attended dine-arounds, hosted by some of our locals. Saturday's workshops showcased even more expertise, with presentations on topics such as step-up parenting plans, mediation and bias.



Once again, the national AFCC organization provided invaluable training and inspiration for our colleagues from all corners of the US and Canada.

COAFCC
members
sharing
wisdom!



SILENT AUCTION SUCCESS!

Our heartfelt gratitude to everyone who helped make this year's silent auction a success.

Our state chapter **raised more than \$6800!** Proceeds raised during the evening allow COAFCC the ability to offer scholarships to those colleagues in need, offer discounted conference fees to new practitioners, design and conduct regional training sessions around Colorado, as well as help the Chapter attract nationally-known speakers for our annual statewide conferences. We literally couldn't do it without you!

A special thank you to our 2018 Silent Auction Sponsors:

Cooper & Tanis, PC
Fontana & Associates, PC
James & Associates, LLC
Kathleen McNamara, PhD



Kick-Off Event for SoCo COAFCC

Stacy Mesias, LMFT

In an effort to reenergize the collaboration of local (and not so local) professionals involved in high-conflict divorce cases in Southern, Southwest and Southeast Colorado, the Colorado chapter of the AFCC agreed to sponsor some meetings in the area. To accomplish that, Beth Lieberman, LCSW (former COAFCC chapter president), and I took the initiative to organize a series of programs in Colorado Springs to address Best Practice issues. The first event took place on September 11, 2018 at the Colorado Springs Fine Arts Center.

The program consisted of judicial officers speaking on domestic relations issues in their courtrooms. The panel included the Judges, Eric Bentley, Jann DuBois, Deborah Grohs, and Robert Lowrey, and Magistrate Meredith Patrick Cord from the 4th Judicial District, Judge Jill Mattoon from the 10th Judicial District, and Magistrate Sarah Zane from the 16th Judicial District. The panel was moderated by David Johnson, Esq., who posed questions submitted by attendees prior to the meeting. The judicial officers offered their expertise and creative solutions concerning parenting time and decision-making, providing a wealth of important and relevant information to the audience. Mr. Johnson did an excellent job moderating the event with wisdom and humor that added to the depth of the information presented.

The kick-off event was a great success. Attendance was at capacity, the "Taste of Paris" buffet dinner was delicious, the venue was beautiful, and the information was invaluable. Mark your calendars now and plan to attend the next event on January 29, 2019, "Caught in the Web: Professionals Working in High Conflict," featuring Jane Irvine, and individual, child and family therapist, and Chad Gillam, a health care attorney. Online registration is open at www.coafcc.org.



**A JUDICIAL PANEL PRESENTATION ON
DOMESTIC RELATIONS BEST PRACTICES**

NOCO COAFCC DINNER SERIES BEGINS NEW PROGRAM YEAR

Robert Smith, Esq.

Building upon the initial program year's enthusiastic success, members of the planning committee of the Larimer and Weld Judicial District Best Practices Teams launched this current year's NoCo COAFCC program series on Tuesday evening, October 2nd, with an interdisciplinary panel discussing "*Children Resisting/Refusing Contact with a Parent: Why Do They Do That, and What Can Be Done?*"

After an initial mingling and networking period, the full house of judicial officers, Court personnel, family law attorneys, mental health professionals, mediators, CFIs, CLRs, GALs, PREs, PC/DMs and Parenting Time/Exchange Supervisors settled in for a full course meal (with a choice of salmon, steak or vegetarian) to hear an hour-and-a-half presentation by Larimer Judge Julie Kunce Field, psychologist Kate McNamara, and family law attorney Dina Christiansen on why the old familiar charge of "parent alienation" is more helpfully seen in the context of researchers Joan Kelly's and Janet Johnston's description of "child alienation"; and the realistic and more detailed reasons that children can provide about their resistance, if the attorney/CFI/PRE digs a bit deeper.

Attorney Dina Christensen described the types of parental conflict that harm children, and often lead to resistance to parenting time orders. Judge Field stressed that the Court needs specific information about the reasons for the child's resistance in order to create fair, helpful parenting time plans; and Dr. McNamara discussed the specific type of family therapy that can help parents and the resisting child successfully resolve the ongoing conflict, and abide by the Court's orders, if begun early on in the resistance, involves all family members, fosters a functional, parallel co-parenting relationship, is focused upon providing therapeutic feedback and not parenting time recommendations, and is supported by a strong Court presence.

The details of the rest of the program year's Tuesday evening dinners are still being planned, but the next few sessions will continue to be held at a golf course clubhouse venue that is halfway between the Larimer and Weld Courthouses. The December session, presented by Sarah Myers, Executive Director of the

Colorado Lawyer Assistance Program (COLAP), focused upon "*Mitigating Stress and Compassion Fatigue in the Legal Profession.*" Ms. Myers addressed the research that shows that judicial officers, family law attorneys and Court personnel are at an increased risk for developing secondary traumatization, depression and anxiety. It was very appropriate to the workplace experiences of all who serve high conflict parents in the domestic relations arena.

Future programs in early 2019 are planned to include "*Relocation: Risks, Buffers and Legalities*" on February 5th; and "*Is it PTSD? A Personality Disorder? Simply Bad Behavior? Making Sense of Parents' Extreme Reactions and Erratic Behaviors*" on April 16th. All program sessions begin at 5:45 pm with mingling, networking and a cash bar; and dinner is served and the program begins at 6:15 pm, with a conclusion not later than 7:45 pm. These NoCo dinner sessions fill up quickly, and we have had to cut off registrations each time before the announced deadline, since we have reached the fire code limit earlier and earlier for each program. We are looking for another suitable venue that is still midway between the Larimer and Weld Courthouses, and will try to maintain the high quality food choices that we presently have at the golf clubhouse.

Online registration for the February 5, 2019 dinner is currently open at www.coafcc.org. If you want to sign up to be notified of the opening of registration for future NoCo COAFCC dinner meetings, please email your request to COAFCC Administrator, April Freier, at aprilfreier@hotmail.com.



Join a COAFCC Committee!

Membership & Outreach Committee

Recruits new members, tracks incoming and outgoing members, welcomes new members, and deactivates non-renewing members. Plans and implements programs in northern, southern, and western regions of the state.

Program Committee

Plans and implements COAFCC conferences and annual meetings, and coordinates with other groups on joint conferences

Communication and Public Relations Committee

Tends to the many aspects of maintaining our website, publishing our newsletter and program brochures and communicating with our membership

WE NEED YOU!



If you are interested in committee work please contact April Freier at
aprilfreier@hotmail.com

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Sharon Feder

Phillip Hendrix

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Welcome New COAFCC Members!

- | | |
|---------------------|---------------------------|
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| JULIE JAY | |
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| KATHRYN LONOWSKI | |

LOOK HOW WE'VE GROWN!

CELEBRATIONS

Kathryn Bright has earned the designation of Licensed Professional Counselor. Congratulations, Kathryn!

Attorney David Volk has joined the Law Firm of **Brenda L. Storey, P.C.**

Rebecca Pepin, Esq., announced the opening of their third office. Jorgensen, Brownell and Pepin, P.C., now has offices in Longmont, Loveland, and Broomfield.

Susannah Smith, Ph.D., is now licensed to do telemedicine in five states, including Colorado.

Leonard D. Tanis, Esq., announced that **Michael McGonegal, Esq.**, has joined the firm as an associate.

COAFCC members--we want to know when you publish a peer-reviewed paper or a book of relevance to family law practitioners so we can highlight your work in our newsletter! Let us know about awards, promotions and other honors as well.

Send an email to April Freier, our administrative assistant: aprilfreier@hotmail.com.



NOMINATION TIME

The Nomination Committee is seeking interested individuals to become members of the COAFCC Board of Directors. The next election cycle will be at the Spring Conference held on April 26, 2019.

If you wish to nominate yourself or another COAFCC member, please contact the Nomination Committee Chair, Fran Fontana at ffontana@fontanafamilylaw.com. Thank you!



TRAUMA INFORMED COURTS: WHAT ATTORNEYS, EVALUATORS, AND JUDGES SHOULD KNOW ABOUT ADVERSE CHILDHOOD EXPERIENCES

Judge Elizabeth Strobel, Weld County District Judge

In the 1980s, Dr. Vincent Felitti of Kaiser Permanente ran an obesity clinic in San Diego, which had a drop out-rate of approximately fifty percent. These people were successful at losing weight, and no one could understand why they quit. Dr. Felitti learned, through interviews, that most of these people had experienced childhood sexual abuse. He hypothesized that obesity evidenced a maladaptive mechanism for coping with the fear, anxiety, and depression that follows childhood sexual abuse. Dr. Felitti partnered with Dr. Robert Anda of the National Institutes of Health and over a period of years, they questioned over 17,000 patients. The results were staggering. “We found a strong graded relationship between the breadth of exposure to abuse or household dysfunction during childhood and multiple risk factors for several of the leading causes of death in adults.”

The participants in the study were asked the following questions:

“WHILE YOU WERE GROWING UP, IN YOUR FIRST 18 YEARS OF LIFE, DID A PARENT OR CAREGIVER:

Psychological abuse:

Did a parent or other adult in the household...

- Often or very often swear at, insult, or put you down?
- Often or very often act in a way that made you afraid you would be physically hurt?

Physical abuse:

- Often or very often push, grab, shove or slap you?
- Often or very often hit you so hard that you had marks or were injured?

“We found a strong graded relationship between the breadth of exposure to abuse or household dysfunction during childhood and multiple risk factors for several of the leading causes of death in adults.”

Sexual abuse:

Did an adult or person at least 5 years old ever...

- Touch or fondle you in a sexual way?
- Have you touch their body in a sexual way?
- Attempt oral, anal, or vaginal intercourse with you?
- Have oral, anal, or vaginal intercourse with you?

Substance use:

Did you:

- Live with anyone who was a problem drinker or alcoholic?
- Live with anyone who used street drugs?

Mental Illness:

- Was a household member depressed or mentally ill?
- Did a household member attempt suicide?

Domestic Violence:

- Was your mother or stepmother: Sometimes, often, or very often pushed, grabbed, slapped
- OR had something thrown at her? Sometimes, often, or very often kicked, bitten, hit with a fist,
- OR hit with something hard?
- Ever repeatedly hit over at least a few minutes?
- Ever threatened with, or hurt by, a knife or gun?

Criminal behavior in household:

- Did a household member go to prison?

Emotional neglect:

Prior to your 18th birthday:

- Did you often or very often feel that...no one in your family loved you or thought you were important or special?
- OR your family didn't look out for each other, feel close to each other, or support each other?

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TRAUMA INFORMED COURTS
CONTINUED FROM PAGE 10

Physical neglect:

Prior to your 18th birthday:

- Did you often or very often feel that...you didn't have enough to eat, had to wear dirty clothes, and had no one to protect you?
- OR your parents were too drunk or high to take care of you or take you to the doctor if you needed it?

Divorce, separation, death:

Prior to your 18th birthday:

- Was a biological parent ever lost to you through divorce, abandonment, or other reason?

THE RESULTS

(9,367 women; 7,970 men; total 17,337)

ABUSE BY CATEGORY	% ANSWERING YES
Emotional abuse	10.6%
Physical abuse	28.3%
Sexual abuse	22.7%
Emotional neglect	14.8%
Physical neglect	9.9%
Substance abuse	26.9%
Mental illness	19.4%
Mother treated violently	12.7%
Criminal behavior in household	4.7%
Parental separation or divorce	23.3%

More than half of the respondents (52%) experienced more than one category of adverse childhood exposure; 6.2% reported more than four. The higher the ACE score, the greater the prevalence and risk for smoking, severe obesity, physical inactivity, depressed mood, and suicide attempts. The higher the score, the greater the incidence of alcoholism, drug abuse, and sexually transmitted diseases. Individuals with **one** adverse childhood experience were twice as likely to be alcoholics, 1.5 times more likely to have been depressed for two or more weeks a year, and 1.8 times more likely to have attempted suicide. Individuals with **two** adverse childhood experiences were 1.5 times more likely to smoke, four times more likely to be alcoholics, three times more likely to have attempted suicide, and 2.4 times more likely to have been depressed for two or more weeks a year. They were 2.9 times

more likely to use illicit drugs and 1.5 times more likely to have a sexually transmitted disease. With ACE scores of **four or higher**, the odds ratios for the presence of life-threatening diseases ranged from 1.6 for diabetes, 1.9 for cancer, 2.2 for ischemic heart disease; 2.4 for stroke; and 3.9 for COPD. Individuals with four adverse childhood experiences were 7.4 times more likely to be an alcoholic, 12.2 times more likely to have attempted suicide, and 2.2 times more likely to smoke. Individuals with six adverse childhood experiences had an average life expectancy of twenty years less than a person with no such experiences.

“High, constant levels of stress hormones can cause dysregulation, causing chronic “wear and tear” on multiple organ systems, including the brain.”

Scientists distinguish between types of stress as they explain the premature mortality among adults with high ACE scores. Some stress is positive, even good for us. Children experience positive stress when they overcome challenges to learn a new skill. They experience tolerable stress when they experience a natural disaster or lose a loving grandparent. Such a loss is felt deeply but with the love of supporting adults, children cope and recover. The health issues manifested in the ACE studies are attributable to toxic stress: the prolonged, unrelenting activation of the stress response systems in children in the absence of protective relationships (Children’s Mental Health., *id*)

Consider the stress-inducing experience of a hiker in Yellowstone National Park rounding a corner and meeting a grizzly bear on the path. The hiker automatically shifts into “fight, flight, or freeze” mode. Breathing becomes rapid, the heart rate increases, attention focuses on the immediate threat as the body prepares itself to either fight the bear, run from it, or freeze like a deer in the headlights. What seems to be an automatic response to an immediate threat to survival is the result of a complex interaction between stress hormones and resulting bodily functions.

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Adrenaline, cortisol, norepinephrine, and other stress hormones flood the bloodstream. The nervous system communicates with the respiratory and circulatory systems causing the heart to pound and the breath to quicken, oxygen flows to the body's extremities while other bodily functions such as digestion shut down to enable a complete focus on one thing – survival. Once the immediate threat is resolved, the hiker is weak-kneed, winded, and overwhelmed. As she recovers, her heart rate normalizes, her breathing stabilizes, and she returns to the campsite with a tale to tell.

But what if the bear is always there, just around the corner? High, constant levels of stress hormones can cause dysregulation, causing chronic “wear and tear” on multiple organ systems, including the brain. Over time the body's “stress-mending” system is compromised. The body never fully recovers. Children don't know when the danger is gone; they don't know when the threat will arise again. As the child grows, and as these experiences repeat or increase, the child may have trouble with self-control and executive functioning as his brain is always operating in a state of high alert and he is not able to easily access those capabilities. This is a child who cannot sit still, who cannot learn, who is overly aggressive toward playmates. She is hypervigilant and jumpy. Some children develop night terrors, others have trouble maintaining bowel or bladder control. Some dissociate when they are “triggered” by sights or sounds that call to mind terrifying experiences. Older children or adolescents may start to smoke cigarettes or experiment with alcohol or drugs, self-medicating their stress: their incessant fear, depression, and anxiety. They engage in high risk behaviors such as becoming sexually active earlier; female victims of childhood sexual abuse have a vastly greater likelihood of experiencing an unplanned pregnancy before the age of twenty. These activities lead to health challenges associated with linking mechanisms, including the much greater risk of developing potentially fatal diseases.



Resilience is the ability to cope with adversity. Not all ACE survivors are doomed to compromised health and early death. Some people with high ACE scores do quite well, according to Dr. Jack Shonkoff, director of the Center on the Developing Child at Harvard University. Some people are more resilient than others; they were born lucky. But resilience skills can also be supported and taught. Factors that promote resiliency include: (1) having caring and supportive relationships inside and outside of the family; (2) having the capacity to make realistic plans and follow through with them; (3) having a positive view of oneself and confidence in one's strengths and abilities; (4) having communication and problem-solving skills; and (5) having the capacity to manage strong feelings and control impulses.

To become resilient, children first must attach to consistently loving caregivers. If they routinely are nurtured by people who love them and keep them safe, children develop trust that they will have what they need to thrive, including love, acceptance, and protection. Caregivers can be taught basic child development. They must also be capable, at a minimum, of protecting a child from harm and providing a safe environment in which to grow. Being a good caregiver is part nature and part nurture, but it can be taught and improved.

Child maltreatment has been correlated, in the research, to parental feelings of social isolation and lack of interpersonal support. Caregivers and children need “social capital” – a network of people who provide emotional support and a sense of belonging. Parenting educators can teach parenting skills. Therapists can teach coping strategies and suggest ideas to help clients improve their social and emotional development. In the end, strong supportive relationships are a key to resilience for parents and children. Parents need basic resources such as adequate financial support and access to essential services such as health care and adequate childcare for children. Some families may need referrals to human services, substance abuse treatment, domestic violence education and counseling, or public benefits. After their basic needs are met, children need to be taught emotional self-regulation and social skills to increase their resilience capabilities. They, in turn, develop their own “social capital,” a network of caring people who provide them with safety, positive regard, and emotional support.

What does this mean for attorneys and mental health professionals?

Mental health professionals need to recognize trauma reactions in their clients and provide appropriate intervention and treatment. Modalities for diagnosis and treatment of trauma have been developed. Forensic evaluators should screen for adverse childhood experiences and make trauma-informed recommendations, not just for parental responsibility and parenting time, but for intervention and treatment where indicated. Therapists can provide psychoeducation for parent and evidence-based interventions. Many adverse childhood experience survivors have co-occurring mental health and substance abuse disorders. Both should be addressed in the survivor's treatment plan.

Attorneys can make trauma-informed referrals for clients and their children, specifically to therapists who are trauma-informed and trained. If those resources are not available in a community, attorneys and their clients can create demand by advocating for the implementation of trauma-informed diagnosis and treatment protocols at local mental health centers. They can also affect the marketplace by retaining as experts those evaluators and therapists who have demonstrated the ability to diagnose and effectively advocate for interventions to support children who have experienced childhood trauma.

The science is clear. Adverse childhood experiences can have lifelong, even deadly, consequences. Research has also shown that those consequences can be ameliorated. Resilience can be promoted and enhanced. Clients can be educated and referred for treatment, and so can their children. A high ACE score is not a death sentence. Family law practitioners and the therapeutic community can intervene to save futures....and lives.

The scientific information in this article was taught to the author by Dr. Noelle Hause, Dr. Barry Lindstrom, Dr. Kathleen McNamara, Dr. Frank Kunstal, Dr. Jack Gardner, and Dr. Julie Van Heyningen.

I am so grateful for the education.

Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: the Adverse Childhood Experiences (ACE) Study. Vincent Felitti, MD, FACP, Robert F. Anda, MD, MS., American Journal of Preventive Medicine 1998: 14 (4) © 1998 American Journal of Preventive Medicine.

A Treatment Improvement Protocol Trauma Informed Care in Behavioral Health Services TIP 57 (2014) Substance Abuse and Mental Health Services Administration HHS Publication No. (SMA) 14-4816.

SAVE THE DATE!

**COAFCC 4TH ANNUAL
FALL CONFERENCE**

**THE BEST POSSIBLE RELATIONSHIP:
COPING WITH PARENTING TIME RESISTANCE AND REFUSAL**

**ROBIN M. DEUTSCH, PHD
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A VIEW FROM THE BENCH:

Broadening the Scope of Legal Services

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Why do litigants who need and can afford legal services avoid retaining counsel? How can attorneys modify their practice to fill this need gap?

Certainly, many individuals who are in need of legal representation are unable to afford the cost of legal services. However, court systems increasingly deal with individuals in the midst of a divorce or legal separation who eschew the services of an attorney. As baffling as this appears -- one would not cut their own hair without adequate training, and the gravity of legal services far exceeds a hairstyle -- to judicial officers the rationale for this decision is apparent. The cost of legal representation is one obvious explanation, but in fact many couples with sizable estates can afford the cost of services but choose to represent themselves.

Many litigants decide not to retain an attorney because they fear the acrimony, they believe this will interject into their relationship with their soon-to-be former spouse. Some litigants are not experiencing conflict in their dealings with each other until they retain counsel and their attorney interjects new considerations. Perhaps a preliminary meeting with an attorney conveyed the impression that the process would be longer, more expensive and conflictual than anticipated. From a judge's perspective, this position is not entirely in error. Most judges have seen too many cases where an attorney's involvement brings acrimony to an otherwise amicable divorce. More frequently, judges see cases where attorney fees far exceed what would be reasonable and necessary considering the parties' resources.

Especially in instances where the parties have minor children, couples conclude that they will only be able to maintain a cordial relationship with their former spouse if they do not hire an attorney. It may surprise some attorneys that most litigants want dignity in the

legal process, both for themselves and for the other party. If a litigant is crushed by the divorce process -- whether financially or emotionally -- this detrimentally affects the parties' children and, indirectly, the other party.

Court systems have long reported an increasing number of self-represented litigants. What is new in this reporting is that not all of it is due to financial need, but rather to a desire to include legal services in the divorce process in novel ways.

The trend of avoiding legal representation where it is within a litigant's financial means is often regrettable to almost all participants in the judicial system. Judges and court staff field questions that are in the realm of legal advice. Courts are often presented with legal documents that are incomplete, confusing, or vague. Attorneys are missing out on being able to represent clients who need them. Most significantly, litigants may arrive at agreements that do not achieve their intent or that cause future headaches and result in legal bills far exceeding what the original cost of legal representation would have been.

The omission of information from parties' Sworn Financial Statements and Separation Agreements is an error frequently seen in legal documents submitted by *pro se* parties. Fill-in-the-blank forms created by the Colorado State Court Administrator's Office

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attempt to prompt litigants to address relevant details, but often courts must conduct hearings in instances where no hearing would have been required simply to clarify or “fill in the gaps” in agreements completed without attorneys. In the worst of instances, litigants permanently forego rights without fully knowing what they left on the table.

The balance for attorneys is in diligently and zealously representing their clients but doing so in a manner that is individualized to meet the client’s needs. Not every case can be approached in the same manner. Aside from the particular details of a case, such as the size of the marital estate, the way a client wishes to proceed vis-à-vis the other party should also be discussed and should determine how an attorney proceeds in his or her representation of a client. In discussing client goals, it is imperative that the attorney probe the client’s expectations and how the attorney is prepared to meet them. Additionally, the profession as a whole must do better in educating the public as to the wide array of services available and where they can be found.

Through acquaintances, prior experience, or media reports, most litigants understand the availability of mediation and financial planning services. By consulting with a financial planner in advance or through the course of the divorce process, litigants sometimes choose to collaborate in achieving a cooperative settlement. Mediation is a common approach to parenting disputes, both through the divorce process and in post-decree issues. It is less common for litigants to know about the availability of unbundled legal services, collaborative divorce, or early neutral evaluation. There is little information available as to what each of these services entail, and even less information about where to find professionals with experience or practices amenable to these modalities. Attorneys, of course, face limitations in how they can seek clients and what advertising methods they can employ. Except by word of mouth, how would a litigant know what unbundled legal services are or which attorneys are willing to

provide these? Many couples reach conceptual agreements for property distribution directly with one another but are at a loss on how to craft the language of their agreements or what pertinent details need to be considered or included. Collaborative divorce and early neutral evaluation are only available with the benefit of counsel, and there are only a few attorneys trained in these services.

A multi-door courthouse concept may be one way that members of the public can be made aware of other legal options they can benefit from aside from traditional representation. In this modality a case is triaged in its early stages and directed to the most appropriate dispute resolution method.

Additionally, the Initial Status Conference presents an optimal opportunity for this information to be provided to self-represented litigants, as does the divorce orientation presented at many courthouses. Most judicial districts already provide a directory of mediation professionals. By creating comprehensive lists, there is not a concern about endorsing the services of any particular professional. Districts can have information about what each of these services entails – unbundled legal services, collaborative divorce, ENA or ENC, etc. – and a listing of professionals trained in each of these areas.

For counsel, it is possible to both recognize that parties can have adverse legal interests and that they would benefit from preserving their relationship. In so doing, attorneys can enhance their individual practices and contribute to overall societal interests.

Honorable Norma A. Sierra graduated from the University of Texas School of Law in 1987 and obtained a business degree from the University of Texas-El Paso. Judge Sierra has made Boulder her home since the early 1990's. She previously worked for the U.S. House of Representatives and as a trial attorney at the U.S. Department of Justice. In Colorado, she worked in private practice as a mediator and domestic relations attorney. In the Twentieth Judicial District, she served as District Court Magistrate from 2002 to 2011 and as County Court Judge from 2011 to 2015. She was sworn in as a District Court Judge in August 2015. She is licensed in Texas, the District of Columbia, and Colorado.



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