
JEFFERSON COUNTY MEDIATION SERVICES

Volunteer Colloquium Minutes

March 18, 2014

Volunteers Present: Joel Bogen, Kate Boland, Martha Cecil-Few, Calyn Crow, Anita Gilbertson, Karen Kail, Georgine Kryda, Scott Methling, Debbie Plotkin, Elaine Rains, Ronnie Rosenbaum, Gabriela Sandoval, Jerry Schopen, and Ray Washington

Staff Present: Mark Loye, Julie Carter, and Helena Jo Goldstein

I. Welcome:

Mark Loye welcomed everyone to the meeting and asked those present to introduce themselves.

II. Presentation: The Role of the Self-Represented Litigant Coordinator April Bernard and Brigitte Smith, Coordinators for the 1st Judicial District

The Self-Represented Litigant Coordinators (SRLC), April Bernard and Brigitte Smith, have an office in the courthouse which is open Monday through Friday 8 AM to 4 PM. They provide many kinds of assistance to people who do not have legal representation. Often people are in crisis and need help navigating the legal system, for example, finding out how to bail someone out of jail. People can call, walk in, or email for assistance.

The SRLC help people find the forms they need, and they can print out the needed court forms on the computer in the office. People are assisted with tasks such as filing court paperwork to get fee waivers, completing the child support worksheet, etc. While the SRLC do not complete the forms for people, they can review the forms for missing items and unchecked boxes. They notarize forms and refer people to community resources.

SRLC also runs a large number of very helpful clinics at the courthouse. These include: the Family Law Clinic, held the second Wednesday of every month at noon, for people who want to start a divorce, legal separation or child custody case; the Post-Decree Motions/Contempt Clinic, for people who want to modify child support or parenting time orders, or who want to enforce orders; the Small Claims Legal Clinic, a Collections Clinic, a Probate/Elder Law Clinic, and a monthly opportunity to talk, via internet, with a volunteer attorney. Their flier is attached to these minutes.

III. Presentation: Navigating Family Law Issues: Practical Information for Mediators Attorney Stephanie Fling

Family Law Attorney Stephanie Fling spoke next, addressing a number of issues of importance to mediators.

Maintenance:

There is a statutory formula for determining how much maintenance will be awarded: 40 % of the higher earner's gross income minus 50 % of the lower earner's gross income. Then there is a chart that states how many months of maintenance will be awarded based on the length of the marriage. (The chart is included in the Family Law Handout which is a companion to these minutes.) While judges have

discretion to deviate from these guidelines, in the absence of an agreement by the parties many judges are simply following the guidelines in their orders. Many people do not understand the tax implications of maintenance. The payer gets to deduct maintenance from income, but the recipient must include it as income on his/her tax return. This is not true of child support. One reason to deviate from the child support calculation is to call some of that money maintenance. This can create a bigger tax deduction for the higher earner. The net result may be a lower combined tax burden. Judges will accept a deviation from the child support calculation on the grounds that maintenance will be paid, which will lead to a net tax savings for the divorced couple. However, the child support calculations should be done and included so that it is clear that the parties are knowingly deviating from the guidelines.

Another option is to calculate what maintenance should be, and then to exchange it for a marital asset (like a car) or a discounted lump sum. This is an attractive option because people tend to dislike paying maintenance, and on the other hand, the other party is getting the payoff now instead of receiving it (or having to chase after it) over a period of years.

Parenting Plans:

There are really 3 types of parenting time: regular parenting time, holiday parenting time, and summer. Judges support frequent and consistent parenting time for both parents. As a result, they tend to dislike the one week on, one week off pattern for regular parenting time. More typical patterns are the 5-2-2-5 pattern where parent 1 has the children Mondays and Tuesdays, parent 2 has them Wednesdays and Thursdays, and the parents alternate Friday, Saturday and Sunday. This allows both parents to get weekend "fun time" and blocks of five days at a time. A slightly less common pattern is 4-3-3-4, as it does not divide the weekends as well.

Summer Plans supersede regular parenting time, and Holiday Plans trump both Regular and Summer Plans. Frequently parents get extended periods of time with the children during the summer. To avoid a rush to claim popular times (like the 4th of July), or tension between early planners and late planners, parents should each year alternate who gets to pick their vacation time first. The parent with priority should have a deadline, so they pick their time early enough (say May 1) that the other parent can then make plans. Whatever agreement the parents make, it should be in writing with as much detail as possible.

Other Issues (or why lawyers make money on post-decree cases):

1. Right of first refusal – decide whether parties are willing to give each the right of first refusal to care for the children if either party needs a caretaker during their normal parenting time. If they agree to this idea, get it in writing!
2. The parenting plan should state that neither party will move out of state with the children without judicial approval. This is the law, but the average parent contemplating a move will be looking at the agreement, not law books, to see what it says about moving.
3. Transportation obligations should be as specific as possible. Language such as "the parents will be flexible" or "will cooperate" to get the kids to and from school and/or parenting time is worthless. No judge can enforce an obligation to be flexible.
4. Try not to set up exchanges at the police station. As children age they will find it weirder and weirder to always be with their parents in police stations. Many judges are now ordering exchanges to occur inside grocery stores – this is a normal place for children to be with their parents, and there are always people around.
5. Expenses for extracurricular activities – legally, these are apportioned according to the percent of gross income, as shown on the child support worksheet. Parties can agree to other ways of splitting such expenses, but this should be stated as specifically as possible in the parenting plan. In addition, it would be good to discuss the obligation of each parent to take children to activities the other parent has

initiated. There are a lot of difficulties with parents refusing to take their children to practice or games that occur on "their" time. The children suffer, however, because of peer pressure they feel for missing practice or games.

6. Medical and other expenses – if at all possible, try to have parents pay the provider their share directly. If that is not possible, there should be specific wording on how bills should be presented and paid. For example, a copy of the receipt must be presented within 30 days, and payment must be made within 30 days after the receipt was received.

7. Dependency exemption on tax returns – legally, the parent claiming the exemption must be current on their child support obligation. This is another example of something that is useful to state in writing, for the parties to refer to in the future. By statute, the dependency exemptions are allocated between the parents in proportion to the income reported on the child support worksheet. (The allocation is not based on parenting time.) If Mom makes 75% of the parents' combined gross income, she will get the exemption 3 out of every 4 years, unless the parties agree otherwise. IRS Form 8332 should be used for one parent to give the exemption to the other parent. It is useful to have a deadline for when that form, with signature in place, will be provided to the other parent, so they can complete their tax return in a timely manner.

In conclusion, Attorney Fling emphasized that to prevent future disputes over parenting plans, specific language is always better than general language, and clear time limits and/or deadlines are very important.

Mr. Loye thanked the three informative speakers, and everyone who attended for participating in the discussion, and wished all a good evening.

IV. Next Colloquium: Tuesday, May 20, 2014, 6:00 – 8:00 p.m. in the Open Space Hearing Room (Ponderosa Room). **Topic:** To be announced. Suggestions for meeting topics are always welcome!

The meeting was adjourned.

Submitted by: Helena Jo Goldstein

Helena Jo Goldstein, Programs Manager

Approved by: Mark Loye

Mark Loye, Director