

FLS December Newsletter



CALENDAR

Section Lunch CLE's

January 13, 2016

Hidden Secrets
Cell Phone and
Computer Forensics

Family Law CLE

TAFLS Trial Institute
Charleston, SC
January 15 & 16, 2016

FLS Bench Bar

February 12, 2016

Hotel Intercontinental
"Anatomy of a Family Law
Case"

Quest for Perfection, 2016

Charles Geilich

Ah, 2016, a new year and a fresh opportunity to get things right. Like you, I resolve to be perfect in 2016, with absolutely no mistakes, and this time I really mean it. (This was also my resolution for 1984, but things went kind of wonky at the New Years Eve party, and I got off to a bad start). Before we can be perfect, however, it's important to study mistakes from the last year. While the "mainstream media" (and here let's stipulate that I'm making exaggerated air quotes) covers your wars, tragedies, and political events, I intend to review a few of the more subtle stories that you may have missed. Subtle, yes, but instructive.

For example, consider "Tom" (thankfully for him, just

"Tom," according to the Daily Mail), who tried to express his universal love by sending a group text to each of his exes for Christmas, something he called "ex-miss." Was it well received? It was not. The exes, previously thinking that each was his one and only, discovered the existence of the others in the text. Words like "you ***** pig" and "***** off, Tom" were banded about. Bella really did not take it well, but Gemma accepted the message in the spirit of the season.



Poor Tom. If only he'd had the benefit of a family lawyer sitting next to him at the bar when this idea struck him. (And that, friends, is my obligatory reference to family law, which gets me past the oppressive censors at the Dallas Bar Association Family Law Section Newsletter re-

Quest for Perfection - 2016

Charles Geilich

gional editorial headquarters, better known by its acronym Damnwetters).

In Costa Rica this year, it was reported that sea turtles that were heading onshore to lay their eggs were confronted by a horde of selfie-stick-toting tourists who were waiting for them. There is so much to learn in this particular incident that I will need to unpack it in its own column. (Also, in 2016, stop saying “unpack” when you mean “explain” and, for the love of Pete, throw away your selfie stick).

Also, in 2016 be careful what you throw away. Like, for instance, if you are throwing away 18,000 heart-shaped fruit cakes in a Serbian landfill (and if you’ve ever had a heart-shaped fruit cake, you can understand the temptation to chuck it in a landfill), make sure you dispose of them completely. Those self-same fruitcakes began popping up on the black market, according to the mayor of the Serbian town where this happened. I will neither try to understand the concept of a fruit cake black market nor attempt to spell the name of the town, as it would break



my keyboard. The good news is that, being fruitcakes, they were no worse the wear for spending time in a landfill.

Compartmentalizing will be an important skill in 2016, lest you end up like the New Jersey fella who was pulled over for a traffic violation and

obliged the officer who asked for his ID by handing over his wallet that contained marijuana. Remember, “a place for everything and everything in its place.” I would mention Steve Harvey’s gaffe, but it may be too soon. I don’t want to be accused of cyberbullying.

In 2016, as you work your way to perfection, maybe you should avoid being like the Canadian guy in 2015 who set a Guinness world record by watching 120 hours of movies on his TV without sleeping. Now that is truly slothful behavior and not a worthy activity for the new you, especially if you’re not watching sports.

I hope these tips prove useful to you in your quest for perfection this year.

Charles is a Dallas family-law mediator and sometime writer, **and he’s doing the best he can with**



what he’s got.

He can be reached at cngeilich@gmail.com

WE WANT TO HEAR FROM YOU

What would you like to read about in our monthly newsletters?

If you have suggestions on specific topics you are interested to learn about this year that may affect your practice or your clientele, please let the editorial committee know by contacting Holly Biederman at hbiederman@duffee-eitzen.com

What Makes a Good Mediator?

-- Mike Gregory

In addition to my previous mediation training required by Texas Civil Practice and Remedies Code Sections 154.052, 154.053 and 155.003, I have taken the following trainings:

American Academy of Matrimonial Lawyers Advanced Mediation Training, November 2015; Harvard Law School Advanced Mediation Training, June 2015 and Advanced Negotiation Training at Harvard Law School, June 2010.

Serious mediation training and substantive expertise are critical, as are patience and keen analytical skill. However, according to a survey by Northwestern University Law School professor Stephen Goldberg, veteran mediators believe that establishing rapport and trust is more important to effective mediation than employing specific mediation techniques and tactics.

Goldberg also learned that to gain a party's trust and confidence, rapport must be genuine: "You can't fake it." Before people are willing to settle, they must feel listened to and that their interests are truly understood. Only then can a mediator reframe their interests and goals and provide creative options and solutions.

An effective mediator needs to obtain pre-mediation information about each party, such as their education, occupations, hobbies and interests. Does a party enjoy reading, movies, fishing, hunting, hiking, walking, running, water sports, and winter sports? Each of these activities can be touch points on which the mediator can build rapport and

establish a connection with the parties. If the mediator participates in similar activities, he can briefly talk about the activity and start building trust and rapport.

Goldberg's research teaches us two important lessons. One is the importance of relationship building, especially in contentious situations. Some

measure of trust is required before people will open up and reveal their true interests and goals. The other lesson is that the hallmark of an artful and successful mediation is each party feels listened to and acknowledged, rather than maneuvered and manipulated.

Mediators can build rapport and trust in the following ways:

1. Be empathic to each party's feelings, concerns, financial and emotional stressors, fears and insecurities.
2. Be prepared by knowing about the case, the issues and what each side wants, but more importantly, why they want what they want.
3. Engage each party. You cannot build trust and rapport, without engaging with each party to learn the party's interests, needs and goals and getting them to open up to you.
4. Use good communication skills.
5. Listen to their concerns, acknowledge and resolve.
6. Make sure they know that you care. Express appreciation.
7. Work hard and have patience.
8. Remember that bad words isolate. Good words



Mike Gregory

What Makes a Good Mediator?

-- Mike Gregory

connect. A mediator's tone of voice can change whether a word is perceived as good or bad.

9. Oliver Wendell Holmes, United States Supreme Court Justice, when explaining the difference between intentional and unintentional torts said, "Even a dog can tell the difference between being stumbled over and being kicked."
10. Be genuine.



Mike Gregory

11. Remain neutral and honest.
12. Be agent of reality.
13. Resist the urge to threaten.
14. Don't go on a power trip. Escape the cycle of action and reaction.
15. Manage emotions. Separate the people from the problem.

DBA FLS BENCH BAR

SAVE THE DATE



February 12, 2016

Hotel Intercontinental

15201 Dallas Parkway. Addison, Texas 75001

2015 Juliette Fowler Christmas Party



Dear Friends and Colleagues

As the year comes to an end I just wanted to take a minute and wish all of you a very Merry Christmas and Happy Holidays! It has been my honor and privilege to have served this year as the Chair of the best section the Dallas Bar Association has to offer all attributable to each of you in the section who participate in the Section events and who always respond to request for help, whether it be a request for time or money. You have elected an excellent board to continue the Sections good work and I expect 2016 to be another great year. Stay safe over the Holidays and be good to one another.

Carl E. Roberts



Meet Your New 2016 Family Law Section Officers, Board of Directors, and Liaisons

The Dallas Bar Association Family Law Section
Would like to Announce the New Officers,
Members of the Board of Directors and Liaisons for 2016

Officers

Chair: Kathleen Turton
Vice Chair: Marilea Lewis
Treasurer: Chris Farish
Secretary: Holly Biederman

Board of Directors (Three Year Term)

Derek Bragg
Ashley McDowell
David Hoffman

Board Liaisons

Special Events: Aimee Pingenot Key
Technology: Susan Duesler
Case Law Advisor: Georganna Simpson

Are Evaluator Interviews Adequate?

John A. Zervopoulos, Ph.D., J.D., ABPP

Interviews of parents in child custody evaluations offer evaluators key face-to-face opportunities to gather data about the family, its problems, and its conflicts. But the reliability and validity of interview data are highly dependent on the interviewer's skill and objectivity in gathering, recording, and interpreting information. Susan Urbina, *Essentials of Psychological Testing* 267 (2004). As a result, interviews, generally lacking the structure of tests, present special challenges for lawyers when they critique an evaluation's methods and results. Were the interviews conducted well? Did the evaluator give proper weight to the examinee's statements?



A focused look at an evaluator's interview notes can help to address these issues and get a better handle on the reliability of the evaluator's opinions. Consider the following questions when reviewing those notes and questioning evaluators about their interviews:

- Does the evaluator have an interview plan to address the evaluation's referral questions or purpose?

Some unfocused interviews simply survey the examinee's family history and gather unsubstantiated statements from the examinee about the case issues. Other unfocused interviews merely document the parties' dueling allegations. In contrast, focused, planned interviews are oriented towards gathering relevant information about the examinee's life and circumstances—past, present, and prospective—that address the evaluation's referral questions or purpose.

es—past, present, and prospective—that address the evaluation's referral questions or purpose.

- Have enough interviews been conducted to address the evaluation's questions?

Difficult evaluation issues (e.g., abuse allegations; parent alienation; criminal responsibility) require more than one or two interviews to gather sufficient reliable information—it takes at least 30 minutes of the first interview just to explain the evaluation

procedures, to sign necessary consent forms, and to get to know the examinee well enough to begin discussing case-related concerns.

- Do the interviews devolve into empathy-oriented encouragement, even advice, to the examinee about solving the family problems?

This concern is a role problem that may lead the evaluator towards biased findings and opinions. Forensic evaluation interviews, independent and investi-

Are Evaluator Interviews Adequate?

John A. Zervopoulos, Ph.D., J.D., ABPP

gative in nature, should focus on answering key questions that concern the court, not on helping the examinee solve her personal, family, or legal problems.

- Did the evaluator properly schedule the interviews to ensure that she could gain the examinee's responses to statements from third-party interviews or to records the evaluator re-viewed?

Some evaluators do not seek or receive key collateral information until after they have completed the examinee interviews, losing critical opportunities to confirm or understand the third-party information from the examinee's view.

- Did the evaluator use the interviews merely to confirm her biases of the case rather than to explore reasonable alternative explanations of the data that would address the referral questions?

Interviews that do not sufficiently explore with the examinee reasonable alternative explanations of the data and case issues are likely used by the evaluator to confirm biases or quick judgments that she may have developed earlier in the evaluation process.

- Did the evaluator require the examinee to complete long, drawn-out questionnaires in lieu of more interviews?

Questionnaires can provide important information. But they don't substitute for skilled, face-to-face interviews.

Relevant and reliable interview information is a critical foundation for evaluation-derived findings. Focus on those interviews. You'll be rewarded with more clarity regarding the basis of the evaluator's reasoning and opinions.

John A. Zervopoulos, Ph.D., J.D., ABPP is a forensic psychologist and lawyer who directs PSYCHOLOGY LAW PARTNERS, a forensic consulting service providing consultation to lawyers on psychology-related issues, materials, and testimony.



His second book, *How to Examine Mental Health Experts: A Family Lawyer's Guide to Issues and Strategies*, is newly published by the American Bar Association.

He is online at www.psychologylawpartners.com and can be contacted at 972-458-8007 or at izerv@psychologylawpartners.com.

Suzanne M. Duvall Named TMCA Outstanding Credentialed Mediator - 2015

- Wayne Meachum

At its annual symposium in Austin, Texas, on October 17, 2015, the Texas Mediator Credentialing Association named **Suzanne M. Duvall** its Outstanding Credentialed Mediator of the Year. It is the first such award given by TMCA in its 14-year history. The award will become a regular part of the TMCA's yearly symposium and will honor outstanding credentialed mediators who have distinguished themselves in the mediation profession.

Suzanne Duvall is a Dallas-based attorney-mediator who is affiliated with Burdin Mediations and who mediates in Texas and across the country. She has been a full-time mediator for over 20 years and has mediated over 2500 cases in all areas of civil disputes. She is also an experienced arbitrator and a highly sought-after trainer in mediation. Suzanne is a past president of AAM and has served AAM in numerous other positions.



Ms. Duvall has received numerous awards for her mediation skills, leadership and service to the mediation profession including the *Frank G. Evans Award* given by the State Bar of Texas ADR Section for outstanding leadership in the field of dispute resolution, the first ever American Arbitration Association *Brutsche Award for Professional Excellence in Dispute Resolution*, the Texas Association of Mediators *Susanne Adams Award for Outstanding Commitment and Dedication to the Mediation Profession*, and the *Association of Attorney Mediators Pro*

Bono Service Award. She has also been selected “Super Lawyer” for 13 consecutive years, 2003 -2015, by Thomson Reuters and the publishers of *Texas Monthly* and has been named to Texas Best Lawyers 2009 – 2015 and Best Lawyers in America 2014 - 2015. Her website is at www.SuzanneMDuvall.com.

Suzanne’s leadership and service in the ADR field has included positions with the State Bar of Texas (former Member Board of Directors, Past Chair – ADR Section, Vice-Chair Professionalism Committee), Dallas Bar Association (Past Chair – ADR Section), Texas Mediator Credentialing Association (Founding Member, Past President, Current Board Member), Association of Attorney-Mediators (Past National Chair), Texas Association of Mediators (Past President, Current Board Member), Life Fellow, Texas Bar Foundation, Fellow, Center for Public Policy Dispute Resolution, UT School of Law, Master, Annette Stewart American Inn of Court. In addition to all of her other activities, Suzanne is the editor of the “Ethical Puz-

zler” column in the State Bar ADR Section newsletter; a position she has held for the last 14 years.

The TMCA is a state-wide voluntary organization that provides credentialing for mediators who meet established requirements for training, experience and ethical practice. TMCA is the only mediation organization that has mandatory ethical guidelines and that is sanctioned by the Supreme Court of Texas. The organization has 392 credential holders across Texas.

10 Things to Know When Working with CPS

- Anna Espinosa, LCSW

A

Child Protective Services (CPS) investigation, much like any investigation, is a complex and multifaceted process. There is a part(s) of the investigation that is apparent to the parties involved but the bulk of the investigation is hidden from the view. This is done to insulate the investigation from external influences and protect victims' rights. This is the foundation for all the internal structuring and procedures of CPS. While working with CPS, it bodes well to know its inner workings and prepare accordingly. Following are some facts that may help you to get familiar with the CPS world:

Within 24 hours of the removal of a child, a preliminary hearing occurs. A legal representative can accompany the parents to this meeting; but that rarely happens, because either they are not told about their rights or they are too stressed to think about it. The paperwork (removal notice) provided to the family outlines the objectives and significance of this meeting. The investigator too should inform the parents about the hearing; however, due to the being in an intense situation most parents are unable to process all the information provided to them.

A Priority 1 (P1) case must be investigated within 24 hours of the intake date and time. A Priority 2 (P2) case must be investigated within 72 hours of the intake date and time. Depending upon the severity and urgency of the allegations reported, P2 cases can be upgraded to a P1. Similarly, a P1 case can be downgraded to a P2 if and when necessary; these types of changes can only be made by CPS Supervisors, Program Directors, or Program Administrators; the reasoning must be documented in the intake report.

The Safety Plan (SP) is an understanding between CPS and the parent(s) that certain written out steps will be implemented and abided by to keep the child/ren safe. The safety plan does not have any legal standing. All safety plans have a shelf life of 30 days. If the investigation continues or remains open for longer than 30 days, the investigator must re-interview all principals in the case including all children and draw up a new safety plan, which again is only good for 30 days.

It should be noted that making a false report/allegations can result in a misdemeanor. However, more often than not this is difficult to prove.

Not all reports/cases move to the investigation stage; a supervisor or program director can close a case before an investigator does a field inquiry on it. This is called Administrative Closure (AC). Most administrative closures take place at the intake stage and must be documented to why.

If a child involved in an investigation 5 years of age or younger with the dispositions of Unable to Determine, Unable to Locate and Reason to Believe, the investigation requires a secondary approver. This person is called a Child Safety Specialist (CSS).

When a child is removed from his or her home, all subsequent communication between that child and the parent(s) needs to be mediated or supervised by the investigator. Notes, phone calls, letters and any and all electronic

10 Things to Know When Working with CPS

- Anna Espinosa, LCSW

communication between the child and parent during a removal have to be evaluated for appropriateness through the investigator. It is never okay to hide notes in clothes or try to communicate with the child via social media.

CPS only investigates the civil side of the law. When a CPS report is generated, a report is automatically generated and forwarded to local Police Departments but the decision is up to them if they will pursue or prosecute. CPS may work with various Police Departments depending upon the circumstances of the case but this is not always a necessity.

If the person(s) who initially reported an incident or suspicion has additional concerns or has witnessed new allegations of alleged abuse, they may make another CPS report or report this new information to the investigator who has the open case. However, after a case has been closed, any ensuing complaint regarding the involved parties will result in a new investigation.

Emotional Abuse (EA) is one of the difficult and complex forms of abuse to prove. With very little or zero physical evidence, it leaves a lot of room for interpretation because it is a child describing the alleged abuse. Nonetheless, Emotional Abuse (EA) is considered serious and investigated, and can leave lifelong emotional scars on the psyche of the victim(s).

When a child is removed from their parents/guardians they are assigned an Ad Litem (AL). This attorney works exclusively for the best interest of the child and typically aligns with the investigator but there can be exceptions. In the end, their sole objective is to ensure the welfare and safety of the child.

We at Color Me SAFESM (CMS) are truly pleased to pass on these gems of knowledge to you. However, every CPS case is different. It is important to remember that a CPS case is not just a set of procedures, operating in a neutral environment. There are procedures within procedures, some cases are slow, some are superfast, and much more. The investigators, supervisors, program directors, attorneys, social workers etc. are just a few of the individuals that may be involved in a case and that leaves a whole lot of room for subjective interpretation, prejudice, bias and misunderstanding. Therefore, it is very important for all individuals involved in the investigation to review and look at it with an open mind and outlook. Every investigation contains a very different dynamic.

© Color Me SAFESM, LLC. All rights reserved. CMS is the owner of the ColorMeSafeSM and Helping Families Protect Their Most Valuable AssetSM family of marks and logos included herein. Any unauthorized review, use, disclosure, copying or distribution is prohibited.



Dallas County Family Court Contact Numbers

DALLAS COUNTY FAMILY COURT ASSOCIATE JUDGES

254 th	Hon. Donald Turner	Donald.Turner@dallascounty.org	214.653.6754
255 th	Hon. Scott Beauchamp	Scott.Beauchamp@dallascounty.org	214.653.6159
256 th	Hon. Regina Moore	Regina.Moore@dallascounty.org	214.653.6449
301 st	Hon. Drew Ten Eyck	Drew.TenEyck@dallascounty.org	214.653.7407
302 nd	Hon. Christine Collie	Christine.Collie@dallascounty.org	214.653.6189
303 rd	Hon. Graciela Olvera	Graciela.Olvera@dallascounty.org	214.653.7611
330 th	Hon. Danielle Diaz	Danielle.Diaz@dallascounty.org	214.653.7208

DALLAS COUNTY FAMILY COURT COORDINATORS

254 th	Michelle Morneault	mmorneault@dallascounty.org	214.653.6741
255 th	Deborah Nelson	deborah.nelson@dallascounty.org	214.653.6154
256 th	Cathy Sanchez	cathy.sanchez@dallascounty.org	214.653.6410
301 st	Catherine Nicholson	cnicholson@dallascounty.org	214.653.7407
302 nd	Twyla Weatherford	twyla.weatherford@dallascounty.org	214.653.6189
303 rd	Linda Manning	lmanning@dallascounty.org	214.653.6186
330 th	Rita Bartley	rbartley@dallascounty.org	214.653.6188

ANNOUNCEMENTS

Office Available

Office Space (North Dallas/Addison): Great office available immediately. Large windowed office with beautiful tree-top views. Can be fully furnished. Rent includes use of 2 conference rooms, waiting/reception area, shared kitchen, supply room and storage room. Internet and utilities included. Free parking (dedicated spot avail. for small fee). Office suite shared with adoption attorney, mental health professional and financial professional (cross referrals possible). Additional secretarial space avail, if needed. \$800 for office, +\$300 for secretarial space. 214-707-0660 or anita@familylaw-dallas.com.

Lawyer's Lounge

A friendly reminder that the code for the door on the Second Floor Lawyer's Lounge is 5297

2015 Board Officers & Members

Officers

Carl E. Roberts	Chair	croberts@rcslip.com
Kathleen Turton	Vice-chair	kathleen@ward-turton.com
Marilea Lewis	Treasurer	marilea@ondafamilylaw.com
Chris Farish	Secretary	chris@quaidfarish.com
Teresa Clark Evans	Immediate Past-Chair	tevans@qslwm.com

Board Members

Adam Seidel	Member	adam@adamseidellaw.com
Anita Savage	Member	asavage@gbfamilylaw.com
Ashley McDowell	Special Projects	amcdowell@vbmmp.com
Carol Wilson	Member	carol@cawilsonlaw.com
Catherine Nicholson	Coordinator Liaison	cnicholson@dallascounty.org
Cathy Sanchez	Coordinator Liaison	Cathy.sanchez@dallascounty.org
Dennis Fuller	Member	dennis@dfuller.com
Derek Bragg	Technology	dbragg@qslwm.com
Hon. Donald Turner	Associate Judge Liaison	Donald.Turner@dallascounty.org
Ebony Rivon	Member	ebony@rivonlawfirm.com
Gaylynn Gee	Member	ggeelaw@gmail.com
Georganna Simpson	Advisor	georganna@glsimpsonpc.com
Holly Biederman	Member	hbiederman@duffee-eitzen.com
Hunter Lewis	Member	hunter@ondafamilylaw.com
Hon. Dennise Garcia	Judicial Liaison	Dennise.Garcia@dallascounty.org
John Withers	Member	johnjr@witherslaw.com
Karen Turner	Member	karen@karenturnerlaw.com
Marilyn Landon	Member	mwlandon@mindspring.com
Michele Morneault	Coordinator Liaison	mmorneault@dallascounty.org
Shannon Lynch	Member	slynch@dallasmediator.com
Twyla Weatherford	Coordinator Liaison	twyla.weatherford@dallascounty.org