



## AFCC ONTARIO BOARD:

### President:

Rachel Birnbaum

### Past-President & Secretary:

Justice Debra Paulseth

### President-Elect:

Andrea Himel

### Vice President: Dan Ashbourne

### Treasurer: Steven Benmor

### Directors:

Linda Feldman

Seema Jain

Karla McGrath

Jay McGrory

Shely Polak

Linda Popielarczyk

Justice Allan Rowsell

Justice Geraldine Waldman

Justice Gerri Lynn Wong

## INSIDE THIS ISSUE:

|  |                    |
|--|--------------------|
| <b>AFCC-O 7th AGM &amp; Conference<br/>Conference –Oct. 22-23, 2015</b>  | 2                  |
| <b>2014 AFCC-O Conference</b>  | 4                  |
| <b>Jon Graham Event</b>  | 5                  |
| <b>3ND Annual Walsh Family Law<br/>Moot</b>  | 6                  |
| <b>AFCC-O Membership Benefits</b>  | 7                  |
| <b>AFCC-O Member Spotlight:</b><br>Trish Crowe   | 8                  |
| <b>IDEAL FAMILY COURT REFORM</b><br>Environmental Scan; &<br>Coordinated Case Management                         | 10                 |
| <b>Did you know....</b><br>Initiative of Legal Services  | 12                 |
| <b>Film Review: The Way Way Back</b>   | 14                 |
| <b>AFCC-O Groups &amp; Committees</b>  | 15                 |
| <b>Article Review:</b> Child protection<br>workers experiences working with<br>high conflict separating families | 16                 |
| <b>Did you know..</b><br>Full Disclosure Before Marriage   | 17                 |
| <b>Upcoming Training &amp; Events</b>  | 18                 |
| <b>Advertisements</b>  | <b>Pages 18-19</b> |

## PRESIDENT'S MESSAGE:

### Dear AFCC Ontario Members:

I was asked to write to the membership about what has been happening since our successful annual meeting in London, Ontario in October, 2014—this is easy as we have been going nonstop since October, and nonstop since we began the AFCC-O Chapter in 2008.

Where to begin: (1) we completed an environmental scan of family justice services across Ontario and Kayla, BSW student at King's University College, Western outlines a summary for you in this newsletter; (2) we updated our, 'Ideal Family Court' (November, 2014) and identified our goals and objectives about what is needed to meet the needs of children and families during times of separation and/or divorce; (3) we completed a literature and case law review research initiative on the intersection between child welfare and domestic disputes and will soon start on the qualitative interviews with stakeholders about this important work; and (4) we hosted three successful educational programs - one about pre-natal, post-partum and maternal depression, another on Australia's child-inclusive mediation approach, and a third program on drug testing in child welfare.

We continue to focus on outreach. In January, we co-sponsored for a second year with LSUC a very successful 4-day child protection training program for lawyers. In February and March, we hosted events in Ottawa and Oshawa about how to maximize client satisfaction & avoid complaints. In March we also sponsored our third annual Walsh Family Law Moot in Toronto.

If that is not enough, we look forward to our 7<sup>th</sup> annual conference in October, 2015 that will feature a pre-conference institute on evidence law for lawyers and mental health professionals.

All of these activities could not be possible without (and seamlessly I might add) a dedicated, hard working, and supportive Board who along with many AFCC-O volunteer members give countless hours to make this all happen.

I thank you all.

Rachel Birnbaum  
Chapter President



**Winter...almost  
over... but it's  
still fun in the  
Laurentians**

**AFCC-O members are family law judges,  
lawyers, mental health professionals,  
social workers, mediators, & other  
professionals in the family justice  
system.**

We are dedicated to providing an interdisciplinary forum for the exchange of ideas and the development of procedures emphasizing collaborative methods of dispute resolution to assist families in conflict.

We share a strong commitment to education, innovation, and collaboration to benefit communities, empower families and promote a healthy future for our children.

## AFCC ONTARIO CHAPTER AGM & 7TH ANNUAL CONFERENCE

# FROM RISK TO RESILIENCE:

EXPLORING BETTER OUTCOMES FOR CHILDREN

### Thursday October 22, 2015

12:00pm – 5:00pm Pre-Conference Institute

5:30pm - 7:30pm Evening Reception

Spring Rolls, 40 Dundas Street West

### Friday October 23, 2015

8am Registration, 8:30am AGM, 9am Conference

Toronto Reference Library, Bram & Bluma Appel

Salon, 789 Yonge Street, 2nd floor, Toronto, ON



For children living through their parents' separation, life can be like a tornado; traumatic and painful, often with extensive and long-lasting effects. As professionals working with these families we try to be the calm before, during and after the storm. In our attempts to provide advice and support, family law practitioners constantly search for better models of practice. The 7th Annual Conference and AGM is AFCC-Ontario Chapter's response to this search for improved outcomes for children and parents.

**The program begins on October 22, 2015, with a half-day Pre-Conference Institute, *Evidence Law for Mental Health Professionals and Lawyers*. Later that afternoon our conference continues with our annual social event at Spring Rolls (40 Dundas St. W.), from 5:30 p.m. to 7:30 p.m. On October 23, 2015, our educational session focuses on practical strategies to support parents to reduce risk and promote resilience.**

By relying on our multi-faceted professional backgrounds, we can assist families as they face the challenges that arise when parents separate. In doing so, we can help parents to take steps towards positive change, perhaps preventing the tornado, minimizing the damage and achieving the goal of better outcomes for families.

**Opening our conference on Oct. 23rd is keynote speaker Dr. Kyle Pruett, in a session entitled "A Game Changer in Parenting Engagement".** Dr. Pruett, a child psychiatrist and Clinical Professor in the Child Studies Centre at Yale School of Medicine, is one of the world's most respected experts on child and family development. A pioneer in defining the role of men as fathers, Dr. Pruett has conducted research about how the role of fathers differs from that of mothers, and the ways in which all parents can be better resources for children. Dr. Pruett also provides advice about the tools that parents require so that they can effectively nurture and share in their children's early development.

Tapping into the expertise of AFCC-Ontario Chapter members, the balance of the conference includes various sessions designed to expand our professional toolboxes. These topics include: Better Practices, Better Parenting, Better Outcomes for Children and Families, a multi-media presentation with tips to share with parents; The 6-Minute Community Resource, a case-study review by Ontario social service agencies; Family Law Intersections, an analysis of immigration and criminal law issues and the impact on our cases; An Overview of the Integrated Domestic Violence Court (IDV Court); and, "Concurrent" Family Law and Child Protection Cases, a review of the research commissioned by the AFCC-Ontario Chapter from 2014-2015. Our programme concludes with the now infamous "Dr. Phil and Lucy McSweeney Show". Always entertaining and amusing, Phil and Lucy will banter, inform and educate about the important child-related cases of the past two years.



## AFCC ONTARIO CHAPTER AGM & 7TH ANNUAL CONFERENCE

### Our pre-institute and conference speakers include:

Dr. Kyle Pruett, Prof. Nicholas Bala, Jody Berkes, Justice Joseph Bovard, Justice Philip Clay, Philip M. Epstein, Dr. Barbara Fidler, Claire Houston, Howard Hurwitz, Lucy McSweeney, Justice Brian Scully, Prof. Martha Shaffer, Caterina Tempesta, Prof. Rollie Thompson, Deborah Zemans and Justice Roselyn Zisman.



### NEW FOR 2015

AFCC-O Presents a Pre-Conference Institute

### Evidence Law for Lawyers and Mental Health Professionals

This comprehensive program will take place on **Thursday, October 22, 2015**  
**12 to 5pm** at the Toronto Children's Aid Society, 30 Isabella Street, Toronto, ON

### PART I: TESTIFYING SCHOOL FOR MENTAL HEALTH PROFESSIONALS (and for lawyers interested in learning more about the challenges faced by professional witnesses)

This 2 hour session will address issues that are of use to mental health professionals who are preparing and may be required to testify in court. Topics to be covered include: (1) your rights and obligations as a witness; (2) pointers for witnesses; (3) the basics of preparing to testify; (4) the law and practice of witness examination in court, including direct examination, refreshing memory, common objections, cross-examination and redirect; (5) the cardinal principles of evidence law; and (6) giving opinion evidence. Professors Thompson and Shaffer will look at these issues from the perspective of the witness, not the lawyer, and they will suggest ways for witnesses to cope with lawyers and the law in preparing for court. Think of it as a "self-defence course" for witnesses.

### PART II: THE TEN RULES OF EVIDENCE THAT EVERY FAMILY LAW LAWYER NEEDS TO KNOW (and for mental health professionals interested in learning more about the major evidentiary issues faced by family lawyers)

In this 2-1/2 hour session, Professors Thompson and Shaffer will canvass the "Top Ten" evidence "rules" that every family law lawyer needs to know. By means of lecturettes and short snapper questions, they will take you through all ten of them: (1) relevance; (2) admissibility procedure; (3) opinion; (4) hearsay and its exceptions; (5) business records; (6) the rule in *Browne v. Dunn*; (7) impeaching and supporting credibility; (8) illegally-obtained recordings, e-mails, etc.; (9) privilege for settlement negotiations; and (10) privilege for confidentiality. The session is relevant for legal practitioners of all levels of experience – those with only a bit of trial experience, those with just enough experience to still worry, and those with so much they have forgotten the rules of evidence.

More information available on our website at: [www.afccontario.ca/conferences](http://www.afccontario.ca/conferences)



Registration opens April 15, 2015

[www.cvent.com/d/yrqm92](http://www.cvent.com/d/yrqm92)

Download a brochure <http://bit.ly/AFCCOntario>

This program may be eligible toward the Law Society's CPD Requirement as Substantive Hours. Please note that this program is not accredited for Professionalism Hours.



## LOOKING BACK AT AFCC-O's 2014 CONFERENCE



The Association of Family and Conciliation Courts, Ontario Chapter  
Sixth Annual General Conference was held October 16-17, 2014 in London, ON



Visit our Ontario Conference webpage for a summary article  
written by Shely Polak, on the below mentioned events

[www.afccontario.ca/afcc\\_ontario\\_conferences.html](http://www.afccontario.ca/afcc_ontario_conferences.html)



New Professionals Event held October 16, 2014

**"What Experienced Professionals Wished They Knew"**

AFCC Ontario Chapter's 6th Annual Conference, held October 17, 2014

**"Exploring Relevant Issues Facing Our Family Courts"** which explored these relevant issues:



- Special Needs Children
- Mental Health Issue
- Addiction
- Ruptured Relationships

Also available are the following speakers' presentations:

**Challenges and Possibilities Where Family Breakdown Includes Addiction:**

Rick Csiernik—Psychoactive Drug Presentation

**Special Considerations For Special Needs Children:**

Dr. Rob Nicolson-Autism and ADHA

Linda Popielarczyk-Understanding Special Needs Children-Parenting Plans

**Mental Health Issues In the Court:  
Untangling the Web:**

London Family Court Clinic-Youth Therapeutic Counselling

**Healing Ruptured Relationships:**

Overview by Dan Ashbourne

D Smith-Parental Alienation Court Decisions

Rex Collins-Reunification Challenges

Travey Lipp/Louise Vandenbosch-Healing Ruptured Relationships

**How Do We Adapt?:**

Dr. Peter Jaffe-Presumptions Against Shared Parenting

## AWARD ANNOUNCEMENT

### OBA AWARD OF EXCELLENCE IN ALTERNATIVE DISPUTE RESOLUTION

The AFCC-O is proud to announce and recognize one of its own members, **Ms. Hilary Linton**, this year's recipient of the OBA Award of Excellence in Alternative Dispute Resolution. The ADR Award of Excellence recognizes exceptional contributions and/or achievements in Alternative Dispute Resolution in the areas of:



Excellence in the practice of ADR; Participation in continuing legal education at the OBA, Canadian Bar Association, Law Society of Upper Canada or other organizations on ADR issues; Writing and teaching on ADR issues; Mentoring of other persons in ADR; Participation in law reform initiatives that touch upon ADR; and Promotion of the use of, and generally providing leadership in ADR.

**On behalf of AFCC-O, Congratulations, Hilary!**

## JON GRAHAM EVENT

### Jon Graham Dinner

On February 5, 2015, AFCC-O had the pleasure of hosting a dinner with Jon Graham, Mediator and Clinical Director of the Institute of Specialist Dispute Resolution (ISDR) based in Sydney, Australia. With his charm and his wealth of knowledge, Mr. Graham conveyed to a group of mental health practitioners, lawyers and judges how the Australian experience with mandatory mediation bears certain striking differences from that of Ontario.

Australia's court system saw major changes in 2006 including the introduction of mandatory mediation. Concomitant with compulsory mediation, mediators report to judges about the attendance of parties and the reasonableness of their behaviour during the mediation. Sensitive to safety concerns and criticisms that mediation is not suitable for matters involving domestic violence, Mr. Graham is involved in a type of mediation called "conditional mediation" where all parties commit to safety as a condition of the mediation proceeding. According to Mr. Graham, the mediation setting is used as an opportunity to build safety prior to negotiation of parenting arrangements. In this pilot project, conditional mediations last from three to eighteen months. The parties meet once a week for three weeks, check in at the three-week mark, have three subsequent weekly meetings at the three-month mark, check in at the six-month mark, and continue with further sessions if needed. In contrast to mediated processes in Ontario, which may be declared unsuccessful after ten hours or less, these clients spend thirty to forty hours in mediation.

Mr. Graham reports positive results and describes the process as utilizing community resources outside of court. Interestingly, while clients are on a waitlist for mandatory mediation, they are connected to other services such as parent coaching or personal counselling. This way, the

wait is less difficult and individual work that is often helpful to parenting issues is initiated.

Another noteworthy difference between the Australian and Ontario approaches to mediation is the way that success is measured. Evaluation of the mandatory mediation does not focus on the number of agreements reached, but rather on genuine efforts made by the parties and recognition and support of the children's needs. Mr. Graham explained that evaluations that assess success by way of agreement are not appropriate



when domestic violence is involved. Somewhat counter-intuitively, a mediation that results in no agreement can be a successful mediation, depending on the circumstances. In answer to one member's question, Mr. Graham

explained that Australia has eliminated the terms "custody" and "access" from family law; shifting instead toward terms such as "children's matters" and "parenting arrangements." It was indeed interesting to hear how a different part of the world assists separating families with different processes and even a different vernacular.

Mr. Graham spent some time learning about the features and resources offered by Ontario courts. He was particularly complimentary of our Dispute Resolution Officer program. Such cross-cultural exposure forced us to consider our respective systems, all in a stimulating and collegial atmosphere over dinner and drinks on a wintry Ontario night.



**Written By:** Seema Jain, Jain Family Law and Mediation

**The Institute of Specialist Dispute Resolution (ISDR Mediation) was founded in 2012, previously known as Jon Graham Consulting Pty. Ltd. and has been offering mediation for over 16 years. Visit their website at: <http://www.isdr.com.au/>**

## THIRD ANNUAL WALSH FAMILY LAW MOOT

**The date was Saturday, March 14, 2015. The place was Osgoode Hall. The event was the third annual Walsh Family Law Moot.**

For months, the mooting teams and coaches from University of Toronto, University of Windsor, Queen's University, York University's Osgoode Hall, University of Ottawa, University of Western Ontario, and University of Manitoba had been preparing and practicing for this event.

As a volunteer at the registration desk, I watched the day unfold from a front row seat. At 8 am, they arrived: 32 law students from 7 law schools, 14 volunteer judges, 7 (real) judges, 18 coaches, sponsors and volunteers.

At 9:30 am, the first round began. The 14 teams filed into the courtrooms two by two, greeted their judicial panel and made their submissions. After a break, each group was given feedback from their judges. Then the teams were shuffled and given another opponent and judicial panel for the second round. After more mooting and feedback, the formal competition ended.

At the award ceremony and lunch, patti cross, Mother Moot, counsel to the Chief Justice of the Ontario Court of Justice and former President of the AFCC-O, took the podium to acknowledge everyone that came together to make the day a success. She then announced the award recipients:

Queens University law students Kegan Chang and Amanda Rozario: **Best Appellate Factum.**

University of Manitoba law students Kevin Mehi and Hilary Taylor and University of Toronto law students Rachel Kattapuram and Amy Tang: **Tied for Best Respondent's Factum.**

University of Western Ontario law student Vivian Li: **Second Best Oralist.**

**University of Toronto law student Graham Thomson:** Best Oralist with a perfect score!

University of Ottawa law students, Alison Doyle, Megan Jamieson, Samantha Kompa and Hsuan Huang: **Second Best Oralist.**

University of Toronto law students Petra Molnar Diop, Graham Thomson, Rachel Kattapuram and Amy Tang: **Best Mooting Team.**

The day was far more than training, coaching and mooting. These law students learned about the complexities of family law including the many layers and dimensions of legal analysis. They learned how to formulate arguments and anticipate counter-arguments and questions from the bench. The mooters were confident, prepared and thoughtful as they shared their persuasive and eloquent arguments. There were no winners and losers—just eager, bright and articulate future family law advocates.

A warm "thank you" must be extended to Brian Burke of Epstein Cole, the eloquent and inspiring keynote speaker.

It was a good day for family law and for our next generation of family law professionals... and possibly for our next generation of AFCC-O members.



**Written by Steven Benmor, B.Sc., LL.B., LL.M.** (Family) is a Fellow of the International Academy of Matrimonial Lawyers, a Certified Specialist in Family Law by the Law Society of Upper Canada, and is the Chair of the Ontario Bar Association's Family Law Section.

**The 3rd  
Annual**

**WALSH MOOT**

**Was held on**

**March 14<sup>th</sup>,  
2015**

## AFCC MEMBERSHIP BENEFITS

### AFCC membership includes:

- A subscription to the ***Family Court Review***, quarterly journal with full access to archives dating back to 1963!
- Access to an online membership directory of over 4,800 colleagues worldwide (don't forget to login to the members section of the AFCC website at [www.afccnet.org](http://www.afccnet.org) to update your member profile!).
- AFCC eNews monthly electronic newsletter.
- Parenting
- Coordination listserv of AFCC members.
- Special member discounts to attend AFCC Conferences, training programs and publications.

**AFCC-O members** are eligible to receive discount pricing to attend our annual conference, seminars & special events. Check our webpage Training Seminars & Workshops at this link:

[www.afccontario.ca/seminars & workshops](http://www.afccontario.ca/seminars_and_workshops)



**Are you a member of  
AFCC and would like  
to join the Ontario  
Chapter?**

[www.afccnet.org/  
Chapters/  
JoinaChapter](http://www.afccnet.org/Chapters/JoinaChapter)

## NEW AFCC-O MEMBERS: WE ARE GROWING!!

**As of April 1st, 2015 we have 520 AFCC members in Ontario, &  
445 are AFCC-O Members!**

**We welcome these 50 new Chapter Members since our October 2014 Newsletter**

Carol Allen  
Hans Bathija  
Raquel Beauvais-Godard  
Victoria Boger Mull  
Christine Bradshaw  
Valerie Brown  
Grant Campbell  
Carolyn Carrier  
Jessica Cohen  
Paul Cooper  
Denyse Diaz  
Chelsea Eastman  
Abdelfettah Elkchirid  
Derek Friend  
Haley Gaber-Katz  
Jessica Gagne

Michelle Gibson  
Elisabeth Godbout  
Julie Hannaford  
Sonya Jain  
David Jarvis  
Amanda Lacey  
Lisa Leiher  
Wendy MacPherson  
Paula McMurtry  
Tricia Morris  
Della Morton  
Brenda Packard  
Tanya Peterson  
Mira Pilch  
Kathryn Pirie  
Caroline Rabbat

Jennifer Reynolds  
Lynda Ross  
Amanda Rozario  
Cynthia Schoppmann  
Jennifer Servinis  
Dianne Sousa  
Carey Stevens  
Deborah Stewart  
Richard Teicher  
Caterina Tempesta  
Lynda Templeton  
Trish Thomas  
Brook Thorndycraft  
Barbara Thurston  
Colin Tobias  
Helen Turner

## AFCC-O MEMBER SPOTLIGHT

### Our Spotlight Section Enhances our Recognition of AFCC-O Members Throughout Ontario



#### **Trish Crowe, MSW, RSW**

Trish Crowe is a registered social worker in Kingston, Ontario. She graduated from Queen's University in 1979, and later with a Master of Social Work degree in 1988 from Carleton University.

Trish's career began in Surrey, England where she worked with at-risk youth. After returning to Kingston in 1982, Trish found her way to the Family Court Clinic where she provided clinical service to families involved in child welfare, custody and access, and young offender matters from 1988 to 2006. She has served on the Clinical Panel with the Office of the Children's Lawyer since 2002 and has worked in private practice since 2003. In her more than thirty years providing counselling, therapy and assessment services in the Kingston community, Trish has also been an active board and committee member of various organizations, including Kingston Interval House, Family Mediation Kingston, Alternatives for Abusive Men, and the AFCC-O's Kingston Working Group.

In addition to providing clinical services, Trish has conducted custody and access assessments, Section 34 *Youth Court Justice Act* assessments and child protection assessments. While at Queen's during her undergraduate years, she was also involved with Camp Outlook, a program which brought youth involved with social service agencies on excursions to Algonquin Park to experience the therapeutic value of wilderness.

Trish describes her career as "serendipitous". Always interested in working with people and working collaboratively, Trish considers herself fortunate to be in the most satisfying stage of her career. Currently, with a primary professional focus on family law related issues and separation and divorce, Trish assists parents in creating parenting plans and developing constructive co-parenting relationships following separation. She also provides parenting coordination services. Further reflecting her commitment to the wellbeing of children, Trish is active in the Roots of Empathy program, a school-based program which fosters the development of empathy and pro-social behaviour for children as young as six. She stresses

**Learn more about Trish Crowe of *Family Consultants Kingston***  
**177 Wellington Street, Suite 304, Kingston, ON K7L 3E3 Telephone: 613-548-4357**

**[www.familyconsultantskingston.ca/trish.php](http://www.familyconsultantskingston.ca/trish.php)**



## AFCC-O MEMBER SPOTLIGHT—continued

the importance of helping at every level and being proactive in providing relationship building skills to young people.

### **AFCC**

*"When I think of the people involved in AFCC, they all have different roles to play. They are the ones who want to do their respective jobs to the best of their abilities in order to best help families".*

The multidisciplinary approach of the AFCC appeals to Trish. She recognizes that this collaboration and interdisciplinary contribution deconstructs barriers and breaks down professional compartmentalization. She remarks that AFCC contributes to a mutual understanding and respect among professionals. Trish's belief is that this ultimately results in improved services and better outcomes for the families relying on these services. As Trish suggests, with mutual professional appreciation we achieve the understanding that it is not the sole responsibility of one professional group to be the panacea for issues of family justice. Working together and drawing from the many resources available, professionals can support clients in new and better ways.

***"When I think of AFCC, the people that are here all have different roles to play. They are the ones that want to do their job really well to best help families"***

### **AFCC-O Kingston Working Group**

*"Kingston is a unique community in terms of the collegial relationships among bench, bar, and mental health professionals".*

Trish is a member of the AFCC-O Kingston Working Group - a group of professionals from the Kingston Ontario area who specialize in family justice related services. For three years this dedicated group has provided multidisciplinary panel presentations on topics such as high conflict separation, parenting plans, expert testimony, family justice resources and the voice of the child. Each panel presentation includes at least one judge, one lawyer and one mental health professional. Presentations also receive academic overview from Nicholas Bala who is an AFCC-O member and a professor at the Queen's Faculty of Law. These increasingly popular seminars are attended by clinicians, lawyers, judges and other family justice professionals from Kingston and surrounding communities.



**Written By:** Jared Norton, MSW, RSW, Acc.FM, AFCC-O Newsletter Committee

## AFCC-O RESEARCH ON THE “IDEAL FAMILY COURT” REFORM

### Environmental Scan of Family Justice Services

Between May and November 2014, the AFCC-O conducted an environmental scan of Ontario government agencies and non-profit organizations to better understand their policy initiatives and identify gaps in the family justice system. Twenty three agencies participated and the information attained from each agency included: the organization’s mandate and vision, demographics and catchment area, opinions regarding the highest priorities in promoting better access to justice in family law matters, views regarding the largest gaps and challenges impeding access to justice in family law matters, and services and programs that the agency delivers to help support access to justice in family law matters.

After the completion of the environmental scan, the AFCC-O utilized the data collected from this project to update “Ideal Model Court (November 2014).” The Ideal Model Court reports consistencies in the responses, as follows:

- There should be a Unified Family Court.
- There should be multiple services available for family court litigants to assist with the family law process and these services should be provided in a timely matter.
- Every court location and family law service should be culturally sensitive with costs proportionate to income.
- There should be specialized family court judges in each jurisdiction.
- Court processes and forms should be simplified, and the Family Law Rules amended.



**Written By:** Kayla Reynolds, BSW Student, King’s University College, Western

**View the detailed results of this initiative on our website at this link:**  
[www.afccontario.ca/research\\_&\\_policy](http://www.afccontario.ca/research_&_policy)

### NICK BALA SCHOLARSHIP:



**The new submission deadline for the Nick Bala Scholarship award has been extended to May 1st 2015**

**For information on the scholarship and how to apply, please visit our website at:**

[www.afccontario.ca/nicholas\\_bala\\_award.html](http://www.afccontario.ca/nicholas_bala_award.html)

## IDEAL FAMILY COURT REFORM

### Coordinated Case Management Program

In a major community partnership, Family Services Ottawa is excited to announce the commencement of the Coordinated Case Management Program, funded by the Ontario Law Foundation and Legal Aid Ontario. This program addresses concerns raised by lawyers, judges, mediators, and social service professionals alike, that the needs of high conflict families and their children are not being adequately met. The program is informed by research demonstrating the increased use of court resources for high conflict cases as well as the serious negative impact that such conflict has on children, including lower school performance and psychological adjustment difficulties (Kelly, 2012). The Coordinated Case Management Program brings together the strengths of both the social services sector and the legal community, providing high conflict families with enhanced and speedy access to judicial and community resources as they enter the court system.

This style of Coordinated Case Management assists families in resolving parenting disputes promptly and efficiently, protecting children as much as possible from the negative consequences of such conflict. The program, now entering its second phase, has attracted the attention of both academics and professionals alike. Professor Rachel Birnbaum, the project's formal evaluator, says,

*"There have been many excellent Reports written about access to justice and family law disputes over the years. This exciting community and court collaboration operationalizes the key fundamental concerns highlighted in all reports; that is, to provide early, up front triage and judicial case management in family disputes. I am honoured to be part of this unique collaborative initiative and evaluate the process and outcomes with the financial support of the Law Foundation of Ontario".*

Team members hope to acquire at least 45 cases in the next 12 to 18 months and will provide triaging services to families in conflict situations who wish to participate in the program. If the results confirm that Coordinated Case Management benefits families by providing them with prompt and efficient resolution, this project could have significant implications for the broader family justice system in Ontario. Researchers expect the program to contribute to substantial savings of court resources by targeting early intervention and improved access to community resources and conflict management tools for these families. The project will benefit mental health professionals, lawyers, judges, and service providers by furthering their understanding of the impacts of interdisciplinary collaboration and thereby allowing for improvement of outcomes for families and children involved in post-separation disputes.

Mark MacAulay, Director of Counselling Services at Family Services Ottawa and project lead, says, *"With the support of the Law Foundation of Ontario and Legal Aid Ontario we will learn not only about the effectiveness of this coordinated case management program but also have the opportunity to learn how to provide enhanced early intervention community based services related to family law disputes."*

**"This exciting community and court collaboration operationalizes the key fundamental concerns highlighted in all reports; that is, to provide early, up front triage and judicial case management in family disputes"**

***This program is conducted in partnership with Ottawa Family Court, Legal Aid Ontario, Jewish Family Services, Catholic Family Services, King's University, Western University, University of Toronto, and other legal and private sectors***

**DID YOU KNOW...****Legal Aid Ontario Provides \$2 Million to Fund Six University-Operated Legal Clinics across Ontario**

In August 2014, Legal Aid Ontario announced more than \$2 million to fund six university-operated legal clinics providing family law services for low-income Ontarians. They will operate out of Queen's University, the University of Ottawa, York University, the University of Windsor, Western University and the University of Toronto.

Each clinic will use a combination of law students and staff lawyers to increase access to justice in family law matters. The source of their funding is the Ontario government which, in May of 2013, announced an additional \$30 million in funding for Legal Aid Ontario. Representatives from three of the legal clinics describe the initiatives and their experiences to date.

**University of Windsor Community Legal Aid**

The goals of the initiative at the University of Windsor's Community Legal Aid clinic are to extend more family law services to low income clients and allow law students to obtain clinical experiences in family law. The clinic opened its doors after conducting consultations with the local bench and bar committee in Windsor.

The initiative at the University of Windsor is unique in that the clinic has employed a family lawyer and a social worker to provide clients a full range of services. The clinic provides legal services for matters in Windsor's Ontario Court of Justice relating to custody, access, support, and restraining orders. The clinic also provides community development services where students work in conjunction with lawyers to provide public legal information workshops.

There are currently five law students placed at the clinic working toward academic credit and one master of social work graduate student completing a work placement. In the summer months, the clinic is planning to hire three full-time law students.

"Law students work closely under the supervision of the staff lawyer", says Marion Overholt, the clinic's Executive Director. The staff lawyer is responsible for the initial client intake to understand the client's needs and the scope of legal services required. For any court appearances, the staff lawyer attends with the students to provide legal services to the client.

Marion explained, "Students meet regularly with the staff lawyer to receive instructions on the file. This is done to ensure that a high quality of service is provided to the client and that the students are given a comprehensive learning experience."

**University of Ottawa Community Legal Clinic**

The objectives of the University of Ottawa's Community Legal Clinic are to provide legal education and promote access to justice. The clinic meets those objectives by having law students handle files under the direct supervision of staff lawyer, Tia Hazra.

The clinic opened its doors in January 2015 and Tia currently supervises one articling student. Three law students are expected to be employed full time by the clinic for the summer months, and beginning in September 2015, ten law students are expected to participate in the clinic for academic credit.



**DID YOU KNOW... (cont'd from page 12)**

Tia explained, "This provides students with an opportunity to acquire the skills to be a legal professional while being entirely supervised by a lawyer." Students will assist her with legal drafting, interviewing clients, and court appearances.

The clinic provides full service in matters of custody and access, support, restraining orders, and divorce associated with those matters and Tia states that "unlike other Legal Aid services, this initiative is unique as it provides clients with full representation and is not limited in scope".

The clinic offers *pro bono* services to qualifying individuals. To qualify, the child or parent must reside in Ottawa, have a family law issue, have no conflict with existing clients of the clinic, and meet financial eligibility requirements.

Tia reports, "The feedback from the community has been positive so far. This initiative is very exciting because there is a huge gap between the services that are covered by legal aid certificates and duty counsel."

**Western University Community Legal Services**

Western University's Community Legal Services started accepting family law clients in October of 2014. Since then, the clinic has opened forty new legal files assisting clients at the Unified Family Court in London on matters relating to custody and access, support, and divorce associated with those matters.

The clinic opened its doors in October "with a client intake blitz", says Jennifer Foster, Family Law Review Counsel. At the time, the clinic was completing eighteen new client intakes a week.

The clinic currently receives most of its referrals from Legal Aid duty counsel. Jennifer explains, "The clinic has a close working relationship with duty counsel, so that we can assist as many people as we can, and that there is no overlapping of service."

Another source of referrals is the Canadian Mental Health Association Middlesex ("CMHA") and intakes for the clinic are done directly at the CMHA facility to service clients affected by mental health challenges.

Jennifer says that students at the clinic have had "their eyes opened to what self-represented litigants have to go through to bring a legal issue to court". One of her goals "is not only to help those who can't get legal help, but also to produce the next generation of family lawyers".

Hilary Jenkins, a third year law student at Western, assisted Jennifer throughout a recent family law trial. She conducted legal research, gathered evidence, drafted submissions, and took extensive notes at trial. Hilary reports, "It is one thing to take a family law class and another to be in practice. There is nothing in my legal education that is comparable to this experience."



**Written By: Jason Zhong, J.D., AFCC-O Newsletter Committee**

Jason Zhong holds a law degree from the University of Alberta and a Certificate in Family Mediation from York University. He is a student-at-law at Ryerson University.

## FILM REVIEW

### The Way Way Back (2013)

"The Way Way Back" starring Steve Carell and Toni Collette revolves around the character of Duncan, a 14-year old boy who is a reluctant participant in a summer vacation with his mother, her new boyfriend, and the boyfriend's teenage daughter. Set against the backdrop of the seemingly carefree family atmosphere of Cape Cod, the movie illuminates the struggles of adolescence and provides a glimpse into many of the challenges facing parents, children, and families after divorce and separation. Though the movie is considered a coming-of-age story and is, for all intents and purposes, a comedy, the heart of the story is much more serious and portrays very real issues.



From the outset the movie reveals Duncan's torment, his mother's new boyfriend, Trent. Trent is a bully who degrades Duncan, targeting him repeatedly over the course of the vacation and at times treating him like a slave. Emotionally unavailable and consumed with her own relational issues, Duncan's mother, Pam, fails to notice the impact of Trent's behaviour. At one point Duncan reveals to his mother that he wanted to spend the summer with his father but his mother will not hear it, simply stating that it is her time. Her reasoning is later exposed by Trent during an altercation with Duncan.

From their arrival at the beach house, the children are largely left to their own devices. Pam and Trent, abdicating all parental responsibility, are consumed with binge drinking, drug use, and cavorting with friends and neighbours who are themselves dealing with multiple personal struggles. Trent's teenage daughter, experiencing her own relational drama, is hostile toward Duncan and, aware that the lack of supervision means that she can get away with whatever she wants, she engages in delinquent behaviours.

To escape, Duncan strikes a bond with the neighbour's daughter who reveals her struggles with her own parent's separation. Duncan also seeks solace and refuge at a local water park, befriendng the staff and the seemingly irresponsible and immature owner, Owen. Duncan quickly endears himself becoming an employee at the park – a secret he keeps from his mother and Trent. Duncan finds himself developing a closer and closer relationship with Owen who serves as a role model and big brother.

As the summer progresses, tensions build among everyone in the house until they culminate in an explosive rainy-day board game which marks the end of the charade. Issues and dynamics rise to the surface, the most glaring of which is Trent's adulterous relationship with a friend. The end result is that the summer comes to a premature end.

The scenarios presented are all too real and, in real life, the consequences and outcomes are often far from a happy Hollywood ending. But with the close of "The Way Way Back", Duncan and his mother find shared understanding and, together with their individual insights, the promise of an alternate future. The movie explores its subject with enough comedic timing to make it a light hearted affair but does not overdo it at the expense of the underlying theme. Exploring both the vulnerability and resiliency of Duncan and his mother, the story leaves one feeling positive about their future and hopeful that their relationship is strengthened.



**Written By:** Jared Norton, MSW, RSW, Acc.FM, AFCC-O Newsletter Committee

## AFCC-O GROUPS & COMMITTEES

### The Parenting Assessors Group (PAG )

The Parenting Capacity Assessors Group gathered on February 6, 2015 at the Toronto CAS to hear two speakers present on the topic, **"Myths & Excuses in Drug Testing & Substance Abuse Treatment"**. Dr. Joey Gareri, comes from Motherisk, at The Hospital for Sick Children in Toronto. He reported on drug testing procedures, challenges and cautions while helping to educate the group about the various substance use/abuse dynamics and how parenting may be compromised. Another presentation on "Family Therapy & Problem Alcohol Use: Opportunities and Cautions when working systemically" was made by Ms. Brenda Spitzer. You can [view these articles](#) on our website.

### The New Child Protection Lawyers Group

This group is burning up tracks with two events already held this year—one on January 28th, and another on April 9th, "All Access Pass". This is an important networking opportunity for new lawyers wishing to specialize in child protection.

### The New Professionals Group

This group brings together young family justice professionals (lawyers and mental health professionals) in their first few years of practice to examine and discuss interdisciplinary and collaborative approaches to family justice.

### RFP—Custody/Access Cases that Involve the Child Welfare System

In Spring 2014, AFCC-O identified that there was a need for research on the issue of high conflict custody and access that involve the child protection system. AFCC-O agreed to fund a significant research project to better understand the issues, and to identify better approaches for professionals who assist the parents and children involved.

Ms. Claire Houston and Professor Nicholas Bala have completed Phase 1 of this research project. Visit our [Research & Policy page](#) on our website to view a copy of their report. Phase 2 is currently in progress and will be present at the AFCC-O Conference in Toronto on October 23, 2015.

**In order to receive notice of upcoming AFCC-O Group events, RFP notices, & AFCC events please make sure your email address is correct in your member profile at: [afccnet.org](http://afccnet.org). You want to visit our website [Training Seminars & Workshops page](#) , and view our [calendar](#).**

### Provincial Programs available\*

The Provincial Planning committee has been hard at work developing programs to facilitate networking and learning in innovative ways. The purpose of these programs is to provide local communities with a creative way to network and learn with colleagues. Addressing a wide array of topics, we extend an invitation to host an event for AFCC Ontario members, and other family justice professionals in your community. All you have to do is contact AFCC with your interest in hosting an event, and we'll work with you to take care of the smallest of details.

**Choose from any of the following programs:**

- 1. How to Build a Thriving Practice, Prevent Complaints and Feel Rewarded**
- 2. Family Law Dilemmas: Learning from Film and Discussion**
- 3. Adult Children of Divorce Have Their Say**

**\*For more information or to host an event contact Gerri Wong via email: [afccontario@gmail.com](mailto:afccontario@gmail.com)**



**Visit our website to learn more about our Board Member's and to view a list of our Committees and Working Groups. New committee members are always welcome and encouraged! [www.afccontario.ca/committees](http://www.afccontario.ca/committees)**

## **ARTICLE REVIEW: CHILD PROTECTION WORKERS' EXPERIENCES OF WORKING WITH HIGH-CONFLICT SEPARATING FAMILIES**

**Saini, M., Black, T., Lwin, K., Marshall, A., Fallon, B., Goodman, D. (2012) Child protection workers' experiences of working with high-conflict separating families. *Children and Youth Services Review* 34(7), 1309-1316.**

This article written by Dr. Saini et al. aimed to highlight the difficulties in determining the credibility of repeated allegations and counter allegations made by parents embroiled in a high-conflict separation. The authors noted that there are few guidelines available to child protection workers when conducting investigations where conflict related to separation or divorce between the parents has been identified as one of the areas of concern. The study considered the experiences of front-line workers in an effort to better understand how high-conflict families are serviced by child protection agencies. The agency was identified as one of the largest child welfare agencies in North America with several specialized services to assist children and families in the community.

Themes that arose from the study include the lack of a uniform definition of what constitutes a high-conflict case and the question of whether a situation defined as "high-conflict" will contain other areas of concern such as domestic violence, mental health, substance misuse, neglect and manipulation of children. High-conflict families are regarded as ones in a perpetual state of crisis lacking in the ability to communicate effectively.

The study revealed the differing views of front-line workers regarding what role child welfare agencies should play with high-conflict families and the challenges of assessing the impact of these situations on the children involved. Workers discussed the difficulty they have assessing risk of maltreatment while at the same time not taking a position regarding custody or access since the latter falls beyond the mandate of child protection workers. Workers' expressed trepidation about dealing with lawyers representing parents and concern that families that do not have court orders turn to child protection workers to assist them in resolving access issues. Workers expressed frustration about the expectations placed on child welfare agencies by both families and professionals when the agencies are assisting families with conflicts that predate the involvement of both child welfare and non-child welfare professionals.

The study pointed to the need for further training to enhance child welfare workers' knowledge of high-conflict separations and to clarify a worker's role when working with high-conflict families. It identified the need for an improved understanding of the role of child welfare in relation to the family law system and for increased collaboration and a coordinated response between the two sectors involved in such complex cases, recognizing the outcome of a child protection investigation will have implications for further child welfare involvement as well as for family law decisions related to custody and access.



**Written by Ricardo Theoduloz, MSW, RSW, AFCC-O Newsletter Committee.** Ricardo is a registered social worker employed by Jewish Family and Child (JFC) and the Children's Aid Society of Toronto (CAST).



**DID YOU KNOW...****Full Disclosure Before Marriage: Can keeping a Secret be Tortious ?**

That is a question that Justice Brown had to consider in *Vaselloff v. Leo* [2014] O.J. No. 4836. The parties began a romantic relationship in 2002 when Vaselloff was a virgin. She asked Leo if he had any STD's and he assured her that he did not. He even stated that he had recently tested negative for HIV. They had unprotected sex on the basis of these representations and were married in 2003. Two years later, Vaselloff was diagnosed with Herpes HSV-2.

In this lawsuit, Vaselloff sought damages for intentional or negligent transmission of HSV-2, intentional or negligent misrepresentation and breach of fiduciary duty.

In her Statement of Claim, Vaselloff alleged that "by virtue of their marriage, Mr. Leo owed a fiduciary duty to Ms. Vaselloff to place her health and welfare interest ahead of his own personal interests, and to act in a manner that would not jeopardize her welfare and health. Mr. Leo flagrantly breached his duty by failing to disclose that he had HSV-2 and engaging in unprotected sexual intercourse with her when he knew or ought to have known that this posed a serious risk, which subsequently materialized, of transmission of HSV-2 to Ms. Vaselloff."

Leo brought a motion to have this lawsuit summarily dismissed claiming that there was no possibility of relief to Vaselloff. In response, Justice Brown stated: "Where the jurisprudence is unsettled, as it appears to be as regards the spousal relationship, a claim should not be struck at this early interlocutory stage of pleadings."



As to whether the circumstances could give rise to a fiduciary obligation, a legal duty to act in another person's interests, Justice Brown held that "recognizing that a spouse has a fiduciary duty to disclose information that could affect their spouses' health and safety will not make spouses liable for infidelity or divorce. The existence of a fiduciary relationship does not determine the scope of a fiduciary's duties."

This case leaves open the question of what other hidden medical conditions could create personal liability. Obviously, Vaselloff suffered tragic personal injuries from Leo's acts and omissions. But what about the psychological injuries? Are they compensable? What about a fiancé's failure to disclose other (non-sexual) diseases such as mental disorders including psychosis, or bi-polar disorder? Is the emotional pain and suffering less than from physical injuries? What if the spouses have children who then acquire these conditions? If there is liability, where does it end?

**Written by Steven Benmor, B.Sc., LL.B., LL.M. (Family)** is a Fellow of the International Academy of Matrimonial Lawyers, a Certified Specialist in Family Law by the Law Society of Upper Canada, and is the Chair of the Ontario Bar Association's Family Law Section.

## UPCOMING AFCC-O TRAINING EVENTS:

### The New Child Protection Lawyers Group

Join us on April 9, 2015 for a Lunch and Learn—best practices for child protection—"All Access Pass". This is an important networking opportunity for new lawyers wishing to specialize in child protection.

### Intensive Child Protection Training Program for Lawyers June 24 to 27, 2015

**Register soon – Limited seating is available** for this essential 4-day program sponsored by the LSUC and the Association of Family and Conciliation Courts, Ontario Chapter. This program is intended for Family Law lawyers who are new or have limited experience in the area of child protection. The program is intensive and interactive; Registrants are required to attend each of the four days in order to be placed on Legal Aid Ontario's Child Protection panel. For more details and/or to register for the program, visit: <http://ecom.lsuc.on.ca/cpd/product.jsp?id=FINCLE15-0060817>

**COURSE FLYERS** can be viewed on our website at:

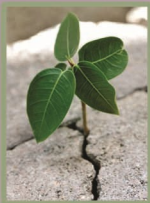
[www.afccontario.ca/seminars & workshops](http://www.afccontario.ca/seminars%20&%20workshops)

**CHECK OUR CALENDAR  
REGULARLY TO**

**View listings for AFCC, AFCC-O  
and Other Trainings on our  
website calendar at this link:**

[www.afccontario.ca/calendar](http://www.afccontario.ca/calendar)

## PAID ADVERTISEMENTS



### Overcoming Barriers

**Promoting Children's Healthy Relationships with Both Parents**

New Resources for Families and Family Court Professionals:

- **Online Training for Professionals:**  
Legal Issues and Family Interventions When Children Resist Contact with a parent (Continuing Education available)
- **Guide for Parents:**  
Overcoming the Co-parenting Trap: Essential Parenting Skills when a Child Resists a Parent

**Visit our website for more resources  
including family programs  
[www.OvercomingBarriers.org](http://www.OvercomingBarriers.org)  
A 501(c)(3) Non-Profit Organization**

**DIVORCEMATE**  
SOFTWARE

*Essential Tools for Family Law Professionals*

**NOW  
AVAILABLE!**

**DM CLOUD**

**ADD FREEDOM & FLEXIBILITY  
TO YOUR PRACTICE**

**DM Tools Cloud**

Work anywhere, anytime, on any device.  
For child and spousal support calculations.

*Available for PC, Mac, tablets and smartphones.*

Forms Cloud & Precedents Cloud coming 2015.

For more information, visit  
[www.divorcemate.com](http://www.divorcemate.com)  
1.800.653.0925 | [sales@divorcemate.com](mailto:sales@divorcemate.com)

# Ilana Tamari

B.Sc., D.C.S. (Psych)



ilanatamariconsulting@gmail.com  
416-953-9820

1278 St. Clair Ave. W  
Suite 12, 2nd Floor  
Toronto, ON  
M6E 1B9

Custody Evaluator | Parenting Coordinator | Mediator | Therapist

---

Ilana Tamari has been in private practice since 2002. She provides S30 assessments, parenting coordination, mediation/arbitration, closed and open mediation, reunification therapy, and lectures on domestic violence and power imbalances.

Ilana is a member of the Association of Family and Conciliation Courts. She participates in a monthly peer consultation forum with Dr. Barbara Fidler around Parenting Coordination matters, S30 Custody and Access Assessments, and high conflict families.

Ilana is an active participant on the High Conflict Forum and is a member of the Family Dispute Resolution Institute of Ontario (FDRIO). She is a certified member of the OACCPP, was a Board Member of the OACCPP, chaired the Professional Conduct Committee, and sat on the Ethics and Governance & Risk Management Committees.

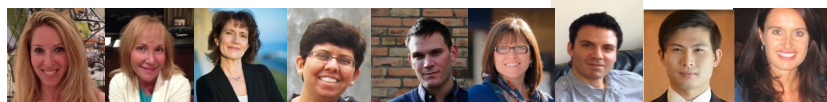
[www.ilanatamari.com](http://www.ilanatamari.com)

**Published by:****Association of Family and Conciliation Courts (AFCC), Ontario Chapter****1836 Bathurst Street, Toronto, ON M5P 3K7****Published by AFCC-O Newsletter****Communications Committee:**

Shely Polak (Chair), Linda Feldman, Linda Popielarczyk, Archana Medhekar, Karla McGrath, Jared Norton, Ricardo Theoduloz, and Jason Zhong

**Administration, Layout & Design:**

Kimberly Brown



If you have an interesting topic or article you would like featured in our next issue, please let us know by emailing us at:

**[afccontario@gmail.com](mailto:afccontario@gmail.com)**

The AFCC Ontario Newsletter is a publication of the Association of Family and Conciliation Courts, Ontario.

Our newsletter is published two times a year usually in March and October. The submission **deadline** for news and advertising items in our next issue is September 11, 2015.

Advertising copy must be camera ready and payment made in CAD funds.

Full page  
\$425 (member)  
\$600 (non-member)

Half page  
\$300 (member)  
\$450 (non-member)

Quarter page  
\$150 (member)  
\$250 (non-member)

**Except where otherwise indicated, the articles in this AFCC-O Newsletter represent the opinions and views of the authors and do not necessarily represent the opinion of AFCC, AFCC-O or any of the officers of either organization**

## **HOW TO REGISTER FOR OUR CHAPTER CONFERENCE & OTHER EVENTS**

**Visit our website at [www.afccontario.ca](http://www.afccontario.ca) to:**

- **View our Calendar of upcoming AFCC, AFCC-O, training seminars and workshops offered by our members, or ONTARIO organizations**
- **View and download a copy of our Conference Brochure**
- **View flyers for upcoming AFCC-O Events**
- **Register online for AFCC-O Events**