



**CASS COUNTY FRIEND OF THE COURT**

SERVING AND EMPOWERING FAMILIES TO MAKE CHILDREN'S LIVES BETTER.

**CASS COUNTY FOC NEWS Fall 2020**

**Promotions**

Please help me congratulate FOC team members who have been promoted within the office (pictured below with new title):



Tracie Kuriata, Casework Supervisor



Cheri Warrell, Financial Caseworker



Ashley Pompey, Medical & FCM Specialist

**Baxter the Therapy Dog**

While we missed everyone during COVID, I think we'd all agree that Baxter was missed the most!



**In this Issue**

Promotions	page 1
Baxter the Therapy Dog	page 1
FOC website	page 2
Tips for Virtual Referee Hearings	page 3
Baxter the Therapy Dog Alleviates Courthouse Trauma	page 5
More than Enforcement: Getting Payers Back in the Workforce	page 7
Parenting Like a Dandelion During COVID-19	page 9
FOC Orientation & SMILE Program Goes Virtual	page 11
Caselaw Updates	page 14
Being Flexible with Parenting Time During a Pandemic	page 24



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### FOC Website

If you haven't done so already, be sure to check out our new FOC Website

at: <https://casscourtsmi.org/foc/>

 ABOUT THE FOC	 GENERAL FOC INFO	 FOC CASE TYPES	 STATUTES & RULES
 VIEW YOUR CASE	 MAKE A PAYMENT	 PARENTING TIME	 CHILD CUSTODY
 SUPPORT BASICS	 MODIFICATIONS	 ENFORCEMENT	 HEALTH INSURANCE
 MEDIATION	 FOC FAQs	 FOC FORMS	 ONLINE RESOURCES
 FOC NEWS			



## CASS COUNTY FRIEND OF THE COURT

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### **Tips for Virtual Referee Hearings**



By Sarah Mathews, JD, Deputy FOC

The COVID-19 Pandemic has required many organizations to rethink how they offer services. The Cass County Friend of the Court is no different. We have changed how we get information out to clients and how we offer our FOC Orientation and SMILE Program. But the biggest change has probably been how hearings are held. Before COVID-19, initial hearings on family motions involving custody, parenting time, or child support were held in Court in person in front of an Attorney Referee. Now, with the Law and Courts Building having limited public access, our Referees have moved to holding hearings either by telephone or Zoom to ensure timely Court access on pending matters.

As our Referees have conducted Zoom hearings, we have learned what works well and what does not and thought it would be a good idea to share these tips with parents or attorneys appearing for a Zoom hearing. First, testing out the computer or phone you are going to use in advance is a good idea so you can troubleshoot any issues. You may need to download the Zoom app for your computer or phone. Finding out that your computer's microphone doesn't work or that your computer needs to download the Zoom app before it will work at 8:55 a.m. when you have a 9:00 a.m. Zoom hearing isn't pleasant and only adds to the stress a hearing can cause. If you need assistance troubleshooting an issue when you are testing Zoom, check out the tutorials found on Zoom's website at: <https://support.zoom.us>.

Second, set up your Zoom profile to include your name and picture. When you log into a Zoom hearing, you will be put into a waiting room where you can't see or hear other participants. The Referee will admit you to the hearing with all the other participants when the hearing starts. If your profile is set up to have your name and picture, the Referee can easily see you in the waiting room, confirm you are a party to a hearing, and admit you. If your account is set to a nick name and a picture of your dog, it is harder for the Referee to know you are present and ready in the waiting room. If during the hearing, your video is turned off, your name and picture will appear in place of your video until your video is turned back on.

continued on page 4



## CASS COUNTY FRIEND OF THE COURT

SERVING AND EMPOWERING FAMILIES TO MAKE CHILDREN'S LIVES BETTER.

### **Tips for Virtual Referee Hearings**

Continued from page 3

Third, remember just because the hearing is held via Zoom doesn't change the fact that it is a Court proceeding. You should be dressed appropriately for Court – if you wouldn't wear it to Court don't wear it for the Zoom hearing. Make sure your outfit is appropriate for moving around or standing during the hearing as participants may see more than just the top of your outfit if you stand up or move around.

Pick an appropriate area to sit during the Zoom hearing. You should not conduct a Zoom hearing from your bathroom or in a room full of people talking. Be respectful during the hearing. If you need to take a break to use the restroom, ask to take a break so that the Referee can pause the hearing for all participants. Remember if you wouldn't do it in the courtroom, don't do it during the hearing. Smoking, vaping, eating, taking phone calls, etc. can all wait until a break or until the hearing is over.

Finally, remember to be patient. Virtual hearings are new, and everyone is adjusting to them. You may have to wait while a Referee assists another participant with muting their microphone to stop feedback. In some hearings, Referees have had to call participants on the phone because they didn't have a microphone and then make sure everyone on the Zoom call can hear the person on the phone. Just like an in-person courtroom hearing, things may not run smoothly or as planned during a virtual hearing. Just be patient.

For Zoom Tips by the Cass County Courts, visit: <https://casscourtsmi.org/wp-content/uploads/2020/08/Cass-County-Courts-Zoom-Tips-updated-8.18.20.pdf>



## CASS COUNTY FRIEND OF THE COURT

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### **Baxter the Therapy Dog Alleviates Courthouse Trauma**



By Deputy Tim Gondeck, FOC Bench Warrant Officer

Coming to court can be a scary and traumatic experience, especially for children and adults who may be suffering from past trauma. There is a growing trend of canine advocates/therapy dogs being introduced into courts to work with these populations.

As a bench warrant officer assigned to the Cass County Friend of the Court (FOC), I saw an opportunity to take my previous K-9 handler and training experience as a sheriff's deputy and provide a valuable addition to our courts. I made a proposal to Sheriff Rick Behnke and Chief Judge Susan Dobrich that I personally acquire and train a puppy as a therapy dog to help alleviate some of the stress that our most vulnerable clients experience at the courthouse. The proposal was approved, and after completing training, Baxter was sworn in as a member of the Cass County Courts on March 26, 2019. The Cass County FOC is now home to "Baxter the Therapy Dog."

From the beginning, I looked at this new opportunity with Baxter as a personal challenge to undertake all the therapy dog training from the beginning. My first patrol/narcotics K-9 partner was retired in 2014, and I wanted to add a unique aspect to our now-established Cass County Sheriff's Office K-9 Unit. Today, Baxter is one of three canines in the unit. The other two are Faust, a patrol and narcotics detection canine, and Nellie, a tracking canine.

Baxter's formal training started at Top Notch Service Dogs in Elkhart, Indiana, when he was eight weeks old. Baxter is an English Labrador retriever, born on August 20, 2017. He has been coming into the FOC office as part of his training since he was seven weeks old. As his training progressed, he spent more and more time at the FOC.

continued on page 6



## CASS COUNTY FRIEND OF THE COURT

SERVING AND EMPOWERING FAMILIES TO MAKE CHILDREN'S LIVES BETTER.

### **Baxter the Therapy Dog Alleviates Courthouse Trauma**

Continued from page 5

Baxter has been specifically trained to work as a therapy dog/canine advocate for traumatized victims and witnesses, as well as vulnerable adults. His training included:

- Puppy Class I;
- Puppy Class II;
- American Kennel Club (AKC) Star Puppy Certification;
- AKC Canine Good Citizen Title Certification;
- AKC Community Canine Title Certification (Advanced Canine Good Citizen).

Baxter is available to sit with a victim or witness while they are testifying and to sit with people who are being interviewed. In the FOC, Baxter sits with children being interviewed by the attorney referee. Since his swearing in, Baxter has had countless interactions with children and adults in the Law & Courts Building, and specifically in the FOC office, as well as participating in court proceedings and numerous community events.

Children have reacted very positively to Baxter. He seems to have a calming effect, particularly with distressed children. He is also a great morale booster for staff and the public at the Law & Courts Building – especially in the FOC office. Baxter visits with FOC staff daily, and often snags some treats!

If you are considering bringing a therapy dog into your court, I would be happy to talk to you. Feel free to send an e-mail to [foc@cassco.org](mailto:foc@cassco.org) to the attention of Deputy Gondeck.

You can also follow Baxter on his Facebook page, “Baxter the Therapy Dog”: <https://www.facebook.com/k9baxter/>



## CASS COUNTY FRIEND OF THE COURT

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### **More than Enforcement: Getting Payers Back in the Workforce**



By April McKee, FOC Enforcement Caseworker

According to the Department of Agriculture, the estimated cost of raising a child from birth to 17 years of age is \$233,610 -- that's nearly \$14,000 a year! Now imagine the financial stressor of adding a child to your family while being unemployed or underemployed?

The maximum amount of Michigan Unemployment is \$362.00 per week for a maximum of 20 weeks. Now subtract 30% of that income for housing (Rent or a mortgage), 15% for groceries, 32% for miscellaneous expenses (such as clothing, services, repairs, entertainment, etc.), and the list of expenses goes on (according to the ACCRA Cost of Living Index-Council for Community and Economic Research).

Enforcement Caseworkers for the Friend of the Court are put in the unique position of reviewing cases with support payers looking at payment history, reviewing current circumstances, and gathering information to possibly make a recommendation to the Friend of the Court Referee on the payer's ability to pay. However, caseworkers can also be proactive in situations where someone is unemployed or has trouble finding employment or does not have access to internet to search for available jobs.

You've probably heard the age old saying, "If you're not part of the solution, you are part of the problem." I was determined that there had to be something else that I could provide people in their employment search. Something that could eliminate the revolving door scenario, where I see the same people every 6 weeks or so and find out their circumstances have not changed from our last meeting.

continued on page 8



## CASS COUNTY FRIEND OF THE COURT

SERVING AND EMPOWERING FAMILIES TO MAKE CHILDREN'S LIVES BETTER.

### **More than Enforcement: Getting Payers Back in the Workforce**

continued from page 7

With that determination, I developed a local jobs list: an easy to view document that contains a list of local available employment options that I update on a monthly basis. The list provides all the information that is needed for applying for an open position; position title, company name, address, phone number, and email address (if available), rate of pay (if available), bonuses (if applicable), benefits (if applicable), and how to apply (whether in office, online, or through a website, etc.) The employment options are sectioned off within the document and vary from positions in the industry of; restaurant/food service, retail, office/clerical, general labor, custodial/janitorial, and automotive. I make sure to keep the list limited to local options only -- trying to keep about a 25-mile radius in mind, meaning the furthest positions are in South Bend, Indiana, and Three Rivers, Decatur, and Benton Harbor, Michigan.

That jobs list has now turned into a jobs board within the Law & Courts Building. There is a bulletin board located just outside of the Friend of the Court Referee hearing room with copies of the jobs list and advertisements for what local establishments are hiring that I keep updated. And the process keeps evolving. I have been able to work with a local employer who has been hiring referrals that I have sent to them. I hope to add more connections like this with employers in the future.

Copies of the job list can be mailed, emailed, or picked up in the FOC office. Another Friend of the Court employee keeps a few copies on hand with her and passes them out, outside the office setting, whenever she hears someone is struggling looking for work. The list is available to the public and has been a useful resource to assist ones in getting back in the workforce, payers to remain in compliance with their support orders, and support to be provided for the child(ren) of their case; it's a win-win.

Check out the Jobs Board created by April on the FOC website at: <https://casscourtsmi.org/wp-content/uploads/2020/09/Jobs-board-JULY-2020.pdf>



## CASS COUNTY FRIEND OF THE COURT

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### **Parenting Like a Dandelion During COVID-19**



By Carol Montavon Bealor, JD, FOC Director

I love dandelions. While dandelions can be irritating to those working on a “perfect” lawn, they are a powerful representation of resiliency and survival. Think of how perfectly crafted dandelions are - providing color in our lawns, nectar for bees, a strong root system for growth, and a unique seed delivery system aided by nothing more than the wind. As parents, I think we should aspire to be like dandelions - providing our children with strong roots and a means of “flying” as they develop into adults who eventually leave our care.

COVID-19 has been challenging for all of us and especially challenging for our children. Over the last several months, the Cass County Friend of the Court has interacted with a lot of parents who have risen to the challenges imposed by COVID-19. I thought it would be worthwhile to share what I’ve learned from speaking to parents who are parenting like dandelions during COVID-19.

Many parents have echoed the same sentiment, children need our time and engagement now more than ever. During COVID-19 it is important for us to mindfully and actively engage with our children so that we “take over” their environments with our connectedness to them. We need to take the time to actively plan for regular engagement in our children’s lives while being flexible with our co-parents and other important persons in our children’s lives to ensure our children get the engagement they need. There are some easy ways to engage with our children every day whether we live with our children or not. Many parents are using technology to provide a creative way for children to connect with parents, friends, relatives, teachers, and schoolmates who they are not able to currently see in person.

continued on page 10



## CASS COUNTY FRIEND OF THE COURT

SERVING AND EMPOWERING FAMILIES TO MAKE CHILDREN'S LIVES BETTER.

### **Parenting Like a Dandelion During COVID-19**

continued from page 9

Besides engaging with our children, it is important to acknowledge what our children may be feeling during this difficult time and provide them with understanding. Adversity can provide an opportunity for growth both for parents and for children. By admitting to our children that things are hard and that things are not “normal” we help our children learn skills to deal with the future adversities we are all sure to face. Parents have an opportunity to model how to deal with adversity in a healthy way. Many are doing just that by working together to co-parent through the challenges that COVID-19 has created.

Wellness is especially important during COVID-19. As parents, we know we can't be the most effective parents unless we care for ourselves first. We have the power of modeling for our children how to properly care for ourselves by good nutrition, regular movement, and mindfulness activities to improve mood. It is important that we give our children a variety of resources that they can use in adulthood. These resources become strong roots to help them weather future storms.

As parents, we need to be creative to address the challenges created by COVID-19. Things are not “normal” and may not be “normal” for some time. If you spend time with a child, they can teach you much about making the most of what you have instead of focusing on what you don't have. The world can be magical for children because they use their creativity to make the best of things. As parents, we need to help our children tap into creativity more to not only survive but thrive through this COVID-19 pandemic. When we can't go to a movie theatre, we can do a movie theatre in our family room, with microwave popcorn and candy. When we can't take the vacation we planned, we can create a staycation that sometimes is more meaningful because of the extra time we give of ourselves. Camping in our backyards or family rooms can be just as much fun as camping at a camp site.

Let's be dandelions, bringing a bright yellow color of sunshine into our children's lives. Let's create strong roots for our children to grow. Let's enable our children to utilize a variety of resources and develop resiliency so that they can fly forward into their future.



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### **FOC Orientation & SMILE Program goes Virtual**



By Sarah Mathews, JD, Deputy FOC

Going through a custody and parenting time dispute – whether in a divorce proceeding, custody, support, or paternity case – can be overwhelming at times. Not only do parties have to navigate the court system and keep track of the paperwork they receive related to the case from the court or the other party, but they also receive information from the Friend of the Court Office. For most parents, their court case is the first time they have ever heard of the Friend of the Court Office. Many don't know that the FOC has a role at all in their case until they receive child support related paperwork from the FOC. At the same time that parents are trying to navigate the court system and learn about the FOC's role in their case, they have to figure out the best way to co-parent with the other parent during a time when they may not be getting along.

Because of all the things parents go through at the start of a case involving minor children, the Cass County Friend of the Court started the "FOC Orientation and S.M.I.L.E. Program" in October of 2019 for all parents with minor children involved in divorce, custody, support, or paternity cases. The FOC Orientation Program was designed to provide parents with an opportunity to learn about services offered by the Friend of the Court as well as to participate in the Start Making It Livable For Everyone (S.M.I.L.E.) program. S.M.I.L.E.—Start Making It Livable for Everyone—is an educational program for separating or divorcing parents with children under the age of eighteen that was created by the Oakland County Friend of the Court. It provides information to help parents better understand the effects of divorce. Although the S.M.I.L.E. program was developed with divorcing parents in mind, it provides valuable information that is helpful in assisting all parents in understanding the impact that family separation has on children.

Continued on page 12



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### **FOC Orientation & SMILE Program goes Virtual**

Continued from page 11

By order of the Chief Judge, the FOC Orientation Program became mandatory for all parents with minor children involved in a divorce, custody, support, or paternity case effective November 1, 2019. Since then, approximately 66 parents have successfully completed the FOC Orientation and S.M.I.L.E Program.

The FOC Orientation and S.M.I.L.E. program was previously held on Monday mornings in the Law & Courts Building and was run by FOC staff members. Due to COVID-19, the Cass County FOC recently changed the program to a virtual program to allow parents to participate from home. Starting June 15th, all parents with minor children with a divorce, custody, support, or paternity case who are required to participate in the FOC Orientation and S.M.I.L.E. program receive an order with instructions to provide their email address to the Cass County FOC. Once the FOC receives the parent's email address, a link is sent to the parent that allows them to access the online version of the FOC Orientation and S.M.I.L.E. Program.

During the online program, parents are provided information about the Friend of the Court from the Cass County FOC Director, Carol Montavon Bealor, get to watch the S.M.I.L.E. video, and are shown different online resources that are available to them to help them navigate the court process as well as to learn more about the FOC. At the end of the online program, parents are provided instructions regarding specific information to email back to the FOC to receive credit for participating in the program. Certificates of Completion are mailed to participants who would like a copy for their own records

While FOC staff enjoyed getting to meet parents in person to talk to them about the FOC and show them the S.M.I.L.E. video, we are grateful to the Oakland County Friend of the Court for allowing us to show the S.M.I.L.E. program in a virtual format and for the ability to use technology to continue to provide information to parents about the FOC.



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### **Case Law Updates**

**Matheson v Schmitt**, Mich App (9/2019) unpublished    **VACCINATION/MEDICAL CARE/PARENTING TIME**

The court affirmed the trial court's opinion ordering (1) the mandatory vaccination of the parties' child, (2) the parties to select a new, mutually agreeable pediatrician, and (3) modification of defendant-father's parenting time, but remanded for the limited purpose of allowing the trial court to confirm what vaccinations are recommended for the child by her pediatrician before she begins the course of vaccinations.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2019/112119/71793.pdf>

**In re Thompson/Caldwell**, Mich App (11/2019) unpublished    **MINOR GUARDIANSHIP**

Concluding that the trial court erred in applying the undisputed facts to MCL 700.5204(2)(b)'s legal requirements, the court reversed the orders denying petitioners-grandparents' petitions for appointment of a guardian for each of the children at issue, and remanded.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2019/112619/71846.pdf>

**Hazen v Phillis**, Mich App (12/2019) unpublished    **REVOCAION OF AOP**

The court held that the trial court did not err by denying plaintiff-mother's motion for revocation of acknowledgment of paternity. Affirmed.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2019/121219/71917.pdf>

**Farris v Farris**, Mich App (12/2019) unpublished    **LEGAL & PHYSICAL CUSTODY/PARENTING TIME/CHILD SUPPORT**

The court held that the trial court did not err in determining physical custody, but did err in determining legal custody and in ruling that father was entitled to parenting time only at mother's discretion. It also held that the trial court did not err on its child support rulings, although remand was required on one issue.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2019/121719/71973.pdf>

**Aguilar v Aguilar**, Mich App (12/2019) unpublished    **CUSTODY/ECE**

The court held that the trial court did not err in granting sole physical custody of the children to plaintiff-mother, in finding an established custodial environment (ECE) existed with her, in considering best interests, or in articulating the burden of proof.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2019/112119/71793.pdf>

**Argel v Argel**, Mich App (12/2019) unpublished    **CUSTODY**

The court held that the trial court erred by denying defendant-father's request to revisit the issue of custody. Reversed and remanded.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2019/122619/72064.pdf>



## CASS COUNTY FRIEND OF THE COURT

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### Case Law Updates

**Shea v Shea**, Mich App (1/2020) unpublished    **CUSTODY/PARENTING TIME/CHILD SUPPORT**

The court affirmed trial court's order denying father's motion to modify custody, parenting time, & child support.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/010220/72081.pdf>

**Tasich v Tasich**, Mich App (1/2020) unpublished    **ATTORNEY FEES**

Holding that the trial court erred in not providing any factual basis for its award of attorney fees to plaintiff-mother and by not indicating the legal basis for the award, the court vacated the order awarding attorney fees and remanded for further proceedings.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/010720/72091.pdf>

**Throop v DeVries**, Mich App (1/2020) unpublished    **GRANDPARENTING TIME/MOTION TO INTERVENE**

Concluding that the trial court did not err in denying appellants-grandparents' motion to intervene to establish grandparenting time without conducting an evidentiary hearing, and that the decision denying their motion was not against the great weight of the evidence, the court affirmed.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/010720/72100.pdf>

**In re Warshefski**, Mich App (1/2020) \*published    **MINOR NAME CHANGE**

The court held that the trial court did not err by granting petitioner-minor's petition to change his name. Affirmed.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/012120/72156.pdf>

**Grayer v Grayer**, Mich App (1/2020) unpublished    **DOMICILE CHANGE/CUSTODY/ECE/PARENTING TIME**

Concluding that the trial court did not sufficiently address whether defendant-father's proposed change in the children's domicile would alter their established custodial environment (ECE), the court vacated the order denying his motion. It also vacated order modifying the parenting-time schedule, & remanded both matters to trial court.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/012120/72186.pdf>

**Martin v Martin**, Mich App (1/2020) unpublished    **PROPER CAUSE & CHANGE OF CIRCUMSTANCES/CUSTODY**

The court held that defendant-father established proper cause and a change of circumstances to reconsider the prior custody order, and that the trial court's order requiring plaintiff-mother to turn over her cell phone for forensic examination was reasonable under the Fourth Amendment.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/012820/72231.pdf>

**Lancaster v Lancaster**, Mich App (1/2020) unpublished    **ATTORNEY FEES**

The court held that the trial court did not abuse its discretion by ordering defendant-ex-husband to pay plaintiff-ex-wife attorney fees and costs because it was permitted to do so by the parties' judgment of divorce and by his "unreasonable conduct throughout the litigation causing plaintiff to incur additional fees and costs."

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/012820/72234.pdf>



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### Case Law Updates

**Jacobs v Rizzo**, Mich App (1/2020) unpublished    **LIMITING WITNESSES/BEST-INTEREST FACTORS**

The court held that the trial court did not err by limiting the parties' witnesses or by making its determinations as to the statutory best-interest factors.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/012820/72262.pdf>

**Pohlman v Pohlman**, Mich App (1/2020) unpublished    **MEDIATION DV SCREENING /VALIDITY OF AGREEMENT**

The court held that because plaintiff-ex-wife did not assert or show "that she was prejudiced by the mediator's failure to screen for domestic violence" (DV), the noncompliance "with MCR 3.216(H)(2) was harmless." Also, there was no evidence that she signed the settlement agreement under duress contributed to by defendant-ex-husband. Finally, the trial court did not abuse its discretion by failing to conduct an evidentiary hearing.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/013020/72275.pdf>

**Carpenter v Carpenter**, Mich App (1/2020) unpublished    **CHILD SUPPORT/VA BENEFITS**

Rejecting plaintiff-father's argument that federal law preempted Michigan law permitting his VA benefits to be considered in calculating his child support, the court held that the trial court did not abuse its discretion in ruling that those benefits were properly considered as income for child support purposes. It also concluded that the trial court did not clearly err in determining that his arguments were frivolous and in awarding sanctions.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/013020/72277.pdf>

**Colen v Colen**, Mich App (2/2020) \*published    **ATTORNEY FEES**

The court held that the trial court did not abuse its discretion by denying plaintiff-mother's motion for attorney fees on the basis that, by neglecting the matter for nearly two years, she failed to timely pursue under MCR 3.206.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/020420/72301.pdf>

**In re Guardianship of Orta** Mich App (2/2020) unpublished    **GUARDIANSHIP**

The court concluded that petitioner-mother's challenge to the trial court's jurisdiction was permissible, and that the trial court erred in appointing grandmother as the children's guardian because a necessary statutory requirement was not met.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/020420/72313.pdf>

**Brooks v Brooks**, Mich App (2/2020) unpublished    **ENFORCEABILITY OF UNSIGNED SETTLEMENT AGREEMENT**

The court held that the parties' settlement agreement became binding and enforceable when its terms were read in open court thus, defendant-ex-husband's refusal to subsequently sign the consent divorce judgment did not negate the settlement agreement or require that the judgment be stricken from the record.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/021120/72350.pdf>



## CASS COUNTY FRIEND OF THE COURT

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### **Case Law Updates**

#### **Kortman v Kortman** Mich App (2/2020) unpublished    **UCCJEA/CUSTODY**

The court held that the trial court did not err by finding that Mexico had subject-matter jurisdiction over the parties' divorce pursuant to the UCCJEA because the children had been living there for six consecutive months before defendant-father filed his divorce complaint in Mexico and divorce proceedings were initiated there first.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/021320/72383.pdf>

#### **Martin v Cleveland-Martin** Mich App (2/2020) unpublished    **GRANDPARENTING TIME/ATTORNEY FEES**

Holding that the trial court failed to engage in the required legal analysis or make the necessary factual findings as to grandparenting time and attorney fees, the court reversed the trial court's award of grandparenting time for plaintiffs-paternal grandparents and remanded.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/021820/72416.pdf>

#### **Sutariya v Sutariya**, Mich App (2/2020) unpublished    **CUSTODY/DOMICILE CHANGE/CHILD SUPPORT**

As to custody, the court held that the trial court's determination that an ECE only existed with plaintiff-mother, and its findings on the best-interest factors, were not against the great weight of the evidence. Thus, it did not abuse its discretion in finding that granting plaintiff sole physical custody was in their best interests. It also did not abuse its discretion in granting her request for a change of domicile. Finally, while there was no error in the calculation of his income available for child and spousal support, remand was also needed for the trial court to elaborate on whether it meant for spousal support to be nonmodifiable support in gross or modifiable periodic support.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/021820/72419.pdf>

#### **O'Brien v. D'Annunzio**, Mich App (2/2020) unpublished    **LEGAL & PHYSICAL CUSTODY/SUSPENSION PT**

The court concluded that the trial court's errors were harmless, rejected defendant-mother's claims of judicial bias, and held that the trial court did not abuse its discretion in granting plaintiff-father sole legal and physical custody. It also found that the trial court did not abuse its discretion in suspending her parenting time under MCL 722.27a(3).

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/022720/72519.pdf>

#### **In re MPV**, Mich App (2/2020) unpublished    **STEP-PARENT ADOPTION**

Holding that the trial court did not clearly err in determining that respondent-mother "had the ability but regularly and substantially failed or neglected to visit" the child for a two-year period before the petition for stepparent adoption was filed, the court affirmed the order terminating her parental rights under MCL 710.51(6).

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/022720/72525.pdf>



## CASS COUNTY FRIEND OF THE COURT

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### **Case Law Updates**

**Kang v. Xue**, Mich App (2/2020) unpublished    **DOMICILE CHANGE**

Holding that the trial court correctly determined defendant-mother failed to meet her burden under MCL 722.31(4), the court affirmed the denial of her motion to change domicile.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/022720/72527.pdf>

**Jacob v Jacob**, Mich App (3/2020) unpublished    **PROPER CAUSE & CHANGE CIRCUMSTANCES PT**

The court held that the trial court violated plaintiff-father's rights to a timely hearing, and changed the child's physical and legal custody without a showing of proper cause or a change of circumstances after applying an incorrect burden of proof. Thus, the court vacated the parenting-time orders and the order awarding defendant-mother sole legal and physical custody of the parties' child.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/030320/72540.pdf>

**Simpson v. Simpson**, Mich App (3/2020) unpublished    **CUSTODY CHANGE**

Holding that plaintiff-mother did not show proper cause to justify a custody review because she did not establish that defendant father's actions had a significant effect on their child's well-being, the court affirmed the denial of her change of custody motion.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/031020/72579.pdf>

**In re Dockery/Mitchell/Singleton**, Mich App (3/2020) unpublished    **LEGAL & PHYSICAL CUSTODY/WARDSHIP**

The court held that the trial court did not err by awarding the child's (MM) father sole legal and physical custody and terminating its jurisdiction and wardship.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/031220/72603.pdf>

**Negron v Watts**, Mich App (3/2020) unpublished    **CUSTODY**

Holding that the trial court had subject-matter jurisdiction to make the initial child custody determination, the court affirmed the denial of defendant-mother's summary disposition motion and motion for reconsideration, and the final custody and parenting time order granting plaintiff-father sole legal and physical custody of their children.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/031220/72605.pdf>

**Stanley v. Thompson**, Mich App (3/2020) unpublished    **LEGAL CUSTODY/PARENTING TIME/ATTY & THERAPY FEES**

Concluding that the trial court did not err in denying defendant-father's request for equal parenting time, in granting plaintiff-mother sole legal custody of their children, or in ordering defendant to pay attorney and therapy fees, the court affirmed the trial court's order.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/031720/72640.pdf>



## CASS COUNTY FRIEND OF THE COURT

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### **Case Law Updates**

**Roat v. Roat**, Mich App (3/2020) unpublished    **ADOPTION OF REFEREE RECOMMENDATION/CUSTODY & PT**  
Holding that the trial court's same-day adoption of the FOC's recommendation denied the parties any meaningful opportunity to object, and that refusal to take action was inconsistent with substantial justice, the court vacated the trial court's order awarding plaintiff-father sole legal and physical custody of the children and remanded.  
Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/031720/72643.pdf>

**Davis v Davis**, Mich App (3/2020) unpublished    **CUSTODY CHANGE/ECE**  
Holding that the trial court abused its discretion in changing the children's custodial environment without the required clear and convincing evidence to justify doing so, the court reversed the order granting the parties joint physical custody with defendant-father having primary physical custody.  
Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/031920/72679.pdf>

**Shiple v Shiple**, Mich App (4/2020) unpublished    **ECE/BEST INTEREST FACTORS**  
The court held that because proper cause or a COC was not established, the trial court lacked authority to make a determination as to the existence of an ECE or to reconsider the statutory best interest factors.  
Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/040220/72767.pdf>

**Brown v Brown**, Mich App (4/2020) \*published    **DOMESTIC VIOLENCE/CUSTODY**  
Holding that "domestic violence" as used by MCL 722.23(k) includes "domestic violence" as defined in MCL 400.1501, the court concluded that the trial court's findings as to domestic violence and the deficiencies in the care the children received from plaintiff-father were well-supported by the record. Thus, the trial court did not err by finding proper cause to revisit the custody arrangement. Also, except for best-interest factor (e), it did not commit clear legal error or make findings against the great weight of the evidence.....in all other respects the factors overwhelmingly supported award of sole legal and physical custody which was not an abuse of discretion.  
Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/040920/72779.pdf>

**Romain v. Romain**, Mich App (4/2020) unpublished    **RETROACTIVE MODIFICATION**  
The court rejected defendant-father's contention that a "petition for modification" under MCL 552.603(2) can include petitions that do not contain a specific request for modification, and his claim that MCR 3.207 applied. It also found that nothing in the record showed that plaintiff-mother agreed to retroactive modification of child support. However, as of 1/24/18, when according to the register of actions she received notice of the proposed order he filed, she was indisputably on notice that he was seeking modification. Thus, the requirements of MCL 552.603(2) were fulfilled, and retroactive modification to the date plaintiff received notice of the proposed order was proper.  
Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/041620/72828.pdf>



## CASS COUNTY FRIEND OF THE COURT

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### Case Law Updates

**Medina v. Medrano**, Mich App (4/2020) unpublished    **BEST INTERESTS ANALYSIS**

The court held that while most of plaintiff-mother's challenges lacked merit, the trial court failed "in its duty to independently address each statutory factor underlying its best-interest determination."

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/041620/72839.pdf>

**Amerson v. Smiley**, Mich App (4/2020) unpublished    **SOLE PHYSICAL CUSTODY/SUPERVISED PARENTING TIME**

Rejecting defendant-mother's due process claims related to being found in contempt, and holding that the trial court did not err in giving father sole physical custody or in ordering supervised parenting time, the court affirmed.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/041620/72840.pdf>

**Bofysil v. Bofysil**, Mich App (4/2020) \*published    **CUSTODY/ECE/BEST INTERESTS FACTORS**

Holding that the trial court erred in discounting the role of the parent who worked outside the home in determining that the child (A) only had an ECE with the stay-at-home parent, and that this error affected the burden of proof and permeated its findings on the best interest factors, the court affirmed the divorce judgment in part but vacated the custody award and remanded.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/042320/72855.pdf>

**Hatfield v. Farman**, Mich App (4/2020) unpublished    **CUSTODY/ECE/BEST INTERESTS/IMPUTING INCOME FOR CS**

While the court held that the trial court's findings as to an ECE only with plaintiff-mother were adequate, it concluded that the trial court erred in awarding her sole legal and physical custody of the parties' younger child (R) without discussing the statutory best interest factors. Court agreed that the trial court erred in imputing income to father for child support purposes without reviewing the MCSF Manual factors.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/042320/72915.pdf>

**Sigmon v. Johnson**, Mich App (4/2020) unpublished    **ECE/CHANGE OF DOMICILE/BEST INTEREST FACTORS**

Holding that the trial court's finding that an ECE existed only with defendant-mother was not against the great weight of the evidence, and it was not required to analyze the best-interest factors, the court affirmed the order granting her motion to change the child's domicile.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/042320/72917.pdf>

**Ocharzak v. Ocharzak**, Mich App (4/2020) unpublished    **DOMICILE CHANGE**

The court held that while moving to Chicago had the capacity to increase plaintiff-mother's quality of life and the potential of benefitting the child by providing additional funds for tutoring and swimming, the trial court's "ultimate determination that the proposed move did not have the capacity to increase [the child's] overall quality of life was not against the great weight of the evidence."

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/042320/72919.pdf>



## CASS COUNTY FRIEND OF THE COURT

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### Case Law Updates

**Murray v. Murray**, Mich App (4/2020) unpublished    **STIPULATING TO PROPER CAUSE & COC/BEST INTERESTS**

Holding that the trial court did not err in accepting the stipulation in the parties' divorce judgment as to what evidence would show proper cause or a COC, and that its findings on the best interest factors were not against the great weight of the evidence, the court affirmed awarding joint physical custody & modifying parenting time.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/042320/72924.pdf>

**Stump v. Jagielski**, Mich App (4/2020) unpublished    **CHANGING CHILD'S NAME WITHOUT MOTHER'S CONSENT**

The court held that the trial court erred by granting plaintiff-father's request to change the parties' child's surname to one defendant-mother did not choose.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/042320/72928.pdf>

**Adams v. Youker**, Mich App (4/2020) unpublished    **OBJECTING TO REFEREE'S REC/ CUSTODY, PT, CS**

The court vacated the trial court's Order After Objection Hearing denying defendant-father's objections to the Referee Recommendation and Order changing custody, parenting time, and child support because the trial court did not address whether reducing defendant's parenting time would change the child's ECE & child's best interests.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/043020/72990.pdf>

**White v. Trezil**, Mich App (5/2020) unpublished    **CHANGE OF CUSTODY/MODIFICATION OF PARENTING TIME**

The court held that the trial court did not err by granting defendant-father's motion for a change of custody and modification of parenting time.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/051420/73089.pdf>

**Roberts v. Day**, Mich App (5/2020) unpublished    **HOME STATE/UCCJEA/ICPCA/FULL FAITH & CREDIT**

The court concluded that there was no indication the trial court "ever took 'jurisdiction' over the child" in a prior proceeding. It also held that Michigan was not his home state, and that the trial court lacked jurisdiction to make a child-custody determination as to plaintiff-alleged father's paternity action under any of the other subdivisions of MCL 722.1201(1). Further, it did not have jurisdiction under the ICPCA. The court added that, even if it was wrong in its analysis, plaintiff failed to show the case was not moot given that he did not "explain why the Michigan court would not be bound by the California order terminating his purported parental rights."

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/052120/73158.pdf>



## CASS COUNTY FRIEND OF THE COURT

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### Case Law Updates

**Ashmore v. Ashmore**, Mich App (6/2020) unpublished    **CUSTODY/SUSPENSION OF PARENTING TIME**

Concluding that the trial court erred, the court vacated an order to the extent that it effectively denied plaintiff-father's motion to modify the parties' consent order on the basis no proper cause existed to revisit the custody issue. It also held that the trial court erred in suspending his parenting time without conducting an evidentiary hearing and making findings on the basis of clear and convincing evidence. Further, it had no authority to suspend his parenting time under MCL 712A.13a(13).

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/060420/73210.pdf>

**Cyster-Smith v. Guerrero**, Mich App (6/2020) unpublished    **DESIGNATION OF SCHOOL/CHANGE OF CUSTODY**

The court held that the trial court erred by treating defendant-father's motion to designate a school for the parties' child as a motion for change of custody.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/060420/73211.pdf>

**Faulkner v. Cruz**, Mich App (6/2020) unpublished    **INTERSTATE/JURISDICTION/CUSTODY**

The court held that under MCL 722.1203, the trial court had jurisdiction to enter an order awarding joint legal and physical custody. Also, the issue as to whether the trial court properly modified the existing Ohio custody order without first holding an evidentiary hearing and making the required findings was moot because the challenged order was no longer in effect.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/061120/73268.pdf>

**Dawson v. Wiedenbeck**, Mich App (6/2020) unpublished    **PROPER CAUSE/COC/BEST INTERESTS FACTORS**

The court concluded that plaintiff-mother failed to establish that the threshold determination made by the trial court as to proper cause and a COC was against the great weight of the evidence. Also, her challenges to its findings on the best interest factors failed.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/061820/73315.pdf>

**Cooper v. Cooper**, Mich App (7/2020) unpublished    **INTERSTATE/CHANGE OF CUSTODY**

The court held that the issue of whether the primary physical custody of one of the parties' children "should be changed from mother to father—beyond the terms of" a temporary emergency custody order issued by a North Carolina (NC) court—required "application of the standard analytical framework for modifying custody under Michigan law .....

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/072320/73506.pdf>



## CASS COUNTY FRIEND OF THE COURT

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### Case Law Updates

#### **Fatteh v. Fatteh**, Mich App (7/2020) unpublished    **DE NOVO REVIEW/CUSTODY/BEST INTERESTS FACTORS**

The court held that defendant-mother was not entitled to relief on her claim the trial court did not comply with the requirements for a de novo hearing, that the trial court did not err in applying the preponderance of the evidence standard to the best-interest factors, and that its findings as to factors (c) and (j) were not against the great weight of the evidence.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/073020/73554.pdf>

#### **Osborne v. Osborne**, Mich App (8/2020) unpublished    **CHANGE OF CUSTODY & PARENTING TIME/ECE**

The court held that the trial court did not err by granting plaintiff-father's motion for a change of custody and parenting time. The parties initially shared legal and physical custody of their children. However, the trial court later awarded sole legal and physical custody to plaintiff and supervised parenting time to defendant-mother. On appeal, the court rejected her argument that the trial court erred by awarding plaintiff primary custody after finding the ECE existed with defendant.

Full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/081320/73642.pdf>

#### **Hanshue v. Hanshue**, Mich App (8/2020) unpublished    **CHANGE OF CHILD'S SCHOOL PLACEMENT**

The court held that the trial court erred by denying plaintiff-mother's request to change the school placement for the parties' child. The trial court found that the child had an established custodial environment with both parties and that changing his school would not modify it. However, it determined that changing schools was not in the child's best interests based on his emotional and mental health and the stability and consistency of his current school environment. On appeal, the court rejected plaintiff's argument that the trial court violated her due-process rights by failing to consider evidence from the parties' referee hearing. The court agreed with plaintiff that the trial court erred by failing to interview the child as to his school preference. "Although the trial court was not required to interview the child," it erred by "relying on the parties' opinions of the child's preference, rather than determining whether the child had the capacity to form a preference, what school placement the child preferred, and whether that preference was reasonable." It also agreed with plaintiff that the trial court erred "in its evaluation of best-interest factor (i) and by failing to consider best-interest factors (f), (g), and (k)." Reversed and remanded.

See full text opinion: <http://www.michbar.org/file/opinions/appeals/2020/082720/73754.pdf>

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## CASS COUNTY FRIEND OF THE COURT

SERVING AND EMPOWERING FAMILIES TO MAKE CHILDREN'S LIVES BETTER.

### **Being Flexible with Parenting Time During a Pandemic**



By Melissa Sytsma, JD, Circuit Court Attorney Referee

Nearly six months has passed since life as we know it drastically changed due to the COVID-19 pandemic. All of us were impacted. Our lives now include face masks, hand sanitizer, social distancing, and virtual appointments. Many parents have changed or lost employment, moved work locations, or changed the way their job is done. Our children finished the last school year remotely, and will begin this school year in a virtual program, an in-person program, or a hybrid program. Many parents and children have experienced feelings of stress and anxiety because of the changes and uncertainty associated with the COVID-19 pandemic.

Parents that live in separate households can help ease their children's anxiety by being flexible in their co-parenting. While your current custody and parenting time orders remain in effect during the COVID-19 pandemic, many parents have experienced schedule changes that create difficulties with the court-ordered schedule. Parents can always agree to work together to modify the parenting time schedule in order to prioritize the children's best interests.

There are many components to flexibility within a co-parenting relationship. It is extremely important for parents to communicate with each other. Parents that communicate about their children and their schedule changes are better able to work together to develop flexibility within the parenting time schedule. That communication can occur in person, by phone, text message, or email. Communication should be directly between parents, without using the children as a go-between. Regardless of how you feel about the other parent, be kind, courteous, and understanding in your communication, especially in front of your children.

Another critical component of flexibility is compromise—there will be work schedule changes, vacations, or special family events in both parents' families that do not always line up with your parenting time schedule. Compromise requires some level of trust that the other parent will give you the courtesy of flexibility when you need it. However, the benefits of compromise are far greater—it may mean your children can attend a family reunion that they otherwise could not attend, or that your normal Wednesday evening parenting time was moved to Tuesday to accommodate a work schedule change. Either way, compromise shows children that you support each other as parents, and prioritize the children's needs.

Continued on page 25



## CASS COUNTY FRIEND OF THE COURT

SERVING AND EMPOWERING FAMILIES TO MAKE CHILDREN'S LIVES BETTER.

### **Being Flexible with Parenting Time During a Pandemic**

continued from page 24

A third component to flexibility is creativity. Especially during these uncertain times, parents may need to come up with alternative parenting time arrangements. If a child cannot be in one parent's home for any reason, parenting time could be exercised virtually using apps such as FaceTime or Zoom; outdoors at a park, or indoors at a library, restaurant, or elsewhere. The closure of some public places will require parents to be creative when looking for activities to do with their children. If parenting time cannot occur at all, parents may be creative in developing a schedule for make-up parenting time. Parents may wish to list the agreed-upon modification in writing.

As a Referee, I have seen many cases where children have benefited from their parents' flexibility. During recent court hearings, several parents have stated that once their children's school closed last spring, they came up with an agreed-upon alternate parenting time arrangement that benefited the children and the parents. Custodial and non-custodial parents both reported feeling satisfied that they were able to work with their co-parent. Non-custodial parents were happy about spending additional time with their children and helping with their remote learning. In some cases, the modified schedule worked so well that the parents decided to formalize it in a new court order.

Flexibility in a co-parenting relationship takes two parents that are willing to communicate, compromise, and be creative. It requires a good-faith effort by both parents, along with understanding, kindness, and respect. A flexible co-parenting relationship is not for everyone, and that is why there is a parenting time schedule set forth for parents to follow in every court order. The FOC encourages parents to develop a flexible co-parenting relationship when possible, because it can be very beneficial for both parents and children.

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