April 27, 2015

To the attention of the Honorable Judge Barton and Parenting Coordinator Rule Petition Review Committee:

My name is Karen Duckworth, I am a paralegal, and I am commenting as a concerned member of the public regarding the proposed rule changes related to the appointment of parenting coordinators.

Without doing a line by line dissection of the proposed changes, as there have been many comments already made doing a thorough job highlighting areas of concern- from both professional concerns raised by attorneys and concerns raised by both pro per litigants and parties with attorneys- I would like to speak more to the intent of this committee.

I believe this committee is earnestly intent on correcting a problem, and that the good intentions outweigh any (perceived) shortcomings mentioned in the other comments. I feel this committee has made a welcome effort to achieve better results for families going through the family court as relates to the appointment of parenting coordinators. I find myself in an internal conflict whether to just voice my support of the changes, as there are many that I think will aid families, or point out that I think a much more profound change to the practice of appointing Parenting Coordinators needs to be implemented. Ultimately I think the latter is outside the scope of this committee but I will raise it anyways.

I feel parenting coordinators are exceedingly over appointed. So the real problem I wish could be addressed would be how to narrow the appointments of PCs to only cases truly in need of the expense, stress, and risk of negative consequence that comes with the appointment of Parenting Coordinators. Or, even more specifically, to narrow the scope of the PC appointment to very specific areas on a case by case basis instead of blanket and broad appointments which is the general trend. There are already rules in place regarding the appointment of Special Masters, these are used for division of personal property, real estate issues, business valuation issues etc., as you are well aware of.

I would much rather see PC appointments become laser focused in high conflict family law cases. Reserve the PC appointments to deal with issues that were identified during the discovery stage and post ADR, such as conflicts over parenting time or decision making based on complex reasons like serious, credible allegations of a parent being unfit to exercise parenting time. Merely appointing a PC based on the parties inability to agree to the terms of *how* parenting time will be exercised opens a door to the abusive practice of PC's to dole out parenting time as they see fit- or, as they determine how much it will cost the parents to resolve the issues i.e. beneficial to the party with the most resources to endure protracted PC appointments. I could do dozens of examples of this, I assure you, it's not rare.

But I don't want to delve into finger pointing or blaming any particular PC, or PC services in general, as there are many more professionals than not that do achieve positive results and resolve conflicts. Unfortunately, I just see all too frequently negative results in this industry as a whole that leave many families terribly damaged as a result. It's a hugely, painfully, complex problem.

One issue is the personalities of parties that are high conflict to begin with, a supposedly "rare" statistical occurrence in family law. And yet I know my husband's case was deemed high conflict, I am part of several support groups of which most of my friends and acquaintances cases were deemed high conflict, and I see a disproportionate number of the clients in my firm deemed high conflict. So where does all this conflict come from and how can the Courts diffuse it? There's some serious psychology behind dealing with these high conflict personality types but one of the things they do is refuse to answer head on questions succinctly or shortly. If you ask a high conflict party "Can we switch weekends on xyz date?" they may answer with a 2 page tirade on tax liabilities from 2 years ago, and a 3 paragraph description of the other party's shortcomings as a parent, and several PC sessions later and as many emails back and forth, there could still be no answer. Then the weekend in question passes without resolution and you know who won? The high conflict party that dragged out their response, but whom also can't be found truly non-compliant as they are participating with the PC. If a PC doesn't actively require the parties involved to work towards results, a lot of time and money goes down the drain while the high conflict personality has the spotlight on them and relishes their control over the situation. Has this committee been able to consider <u>reducing</u> PC roles in general? Because the second issue I see all too often is the perfect storm where one of the sides of a high conflict case finds a PC that enables their bad behaviors, even perpetuates unreasonable behavior by siding with that party and not exhibiting the objectivity they should. Even with the tremendous case loads the Courts experience, there has to be a way Judges are accountable for post decree decisions without foisting the majority of cases off to a Parenting Coordinator. I believe it has become routine to do just that, and that is very concerning to me.

I don't think expanding the PC role in making binding decisions will help. I really don't think giving PC's broad scope over a case will help. In fact I think the appointment of a Parenting Coordinator in a low conflict case can actually create backlash that ramps up the conflict. I don't know if this is a training issue, that PC's could serve the public's interest better with some new rules, whether by statutory changes or governing practices for this field, or by rule changes and training aimed at Judges, or even better, rules created that promote the accountability of parties to resolve conflicts on their own.

I know this letter is wordy, which makes my next comment a little ironic. But one takeaway I had from the Ad Hoc Committee work that transitioned to the Substantive Law Group in fall 2010 was, as they reworked sentences over and over, and added and deleted and parsed and reconstructed the sentences from the ground up, was how was so much wordiness going to make things *simpler* and *easier* for people to understand and benefit from the changes? And so much intent was lost as the complexity of the revisions grew, and losing site of the intended benefits created unintended consequences. I really don't have good answers on how to prevent this from happening to the good intentions of this committee, other than suggest that sometimes less is more. I look forward to seeing how the online comments are integrated into the committee's considerations and the next draft of the Rule change.

Thank you for taking the time to consider my questions and concerns. Feel free to contact me for any purpose related to my comments at kduckworth2.0@hotmail.com or (480) 415-2824.

Sincerely,

Karen Duckworth