

**FAMILY LAW COMMISSION PUBLIC HEARING
JANUARY 10, 2007
MINUTES**

The Chair of the Family Law Commission, Senator Liane Sorenson, opened the annual Public Hearing at 7:10 p.m. on Wednesday, January 10, 2007. She welcomed everyone here this evening and then began the meeting by introducing the FLC members that were with us this evening. They were as follows: Lynn Kokjohn, Harriet Ainbinder, James Morning, Representative Theresa Schooley, Judge William Walls, Representative Pamela Maier, Curtis Bounds, Esq., and Dana Harrington-Connor, Esq. Also in attendance was Representative Bruce C. Ennis.

The Chair, Senator Liane Sorenson informed everyone that Harry Gordon, the Commission's longest serving member was unable to attend the hearing tonight. This is the very first time he has missed a Public Hearing. Also absent are Kathryn Jester, Allene Poore and Jud Bennett.

Chairman Liane Sorenson informed everyone at the hearing that there was a handout for everyone. On the handout you will see what the Family Law Commission may and may not do. The Commission **shall not**: engage in the practice of law (even though we have two attorneys on the Commission); the Commission cannot give legal advice of any kind; intervene directly or indirectly with any case pending in any court. The Commission **may** conduct public hearings; invite written comments on Family Law from the public and give any suggestions on items that they feel could be improved upon ; review and comment on legislation affecting family law; plus publish and disseminate information regarding family law to the public.

Chair, Senator Sorenson, called the first speaker for the evening, John Flaherty, from Common Cause. She reminded everyone that the established ground rules are that each speaker would be given 5 minutes to speak.

- 1. John Flaherty** – “Thank you Senator and all the members of the Commission for holding this annual meeting tonight. The Delaware Constitution says that the courts should be opened to the public, but a recent *News Journal* article about access to the administrative records of the court indicated that in 1994 the Delaware Attorney General said that the Freedom Information Act does not apply to the records of the court –administrative records of the court. On behalf of Common Cause of Delaware, I am here tonight to urge the Family Law Commission to urge Delaware's Family Court to honor the spirit of the open-meeting law and support making audio tapes of Family Court proceedings availability to litigants and to promote greater transparency and consistency in the administration and operations of Family Court's child custody evaluators. Family Court's procedures for access to audio tapes of court hearings require that a litigant make an appointment with the court – sit with a court employee –to listen and take notes from the tapes. Litigants must arrange their workday schedule to accommodate the availability of court employees. The litigant cannot receive an audio copy, only a written transcript is available upon request. It can take a month or longer to receive tape transcripts from Family Court., and it can cost hundreds and thousands of dollars, depending on the length of the proceedings. Almost all

states have audio tapes of the Family Court proceedings and make copies available to the litigants at minimal costs. Another issue that came up at a Common Cause meeting is the lack of transparency and consistency regarding Family Court's *child custody evaluator*. It appears that the evaluators make the decisions for the suitability of the families involving custody issues. We have not been able to find any policies and procedures that guide *child custody evaluators* in the issuance of their psychological reports, and it appears that in many cases written reports are not issued – that there are verbal reports., and we have been trying to find out if this is acceptable, or do the procedures allow them? Should the family being evaluated bear the cost for this service? We were surprised that the fees presented by the evaluator are presented to these families upon dropping by their home, and they are not stated up front to these families. Receipts are not given for cash money paid by the families being evaluated – cash fees are asked for verbally, not issued by statements of anticipated costs, which in some cases amounted to thousands of dollars. You know when you value the suitability of families in child custody cases and you show up at somebody's home - and you evaluate them, and then you tell them there is a fee involved; to me it sounds like a recipe for disaster. It sounds like you are preying on the vulnerability of these families and the potential for problems is just immense. When you have a fee-based system – this is, in fact, how it is carried out rather than someone who is paid a salary to come out to evaluate who is someone from the court, but because of the problem I have filed a Freedom of Information request until the decision is going to be resolved by the Attorney General's office. If this Commission can do anything to shed some light on how this Child Custody Evaluator system works – is there one, or is there many evaluators – is the cash fee-based system how it works, or is this an aberration I certainly would appreciate any information on how this system works. Thank you guys for your time tonight – I know that you put a lot of work into this and you get a lot of heat, but I want to thank you for your attention here tonight.

The Chair, Senator Sorenson, reminded everyone that the hearing is being tape recorded this evening, and it will be transcribed. We then will go over the comments, made tonight. What we have done in previous years we have gone through and picked through and looked at the key issues that the Commission would look at and do a follow-up. We will go back and at these issues and address them in the coming months. The next speaker is **Suzanne Ludwig**.

2. She began by introducing herself – “Good evening, my name is **Suzanne Ludwig**, and I am from Elkton, MD. I found my way here quite easily. Years ago, I drove my husband at the time, to his law interview right down the street to Barros, Fieldman, and McNamara. I was married to an attorney for ten years. I have nothing against attorneys. My father was a very noble attorney down in Washington, D.C., but for him having practiced Family Law for a time, no personal injury attorney up in Wilmington has been able to manipulate the system to his benefit. I am a great believer in photographs – one photograph tells thousands of words. The mediator at our child support hearing first told me I was to pay him \$500 a month for child support. As he was saying that, my husband was building this six bathroom house in Hockessin, DE. Also, the Judge stated that owing him a \$120,000 based our child support, his child support to \$700 a month, on his \$70,000 a year. The problem is he pays his paramour legal, \$65,000 a year. Also, the Judge did not take into account his bookkeeping savings from his law office, his savings of \$70,000 cash for a new B.M.W. By the time we went to court, he had already traded that in for a brand new Porsche. I have photographs too, if you would like to see them. Unfortunately last week he traded that in for a new B.M.W. Having been in the car business myself for many

years, I know that every time you trade in a car, especially within the first two years, you lose thousands of dollars. My husband stole my daughters, took them out of a private school in the middle of the year and told them he could not afford to send them there, because he was paying me \$700 a month child support. After he pulled them out, he immediately put in an in-ground diving pool – landscaped with a water fall and a wrought iron fence. He also had a Brazilian blue deck and a pavilion to the back of the home, bought a new truck and a new motorcycle. My point is the system has malfunctioned. I have a five room house drive a Volkswagen with 130,000 miles on it. One of the attorneys I visited was Joel Tannebaum He predicted that he would be eventually suspended, which he was. He was Chairman of the American Bar Association’s Family Law Section, and he was suspended for 3 years. I am wondering when he is coming back. I feel the system is completely flawed. They do not check assets of the individual when they can hide in their accounts \$120,000, yet I get \$8,500 a year. There is something wrong with this system, and then for him to tell our daughters that I am greedy for getting that meagerly \$8,500 a year. I find that I could not afford the psychiatrist, Rominalsky; I could not afford Gerry Berkowitz as he did who accused me of quitting my job three years prior in order to get child support. I won’t say whatever he said about me also. (Time was called.) Thank you for your time. I will leave these photographs and also an article here for you.”

Chairman, Senator Sorenson, then called upon the next speaker, **Jerry Ledwith**.

3. Jerry Ledwith – “Good evening Senator Sorenson and members of the Commission. I am here today mainly to quell any rumors that I had died, or went away. My name is Jerry Ledwith and I guess a lot of people know me here. I guess the best way to start this off is not the question is their corruption in Family Court it is matter of trying to find enough people with enough integrity to step forward. I lost all respect for this Commission when they took the word of a man who came to you and gave you a story and believed that story based on who he was and where he came from. I recently wrote a letter to Mr. Biden hoping that by bringing in some new blood into the Attorney General’s Office might bring along some integrity, because there hasn’t been any for a long time. As to the lady who just spoke, you were lucky. I am the guardian of a disabled woman, who didn’t get any child support, and her husband made \$70,000 a year, but he was allowed to tell the court he only made \$30,000 a year, and that is what they based the support on, so she got next to nothing. But anyway, I will read the first part of this and because I know how you don’t like any names to be used so I will not use the names. This letter is now being sent because one investigator –so called investigator of the Dover branch of the Department of Justice has not contacted the victim in this case for over two months now, because the evidence he uncovered was far beyond what he could imagine and to protect the many scumbags involved, he decided that integrity is not now in his best interest.. The investigator found forged documents: he found the false financial documents and much more. He had no problem showing them to us, and he had also discovered the hidden assets, the secret conversation between the Judge and the lawyer, and the perjury committed by several lawyers. He also found what he believed to be a conspiracy between three lawyers to hide evidence and witnesses who were crucial to a woman’s case, and the Judge who turned his head for the many crimes he knew that were being committed. The investigator stated to us, and the lady’s son is here today. It took me a good many years to convince this family that there is corruption at every level of government. I am not anti-government and I am not anti-police, and I am not anti-Judges, but anyone with any kind of intelligence understands that in any one of those branches,

there are those that do not belong there. Records and files would be gathered from the court, and the Judge in the case would be questioned, as would be the many lawyers. Several attempts to meet with Ms. Brady and Mr. Danberg and others have been ignored to cover up and today many of the attempts to talk to these people has gone along unanswered, and the cover up goes on today. I will mention Steve Woods, because he has stepped down now, but maybe with Mr. Woods's no longer in charge, this letter will find its way to Mr. Biden, or to someone with the integrity that has not been in the Attorney General's office for some time. I won't go into all of this, but after that conversation that man had here about extensive investigation blah, blah, blah, and then some of the conversations he had in private it was found out that many of the people who were in that meeting that knew our investigator – that investigation never took place. Steve Woods never investigated a thing, but when you look at things like Jane Brady's musical chair I politics, and prison scandal and everything else, you understand how powerful some people really are and what they are able to get away with. All I am saying is that there many things going on in Family Court, and there are many people in this room that know exactly what is going on, and it needs to change, because people lives are being taken away from them. I am the court-appointed guardian of a woman who has been disabled by abuse. She was not even able to file charges against this man. because (unintelligible) they discredited her and her family, and today she spends most of her time in bed or in a wheelchair. Mrs. Sorenson knows, because I have been coming here now for four years, and I am not going to give up until someone listens.”

The Chair, Liane Sorenson, called upon our next speaker **Sunday Haffen**.

4. Sunday Haffen – Good evening members of The Family Law Commission, Common Cause members, members of the General Assembly, and ladies and gentlemen who, like me, are concerned about Family Law. My name is Sunday Haffen. Those of you with children who have been to court know that in child custody issues your lawyer will assign you a mental health profession who is not paid by the court, but by the litigants. When his/her opinion is rendered, following specified criteria, it should be in the form of a written report to the court and both parties in the proceedings. Now I tell you, this is not happening. The litigants do not receive reports! This aforementioned information I obtained from Jan Bernstein, head of the Danzig Family Law Group, and the guidelines are based on the American Psychological Association's Ethical Principles of Psychologists and Code of Conduct of the APA (the American Psychology Association.) Now, there are more departures from this procedure regarding evaluations, report of evaluations, payment for services, respect for litigants, time invested in preparing the investigative report and so on. Last week, I made a presentation to the Boards of Examiners regarding the lack of ethical conduct on the part of a Child Evaluator for the Family Court in New Castle County, and I was advised to file a complaint. I, personally, do not have a complaint as a grandparent, but I want to share with you an encounter with said evaluator who called me, made an appointment to see me in my home to determine if I was an appropriate parent to spend time with my grandchildren. After a brief interview, I was given a verbal request, not a bill to pay about \$175, it could have been \$150-it has been awhile, and I just don't remember the amount, but the interview was to affirm that I would do the no harm to my grandchildren. Now, I did not make that request, nor did my daughter make that request. She really trusted me with her children. Now the rules for that evaluation state that the cost for the service should be stated up front. It was not. If the party requesting the evaluation was one of the litigants – in this case the former husband of my daughter, he should

have paid that amount. Actually, it was an innocuous encounter, but what I want to do is present this handout to you which itemize many departures from the guide lines of ethical practices for psychologists which have been experience by men and women seeking divorce and child custody. They are asked outrageous sums, given no receipts, treated with contempt and derision. – like throwing the book at somebody. It is very disrespectful. I hope if you have a complaint to file that you will contact me. You may e-mail me @ Rhaffen@aol.com, and I will give you the information which I obtained from the Department of State, Division of Professions Regulations, which was given to me at the Board of Examiner’s meeting last week. Thank You. If anyone would like, I have extra copies of this information.”

Chair, Liane Sorenson inquired if there were any others who needed to sign in? There were no others. She then called upon **Justin Sharp**.

5. “My name is **Justin Sharp**. I am the son of a disabled woman, and the son of a man who abandoned my mother and me. Five years ago I was forced to drop out of high school, because my Dad left us. He wasn’t made to pay anything, and I was more worried about my mother than myself. It is kind of hard to fit in five years into five minutes. I had to get a job to support my mother. Fortunately enough from my mother’s parents and friends and family, we were able to make it, and I was able to get my high school diploma. I was brought up to put faith in the system and the law, but most of all God. I have to tell you it has been hard, but the things I have seen and heard are just unbelievable Representative Maier asked Mr. Sharp to share some of his experiences. He said that law wasn’t anything he understood, but that there are a lot of things that he didn’t understand. He said he didn’t understand that how a man makes \$100,000 a year can go into a court and say that he makes \$30,000, and that is what my mom’s support is based on. I don’t understand how a sexually abused disabled woman can be just locked out on the street except for people who shouldn’t have had to have taken care of her did. Representative Maier asked Justin what his mother’s name is and he replied that her name is Stephanie Sharp and his father’s name is Al Sharp, Jr., and all I can say is my family and Jerry Ledwith, as I am sure you know, we are going to fight this until the end. We are just going to keep on going. and I just wanted to come here. Unfortunately I didn’t have a chance to prepare anything, because I just found out about this morning when I was reading the paper, so first hand seeing everything I was disappointed.”

Chair, Liane Sorenson then called upon the next speaker who was **Jeff Samluk**.

6.. “Good evening everyone. Thank you. This is the second time I have been here. I will start by saying this is my night with the kids. I get them Wednesday and every other weekend thanks to the court system, and I haven’t seen my kids for a week, but I thought it was more important for me to be here this evening to talk to you all. I don’t have an open case in Family Court or in Superior Court any longer. I was deprived of any visitation while going through the whole divorce scenario/separation because of a fictitious PFA. and that PFA going through all the pieces of it was a consent PFA. I grabbed her arm, so she signed the PFA. She took the house, took the kids – did the whole nine yards. It cost me a lot of times with my kids. I have audio tapes from her saying that the PFA was a mistake – that she listened through the wrong key hole. I have other tapes of her saying that she was going to commit suicide over all of that. She said I was molesting my kids – that she was raped. I was not allowed to use that in the Family Court

system because there is a two-party consent law in the State of Delaware – one of 12 states in the Nation that you need that consent. I thought you were supposed to look out for the best interest of the children, apparently I was wrong. There is no swearing off on the PFA when you are in Court. You are supposed to put your hand on the Bible and say that before God you are going to tell the truth – the whole truth. With the PFA you just go in there and sign a piece of paper – nothing! At our hearing I had evidence that her friend that she has been seeing had a third degree assault charge on the evening that she had her nose broken. What I didn't have at the hearing was the hospital records. I received them after our hearing, and I filed an emergency ex-parte' based on that information. I was told in a letter from the Judge that this would *proceed in the normal course of business* on July 5, 2005, that was just 5 weeks after our hearing. On that final order, 7 months later, it was never addressed and perjury was allowed, and she received primary custody of the kids. I have copies of this and obviously the eyes of justice are a little bit long. It shows here on the ex-parte' the fact that her nose was broken – that according to the call to the police, it must have been made by the assailant – but again none of that was addressed when I filed for a court order. I even submitted that to the Supreme Court based on that same principle, and I was denied, again affirming that perjury is an acceptable crime within the Family Court system. At the Budget meetings just recently, all of the Chief Justices were asking for more Judges on the bench, and obviously they need them. They can't even get my name right. On the Supreme Court issue, it says that my name is *John M. Smith*. The last time I looked my name is not John M. Smith and my wife was not Mary E. Smith. That's how much time and consideration they put into the appeal. I went through the whole process – I got the transcript – did the whole 9 yards, and my appeal was denied. I don't know what my next steps are. Next week it will be a year since our final custody came out, and I will have to wait another year and one-half until I can do anything about it. To me that is a little bit ridiculous. The Judge did not focus on the concerns; they didn't address the PFA, the assault charges against him were dropped. They didn't address any of those issues. How many more red flags could be sent up these people and have it ignored? During my whole hearing, I had concerns about my ex-wife's drinking too, and even recently on New Year's Eve I was getting harassing calls. She had the kids, and I called to say good-night to my kids on New Year's Eve. She called back and said my daughter was in Europe. She called back and said don't you want to hear about your daughter? She called back and said blah, blah, blah. She went on and on. She called five more harassing calls which I have the taped messages of. Of course you are not going to use them. I don't know why I bother any more. I called the police that night, because I was concerned for the safety of my kids, because they were home with a drunk. The police called back and said she was at home and she is drinking, but there is nothing I can do to get her to stop harassing and calling you. As far as child support, I pay a considerable amount of child support for my kids. I don't mind paying my fair share, but it is based upon custody, and the Melson formula, but I don't receive any tax credits for this. I don't understand that. It doesn't get included on her form as income, and I pay \$25,000 a year after taxes to her for child support which to me is outrageous. I don't get any tax benefits of that. The first thing she did as part of the PFA, and attached my wages to get that money. There is no incentive for me to try and do anything more with this. She doesn't have to claim this as income. I can't show in any way that is any way benefit to the kids. I see nothing of that. On the two list method, we went through whole piece of it to list –A list B list, (time was called) and everything that she put on it, she said it was a gift for the kids, so I had to replace 100% of their items. Thank you and I thank you for your time.”

The Chair of the FLC called on the next speaker, **Herman E. Row**.

7. “Good evening. – This is Family Law Commission report #27. The first time I came to this hearing I believe was in 2001. I became aware of the meetings in 2000. When I learned of the time and location, the meetings were over for the year. I may be wrong about the number of time I have attended these meetings but 27 is divisible by a prime number. I have heard it all before. None of the complaints is the legitimate fault of the system, the laws or the Courts. The people, who come to waste their time and testify, are just a bunch of malcontents who are unhappy with the results of their divorces, the amount of the support payment, or the terms of visitation or some other outrageous claim. Everyone knows that half of the participants in any lawsuit are going to be dissatisfied with the results. All you have to do is listen, show concern, by sympathetic and polite. Do you have a moral and legal obligation to do more for the parents and children? A citizen requesting information from the State Police, Attorney General, the Family Court, Child Support Enforcement, or any other agency is not difficult, it is impossible. For you as a group to do your job, you should be able to gather and analyze the facts of all elements of the systems. If you are to have insight into its operation, it’s functions and its goals. Is the Family Court meeting the intent of laws under which they operate. Our law is not Moses carrying a couple of tablets of stone from the mountain. We were stuck with the doctrine of separate but equal for over fifty years. The law changed. We were blessed with one of the finest attorneys the State every produced. We did not honor Mr. Redding until after his death. I hope that we do not have to wait for another attorney of his statue to appear to correct the failings of the Family Court. I have nothing to gain by my participation in the meetings of the Family Law Commission. I have been married to the same domestic partner for fifty-three years. My concerns are about fairness and justice for both parents and their children. If you have read the Family Law sections of the Delaware Code, you will find the same words used often, and frequently. Those words are equal, and equality. They are words and thoughts expressed in the Fourteenth Amendment to our Constitution. These ideas are diminished by the way Family Law is practiced in Delaware. The proof is visible for everyone to see. The proof is that results are predicable. More than 90% of the women are awarded custody and child support. I have yet to find any scientific evidence that maternity is a precursor or predictor of parenting skills. In charges of domestic violence, the male is always removed from the residence, even if it is the man who calls 911. The government and its officials have great difficulty in examining events of the past. Any fault found is reviewed as a criticism of their failures or a criticism of their participation. There exists an “institutional resistance to thinking seriously about problems of the Family Court. The Commission is like the heroine, Pollyanna, in the novel of Eleanor Porter, overly optimistic about the results produced by Family Court.”

The Chair, Senator Sorenson, called up the next speaker –**Abrams Reynolds**

- 8 “Excuse me for being a little nervous, but this is my first time being here. I worked for the prisons for over 20 years and I left there, and I am still paying child support. I paid for two children (am having trouble understanding here). In Wilmington I was stopped, and I couldn’t show my license, because I am \$3,800 in arrears for child support. I go to Archives and find documents that state that I overpaid my wife \$8,000, and the reason for that was because in 1995 she did not comply with an order that said she was supposed to report her income while I was still paying

this money extra, and the judge states that here my money should be adjusted. That never happened, so I took this to the judge, and I present these documents to him, and for some reason I was threatened to be incarcerated. They are going to incarcerate me, I am paying my child support, I am working to settle my life, I need to pay \$3,800, and it is going to cost the State \$32,000 to incarcerate me. Something is wrong with that picture too. They take my license – I lose my job (unintelligible) I got another job closer to home, and I went from here to Wilmington. Can you imagine that? Social Services, now that I had my license, I could drive around to see my clients. Now I say fair is fair. I asked the Judge if the law applied to her as well as it applied to me? If it had been me that owed her \$8,000, they would be at my door knocking my door down, but it is not their case no more. I say fair play, because gentlemen the law should apply to her as well as to me. Now I brought this to the judge's attention, and I got threatened. Now I overpaid her over \$8,000. I didn't even want the money back, but now I do because it is fair play. If you are going to charge me, and I am going to do my part (unintelligible) are you going to honor it because she is a female? She is still a female and I am a man. That's justice – I need justice here. It makes me feel uncomfortable with the courts. I am scared to go to the courts. Every time I go there it is the same ole stuff – threatened to be incarcerated. It would charge the State or taxpayers \$32,000 to incarcerate me for that \$3,800 or any other man in that case in the same situation that I am in. When you suspend a man's license, you take away – what can a man do without his transportation? (Unintelligible again) They put people in jail. I worked there for 20 years. This sounds like collaboration or something, but it has got to stop somehow. There has to be some kind of solution that you could do you know to do a better job than to take a man's license, and then not to have the judge hear you case and threaten you – the judge threaten the man – threaten his livelihood. All is ask is fair play. If I take this back, they are going to put me in jail because I am black, and they are wrong. I am a man, and I pay taxes, and I take care of my kids, and I am taking care of others right now. Do us a favor – fair play. Thank you.”

The Chair, Senator Sorenson, called upon our next speaker – **Raetta McCall**.

9. “Good evening. My name is **Raetta McCall**, and I am with Delaware Court Reform Initiative... The meaning of the word divorce should read ‘20 years to live in Family Court with no possibility of parole’. My first time testifying before this Commission was in 2001. Every hearing since, I have connected with mothers and fathers all across this State that have genuine concerns for themselves and their children's welfare. If you do not see the familiar faces of those who have come before you in past years, it is not that their cases were resolved. It is because after 3, 5, and even 10 years they are in need of attorneys and their attorney has told them they will not represent them if they advocate for positive reform of Family Court. One could ask why attorneys do not want change in Family Court, and I can offer several possibilities, but will entertain one. As it stands, Family Court with its delays in scheduling, postponements, administration mistakes and more deposit money right into the hands of the Family Law attorneys. Litigants are exchanging children's college funds, food for the table, and a home to live in for attorney fees. Litigants caught in the revolving door of Family Court are paying for their attorney's huge beautiful house (while divorce creates poverty for parents and children). They pay for expensive cars (while some single parents can barely afford a clunker and gas to get to work); they have lavish boats (while litigants are sinking into depression, aggression against former spouses, and financial ruin). Attorneys create the first delay by not

filing for court dates until they have already fleeced their clients for the big bucks. Then they just allow the court to continue putting money into their pockets through the court's inability to clear the clogged system. You, as the Family Law Commission seem very content with yourselves even though in the 23 years of your existence you have contributed very little to this State and to litigants traveling through the Twilight Zone known as Family Court. People who have attended this public hearing in the past, including myself, have cynical discontent and do not believe you will act as a change agent in any way. You are on this Family Law Commission, because back in 1983 Katharine Jester (then Representative Jester) introduced House Bill 699. I believe the spirit of what Mrs. Jester wanted was to assist Family Court in becoming more of a healing instrument for families broken and devastated by divorce. Instead, Family Court has and continues to destroy families and you accept that with your acceptance of the status quo. In tribute to a litigant and his children still in custody limbo after 3 years, I would like to again give credence to what can be the general battle cry for all Family Court litigants. I quote from you 2006 public hearing –*Family Court has done more to hurt my children than my ex-spouse than I ever could.* I attended a conference sponsored by the Family Court in 2006, and the theme was ‘*Though the Eyes of the Child.*’ The conference focused on issues and concerns of children in the foster care system. However, I would like to see the theme carried through the Family Court arena, since children suffer horrendously in every aspect of divorce. Nine months waiting for a custody hearing is a lifetime to children and many hearings and decisions can take years. Their entire childhood is destroyed. I have brought concerns before this Commission asking you to work diligently to assist Family Court begin initiatives that could possibly allow litigants of divorce to proceed through the maze and horrors of custody, child support, visitation, and property settlement with much less time, difficulty, and pain. Litigants spend their life in emotional, physical and financial chaos that need not happen, and most never recover from a journey through Family Court. Yes, it truly does get old having to repeat myself over and over at each of these yearly meetings, were in the end your commission will do a ‘look see’ and report to all those who have attended this meeting tonight about the ‘status quo’, meaning how the issues and concerns regarding Family Court are handled ‘presently’. This Commission does not take the next step to support initiatives that would promote positive change for the good of every litigant. One initiative would be to open Family Court one night a week in each county. Another initiative would be Contempt of Court Hearings. They could assign a Commissioner in each county to hear cases of contempt as a priority. When litigants do not agree with Judicial decisions on custody, property, or visitation, many decisions are ignored making it emotionally, physically, or financially difficult for the other litigants involved. Those contempt charges are rarely heard the behavior is repeated time and time again... I would like to see the Commission review *The Best Interest of the Children Statute* that presently does not include a protection clause for children. The statute as it stands is all in favor of parents, but the children have no protection when one parent refuses to agree to a doctor for the child, schooling for the child, social interests for the child, and I could go on and on. One aspect that affects children of divorce is the ability to learn to socialize. Children are carted back and forth so many times in one week to oblige the neutral gender issue of parenting that the child does not have the time to make and interact with people of their own age. What a devastating toll will this have on these children as they mature. Why are litigants coming to these public hearings and having to ask for resolution to the same issues discussed in 1985, 1999, and 2004? Many come not only with the problems, but also with possible solutions. Time is our scarcest resource. Over the past 4 one-half years, I have attended most of your monthly meetings. I would like to suggest for you to use

these meetings more effectively, rather than just sit and have presentations from court judges and heads of ancillary agencies, this Commission needs to put on the gloves and goggles, and get down in the dirt. Thank you. There is an anonymous survey that I would ask everyone to fill out. and give back to me before you leave tonight. Thank you.”

Chair of the Commission, Senator Sorenson, called upon the next speaker **Desiree Berry**.

- 10 “My name is **Desiree Berry**. I am here on behalf of being treated unjustly in Family Court with my son (hard to understand) There was a family feud and I had a family member that worked in New Castle with Child Support. There was a divorce and it was wrong and there were allegations made on my son. This boy was taken from Family Court before he was even adjudicated – which is the judication so from 2001 – 2004 – which he still was going through the different changes with the Family Court. This boy was taken from Family Court, and he was told he could not go to church for three months, he could not go to school for three months, he could not even get a haircut. You see that on his forehead, that is alopecia (sp.) that is from nerves. He was not allowed to go to family members funerals – he was segregated from his own age groups. He sat on the sofa for two years watching television while the court system played a game – in and out and continuation, and continuation, and continuation. I had to get an attorney. I had to go to Family Court and along with that I had to pay \$1.00 for each transcript that I got of my son’s court order. My lawyer told me to take a guilty plea. When I found out I went to Family Court and brought this court order on which this guilty plea was based on, I went down to withdraw the guilty plea. Then the attorney came back and said well if you are going to withdraw the guilty plea I am no longer going to support you, and you need to find another attorney just when my son was being sentenced. At the time of his sentencing everyone that was aware of his case was removed from his case. Everyone that was there to defend my son was taken off to court. He even had a (unintelligible) evaluation done – twice – within six months time. The first time it was in favor of him – the second time it was with someone who was from the state, which I won’t call the name, but I could say the name (unintelligible through here). They said he had serious problem and there was something wrong with him. Along with that I can name another child’s court order. His charges – they came from me to appear in Family Court with my son – whom I am not going to call the child’s name, but he had sexual harassment, children endanger, offensive touching, along with unlawful sexual intercourse, attempted unlawful intercourse – those were the charges. I go to the court, and they tell me I was mistaken. I do not even know why my son was adjudicated. Nobody would tell me, I was violated, I was treated unjustly, and I could not even get my son’s files from the school. When I go to his school he got rape second degree, and the court order that I was taken over to Family Court – a police officer – a arresting office called me they violated him – they took him down to Stevenson while J.P. court was open. They came back the next day and the state prosecutor was standing there and he said do not pay a fine. All I want is justice. This is my third time submitting this to Legislative Hall. There was even an illegal P.F.A. that was done. One other thing – does he look like he should be on the Short bus going to ILC? They paid (unintelligible) him to sit in ILC class.”

The Chair, Senator Sorenson, called upon the next speaker, **Michele Spence**.

11. “Hi, my name is **Michelle Spence**. Federal Law requires the Division of Child Support to provide a uniform level of service to be federally funded. We are to have honest and efficient public administration and the administration of justice. We all know what needs to be done; first being an overhaul of the administration. Caseworkers need to be more efficient and timely with their cases. All Family Court issues need to be addressed on one date instead of separate petitions. All court records need to be consolidated from all counties. These same issues have been issues from the past years, and they are still issues. I feel it is time for accountability. On May 3, 2001, a month after being awarded placement of children, a Judge vacated a custody order with a hand written letter which the absent parent took to remove the children from school without our knowledge, and against the children’s will. If not for school calling us, we would not have had any idea why the children did not come from school. This same absent parent whose rights were given away due to not appearing in court 4 times. She was charged with domestic violence against the children, and then two months later was awarded custody by a judge. It took us a year to get that back in court where we were awarded custody at the children’s request. I don’t call this an error in judgment but unjust, and endangering the welfare of a child. Also, this same absent parent filed petition after petition, upsetting the lives of the children and our family, and then failed to appear for over half of them. I call this Contempt of Court. Child Support, the reason for it all! By keeping ongoing court petitions is a way to play the system. This leaves loopholes and room for excuses from the administration. One of their responsibilities is to locate the absent parent. I was notified ten months after Opetitioning for child support that the absent parent can’t be located. Address given is invalid. The absent parent in question here is an employee of the State of Delaware. Our government says we are to have honest and efficient public administration and the administration of justice. I call this obstruction of justice and I think there is loss of accountability here. That is all I have to say.”

The Chair, Senator Sorenson, recognized our next speaker, **Theresa Williams**.

12. “My name is **Theresa Williams**. I am a little unprepared. I just read the article today, and I consider my case to be just a little unique here this evening. I have 5 children, 3 of which are in D.F.S.’s custody. Their ages are 3, 4, and 9 – one a little girl who has been since being in the state’s custody has been in the presence of a child sex offender - my 9year old has been arrested in school for throwing tissue at a teacher, and this is in the Camden School District. I am a stable parent, and in the case of trying to rectify things with the father, or trying to work things out with the father – the state does not want that, and I feel they are holding my children as pawns. A couple of the issues that brought my children into care are that in November 2005 was that I was in the hospital, and my electric and my heat was turned off at the time. There also was a PFA between myself and the father, and the father is who I left the children in the care of at that time. Within the week of November 4th of 2005 my electric was back on – my heat situation was not rectified until February 2006. I was asked to go to parenting classes which were completed in May 2006. My parents are in the State of New Jersey, and I have a couple of questions I would like to know for anyone outside of the state unable to get to the state for health reasons and work schedules how they may go about requesting custody of your grandchildren. The CASA worker has not done her job. I had to investigate myself to look into the history of the three families that my children are placed in three separate foster homes. By the way, I am an employee of the State of Delaware also. A suggestion was made for me to go into a shelter. The questions that I have – a proceeding took place on October 24, 2006, without my appointed

counsel being present, and I am curious to know how that can be done. For problems, I would like names at a Federal level that I may be able to complain to. On the 9th, I received a phone call from the DFS office asking me to sign for an IEP for my four-year-old child, and I was supposed to be (unintelligible) the Smyrna School District. I live here – downtown Dover. I was supposed to be informed of the testing, before it took place, and I was never informed, and now I am being asked to sign an IEP, so I guess the bottom line, my questions are- besides the questions that I have asked – where is the accountability? These are not so much for myself or their Dad, but for my children. They have older siblings, and all we want to do is become a family like we were. Thank you for your time.”

The Chair, Senator Sorenson then called upon **Louisa Johnson**.

13 “Good evening members of the Family Law Commission, Common Cause members, Ladies and Gentlemen. My name is **Patricia** and on behalf of Louisa Johnson and myself, we have many concerns of the ethical behavior of the child custody evaluator. Louisa would like to share what she thinks is a valuable solution to this problem, and has provided a handout which I can distribute to you. In addition, I would like to reiterate a fee schedule for a Court Evaluator needs to be in place. A statement of account for fees paid for types of services, and the types of services received from the Court Evaluator has been requested for four years. Not until the matter came up in court this past October was a statement received and then only a partial statement at that. Once contacted by the opposing lawyer, the court evaluator rewrote his original statement to the judge refuting his original request for payment causing the facts to appear untruthful. As a result the judge denied the case. An accountant was then asked to review the statement and found several discrepancies which were then presented to the court evaluator in late November or early December of 2006. Upon this confrontation, the court evaluator then changed his information, however not to the judge only to the lawyers. While the court evaluator has agreed to reimburse the funds during the week of December 21, to date, this reimbursement has not been received. As a court evaluator is a representative of the State, it would be wise for the court evaluator to not only have their services evaluated and reviewed by the State, but also their accounting methods. Thank you for your time.”

The Chair, Senator Sorenson, then called upon **Cynthia Smith**.

14. “Good evening members of the commission. My name is **Cynthia Smith**. These are some of the issues that I would like to address with you. This I think is my third time in front of you. One of my concerns is the timeline. They should be compelled to make rulings in a timely manner – 30, 60, or 90 days – they should not be allowed to put things off until the ancillary hearings, at which the issues are moot and were never addressed, and no one is subject to any sanctions and irreparable harm has been done. For example, my ex-husband failed to comply with standard visitation, by the time the custody hearing was held I was separated from my children a year and one-half. And he has successfully alienated them from me, permanently damaging the natural mother and daughter bond. After my ex-husband changed locks with no court order and barred me from the marital home, I was not able to get back in there until he moved to another residence, and by the time I moved back in personal property was missing; the home was left in disarray, and the house was in foreclosure. Because the judge refused to rule on any of the issues including the delinquent mortgage, I ended up losing our home and having my credit record

damaged. My ex-husband failed to comply with the temporary order for support – I have been married for 20 years to this man. There were numerous other financial issues, and it is now a year and a half since my divorce is final. He has never complied with many of the orders, and he never was sanctioned – not one time. One thing of my concern is the rampart perjury. The previous Attorney General apparently felt that it is widespread and common and there is nothing he can do to stop it. They need to take a certain percentage that they can pick at random and investigate the financial document for perjury and make an example out of the party by prosecuting although it would take a great deal of resources of the Attorney General office to prosecute every perjury if people knew that they risk the chance of prosecution and punishment it would have an effect of reducing the perjury. It was discussed as one of the key issues at the last meeting about Contempt Commissioner. The only result of that discussion was that the Attorney General said that it was a good idea. They need to follow-up and see if it is practical. Next is Judicial Accountability. Delaware needs a commission of Judicial Accountability made up of people not beholden to people in the judicial community. My suggestion is that it should be set-up similar to the Civilian Review Board that investigates police conduct. One of my concerns is that I am a stay-at-home mom for 16 years. I was blocked off from having any access to my children’s school records. I represent my children’s school district as Parent Advisory Counsel in the Department of Education. I have no contact with my children – I cannot even make a phone call for a year and one-half. I never celebrate Christmas with them – no birthdays, no Mother’s Day, and no vacation (unintelligible). Who gets the custody? My ex-husband deliberately undermined my community organization which some of my organization depend on the family of which I help them get. One of my recommendations to the Family Law Commission is that I think we should have a Family Law testimony study about the disparity treatment in Family Court. Maybe we could spend a little bit money to actually look into the issues that we are raising right now. It is so hard for us to come forward to you guys, because there is such a great deal of retaliation in the way that some people can hear me and that can be shared. I experience as part of the judge’s staff meeting when his ex-lawyer was part of that. I was asked to leave and that undermines my community effort by helping the community in Delaware. I do give a lot to Delaware. I want my kids. Thank you for this”

The Chair, Senator Sorenson, called the next speaker to the podium, **Michael Dore**.

15, “Good evening folks, the panel, and the Chairman. I just want to agree with the previous speaker Louisa Johnson regarding the lawyers sometimes, who rub each other backs, and they have a marriage by injustice. That actually happens. Having a better system in that regard I think is very important. There are just three points that I want to make. You know the Family Court when you bring in an appeal from the Family Court you go to the Supreme Court. When you make your appeal to the Supreme Court, often times you may be appealing an issue that you didn’t like relative to the Office of the Child Advocate. Now the Office of the Child Advocate is a subordinate agency under the Supreme Court. There is an inherent conflict of interest in this. I think Myron Steele spoke publicly about that possible conflict of interest – deciding cases of an agency that is under them. (Representative Pam Maier answered Mr. Dore, but it cannot be heard.) The office of the Disciplinary Counsel and the Office of the Child Advocate are branches of the Delaware Supreme Court. I know that for a fact. You can go to their website, and you will find that out. Anyway let’s move on, because I have other things I want to talk about. So, there is a conflict of interest there, but if I am wrong then there is no conflict of

interest, but if I am right then there is a conflict of interest. Now, there is also in the pack that I have given to the panel Title 16 of the Delaware Code and particularly section 907 deals with the issue of temporary emergency protective custody. What we are seeing happening with this statute – there is a penalty for violating this statute. That is at the end of this, 914, whatever it is – 15 days in jail - \$1,000 fine, and who do you think is going to be violating this statute? State officials are going to be violating this statute, correct? They are the only ones with authority to be do this. So how do you hold them accountable? So, if it is a rogue cop who has a friend and she is a woman, and she is a woman, let’s say, and she has some prejudice against the ex-husband. Okay – she goes and snatches the kids out of school – doesn’t bring D.F.S. involvement into it. What is the penalty? What do you do? The judge can’t do anything to the person. The judge can hear the evidence and say – oh, it happened! The judge has no responsibility to take authority to fix that problem. How do you fix that? It is not the judge’s problem. The last thing I want to talk about, and by the way I want to commend the Commission by the way – you folks were appointed, and you accepted this appointment – you are a distinguished body – I just want to commend you for accepting this appointment and for being here and listening to this. It is hard to listen to this – I know it is very hard, so I sympathize for some of the comments that I made to you. You are great listeners – I have been watching you. The last thing I want to talk about is the Guardian Ad Litem statute which was established in 1999 – which is Title 13-A – I think it is. The Guardian Ad Litem statute is really designed for dependants, neglect hearings, abuse issues, but what we are seeing happening here now is the Guardian Ad Litem attorney being placed in to custody battles – bitter custody battles. There is no where in the statute that says that should be the case, and I think because it is not there – does it mean that you are prohibited from doing it? So, a judge may think he has the authority to appoint a Guardian Ad Litem in a custody case, because of the absence or prohibition. It really talks about dependants, neglect, and abuse. I really think maybe that statute might need to be reviewed on the issue of custody, mandatory imediation, penalties for the parents if they don’t comply, so I think that would be a way to get around it. The last thing is that there probably **16**some legislation regarding the drafting of stipulations and agreements, especially when it comes to pro sé litigants. Before they sign that agreement, they should know what they are signing, and when a lawyer doctors one up and forces the person to sign it, and they got no guidance, I think there should be some regulations on that, so that are my comment s. Thank you.

The Chair, Senator Sorenson, called upon the next speaker, **Karen Hartly-Nagle**.

16“Good evening. My name is **Karen Hartly-Nagle**. This evening I am not going to touch on my case very much. I would like to address a couple of issues. One is Michael Dore and I have filed a case in Chancery Court wrongly, it should have been filed in the Supreme Court to open the Family Court. We have put that off for awhile because we would like to see the General Assembly to get educated on why open-court is important – why it works and then possibly in a while, but hopefully in the meantime we can have the General Assembly draft legislation that addresses the issues, that the advocates can live with and also the General Assembly and the courts. We would like to see that happen. One of the good things that recently came out of an open-court hearing - I did have one – and members of Common Cause were able to come in and view and some members of the press that really opened the eyes for people viewing , as well as the court itself improve, and how did that happen? Well it happened when a judge raised his

voice vigorously to me – I guess you could say yelling at me for making a statement. That statement, the statement that he made, was not on the court record. Well, the member of Common Cause being in there, were able to hear his statement. So, we discussed it over lunch. Later in the day, the judge referred back to the anger that he had expressed towards me and why he had expressed it, and that was still in there, so we were able to see that it was referred to earlier, but it was deleted from the record. This is important because it was an appeal. I had wanted an appeal, a reverse of remand back to Family Court, and therefore anything that was not on that record – on that audio recording could not be transcribed. This is important in an appeal, because whatever it not in the transcript when it goes back to the Supreme Court can't be argued. I couldn't argue that issue, but this was very important to my case. Now Myron Steele recently had, and this was Tuesday, November 14th, he made remarks at the 2006 Budget Hearings for the Delaware Judiciary, and he did address this one issue and 'he writes that another significant item that is considered an enhancement is a request for an electronic court reporters in Family Court'. These positions would enhance security in Family Court by providing judicial assistance to focus on court security by eliminating the responsibilities associated with maintaining the court record. He further goes on, I am skipping just a little, *the inadequacy of the recording mechanism in Family Court courtrooms* which we did see. It wasn't just, you know you could say, was the eliminating of those comments from the court, well I don't know you could absolutely say that. It could be a flaw in the court recording system, because it was happening in other cases, and in different spots in other cases that were not necessarily significant, so in all fairness, it seems to be a flawed system that was in place. The judge further said '*which can be cured only by considering new methods for proceedings in Family Court. This is an issue that we bring to the table for the 2008 budget out of necessity, because of factors outside of our control which have highlighted this important need.* Well, it did highlight it. Common Cause, myself, and others brought this out publicly and the News Journal did a series of articles on it. And it brought it out. This is one way that an open-court was a positive – it enhanced the process and it enhanced the level of service that the taxpayer will get for their money. Open-court is necessary. It allows the citizens to go in and make sure their tax dollars are being best used, and by bringing it out through the press. This is important. I heard something today. I heard it on the radio on WDEL Wayne Smith made a comment, and this is about the John Atkin's case. and it was if they were going to be holding an Ethics Review Board or commission and he said yes they are. The interviewer asked would you have done this if it hadn't come out in the press and he said no. But for us by bringing it out in the press it tells us that the only way we are going to get change is by bringing it out in the press, please don't – anybody that is going through the Family Court process –retaliate against those people for trying to make the system better. The other issue that I just want to mention is the other section that Myron Steele did mention also at that meeting – he said – we are concerned about the conflict of interest or the inherent conflict that results when as judicial branch serving as the organizational budgetary of advocacies agencies, such as the Child Advocate, however they have expresses a strong preference for remaining in the Judicial branch. This is very concerning to me because my case was before the Supreme Court. It was targeting the Office of the Child Advocate for reform and yet they were able to apparently have influence with the Chief Justice. I do believe that it is an inherent conflict of interest, and I believe that they should not be under them. I will agree with Myron Steele, and I commend him for bringing this to everyone's attention. and I ask you to give him your support, because he is only one man, and together we can make a difference and change this. Thank you."

The Chair, Senator Sorenson, called up the next speaker, **Jennifer August**.

17. “I want to thank you again for opening and hosting this forum to allow people to see how we can all together help improve the system here. I hear a lot of people talking about their cases, their results. My only mission here is to help the children in Delaware, specifically my three kids, and the kids that I am in contact with. I think as a system the Family Court should – it is unfortunate that the children end up in the court fall through the cracks, and a lot of times people who otherwise could help do not. I think we owe it to the children who end up in Family Court to cradle them as much as possible by giving them swift decisions and enforcing orders. I have specific recommendations for the Commission. I hope I won’t run short of time. I was wrong last year when I congratulated the Judiciary on their winning Top Judiciary In The Judiciary in the Nation. I said it was for two years in a row – it is five years in a row and hopefully six coming up again in March. Clearly, we have set the pace for the nation; however there is a situation in terms of parents who are supporting their children through DCSE. I guess as a naïve optimist I can only believe that the public is not aware that 52% of support order through DCSE – which is the Child Support Police, goes unpaid, and DCSE collects for 60,000 cases in this state. Currently, 35% of Delaware children are on Medicaid. To qualify for Medicaid you have to be a family of four that earns \$20,000 or less. My question is how many people qualify for Medicaid, or get referred for Medicaid because the obligating parent is not supporting them? We’ve left obviously too many loopholes, and there is virtuously no legislation for children. I would like to see the Commission focus on the Family laws: trying to gain parity with other civil and criminal courts. I would like the bar for criminal support lowered; I would not like to have the wage attachment not to take six weeks. A mom or dad who has children can’t wait six weeks. If the parent is out-of-state, and you find them and get a wage attachment, your note from DCSE says *wait for six months*. for that to come into effect. I would like the court so spend more time trying to separate out in terms of child support obligors who don’t pay, that can’t pay, from the won’t pay. If someone is found in contempt, it is possible for them to be found in contempt. Whether or not they asked for it, they’re given a six or eight month plan to comply. They can come into court and say *I don’t see how I could possibly do that! I am feeling depressed. If you wouldn’t bring me in here every so often, I could support my children!* They are still put on the track of *‘gee we really mean it this time, we really hope you are going to do the right thing*. What are the moms, the kids, the dads supposed to do for those six or 8 months it takes to get back in there? There are no remedies for the person who doesn’t. They can keep their licenses, they can continue to practice, they can move without consequence. Kids lose their activities, their friends, their homes, their private schools if they were going there. Now in the criminal scenario is that a parent can have a drink or two, and they’re driving wrongfully and lose their license, and if they are drinking and driving with a kid in the car, they lose their kids. They can grab a parent’s arm and lose their kid, but someone can keep not supporting their children and running their family into the ground year after year, there is no remedy for the court, because it takes too long to get back, so anyone that has been found in contempt, I would like their case to be reviewed within one month and a ruling from the bench. It doesn’t have to be a three hour hearing – it could be a fifteen minute hearing, because we know what they are trying to do and if at that same hearing DCSE has a game they play where if we take their license this is an administrative decision. That should be a court decision at that one-month review. If you don’t pay, you don’t have your license. If you don’t have your license, you can’t see your kids

which hopefully you won't do and are doing. Thank you. I have a document which I would like to submit to you."

The Chair, Senator Sorenson, called upon the next speaker, **Charles Listy**.

18. My name is **Charles Listy** and my name should be on the list. I called in. I have never been here before. It is interesting. I'm hearing that what most people want is a little bit of fairness and a little bit of accountability. I personally don't have a case with the court and thought I could see things a little more objectively, but unfortunately my grandchildren, or some of them, are part of that system. I believe when two people have children they are responsible to raise and support them, not the state. If the parents separate, they should do all they can to raise and support their children without interference from the state. However, when they can't agree, most everyone I know ends up with an order from Family Court, outlining who will be the custodial parent, how and when the non-custodial parent will visit with the child, and how much they must pay for support. I suppose in some cases this is necessary. It seems to me when the mother takes the father to court, it is presumed that she is dragging him to court because he does not want to pay. That is not always the case. I do not believe we should tolerate father's who will not support their children financially. I think the State has come a long way in solving that problem, although I am hearing differently now, but I thought if they worked within Delaware that Child Support Enforcements right along just from talking with people at work, I don't believe we should tolerate children being abused for one minute. It seems pretty easy to get a PFA today, a protection from abuse order. We have made, I thought, great strides in dealing with deadbeat dads however all dads are not deadbeat dads. I am not here to put down Family Court, but to speak on behalf of good fathers, who want to support their children, want to be active in their lives, and want to have equal visitation. I am speaking with one particular case in mind, but there are many like him. He did not want a divorce, nor did he want Family Court to dictate how and when he could see his children. I have several points – **Point 1** would be Joint Custody. When we started with Family Court, we got on the website and read the things. Automatically, they have Joint Custody. Parents automatically have joint custody – that doesn't sound so bad, but what does that mean? It turns out the mother is the resident parent. The court, by and large, seems to always come down on the side of the mother. It is written, *'the court will not presume either parent to be the better parent based on sex.* Why then isn't a good father, who wants to be actively involved in raising his child, given 50/50 residence from the start? 50/50 residence is something you hope you will get someday down-the-road, but realistically, father will probably never get it unless the mother is a drug addict, or an extremely negligent. **Point 2 Visitation** and support are separate issues. They are not separate issues. They are closely tied together. Mother does not want the father's visitation time to expand, because she will get a lesser check according to the Melson formula. **Point 3 –Melson Formula** If this is a standard formula, it sounds like a good idea – you plug the numbers in, and it always comes out the same, but depending on your lawyer, it doesn't always come out the same. Another thing with the Melson formula is they won't leave the father, or the person paying the support penniless. They will allow him \$970 living expense. So, the father buys a house so the children can go to daddy's house. He also provides the transportation, therefore he needs a vehicle and gas. He also feeds his children when they are there. He also pays for haircuts, and buys clothes, and toys. I find \$970 to be unrealistic. The Melson formula determined in the case I am speaking of that the 4-year-old needed \$897 a month. **Point 4** Accountability. Where does this money go? Father is

responsible for 95% of the child's needs in this case, but has 0% say on how it is spent. The mother is accountable for nothing. If a father is paying support, he should be entitled to some kind of accounting of how the money is spent. **Point 5** The tax issue someone has already brought that up. He pays taxes – he is now a *single* person. He is taxed at the highest rate. Then he pays his child support, and the mother claims the child as a dependant, because that is the place of residence. Thank you.”

This is the conclusion of his presentation – Point 6 PFA'S They are a valuable tool for protection. They are too often filed against the other parent with no basis whatsoever. Just on your word, you can immediately disrupt visitation (Ex Parte), and put someone on the defense. It seems to be used as some kind of strategy to get better results when you go to modify custody, or visitation. If someone uses PFA'S as some kind of strategy, with no basis, just to win in court, there should be a serious penalty. In theory, Family Court is supposed to look out for the best interest of minor children. Too many times it seems as though the court will grant the Mother, most anything she petitions for, as though everything she requests is in the best interest of the child. Many children are missing out on time they should be spending with their father. There are many fathers who are interested and are capable of raising their minor children. The court should recognize this and grant 50/50 residency in those cases.

The Chair, Senator Sorenson, called upon the next speaker Patricia Masefelt.

19 “My name is **Patricia Westphal**.. I just changed my name last week. I would like to address this Commission about divorces and later on about PFA's. A divorce is hard enough, but when you get one that you didn't even expect, or want one is tragic. I was married for 26 years, and recently my husband ran away with another woman. I raised his children, and I had no clue. I had no clue that we were even in trouble. I loved that man dearly, and he just disappeared. Well anyway, I think divorce should be a mutual decision. I think it should be harder to get, and I also think that in the case of infidelity that if someone comes in and breaks up a marriage or even two marriages in the case that happened to me, she had a husband as well. I think that they should be held accountable, and the person who is left behind, or in this case the persons who are left behind, should be able to prosecute them, and get some sort of satisfaction for the destruction that was left behind. She and my husband went into the home of her husband, and they totally took everything that he owned. The only thing that they left behind was a bed, a dog, a plastic dish, and an old recliner while he was at work. I was a little luckier. I happen to stick close to my home, so they couldn't come in my home and do that to me. But anyway, I also believe that far as the PFA'S that everyone here is talking about – this man that I loved so dearly, and I thought I was going to die with –he put a PFA against me. I called him five times the first week that he left me, because things started going wrong with the house. Now I don't know if he sabotaged the house right before he left me or not, but it sounds like my house is falling apart, but it really isn't. The first week he left me the well plugged up; the washer because of the well plugging up, it started plugging up also. The handle on the kitchen sink fell off in my hand, the shower started spraying the ceiling, and we have dropped ceiling tiles on the back porch and one fell and hit me on the head. So, I used my cell phone and called his cell phone and I asked him, or tried to ask him – he didn't answer the first three times, so I left him messages –nice messages mind you– not screaming, not yelling, just *Gary could you please tell me how I can fix these things. I need your help, especially with the well*, and he didn't call me back. On the 4th and 5th

time, I did manage to get hold of him, and he ran down and put a PFA against me. He told the Judge that I abused him, because I made phone calls. He also told the Judge that I had been following him. He told the Judge that a little red Miata with a blonde in it was behind him. It wasn't me, and I tried to tell Gary how many blondes are out there – how many Miatas are out there? I said it wasn't me. I had proof of me being at several different stores purchasing several different things. I had receipts. I had also been at my mother's house. I also had been to the post office, and I also had been, believe it or not, I had been at the Wyoming Mill Pond, because that was one of the first dates that we went on. So, I was sitting there trying to reflect. So, anyway, I think that the PFA's should be harder to get, and I thought PFA's first of all were for protection from abuse, real abuse. I thought they were supposed to be for somebody that was being beaten up, stabbed, or are killed. I just think that we really need to have our laws changed, so that people that are being abused can get these, but not people who are not being abused. He went out and he got second abuse order after me after the first one expired. Now I have a record of abuse when I never did anything. The second abuse order was that he was coming this way across the railroad tracks, I was going that way. He turned and I ended up behind with a car between us. I was going to what used to be Agway where we used to get dog food. He used that. He said I was following him. He got the abuse order. Thank God it is going out on the 19th of January. He also traded the vehicle. I gave him a Lincoln Mark 8. He traded that vehicle. I don't even know what he drives, so if I happen to go some place that he was – how am I supposed to know, so I can stay away from him? Anyhow that is what I have to say, and I really would like it if you would make these things harder to get and for the reasons that you are supposed to give them. Thank you."

The Chair, Senator Sorenson, called upon the next speaker, **Deborah Fales**.

20. "My name is **Deborah Fales**, and I am a resident of Sussex County. First, I want to thank each of you tonight for letting me be here. I am here on behalf of relative care givers who spend many hours in the Family Court system. A reason that I was late tonight is because of Family Court and a decision that took from a hearing from a date of filing a petition 17 months. From the date of the hearing it was 5 months from the decision today, but by law the decisions are to be with in 30 days. In Sussex County we do not find that unless DFS is involved and has removed the children, and that is because Federal guidelines dictate to what they have to follow. In recent conference with , Joining Forces Delaware's children Judge Blatz (sp.) even talked about we do have a broken system in the Foster Care and in our Family Court system John Tuell from the Child Welfare League of America talked about 59% of our abused and neglected children end up in the juvenile justice system and then into detention. Can our children of Delaware, or Delaware, afford six months, 5 months, more than 30 days for decisions for abused, neglected, and dependant children? Can we afford for them to suffer more, and can we afford to put them into detention. I have been told that we need some judges in our county. Our judges are carrying a caseload of 167 cases, but no one seems to know for what period; whether it is 90 days, 30 days, a full year and that to me sounds odd. I also asked if there was a request for judges to be brought to Sussex County! No, it is not within the Governor's Budget guidelines. Can the children of this State wait? Can the people of Delaware wait and all the people that deal with Family Court? I, myself, it took nearly 18 months from the time of petition for abuse, neglected, and dependant children to receive a decision. That is too long – way too long. The Request for Expedited Relief – I have relative caregivers who have been waiting more than 30

days for expedited relief. There are abandoned babies there taken care of. They are not getting this within 30 days. They are not getting it within 72 to two weeks that is mandated. If the parent comes back to town, they can take the children. If the caregiver does not turn over the children according to law enforcement, it is a criminal offence under Delaware's Title X, and I have put all those references in there for you. *New issues against Standard versus Permanent Guardianship Social Reports?* Social reports are not mandated in standard guardianship, but they are in permanent guardianship. When a child is placed in a home under standard guardianship, and then guardian goes for the permanency after two years or more, why should they be paying \$500 to \$15,000 for a social report when it was not requested in the beginning? That is the court's digression., and so should the permanent unless it falls under the Child Interstate Placement Act. "They have to by Federal law have a social report. Many of these caregivers are not getting permanency after ten years, because it places undo hardship on them, because they need that money to support these children. There is an issue of permanent guardianship of court orders closed – court orders open. Our Family Court's Dependant and Negligent Children are closed courts, but yet when a permanent guardianship order there is no one form like there is on a Standard Guardianship Order. Any agency, any school – you have to show them the whole proceeding in order to prove that you have guardianship. I say that contradicts us having closed court if we have to show whole transcript of the guardianship. What business is it of theirs if they want to protect that child of what happened in the hearing and how that child came to the court system? I have submitted brief comments to you with different references. I made it short. I also want to bring up the fact that our courts are spending a lot of money now due to the Walker vs. Walker decision handed out February 9, 2006, and I think that needs to be checked on. Thank you."

The Chair, Senator Liane Sorenson, then reminded everyone in attendance, "The Family Law Commission has a website and it is www.state.de.us/flc. On it you will the schedule of our meetings for 2007. There has been one change to the schedule – April Meeting is now April 5, 2007. There is also a listing of the FLC members, and previous minutes. She stated there will be a transcript of this meeting, and a summary of the key issues that were discussed tonight, and they will be posted on the website. We will try to bring about closure on some of these issues. We have tried to bring about some changes. They don't happen overnight, and we will continue to work on the issues of recordings in Family Court, Open Court is something we will continue to work on, plus the issue of false allegations. etc. We appreciate your coming. Thank you."

Respectfully submitted,

Jean C. Ardis, Secretary of FLC