

**PUBLIC HEARING
FAMILY LAW COMMISSION
MINUTES
MARCH 26, 2009**

Senator Liane Sorenson, Chair of the Family Law Commission, opened the meeting at 7:00 p.m. on Thursday, March 26, 2009. She began her comments by welcoming everyone. Before beginning the meeting Senator Sorenson asked that although this is a Public Meeting she requested everyone to refrain from any public demonstration even though they might agree with what is being said and that they maintain the proper decorum. She then asked for all of the members of the Commission to introduce their selves and they were as follows: Lynn Kokjohn, representative from Sussex County; Peg Smith CASA for Family Court and New Castle County resident, Judge Bill Walls, of Family Court; James Morning, representative from Kent County; Curtis Bounds, attorney in New Castle County; State Senator Bruce Ennis, State Representative Michael Barbieri, Harriet Ainbinder, Child Psychologist, and Diane Metzger, family physician in the State of Delaware. We also had Senator Cathy Cloutier with us as a guest at the hearing.

Senator Sorenson said there were various handouts in the back of the room. Among them were the schedule for the Family Law Commission for 2009, a copy of the Annual Report for 2008; an information copy regarding the creation of the Commission – the Purpose of the Commission – how the members of the Commission are chosen; and the History of the Commission. *There are also Waivers in the back of the room that if you are willing to have Family Court look into your case and there is a question about what you are reporting to Family Court then you need to sign one of those waivers.*

Senator Sorenson said that she wanted to go over the Family Law Commission handout before they began the hearing. The Purpose of the Commission is to preserve the integrity of the law creating Family Court.

The Commission shall:

1. Study and evaluate the domestic relations laws of the State of Delaware
2. Study and evaluate the rules and procedures of the Family Court of the State of Delaware
3. Review existing and/or suggest new legislation affecting domestic relations law and Family Court rules and procedures
4. Disseminate information about family law to the citizens of Delaware
5. Engage in other activities as it deems appropriate in connection with the study, analysis, review and dissemination of information regarding Family Law

The following areas are ones in which we receive many comments and questions.

The Commission **MAY**:

- 1 Conduct public hearings such as tonight's meeting
- 2 Invite written comments on family law from members of the public

3. Review and comment on legislation affecting family law at our monthly meetings and go over any bills that have been introduced that would relate to family law and whether the Commission should show its support of the bill
4. Publish and disseminate information regarding family law to the public through Website <http://flc.de.gov>

The Commission **CANNOT**:

1. Engage in the practice of law
2. Give legal advice of any kind
3. Intervene directly or indirectly with any case pending in any court

She said the Commission can listen to the comments made this evening, and if someone raises some questions dealing with rules and regulations they could look at that concern, but Senator Sorenson stated that they are not able to call a Judge and ask them to intervene in a case. In the past, the Family Law Commission has written letters to the people who spoke at the Family Law Commission Hearings, but she felt they were fairly general, since they were not able to deal directly with an individual case.

Senator Sorenson stated that we are still short one member of the Commission – we still do not have a House Republican. There has been a big change in the Legislature – we have a lot of new members. We do have a new member from the House Democrats and that is Representative Michael Barbieri.

Senator Sorenson said that each speaker would have 5 minutes in which to speak. Drew Slater from the Senate will be keeping the time, and the speaker will be told when their time is up. Senator Sorenson called upon the first speaker for the evening.

1. Gordon Smith “I do appreciate this opportunity to speak. I am going to speak about my experience with the Family Court System and the Protection From Abuse Order (PFA). I come before you as someone who had an affair on my former wife for 2 years, and I deserve to be stoned and/or strung up – whatever you want to say. In my opinion, my wife saw the PFA as a means of revenge – she was hurt – she was devastated, and rightfully she should be, and I am ashamed and disgraced to stand in a public forum in having to tell you what I did. She saw this as a vile means of stopping the pain – the devastation. She took a PFA out, and it was 90% lies – 5% truths – and 5% out of context, and that is my perspective. Anyway, the PFA went forth and two weeks later she admitted to me in private that she had exaggerated. She had it dismissed or vacated. Thank God! I was very happy. Evidently, she did not get over what I had done to her when I had the affair. 3 weeks later went back and filed a PFA again. About a month later and the whole time I am sticking to what I am supposed to be doing –I am not contacting and I was abiding by everything I could think of. I was going crazy, because I have three-year-old and two-year-old sons – my baby boys. I wasn’t able to see them as I was seen as someone according to her, as being someone as being suicidal and depressed. There was no history of that. No one had ever said or alleged that I was as suicidal or homicidal, so I was on the list for supervised visitation. It took six weeks from the point this was issued. I don’t know if it was the bureaucracy – I am not trying to point a finger at anyone, but it took 6 weeks – I missed 5% of

my baby boy's life – attempting to visit in a 10' by 10' – 10' by 20' classroom setting where my facial expressions were taken note of – how I touched my baby boy and that was devastating. So anyway, another week went by, and she admitted again privately that okay I cannot get over what you did to me so she continued to do this again, but this time the advocates, the attorneys and whoever was part of the posse got together with her that day – that morning – they had her convinced and this is verbatim to what they said *your husband would go to jail because he contacted you one time*. They manipulated her. Stuff like this has got to stop. She kept the order in place, but the only difference was that that they were able to see that I wasn't suicidal – I wasn't homicidal – so I was able to visit with my boys again like I should have been in the first place. Right now I am living with a PFA. Will my wife and I ever reconcile – not with the help of the State of Delaware will that happen! That is all I have to say about that.”

“He continued by asking everyone to look at the handout that he supplied to everyone. He asked them to read the 5 points that he said legislatively needed to be addressed and changed. If I am accused of any heinous crime – be it pedophilia, rape, or assault and battery, I will have representation from the legal community who will stand and represent me. For the citizens who find themselves *accused* of abuse under the guidelines of the PFA, there is no such right. I inquired about legal aid for my PFA case with a representative of the Delaware Legal Aid office and was told that their funding is dependent upon their following the guidelines set up in which they represent the petitioner only. (Time was called.)

2. Roger Hall - “Good morning to all the members of the Commission. Judge Walls you do not have an easy job! I just want to talk about paternity fraud. I know you have all heard from me before, and I just want to share a couple of facts concerning this. Last April, I was flown out to Colorado to testify before their House of Representatives. It turns out that my testimony based on the facts of my case was compelling enough for them to change the law out there and actually allows the change per paternity and not the unconstitutional statutes that currently exist in Delaware. They placed in the statute that says *it is in the best interest of the child*. In my case it is. If there is any case that screams it is my case. They called me two weeks ago and asked ‘What is Delaware Doing?’ I replied that we are still looking at it, and they asked what is there to look at? They said that I was the one person they looked at and said gee that trying to navigate and look at a child's lifetime medical care how important this was. The Mom is reeling from this, because recently she had to take him to the emergency room and guess what they asked? They wanted to know the medical history. I just want to say that regardless of what the Code says I do not want to be responsible for this to continue on. (Senator Sorenson interrupted at this time and asked Roger to explain that for the people who might know about what he is referring to or talking about.) Paternity fraud is when someone alleges for someone to be the father of the child who may or may not be. Currently, under the present system you can kind of spin the wheel and assign paternity to anybody. In particular in my case, my wife went outside of marriage and because it is a child of the marriage; it is the presumption of the paternity when you are married to the Mom irrespective of any facts that exist. I want you to note that this would be for the intervention for *the rights of the child*, which the United States has never had the wisdom to pass and Federally states that the child should have the right to know his origins and the facts concerning his family history. The two-year statute of limitations precludes you from doing anything and in my case the Mom and I are on the same page because we do not

want to see anything happen to him and certainly can't condone dishonesty and allow a man to run around, commit adultery, and not be held accountable for it.

A month after I testified before the House of Representatives in California, I was on the radio with Dr. Norman Farrell who was the two terms National Organization of Women president. I shared with them what was going on. This broadcast was in San Francisco, and I wish it had been in Delaware. He couldn't believe that the State of Delaware would take this long to get to the conclusion of this 'in the best interest of the child', and we are still dragging on. My attorney has been there for both hearings, but we have not yet been able to come before the court where Mom and I can say 'hey – look at this there needs to be testimony of the facts brought before the court. I would encourage the Legislature to look into the 'statute of limitations'. I just want to say that being legal fatherhood without biological connection and without legal adoption, which if I had legally adopted him; I would have had medical history. I would have had about a 90% chance, and I would have had absentia decisions that to say that if I didn't have that maybe we could navigate without that. I did not have that opportunity, and Mom and being concerned about her child's handicap wants to make it right. Instead of that being a quick process allowing us to take care of this, here we are two years later. I am the guy who doesn't have the medical abilities to help and neither does Mom as a result. It is just something that when it comes to taking care of handicapped children in this country we have come a long way in being focused on people who are handicapped. We have the **American With Disabilities Act**. Is this just a piece of paper? I certainly am not coming here – I am not just coming to the 'complaint department', I hope we can just do something about this. I know when it comes to the folks who are committing fraud through a paternal relationship they should an opportunity to make a decision as to whether or not they want to continue on as support. That is a whole other thing. What I am going to submit to you that 'when it comes to the best interest of the child' there are issues such as medical information; you can be sure we need to get it right. I want to thank you all for listening to me and look forward to see if we can get this straightened out. Thank you."

3. Kevin Patrick - "Thank you for allowing us to speak this evening. I am a little nervous. I would like to bring to the attention of the Family Law Commission about the problem that I have. I haven't seen my daughter since August of 2008 due to false allegations made by my ex-wife and also by department members who happened to be in law enforcement. I am going through an extremely bitter divorce. I didn't know that my daughter was actually mine because of what my ex-wife told me on the night that she left. I had a PFA put against me for domestic violence. I never had a criminal record. I had never been accused of displaying violence or starting a fight. It has been an extremely painful situation going through the Family Court system, because I felt that I was guilty. . My ex-wife was able to hire a really good attorney. Basically, I have written letters saying that they were just lies. It pretty much paralyzes you going through the Family Court system. I feel as though that all they want is for me to give up my daughter. I have spent thousands and thousands of dollars – money I didn't have – because when my wife left me she removed all the money. My attorney – my first attorney – actually represented the law firm that represented the police department and the member of it that my ex-wife was having the affair with. My daughter is an innocent two-year-old beautiful baby that is around some pretty immoral and unethical people, and I want to get her away of this situation. I don't know if anyone of you parents here has ever had a child kidnapped both by legal and

illegal means. I don't know what to do because there is a law enforcement person involved in this situation. My case is not the only one in the area that I am from. I have met other mothers and fathers who have experienced this same situation in a hostile environment with law enforcement. I miss my daughter, and I don't have a lot of options because of the PFA on me. I have been to court 14 times. This is how it works. When my ex-wife left – the night she left – she told me she had been having an affair with a Lewis police officer, and she would make my life a living hell, which she has. The law firm that I hired had actually represented the Lewis Police Department. What I am doing here is for father's rights. What I would ask the Commission to do is to take a long look at some of the things at the (?) compliance and how it is used as a tool in custody suits. Thank you."

Senator Bruce Ennis asked the speaker, Kevin Patrick, "I know that 5 minutes is not much time to give the whole situation. Which body of the law was involved – I don't understand that – and how they were involved in the PFA?" Kevin Patrick explained, "When my ex-wife left, I didn't hear anything from her for several months, but two weeks before she left she told me she was pregnant. This was everything I had wanted – I wanted to start a family. When I came home from work that Friday there was a note saying that she was filing for divorce. She had planned this before she told me, and she had withdrawn all my financial funds before she told me, and I had nothing. I had the DNA test, and I called her several times, and I had the 36-hour pregnancy test, and it was about three weeks before Christmas, and she went into decorations. Six weeks later I was arrested, because I caused her a lot of emotional stress. Thank You."

4. Cynthia Smith – "Good Evening Members of the Family Law Commission, parents, and fellow advocates. I would like to first introduce myself; my name is Cynthia Smith, mother of three young girls. I come before you to testify about my experiences in Family Court. It has been 4 years I have not lived with my 3 daughters. In the past I had shared with the Commission some things my ex-husband did to manipulate the court by making false allegation of sexual abuse and child abuse after he announced that he was divorcing me. It took me almost 4 years to figure out how he was able to get away with it. In January 2005, my husband then brought our 12 year-old daughter to Troop 3 and alleged that I had 'touched her chest through her cloths and asked if that was real?' The Delaware State Police officer followed up by reporting to DFS. He told DFS in his report that he thought the allegation was '*BS*'. My then husband contacted the trooper again and according to the DFS report intimated '*that he might hurt 'his wife (me) if they did not get her out of the house.*' The DFS response to this was to have Domestic Violence counselors call me at our home and ask me to come to their office where they encouraged me to leave the house. I told them I would not leave without my kids, and I had no place to go. We had rentals, but they were occupied. They suggested I go to a shelter. They did not tell me specifically why; that he had 'intimated' he might hurt me, and I thought the conversation was a result of information from the sexual abuse investigation.

The Delaware State Police and DFS should pointedly inform people that making a false complaint is a crime and follow up with arrest when they see the complaint is false. DFS and DSP do not need to waste time and resources acting on false complaints. At the time we were still all living together my husband took the children to therapy. I had no knowledge of it and the children were told not to tell me. I do not know if this was something that his lawyer, who was Parent lawyer for DFS at that time. As is typical when alleging abuse, the parent making the

false allegations is usually the presenting parent, and typically, sets the time and agenda for therapy to take place. This parent often does not inform the non-custodial parent that therapy is taking place, or suggests to the therapist that they be contacted. When a child is enrolled in therapy, the therapist depends on the presenting parent to provide the presenting problem and the child's history. Unlike adults, children are generally unable to provide accurate histories, or to fully articulate any problems that they may be having. This provides a false accuser an excellent opportunity to suggest to the therapist that the other parent and/or their spouse are physically and/or sexually abusing the child. The parent says that the allegation was made by the child, but the records in these cases show that the report is typically made by the presenting parent. The therapist's intake and treatment notes will reflect a presumption that the abuse has occurred, with such treatment goals as, 'alleviate trauma of abuse', or 'facilitate child's ability to verbally express trauma.'

Such presumptions are appropriate to therapy in general, but when the anticipated use of the therapy is to make a recommendation regarding the parenting time that the child will have with the parent who is not there. In other words, it is intended to be used as evidence in court – a more objective process is required. This is the entire reason that an interviewing protocol has been developed, but it is useless if those using the protocol are going to refer the child to a person unskilled in investigative interviewing, and who will employ improper therapeutic techniques to obtain forensic evidence. My children's counselor had originally seen them when they attended the then mandatory class for Divorcing Families, Divorcing Parents, and Children. This was before we separated and before any allegations of abuse.

The National Association of Social Workers has no established protocol for forensic procedures, but it does suggest that social workers avoid dual roles and conflicts of interest. Clearly, the role of evaluator is one that calls for objective and impartial assessment. Someone who has engaged in the role of therapist for any party in a forensic process has no such objectivity. This is equally true of the child's therapist, who forms an alliance with the presenting parent. Usually the judge will usually try to err on the side of caution, suspending the target parent's visitation and allowing the alienation process to continue unimpeded. It is important to understand that parents who make these allegations have no qualms about coaching, coercing, or rewarding the child for 'correct' answers. They believe they are the true owner of the child, and whatever they must do to keep possession of their property is justified. In my case, my husband got custody and avoided child support and alimony after 20 years of marriage, which is why he really wanted custody of the kids which he had ignored for most of their lives. If the accuser's perjury is very successful, the accused goes to prison. If it is only moderately successful they are awarded supervised visitation, which essentially means they will never again spend quality time with their child. If it is minimally successful, they have in disrupting, at least temporarily, the other parent's relationship with the child, and casting aspersions, which may hang over that parent for years. If the accuser's perjury fails, they have lost nothing, and have succeeded in placing heavy financials and emotional burdens on the target parent. Moreover, they can use this tactic an indefinite number of times with no consequences. By the time of the court hearing on custody the allegations were that I hit the middle child a few months for no apparent reason one child was hit with a wooden spoon – they cooked meals, and did housework. My kids had been well behaved, and I can count on one hand the times they were hit on the butt,

and it was when they were little. I never hit them with anything but my hand, because we didn't have a wooden spoon in the house. I would like to finish later on please.”

This is the continuation of her typed comments “The children never did housework on my direction. I hired a woman to come in to clean. I cooked the meals. The most serious charge was that I had the eight-year-old clean the windows of the apt. rental, and mop the bathroom floor, and she saw a man urinate, and I was there with her. None of that was true. She was about 3 feet tall then and couldn't reach the windows. On the few occasions she was in that building she was downstairs in the office and not allowed up in upstairs where she said she cleaned the bathroom. The bathroom she talked about has a partition, and it is impossible for anyone to see someone urinating as she described, and I never had her mop a floor anywhere.

A member of the Judiciary recently commented that, *‘False Allegations of sexual abuse have become the weapon of choice for mother’s seeking to alienate their children’s fathers in custody disputes,’* well it works for fathers against mother too. In Family Court custody and visitation hearings allegations of abuse are the *‘silver bullet.’* Police and prosecutors do not gain points from exonerating the innocent, and the forensic mental health professions who work with them have made statements on public record that show they consider themselves part of the prosecution’s team. (*‘One forensic interviewer said she would not conduct an interview with a child who had been brought by the ‘perpetrator.’ Translation - ‘We know that the crime was committed, and we know the perpetrator is because the accusing parent already told us, it’s just a question of whether we can get the child to tell us.’*) This having been said, these people generally do a pretty good job of interviewing, but the more times a child is asked the same question, the more likely he or she is to give the answer he or she thinks is expected of them.

One of the biggest threats to an innocent parent is the treatment professional. Typically, they have the least training in forensic procedures of anyone involved, and their recommendations tend to carry a lot of weight with the court. If your child is being treated, insist on being involved. If someone is trying to demonize you, it is much easier to accept that portrayal if you do not know that person, or have to confront any evidence that may challenge this conception. It is the child’s therapist that may challenge this conception. If the child’s therapist does not want to include you in therapy, it is a pretty good bet that he or she has already made up their minds about you. My children’s therapist, chosen by my husband, testified that she had not made any attempt to talk to me. She had, in fact, called my home and when I answered she hung up, and I called her back from the *caller i.d.* thinking she was my husband’s new girlfriend. Mental health professionals primary concern is not to go by the notion of due process of law and constitutional guarantees of a fair and impartial hearing, or that the mental health professions role in that process is influenced as much (and usually more) by what the presenting parent has to say as it is by what the child is telling them, usually never occurs to them. One insightful judge asked a treatment professional, who was testifying in a case in which he was involved, why the mother and the child were doing treatment for a problem which had to do with the father’s relationship with the child. The obvious answer was that what was going on was not treatment at all, but an investigation. But a fair investigation also involves an attempt to obtain information from all parties involved. Treatment professions in these cases see themselves as having a responsibility to *crack the case* by getting the child to admit the abuse

that everyone knows happened. They often put enormous pressure on a child over an extended period of time to disclose, and children often cave in under such pressure.

My case is a snapshot of a well-documented pattern. Once the marriage breaks down, there are often allegations of all kinds of abuse when there had not been any such allegations before. False allegations of domestic violence and child abuse are uncommon EXCEPT in Family Court cases where 75% of these allegations are completely false driven by the accusing parents desire to gain advantage in Family Court. As I described previously, I had been emotionally and verbally abused for years in front of friends, neighbors, and my kids, and beaten up in 2001. My husband punched me, choked me, knocked me down, and kicked me with the children upstairs, which I reported at the time to the DAFB Family Advocate. I had no history of violence, but my husband had been arrested for a fight in a bar in Dover and arrested in Bowers Beach for a fight with a neighbor. It wasn't until after we separated that my husband began the false allegations against me. There is a defacto presumption of guilt in these cases. In a custody battle, false allegations are the *silver bullet* - it's a no lose proposition for the parent making the false allegations, and it damages the innocent parent with the resulting negative impacts to them on custody visitation.

There should be information sharing done in these cases, but I didn't see it. DFS sent a letter that the case had been closed, but they didn't send the court the file, which would have shown I lived in the house and the reporter perceived the allegation was *BS* to get advantage in custody and that my husband intimated that he might *hurt me* if they didn't get me out of the house. Professionals, whose behavior in these cases is unethical, should be reported to the licensing board. Forensic and treatment professionals alike need to know there will be consequences if they overstep professional boundaries. Victims cannot expect a lot of sympathy in court. Perjury and False Allegations are crimes in this state, but these laws are not enforced. Moreover, no one believes that this will happen to them, until it does. When it does, victims of false allegation display a shockingly naïve faith in the system.

Even in civil court, there is a perception that someone falsely accused of sexual abuse has suffered no real damages. In Family Court, if the charges are determined to be groundless, it's rarely seen as a reason to limit contact with the offending parent who lied against the innocent parent and often coerced or intimidated the children to lie also. This will continue until judges, prosecutors and lawmakers are forced to see this behavior as what it is: an extreme form of domestic violence; and this will not happen without some form of grass-roots movement to draw an appropriate amount of attention to the problem.

The reasonable expectation in determining the *best interest of the children* that Family Court will take into consideration the actions of one parent against another to gain advantage in custody 1) parental disaffection and 2) false allegations with or without coercions and/or intimidation of the children to support the false allegations.

In determining the best interest of a child, a court must consider all relevant factors. Attempts by one parent to destroy a child's relationship with the other parent are certainly relevant to a determination of a child's best interest. Efforts should be made by Family Court to protect children's rights beyond having the parents sign such a statement (as required). There are State

Supreme Court rulings and Appellate rulings that address this. Many courts of appeal have recognized this as good public policy. The Athens County Court of Appeals has noted that public policy favors a child

Maintaining a close and on-going relationship with both parents. *Cordon vs. Gordon* (October 19, 1987), Athens App. No. 1334, and the Pike County Court of Appeals have noted that children need to know both parents love them. *Beekman vs. Beekman* (1994), 96 Ohio App. 3d 783 – the Beekman court also observed that each parent has a duty to foster and encourage a child’s love and respect for the other parent. *Id.*

1. Parental Disaffection is Harmful to Children Attempts by one parent to drive a wedge between a child and the other parent is harmful to the best interest of the child. In *Davis*, the Ohio Supreme Court observed: When one parent begins to cut out another parent, especially one that has been fully involved in that child’s life, the best interest of the child is materially affected.

Davis supra at 419

Various courts have recognized the harms that result from parental alienation. The Athens County Court of Appeals has noted that *systematic interference* with visitation rights injures a child and deprives the child of *nurturing, support, and companionship* from the other parent. *Holm vs. Smilowitz* (1992) 83 Ohio App. 3d 757, at 777.

The Pike County Court of Appeals has commented on the extent of harm that a child may suffer when one parent attempts to alienate the child from the other parent. The Beekman Court observed: ‘It is the duty of each parent to foster and encourage the child’s love and respect for the other parent, and the failure from that duty is as harmful to the child as is the failure to provide food, clothing, or shelter. Perhaps it is more harmful, because no matter how well fed or well clothed, a child cannot be happy, if he or she feels unloved by one parent.’ *Id.*

At 789 (emphasis added to original)

Psychological and sociological literature clearly documents the specific harms that can occur when one parent has alienated a child from the other parent. See Richard A. Gardner, *The Parental Alienation Syndrome* (1192): David Popenoe, *Life Without Father* (19996)

11. Examples of this Behavior

There are many types of inappropriate behaviors meant to cause disaffection of the children. The Ohio Legislature has specifically recognized and condemned several types of parental behavior. This concept goes beyond the mere recognition and enforcement of visitation rights. Indeed, a custodial parent may allow all visitation to occur, but may actively attempt to destroy a child’s relationship with the other parent in many other ways. Ohio courts have recognized and condemned many types of alienating behavior other than mere denials of, or interference with, visitation rights, noting that a parent should not engage in behavior that increases hostility.

The Franklin County Court of Appeals has unanimously noted that a court may consider which parent is more likely to encourage the sharing of love, affection, and contact with the other parent. *Klamforth vs. Klamforth* (April 9, 1996). Franklin App. No. 95 APF 10-1396, see *Stevens vs. Stevens* (February 10, 1997) Preble App. No. CA96-07-010.

Conversely, a court may consider whether a parent has attempted to turn the child against another parent. Grant vs. Grant (July 21, 1989), Wood App. No. WD-88-29.

Specifically, a court may consider if a parent has told a child that the other parent may harm or even kill the child. 1d.

A court may consider whether a parent has demeaned another parent in the presence of a child. Holm supra; Stevens supra. A court may also consider whether a parent has encouraged a child to be disobedient and disrespectful regarding the other parent. Beekman supra. A court may also consider whether a parent has talked to a child about the litigation. Grant supra.

A court may consider whether an alienating parent has attempted to involve third parties. Grant supra. A court may also consider whether a parent or parents (that is, a child's grandparents) are also involved in alienation behavior. Beekman supra. A court may consider whether a parent has made unfounded allegations of abuse. Holm supra; Beekman supra; Barton vs. Dean (February 20, 1990), Madison App. No. CA89-08-013.

Finally, a court may consider whether there is any evidence indicating that an alienating parent will stop his behavior in the future. Stevens supra.

In conclusion, my ex-husband used and continues to use many of these tactics with no negative consequences to him. The non-custodial parent suffers greatly from false allegations and alienation. Most of all it damages the children who are denied a healthy, loving relationship with one parent when one parent pits them against the other. When one parent seeks to cut the other out of the child's life, especially one that has been very involved in the *best interest of the child* is materially affected in a very negative way.

I thank the members of the commission for giving me the opportunity again to share my personal experiences and express my dissatisfaction with how my case was handled. In doing this, I hope to pave the way for reform so that the future divorcing parents will not have to go through what I have been through. I am calling on my fellow non-custodial parents to help initiate and support the necessary reforms in the entire Family Court system. Thank you.”

5. Edward Bergold - “Hi – My ex-wife is Kathleen Amalfitano, Public Defender for the State of Delaware, and formerly of Family Court. My case has been handled by Judge Millman of Sussex County. I was divorced in September 2002. In August 2002, I was ordered standard visitation by a commissioner whose guidelines I followed. In December 2003, a State Trooper went to my mother's farm and harassed family members in order to find me. The State Trooper was off duty, in uniform and in a State Police car. The State Trooper contacted me on her personal cell phone and advised me to turn over property as written in a court order, which had not been signed by a judge as yet. I had borrowed (*hard to understand through here*) 2 days earlier. Ms. Amalfitano told me she was going to get the State Police involved. When I requested a list of personal property in Family Court that was taken from my home by Ms. Amalfitano, her family and friends, which included things that were from my deceased father, I was denied. I was told by Judge Millman that I should have changed the locks on my house, even though the house was still in her name.

In May 2005, I received a visitation order from Judge Millman, after he had spent 5 months reviewing it. He did not put the facts in the case in order, nor did he put the facts in

according to Dr. Ted Wilson, the court appointed psychologist, who had been handling the case. Dr. Wilson even said that the children had been coached by their mother before going to court. In August 2007, after continued lack of visitation, I went back to court. The judge ordered that the kids and I participate in counseling as my kids were feeling alienated from me. This was because Ms. Amalfitano for 7 years has not allowed me visitation even with the court orders, and Judge Millman has ignored enforcement of the court orders. In December 2007, I filed a complaint with the Chief Family Court Judge. No action was taken. In August 2008, Ms. Amalfitano filed for full custody. Again, my pleas were ignored. As of this time, I am a retired military officer. Ms. Amalfitano has been deployed since October of last year. I have had no contact with my children – I am not allowed to contact them. My kids live with a babysitter and among 3 other homes in Delaware and Maryland. I have no contact after 7 years, and I have no contact. Thank you.”

5. Paul Sommerset – “Hello, my name is Paul Sommerset, and I am President of Foster Parents of Sussex County. I am here on behalf of about 200 households in Sussex County, and unless there is other foster parents here, representing Foster Parents of Delaware. We really have three major concerns as foster parents that we wish to bring to you. **One** is adequately trained representatives for foster children. As it stands, any member of the department can be called into the judiciary. This has resulted in poor representation for the most precious members of our society. It is often left to the foster parent to follow up on the sometimes very complicated judicial issues. Without proper legal representation the child has little chance of receiving justice. We are asking for training for lawyers to be increased when dealing with Family Court, and also for evaluation of performance on the lawyer’s performance in the case. **Secondly**, we ask for certified bonds to deal with immigrants of unclear residential status who have been documented as U.S. citizens, minors that have been removed from care. Sussex County, as I am sure you are aware, is dealing with this more and more, and there is a tremendous amount of legal ambiguity. Foster parents are often caught between the state workers and the representatives for the parents and are receiving conflicting information. We are requesting that this ambiguity be resolved, and that these children are given some certainties in a time of considerable ambiguity in their lives. **Thirdly**, foster parents need a raise. We have not had a raise for 2001, 2002, and 2003, and as far as we can tell –more than 10 years. Our cost of living, of course, has gone up. The requirements of foster parents have increased, yet no one from the State can tell us when was the last time that foster parents were granted a higher stipend. The State says that sacrifice is part of being a foster parent, and we agree; but ethical compensation is social obligation. On a positive note, we as foster parents would like to thank the judges of Sussex County. We have found them to be fair, and we are proud of their treatment of the foster parents regardless of the foster parent’s gender, sexual orientation, economic and marital status. Finally, I would like to request accommodation for Heather Williams who has done more than a tremendous job for the past 18 months and has single handily handled more cases than anyone should be required to handle. Ms. Williams is an associate in Family Court. Thank you.”

5. Raetta McCall - “My name is Raetta McCall and I represent Delaware Court Reform Initiative, an organization that actively advocates for, promotes and supports positive change in the Family Court System. I have been attending this Commission’s annual public hearing and almost every monthly meeting since 2001. Over the years, I have watched as you invite Family Court personnel and agencies that support them, to come to your monthly meetings and present

their agenda. I have watched as you take on their values of what the experience should be like for litigants embroiled in the revolving door of Family Court. I have watched you eat up what you hear, watched as everyone gets pats on the back all around for jobs well done, and watched as you all go on your merry way until the next meeting. Family Court does not affect your lives, but litigants suffer twenty-four hours a day – seven days a week for years – sometimes their entire lives.

I continue to watch you each year at your annual public hearings where, at this time every year, litigants come here and tell you what their trip through Family Court is truly like. They live it, not one meeting at a time, but every single day. We can all see the anguish on their faces, hear the trembling or angry voices, as they tell you of the injustice, inequality, corruption, bias and incompetence they have experienced at the hands of judges, attorneys, agencies that support the system and personnel at every level. They tell of the loss of their homes, because of the outrageous attorney fees for the continuous rounds of court hearings year and year after year. Many tell you they have lost their children, because of unscrupulous custody evaluators who care only about advancing their reputation and prestige. One only has to read the *News Journal* to see how custody evaluators make wrong assumptions and sometimes children are stolen and taken far, far away. Many come here because false allegations have destroyed their reputation, their earning capacity, and their future. I watch as this commission continues to talk about issues (in a convoluted way), but never truly dives in to get their minds, spirit, or hands involved to truly make change that can turn lives around and assist families to thrive, not just survive.

Usually, at the beginning of each public hearing, the chair reads the Commission's duties and responsibilities. The duties and responsibilities are few and under-reaching. The Commission is a misnomer, because people come here hoping – no – believing they are finally being given an opportunity to have their issues/concerns regarding their Family Court experience heard. Those who come here believe that this Commission has not only the power, but also the desire to make a difference – it has neither. Many come here thinking this Commission does not know the horrors, corruption, and injustices that are experience by those who must utilize Family Court – it does. Litigants believe this Commission wants to assist Family Court become more responsive, more fair, more just; more concerned about the affect judicial decisions have on their lives - it doesn't.

When the Commission does get around to discussing the testimony given at their public hearings, they don't seem to offer the court good, solid suggestions, or solutions to the issues the public raises. A few letters have gone out, and they discuss if they should support some legislative initiatives and then they are gone until the next meeting. It is distressing that in the past several years, the Commission has not even kept up the tradition of giving a formal response to those who have taken the time to attend their public hearings. What's up with that? You have a website, use it to give the people a formal response. At least, you can do that, can you not?

Even the General Assembly recognized the public was dully concerned about the ways of Family Court. In 1999, they commissioned Phoenix Management Services of Chadds Ford, PA, to do a Family Court assessment. Phoenix Management Services was paid \$120,000 of our tax dollars for this assessment. Over the years, I have searched for a copy of the final report, but no one can seem to find it. I have been told that it was never formally brought to the floor of the

General Assembly, so it was never entered into the record. Now, that to me says there was something the public should not know about how Family Court operates and the report was destroyed. So, in reality, one might ask why I am here tonight if I find this Commission so lifeless, so useless. I am here for the people who made the effort to come here and speak up. Those who came to tell you their stories hoping against hope that telling you will make a difference going forward

I came here for YOU! To let you know there is someone who is willing to advocate for positive change. I came to ask you to join Delaware Court Reform Initiative, to add your voice, your abilities, your power to bring about positive change. You can make the difference. One voice in the night can make change. One person can stand up and speak up and make a difference. But oh, so much more could be done if you join with me and add your voice to mine. You came here tonight to let this commission know of the atrocities done to families caught in the revolving door of Family Court. You will continue to be in the system for years to come – you all know that. Let’s work for change so that a healthier, uncorrupt, just, fair, unbiased, and equal Family Court benefits the families it is supposed to help at the most difficult and horrific time in their life.

After attending this Commission’s public and monthly meetings for years, I found the only way to advocate for positive change was to do so with the judiciary themselves. In 2008, as I was giving testimony during the Joint Finance Committee public hearings, I encouraged the judiciary to organize a task force for the specific purpose of hearing directly from the litigants utilizing Family Court. The suggestion was taken and the *Delaware Courts – Fairness for All Task Force* was created and began holding public hearings in February of this year. And, as a matter of fact, they are holding a public hearing in Wilmington tonight while we speak, and maybe that is why this hall, which is usually packed, has so little people here. What a shame for the conflicting meetings, as I am sure many would have like to attend both meetings. Fortunately, the task force is holding other hearings, one in Kent County, and one in Sussex County. See me after this meeting, and I will give you the dates, times, and locations. I encourage you to attend one of these hearings and speak up for justice and positive change. Together we can make a difference for ourselves and those who have not yet had heard the horrendous words – ‘*I want a divorce and I am taking my children – I want a PFA*’ and often times the unbearable journey through Family Court will not happen. Thank you.”

7. Steve Zenorini – “My name is Steve Zenorini and I live in New Castle County. Thank you for having this hearing tonight and allowing me this opportunity to speak. I am a grandfather and a member of the ‘Grandfathers United Group,’ and as you all know we are a support group for grandparents raising grandchildren. I am just a member. My wife and I have raised our two grandchildren for the first 6 years of life. Olivia, our granddaughter is now 13, and Brandon, our grandson, is now 11. We received full custody back in 1999 due to our daughter being *blackballed* back in 1999. In 2005, my daughter decided that she wanted the children back. After three custody court hearings and spending \$10,000 to \$15,000 in attorneys’ and court costs, and filings, she was granted sole custody. Basically, we were told by the court that grandparents do not have rights in Family Court. We were given visitation, and we have had visitation with our grandchildren for the past 3 years – every other weekend – and once every Wednesday. No holidays, so we don’t celebrate Christmas with them nor any other holiday. It

seems as though we have no rights in Family Court as grandparents. But now, for the last 6 months, for some reason, Mom is filing a different PFA against my wife and I as she is trying to terminate visitation by saying we are filling their heads with abusive information. The children when they visit with us, they have told us they are getting more abuse in the household numerous times. We have since gone to a seminar in Family Court for guardianship, and my wife and I are really considering going to court and filing for Guardianship for our grandchildren, but my concern now is how the court views guardianship and custody. What Jody Huber from Family Court explained to me was that basically you will have to determine that the burden of proof will have to depend upon you concerning neglect and abuse in the household and that is very hard for a grandparent to do, especially when you have no rights to go into the schools, such as going to talk to one of their teachers, or the counselors at school, so I would ask the Commission to look at that neglect and abuse that would show and allow us as grandparents to have more the rights at a hearing. Thank you.”

8. Kathy Davis – “ My name is Kathy Davis. I come here today before I changed my mind. I have been involved in Family Court for 10 years. My great niece who was my ward – her father abused her and handled her over willingly in order not to be investigated for child abuse. So I have had her since she was 3, and she is now 18. I have had to contend with her aggressive behavior for her entire life – being deaf and with fetal alcohol syndrome – she started abusing me in a manner in which I could not prevent. We were involved in therapy, and the psychologists at the Terry Center were involved. My advice from them was to have her arrested. So she started being arrested at the age of 9 or 10. It went on for years – no one helped me. There are no rules in place for a parent being abused. I wanted to terminate my guardianship. I was threatened by Child Mental Health that I would be charged with abandonment. She finally got some services and placement by Commissioner Brillo who told Child Mental Health that they had 30 days to get a plan in place – I don’t want to see this family in the newspaper! My life is a risk – I lived alone with her. Her immediate offenses led to ultimately to being offered a placement in Mental Health Court Diversion program. I was told that there were a lot of services being implemented if she would care to participate in this program. She did so several years ago. After she ran away from home several times and assisted herself by filing her own Family Relations petition, which was granted. She was placed in foster care with another teen-age boy, and the foster mother wanted a baby so she gave them a few condoms and they ran out and my daughter became pregnant, or my niece I should say, but I refer to her as my daughter since she was with me since she was 3. Now she wanted to come home – she was pregnant – and the foster mother wanted the baby – and she wanted to come home. I fought to get her out of the system. DFS is incestuous with Family Court. The judges make their decisions with Family Court behind closed doors, before they hear anything from the parent or the family or any other witnesses that are available to supply testimony. The Child Mental Health Diversion program put into place elements contracted that included therapy, parenting program classes as she was now going to be a mother and no further violations. She did have further assault arrests, and there were no sanctions. She did not have parenting classes, but since her Case Manager said they worked with Child, Inc., and they did not have (?) bingo for parenting classes – so, check mark no parenting classes – done – no parenting classes! They took her word that she was seeing her therapist. I have a relationship with that same therapist with the state. She was never once contacted for any information about this girl going therapy. She arrived every 3 months or so at her status review. They asked if you are going to therapy and she said yes and no one ever

checked, and are you having any anger management classes, and she said they do that at my therapy. Again, no one ever checked.

This girl moved out of my home and left the baby. I am now having a rerun of my life. The court ordered paternity testing on the father, because they wanted to excuse the fact that they had allowed a foster family impregnate someone under their watch. They ordered the paternity testing, but they did not order that the name be put on the birth certificate. I already raised my child whose disappeared parents never were found. Now I have another child with two absent parents and one of which isn't on the birth certificate. If you order the paternity testing, why not follow through and put the name on the birth certificate? In order for me to get child support, I have to jump through hoops to make this happen and something that should have been automatic in my unprofessional opinion – it should have been automatic. Foster parents are paid very well and us guardians of grandchildren, great-grandchildren, nieces, and nephews receive a pittance of PAC money \$201.00 – that's 4 boxes of diapers at Costco. Are you serious? Thank you."

9.Phyllis Witcher – “My name is Phyllis Witcher and I live in Wilmington. I recently read a book that blows the whistle on all of this. I was certified more than 10 years ago. (Could not hear her at this point) Just as a quick note I will tell you that more and more I will tell you that my reputation on divorce law is fairly well known. like I have over 250 radio and T.V. appearances the last 15 years and the highlight was when I testified before State Committees in Congress. That is just a little bit of background and publicity behind me. I want to expose the role of the organized Bar in this capacity and the thought behind it, or other professions. Listening to people tonight, I thank you all because this needs to be resolved. There are some interesting studies, and in one of them last week, which I have known forever, and these cases have been replicated several times is that the number one predictor of homicide rates in the United States are the divorce rates – nothing else. (unclear here) I mentioned this to a member of your office body in the Senate last week and to his credit he had never heard of it before. He knew the implication to the legislators to know something like that. The other one is domestic violence is because we are hearing more and more about that recently, but the one that is most helpful, but the one I think is most helpful was by Dr. Snyderman on NBC – we all know over the years – we have been told – because of the biology involved – women have lived longer than men, but married men are now living longer than married men. She said that this is being caused by hostile relationships. Now – this has got to stop (*Very unclear through here*) I think that listening to some of you people here, and coming here over the years, I have seen the unrest.

(Not able to hear well through this part as well)

I just want to say regarding the Commission that sitting Judges on this Committee should not be hearing cases. I think it would be to their credit that whenever this happens that they would excuse themselves when this happens. Thank you.”

10.Deborah Caruso. “My name is Deborah Caruso. I have several concerns regarding Family Court. First, I strongly feel that there is a lack of education and training of those involved in the Family Court system regarding childhood mental disorders. They will form an opinion of medical neglect even though a parent has spent a great deal of money on mental health treatment for the child, conducted research, attended training seminars, and searched for qualified child mental health professionals. They do not have a complete understanding of the difficulties, stress, and of course expenses involved in raising such a child. Another issue I would like to

address is the lack of an open Family Court. Social workers and other professions would not be as likely to make false statements and unsubstantiated claims, in order to gain the judge's attention, if they were under scrutiny. These same professions should also be held accountable if it is determined that they have misrepresented facts, or have lied to the court. Such behavior is not only reprehensible, but should be punishable by law.

Also, I believe it is the right of a parent, who is fighting for their child to be able to subpoena witnesses for their case without those witnesses being quashed. A person should have the right to present evidence. People's lives are being negatively impacted, sometimes permanently, by gross injustices taking place in Family Court. This is not '*In the best interest of the child.*' Thank you."

11.Herman Row – “My name is Herman Row. Good evening. I am bringing some information. If I made the statement that women are as violent as men, everyone would disagree with me. In fact, everyone in the room would disagree with me. This spring, I found a study, which is by Martin S. Fiebert. He is from the California State University, Department of Psychology in Long Beach, California. I am going to read the summary, and then I will stop. *This bibliography examines 247 scholarly investigations. 188 empirical studies and 59 reviews and/or analyses, which demonstrate that women are as physically aggressive, or more aggressive, than men in their relationships with their spouses or male partners. The aggregate sample size in the reviewed studies exceeds 240,200.* It is clear enough – the e-mail address is on the bottom. Thank you.” Mr. Row gave all the members of the Commission a copy of the document he referred to.

12.Dilemma Fay Marsh “Thank you! Family Court laws all over America need to be changed. Delaware laws do not protect ones who have to go through the system. Divorce – you can live in the same residence, and get your divorce in 6 months. Settlement can take years. I have not heard one person say that this is helpful to the ones involved especially the children. They accuse you of telling lies about their mother, father or grandparent and are told to testify and lie against the person. In some cases children are kept from a loving relative, but who also is no longer remembered by the child. Protection from Abuse seems to be taken seriously. If a spouse lies to the police, the other person will not be taken seriously even though the other person has a record. In Court – nothing will be done allowing this type of behavior to continue way after the settlement, and the accuser will continue to accuse that person of making him a victim. If that occurs, it will be said that *that it was known as an abusive situation!* Lawyers – the receptionist gets all of the information needed when you are given an appointment – she can tally how much money it will be for consultation with a lawyer. This will be anywhere from \$300 up to thousands of dollars. The computer can get information about your case – we're dealing with computers. They know beforehand if they are going to take your case. You can go to their office feeling that you are going to get a good attorney. They tell you that they are not taking your case. Yes, your money is gone. Then you have a long hard task getting another attorney. You will find a few that will take your case and \$5,000 to start and thousands of dollars more. Then you have a client who paid \$36,864 was spent for justice – mine. This is what I have spent. This is cruelty. If a person on disability (very unclear through this part) and the other party can reside in the residence and the other party can prove otherwise. You can borrow money to give

to these lawyers – that there is a person on disability – but that does not solve the insurance from pleasing them – they will then go after the person’s assets to settle the debt.

I hope by sharing this information to the people that serve the offices of the State of Delaware that it will help others going through the same system. Only by changing the system can lives be saved –and people, especially children, come to see the devastating actions of others involved. I thought I was the only one that was harassed by the Rehoboth Beach Department and the Delaware State Police Department, Troop 7 of Sussex County. Obviously, I am not. I was arrested in 11/30/2002 abruptly. I was arrested in Rehoboth in February 2003 on a disorderly conduct, resisting arrest, and offensive touching to a police officer. They said that when they told me to get out of the car, I threw the car door open in such a fashion that it hit the officer in the chest and the leg. In March 2003, you have 6 months to get your belongings out of the house. That’s what the law says. I went in March 2003 – he had the tow truck, Blue Hen Towing (that tows for the police department) backed up against the only door that I could get in. He had a neighbor to call the minute I showed up. I showed up, and I took pictures – I tried to get a PFA from day one – I was taking pictures – the neighbor saw it obviously, and I heard tires screaming! I even have pictures of him coming along on the dirt coming from the highway – glaring at me from the pick-up truck and then in my face he said *‘Bitch, give me the camera, and I said well I am leaving and he said Bitch give me the camera.’* Then he grabbed both of my hands and threw me and told me if I came back again he would blow my f---’n head off. He opened truck that he had backed me up to – threw the camera in – he walked around me – he threw me again, and said *‘Bitch if you come around again, I will blow your f---’n brains out.’* Then the gentleman that I was with backed me up. My ex has a permit to carry a gun to this day. He follows me (could not understand this part). They did not want to bring him. They arrested him for 3rd Degree Assault, which was brought down to Disorderly Conduct, so to this day every three years he goes in for his permit to carry and he carries.”

13. Dennis Heomer – “My name is Dennis Heomer. This is rather new to me. I have been dealing with Family Court for almost 16 years now. They have screwed blued and tattooed me time and time again. Originally, 16 years ago I went through divorce – my ex-wife filed for it (not clear) I got primary care of my daughter. First she had visitation every other weekend, one-night a week. After six months of this, I allowed them to do every other, full week Monday to Monday –joint custody – shared placement. After two years of this – we lived in the same school district – same bus-line almost – we lived 18 minutes apart – and she filed for a Modification of Custody. There were a total of 12 people counting myself and my ex-wife who testified at this trial, and out of everybody’s testimony including my ex-wife and her mother’s – it was all in my favor. After I handled the judge’s order back, Judge Nicholas said, ‘I don’t have a whole high opinion of that man’, and in his decision it is all in my favor – 100% – until the very last sentence, when he ruled in my ex-wife’s favor. My custody arrangements went from every other full week after two years of it being afforded Monday to Monday to every other full week, I have Thursday to Monday – the difference being that my child support nearly quadrupled. It took me one year and \$12,000 to get back into Family Court. I get back into Family Court, and I am the last to testify, and Judge Nicholas is up on his podium – whatever you want to call it, and he doesn’t understand why the order was changed to start with, because it is going back exactly like it was. This is the man who made this court order one year prior. To go fast forward, this is about 1½ year’s work of family court documents (he shows the large

stack of papers to the Commission). My youngest daughter is now 18. I have remarried July 7 of 2007. January 1st of 2007 my ex-wife went into Family Court, and she filed a Petition of Modification of Child Support. She no longer needed my child support: at the time it was only \$54.00 a month, because I had my girls 50% of the time. In fact, it is still written that way in Family Court. She went in and got the modification – she got a big raise. She got \$149 I got remarried to my new wife July 7, 2007. On July 19, 2007, she went in and filed for more child support. Low and behold it went into remediation. Well one thing I will say for the Family Court of Kent County, I don't know about the other two counties, but they looked down their nose at me because I am a man, and I say that with due honesty – they look down their nose at me because I am a man! Number one, and foremost, there is not a woman in this courtroom that has done anything more for their child than I have done on my own other than bear them. I can cook, I clean, and I can braid hair with the best of them. In fact, I am the one who sewed my daughter's clothes on the sewing machine, because their mother did not know how. In the last two years, my ex has filed this petition, and I go into remediation, and I asked the remediator questions, and she would not answer them for me, so I requested a Commissioner's hearing. I went into the Commissioner's hearing, and I am being looked down upon once more. Whenever I file a petition I am never represented by the state. I always have to bring my own attorney.

When my ex-wife files the state represents her automatically. I don't understand that. When we get into the Commissioner's hearing, somehow or other the State's attorney has my 2006 business tax records. My business is incorporated – it is automotive connected. Since 2005 through 2008, my business has taken a 153-½% loss because of the economy. When we get in, the State's attorney asks me number one, if I was to work for somebody else, or somebody else was to work for somebody else – what would they expect to be paid? My answer was I do not know, because I have never worked for somebody else, because I get all my business out of the newspaper. In 1997, and I have done it alone for that many years. He said well give me a good guess, and I said maybe between 25 to 30 grand. Immediately, they put down \$30,000 as my income that I am making, which is far from being true. The second thing that Family Court did at the time, in the transcripts of Family Court, my ex-wife actually states that she does not have health insurance on our daughter at the present time, and it was put in the court order that she should have and maintain it, and she has never paid for health care insurance. Well I get the paper back from Family Court and here is the final order and Number 1, and foremost it states that my income is that \$30,000 is my annual income which is not true. Number 2, they give my ex-wife a \$6,000 a year credit towards her income for paying my daughter's health care insurance, which she does not pay, and I do. Number 3. \$1,900 a year that I pay for her health care insurance, and I get no credit whatsoever. I have an on-going case now from Family Court, which is in its second go round in Supreme Court. I have hired an attorney and it cost me \$2,500 – Mike Grucci, who is useless (quoted a phrase at this time), which he said was straight up Delaware. (*unclear here*) He pawned me off on a rookie. What it all comes down to is somewhere along the line – I had my second turned down from Judge Nicholas to get my case back into court. It was turned down the first time, because I failed to pay the \$32 for the transcripts, which I never knew I had to pay. Family Court does not mail things as soon as they say they are sending it out. They have a big State truck that goes around and picks up all of this mail. Mail gets lost all the time – they told me that. When I came in there a second time Judge Nicholas then gives me an order. It is four words long to deny me *The Motion is Denied*. I read it over, but now I have an attorney, and my attorney tells me that he cannot go after anything as

to the reasons the judge turned me down to start with – why I wanted to go to court to start with – I had factual reasons to show why they were wrong, I can show in black and white where they were wrong. (Time was called) I just want to finish. The long and short of it all is that I have written letters. In his decision he actually refers to page 25 on the court transcripts from Sandra Kaufman– there is no page 25 – the court transcript only goes to page 17. How well has this man done his job? There are three things in this order that are not factual. I have got this back in the Supreme Court, and it has been in the Supreme Court since the first of this year and the end of last year. I have bit yet gotten an answer from anyone. Now I am being brought back in, because I cannot afford to pay \$400 a month. My business has suffered quite substantially – they are threatening to suspend my driver’s license unless I pay. Now I have had to borrow money, \$1,500 in order to pay three months child support, so I can get this back into Family Court. I am praying that somebody in this room can help me and somewhere down the road from now can stop Family Court and judges like Judge Nicholas and state’s attorneys that do not do their job at all and look down their nose at people like me who have done nothing in the past but pay their child support, support my children, and do everything that I am supposed to do. Thank you.”

Senator Sorenson addressed Mr. Heomer, “If you have a complaint about a judge the Commission cannot do anything about a judge. You can go to the Court Judiciary hearing – that is the place to make a complaint about that.”

Mr. Heomer continued, “Everything I have done so far has been a waste, a total waste. Like I said 15 years ago they took my children away for one year and it cost me \$12,000 to get it back exactly like it was, and this same judge didn’t know why it changed to start with, and he was the one who made the change, and he is the one that did it. What kind of person should be sitting in that position when he does that?”

14. Wendyjean Matlack – “Thank you for allowing me to address you this evening. My husband is Steve Zenorini; I don’t know how many of you have gone to Family Court as a litigant. I have been going to Family Court since 1982. I had an abusive husband (*not clear here*). We have two children. At the time this occurred they were 3 and 6 months of age. The abuse continued through 10 years of marriage. I was on my own, I had no family, I had no friends, and I had nothing that was available to everybody else. Finally, after a broken arm and bruises, and talking about me with family and friends – that was it! We went in and he filed – had a good lawyer – me I got stuck with some bozo from legal aide lawyers – whatever. My ex told me to get out – take my dog – but do not take my son. He got our son, and I got our daughter. I got the dog, the bed whatever. He got the house, he got our son – he got it all. I went by the rules of the court – he got his visitation order. Did I get to see my son – never? No he was too busy, too involved (*very unclear through this area*). Did I go to court – yes? That is life.

What do we have left? My husband and I. Our daughter is epileptic. I would have to count her pills to see that she took them. She was in denial. The only responsibility she had was going to work. She was very irresponsible. She became pregnant. She sold our insurance, and we are still paying her car insurance. Tracked her down and took the car. (*Another unclear area*) Didn’t hear from her again until our granddaughter was 15 months old, because her husband was screwing some woman in a Dover motel (*unclear area again*). She moved in with

us 7 times over a 5-month period. In and out, in an out, in and out! Their relationship was physical. The 15 month old could not walk, could not talk, and was still eating baby food. Within three weeks the baby was doing all the things that she normally was supposed to be doing. I had another problem. She wanted a baby and the husband wanted a truck. Guess what – he didn't get the truck – she got the baby. Moved in with us again. I was the one who got up three o'clock in the morning when the baby was crying. Went down to feed the baby, and I got a phone call from her. Police called and she said I was in an accident – please come and get me. Had been to a total of seven bars and totaled her car. Her response was 'when can you get me out of here?' She was fine – no problems. They never tested her for alcohol levels. Three days later she came home. We told her we were grandparents; we love you, but you are going to have to take responsibility. So, she said she was leaving, and I said not with the kids. I had the baby in my arms and she pushed me around, and I cried that we don't need this in front of the children. I was thinking what was the best for the children. Take them and don't come home. She leaves – no car. I call the police and they catch her out on Route 13 with two kids in a stroller. She was hold up at a motel, and again she is pregnant by another guy. We finally said enough is enough. We went to court, and I asked for an Ex-Parte' and got it. Great – we get the kids – fine) She has her birthday dinner and comes in – leaves again and disappears for months, and then comes back like we are best friends. She is bipolar! She has had six children by four different men. Olivia and Grant, the 10 and 12 year old we have raised, she never has once in 6 ½ years asked to have her own kids back – never. With each kid she would split, and go shopping with friends. Once again we were there to take care of the kids.

Now we have a court order by Commissioner Meyer, so we could visit the children. We had the children for visitation times. She filed a PFA against me, because she didn't want me abusing the children. She cut them, burned them with a curling iron. The husband picked up the 10 year old, threw him against the wall (another very unclear area). It took 40 minutes to calm him down and then we called the police. The police came with DFS. Forget DFS. I don't know where they come from. I don't know where they get these people. They came in and talked to the children and the parents and that is it. Now, I was always told that they interviewed everybody involved. *No!* Now we have no information. I have called DFS three times and they have been called several other times – I don't know. So, we filed a PFA, so she tried to file a PFA against me saying that we were abusive, but we were not. I filed a PFA, because the kids were calling me before school before they get on the bus – they call – she hurt us –we went after them. She calls and says I am going to kill myself! The 10-year-old ran away in pajamas – no coats, no shoes. Oh, they said he did it for attention. No, he didn't do it for attention. There is something wrong. When he had his head thrown against the wall, he couldn't hear the next day. Went to school – told his teacher I got beat, and do you know what his teacher did – nothing. DFS came in – nothing! We took him to Alfred I. Hospital. He had a bruised ear – wasn't given, anything, so the case was closed out. So, when the PFA was filed. (Unclear) Everyone was charged by Judge Buckworth. He talked very serious. Everything that has gone through now is going through Judge Buckworth and these nine PFA's in August. I filed a PFA with a Rule to Show Cause for contempt of no visitation in his court. The PFA's were all because of drugs. We have called the police. My thing is that I put in for an expedited Rule to Show Cause to get visitation – why is there only one judge, or one commissioner, assigned to so many. I have two children who are calling everyday crying. I cry everyday. I can't take it. I don't know who to go to. We have tried lawyers. We have tried everything. Why is the court allowing her, who

is nobody, except above the law, and the law is Family Court, to keep these children away from us, and presenting very strong obstacles. Thank you for your attention.”

15. Anne Harvey – “My name is Anne Harvey, and I am married to no one. This is from my single perspective. Kevin Patrick is my roommate. Unfortunately, his case is so bad. I work with his ex-wife. The reason it is so bad is that she is engaged to a police officer. Due to the fact that she is engaged, we just went to court where he was found not guilty of harassment. Supposedly, he had attacked the sheriff’s wife, who is best friends with the fiancée’s mother. I have a chart/spread sheet that I could mail to any of you and it shows specifically how Lewes police officers, Troop 7, are so entangled into their case because of family and friends. The trooper who arrested Kevin – one of them is white and works with his ex-wife, so everything was 100% set-up and Thank God, the legal system found him not guilty. This case is so bad with politics. I am e-mailed by a lot of people. My dad used to do telephone work for Jane Brady, and she helped me to get this case moved out of Sussex County and into, because it is so corrupt. I just don’t understand how women or men can do this to people. I was raised by my parents. They dated 3 months and they were married 6 months after that. My parents were married thirty some years when they decided to die, but that is a different story. They died one year and one-half apart, but my Mom told me that marriage was something that you work at, and I think too many people are throwing it away now and not taking their responsibility seriously. The children are the ones being hurt more than anything. Kevin’s daughter is so young – she is two, and she can’t talk for herself; so he hasn’t seen her since August just because the Mom is a doctor, and she has more money than us. I have written to senators, churches, people that I don’t even know asking them to help us. Also, we have asked VFW, American Legion, Elk’s Club, and you name it; and because he has a PFA he cannot get Legal Aide. I don’t understand when you care so much for the welfare of your daughter, and you are calling on the welfare of your unborn child – shouldn’t the PFA be reversed? All he was trying to do was to make sure the baby was healthy. That is all I have to say about that.” She explained for Senator Sorenson that Kevin Patrick, a previous speaker, is her roommate.

At this time, Senator Sorenson said she would allow a couple of the previous speaker to add to their comments. Refer to 5. *Cynthia Smith*, where I have inserted all of the typed comments she presented at the meeting.

Next she called on Gordon Smith our first speaker of the evening.

Gordon Smith “I went to the mall – the Dover Mall – to get a birthday card (*very hard to understand*) I was arrested Ex Parte – the car was taken – I am from Georgia – I don’t have family and friends up here – I only had one car. I couldn’t get to work in Wilmington. My wife has 5 cars. She has 1700 aunts and uncles, so she had access to 5 cars and that was my only car. I lost my job. I lost my home. I am now living in a men’s homeless shelter. Someone gave me this nice outfit, so I could look decent when I spoke to you wonderful people. I have an ex-Parte, and I do believe that it was Judge Walls that signed it, if I’m not mistaken. If it wasn’t, I do apologize – I don’t want to put you on the spot, or anything like that, but I am living in a men’s homeless shelter, and getting back on my feet again. I guess what I am trying to say is the appeal also that I filed after the second PFA was taken out – the appeal, I do believe, was declined again by Judge Walls, and I filed it In Forma Pauperis, which is Latin for a man who is too poor to pay

for his legal representation. The transcripts cost \$322.00, and I couldn't afford it. The In Forma Pauperis would have allowed me to pay for access to pay for it. A man who is living in a homeless shelter, could someone please, for God's sake explain it to me? Is there anybody up there able to explain it to me? It was denied, so I am going to have to take it to the Supreme Court to see if anybody can get me an In Forma Pauperis to be put back in place. I don't understand it. Can you Judge Walls explain it to me?" (Judge Walls responds, but I am unable to hear him).

Gordon Smith – "It is the Forma Pauperis for the \$322.00 for the transcript – for God's sake. That is all I have to say about that. So, I am back to ground zero. I just want someone to make sense of this court system to me. I went over the 60 seconds, and I apologize. Thank you, and God Bless You, but I am not going to just roll-over and be one of the victims of the Family Court system of Delaware. I am willing to handle it properly, and I am willing to provide letters, I am going to do whatever is necessary as an American citizen, to get this resolved. This is not the right way to be treated."

Senator Sorenson called upon the last person who wanted to add additional comments.

Dennis Heomer – "My name is Dennis Heomer, and I am not here to complain about Judge Nicholas. I am just here stating the facts, and the facts are that the man is not doing his job. I am in the Supreme Court now with a brief that I have now which took me 18 hours to sit down and write. I had an attorney who was useless. I am still waiting on a decision from the Supreme Court on whether or not I am going to get in. In the meantime, I have filed for Modification of Child Support, which (*cannot understand this part*) because now I have a letter from Family Court that I am in arrears, and because I am in arrears they can find me In Contempt of Court and put me in jail, being they have already taken my driver's license. One question is – I have heard people testify that you on the Commission have done absolutely nothing in the past for us. I am still in Family Court – I am still bowing to the judgments over there. What can you people here do for me and other people like me that are having the same problems now, and the ones who haven't even gotten to Family Court? My biggest thing now is that for 16 years in Family Court I have been done dirty every time that I have been in there. I have done everything by the rules – I have filed paperwork that I was supposed to – all on time, and Judge Nicholas has now denied me three times, and all I want to do is – I don't care if I have to pay child support, but I want it figured correctly; because my ex-wife is going to give my daughter absolutely nothing. I have a 22-year-old as well who actually pays her mother's car insurance. My youngest is 18, and she actually buys the groceries, because she has a part-time job. My custody still is joint custody/shared placement, but my daughter is 18 and she wants to live with her mother. Because she wants to live with her mother (*area not clear here*) regardless of how it is written, she has not filed paper one to have my daughter. I just found out about this Commission in the last couple weeks. I am here tonight to see just what is going on."

Senator Sorenson responded, "In answer to your question, we cannot get involved in an individual case. I am not an attorney – I am not going to give you advice, and I am not going to intervene, and speak to the judge and tell him to do something. These are legal cases, and we do not have the charge to do that. When we do hear things that we can follow up on: for instance, someone tonight who talked about a person that there wasn't someone available that had adequate training for people dealing with children's mental illness. I think that is interesting and

one that we haven't heard about before and something we will be able to follow up on. You also talked about expediting visitation, and why there is only one judge and why it takes so long. We can follow up on things like that – why it takes so long. Procedures, policies in Family Court we can talk about. In terms of what we in the Commission can do – we cannot go in and solve your case.”

Dennis Heomer “My problem is that I cannot afford an attorney and when I did get an attorney, it cost me \$2,500 for absolutely nothing. and the kick of it all was that I was told point blank that the reason I lost the first two go-rounds to get my case reargued before a Commissioner was because I didn't have an attorney. Now if I get an attorney and they turn right back around and hang me out to dry again.”

Senator Sorenson continued, “If someone has a case in Family Court and they have filed a case pro se. They have done a lot to help the pro se litigants. Jody Huber who attends our meetings can talk about the services that the kiosk in Wilmington has available.”

Lynn Kokjohn, a Commissioner, asked, “Your youngest child is 18, so your child support stopped.”

Dennis Heomer answered, “My child support is over May 28th when she graduates, but my ex-wife filed for child support starting July 2007, so at this point in time – “Ms. Kokjohn said, “So it is in arrear?”

He responded, “Yes, it is in arrears, so until that gets paid – I missed \$400, which is one payment, the State of Delaware will take my driver's license. Right now I am between a rock and hard place. I have borrowed \$1,500 from current wife in order to pay for three months of child support – so I can get this back in Family Court just so they will hear it and look at the numbers that it is supposed to be, because one of the things Judge Nicholas says in his judicial report that I have in my hand was that, if it was to go back in Family Court, and it would prejudice the mother, you were able to sit down and figure my case like it was supposed to be figured with joint placement/joint custody – figure the numbers like they are supposed to be, put the \$6,000 back into her income – give me back my credit of \$1,800, she would actually have to pay me \$154 a month. I don't want her money – I am a law-abiding system. I just like something done where someone who finds themselves in my situation in the future, doesn't have to go through this. I have been doing this for almost 16 years now –my girls were two and seven when we started this. I have never had anyone help me raise them. I have done it on my own. Thank you.”

At the request of Jeff Samluk, I am entering comments he submitted to the Family Law Commission to be entered into the minutes of the Public Hearing.

Jeff Samluk. “I regret not being able to attend this evening in person. Tonight's meeting falls on the day of my son's Renaissance Faire Program. I have attended the FLC meetings for the last several years and look forward to the opportunity to share my experience with the Family Court.

Over the last year, I've tried to get my daughter counseling since she has not been in my home since November of 2007. She is doing better in school and attendance is better, but still I don't have a relationship with her due to her mother's actions. I filed a motion to have custody changed for not getting her counseling, excessive attendance issues, falling grades and other issues. I was Pro Se and was denied an extension for not filing the proper papers, while the Judge gave my ex 10 days to identify a councilor and never completed. To date, this has still not been upheld: **"It is the absolute affirmative duty of the residential parent to foster an environment which avoids such problems and to make certain that the children go for visitation."** I purchased the CD'S from my hearings and shockingly; I received my case along with someone else's complete hearing attached. Where are the quality checks to ensure that this does not happen? I cringe at the notion that someone else would have access to my personal court matters.

As part of being Pro Se, I followed what I was told the process was to get a subpoena for my ex's records and part of the ruling on the Motion for me to pay my ex's attorney's fees, was the following: **"While the Court does not condone unauthorized access to private medical records of individuals, this is not the forum to correct Father's inappropriate and perhaps illegal action."** How is that inappropriate or illegal? Again, I followed what I was directed to do to get the records, which, if heard by the court, would have been key to my motion to prove that my ex has issues and is unfit.

Over the years, I've testified of the financial hardships of paying support, private school and summer camps. I've had my vehicle repossessed, creditors calling, foreclosure notices due to my excessive support of 73% that I pay (over \$22,000 after taxes). When I brought that up with the judge, she stated she pays three times that amount and although a financial hardship for me, would not allow the children to be removed from private schools. My ex receives 73% due to more overnights, due to committing perjury. She claims all three children as dependants. I get none. I asked the judge to add into the order the dependant issue – she refused. The judge does birthdays, summer vacation, holidays, and more, if the parents are not in agreement and in her court, obviously one person has an agenda to get the most time and the most money from the other. It should be stated in the order how to claim the dependants to allow each parent a chance to utilize the flexible spending on the dependant care and health care. If I'm to pay 73%, it should be mandated that I am allowed to claim 73% (or every other year) of the children on my taxes. My son needs braces next year; there is no way I can afford to pay 73% of \$6,000 on top of the support I pay with no tax benefits. Last year, she submitted more than \$2,000 in medical expenses, expected me to pay \$1,500 of that on top of the wage garnishment. She does not have to claim that income on her Melson formula. I can't survive at this pace. Most everyone I have talked to that have been divorced with children, share that benefit every other year, it should be mandated in the court order.

PFA's are Protection From Abuse, not a right to take away children and establish residency. If those two items were taken out of PFA's, less would be filed, the Family Law Commission should push for accountability and stop the abuse of PFA's, and remove the custody and residency from that process. My ex filed one for me grabbing her arm, but she was seeing someone who broke her nose, and she committed perjury to cover and dropped the assault

charges. The court never enforced accountability for her actions; perjury must be an acceptable position within the courts.

I have taped conversations of my ex, saying the PFA was wrong that she '*listened to the wrong people.*' I have her making false police reports, threatening me, threatening others, making inappropriate comments in front of the kids; the list goes on and on. Delaware is one of 11 states that requires two person consent for a conversation being taped, I was not allowed to use those tapes although it impacts the children, and needs to be changed."

Senator Sorenson concluded the meeting and said, "Thank you all for coming tonight. We will have the transcription of the hearing, and we will go over everything that has been said tonight. There is a schedule in the back showing future Family Law Meetings." The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Jean C. Ardis, Secretary
Family Law Commission