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Spotlight focuses on case manager duties

WU conference to help those who referee custody cases

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Shannon Arvidson's child visitation dispute vaulted from a Miami County courtroom to the Kansas Court of Appeals this year after Arvidson challenged the county court's order that she allow her ex-husband to have their child on Father's Day.

Before that, Arvidson balked at court-appointed case manager Ronnie Beach's recommendation that she adjust her visitation schedule so her ex-husband could take their child on a train ride provided by his employer, BNSF Railway.

The judge, after convening an emergency phone conference with all parties, found "it was in (the child's) best interest to participate in the train ride," but allotted Arvidson seven compensatory visitation days to make up for the schedule adjustment.

Against Beach's advice, Arvidson insisted that one of the compensatory visits land on Father's Day. According to appellate court documents, when Beach objected, Arvidson told him to call the judge and "get another emergency order to force her to comply."

"You can't go to court every time there's an issue," Beach replied. "You've got to find a way to start working these out."

Instead, Arvidson took her case to the appeals court, which ruled in May that the lower court acted appropriately and that Beach did what a case manager is supposed to do — mediate the daily back-and-forth battles of "high-conflict" divorces, so they don't clog the court system and hurt the children involved.

This has been a tumultuous year for case management in Kansas, with the Legislature passing new rules about who can be a case manager and the appellate court taking steps to rein in case manager authority. Success stories, like Beach's work in the Arvidson case, have been overshadowed by two appellate court decisions that rebuked the Douglas County court for allowing case managers to overstep the bounds of due process.

"Overall, if you talk to judges, case management saves the system a lot," said Bud Dale, a Topeka lawyer and case manager. "It saves the state money and helps families. We're getting to hear about the worst cases, which is unfortunate."

In one case, the appellate court ruled that the lower court violated mother Karen Williams' constitutional right to due process by removing her daughter from her residential custody based on a case manager's recommendation. Williams is still awaiting a full residential custody hearing, which was ordered by the court of appeals.

In light of that decision, another related to due process and legislative changes, Dale said the 6th Annual Domestic Case Management Training in Kansas workshop scheduled for Thursday and Friday at Washburn University takes on greater significance this year.

"This is going to be a very, very interesting time," Dale said.

The conference is a continuing legal education program sponsored by Dale's law office and the Children and Family Law Center of the Washburn University School of Law.

Despite the significance of this year's workshop, Dale said registration appears lower than years past. He pointed to the Legislature's recent action in restricting case management to lawyers or others with professional licenses as a likely reason.

"People who were doing it last year won't qualify now," Dale said. "I'm not sure if that's a good

thing or a bad thing. How well a case manager does is more related to the case manager, not the (professional) qualifications."

Dale said that more than half of the family law cases related to case management that ended up in the court of appeals this year involved case managers who are lawyers.

Washburn professor Linda Elrod, a national expert in family law, said case management depends largely on the "skill of the case manager and the pathology of the parents," adding that there are some parents in high-conflict divorces who will never be satisfied.

She said she believed the tone of the process could be changed simply by changing the name from "case management" to "parent coordination," like other states.

But Elrod said concerns about where a case manager's authority ends also need to be addressed.

"I have always said our statute should not provide for change of residency without judicial approval," she said. "I think that is a violation of due process."

Lenexa family law lawyer Ron Nelson has been outspoken about the need for the Legislature to clarify the case management statute. He, Rep. Bob Brookens, Topeka lawyer Larry Rute and Art Thompson, the dispute resolution coordinator for the state judiciary, will serve as panelists for a discussion on due process during this week's workshop at Washburn.

"I think there's more pressure to make some changes, and I think it's a combination of so much backlogged hostility toward case management and a perception that nothing is being done about the problem," Nelson said. "I think that's probably reduced a bit with these two (appeals court) decisions, but there's still a large belief among parents in high-conflict cases that something really needs to be done."

Some parents, like Sedgwick County resident Chris Brown, are convinced the current system of case management should be scrapped almost entirely. Brown, who has been in case management for eight years, is amassing an email list of parents, lawyers and legislators that he uses often to rail against the system. He says he is in favor of case management limited to specific conflicts between parents, not open-ended appointments that give case managers authority over an estranged couple's day-to-day life for an undetermined period.

He believes the current Legislature is too afraid of stepping on the judicial branch's toes.

"There's three separate powers, and you need to step up to the plate," Brown said. "The (case management) legislation you passed is bad — it's incomplete. I want it fixed."

Discontent among parents isn't limited to Brown. Williams requested time to speak at this week's conference — time that Dale said he is unable to give because the schedule is already made.

Meanwhile, courts that Nelson said are underfunded and short on judges with family law experience are tasked with acting in the best interests of the children involved.

Elrod, citing books like "Between Two Worlds: The Inner Lives of Children of Divorce," said it is especially challenging and important in cases like the Arvidsons'.

"Kids bear the emotional scars from divorce throughout their lives, especially in the high-conflict cases," Elrod said. "Those are the kids who often never heal."

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