

**A View From the Bench**

*County Attorney Association  
Child Support Conference  
June 15, 2018  
Magistrate Manager Jodie Metcalf,  
Referee James Street and  
Magistrate Julie Voigt*

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- You play a vital role in how our justice system works;
- In your role you are often in contact with some of the most marginalized members of our society;
- You are advocating to the court on critical issues for legal cases involving our children
- Studies show if people feel respected they are more likely to comply with orders, even if they don't get what they asked



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- Poverty has many negative consequences on children
- Poverty disproportionately affects women and children
- Many people enter poverty at the break up of a relationship
- Enforced child support orders, even if low, assist parents working out of poverty entering entry level jobs
- You play a critical role in the justice process, as you are often times the only attorney in the room (or most knowledgeable professional in the room).

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County attorneys (and CSOs) have access to information and resources

- Receipt of public assistance
- Wage matches
- Access to genetic testing
- Knowledge of the law and procedures



- Establish paternity;
- Child support is a right for children;
- Promoting involvement of fathers

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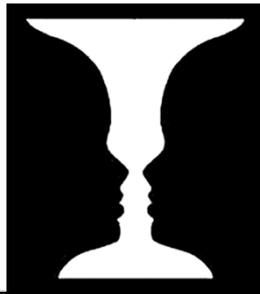
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- Litigants do not always understand your role;
- Be equally complementary to all sides;
- Treat obligors and obligees with respect.



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- If self represented parties are discussing custody, make sure they understand the differences of joint and sole physical and legal custody.
- If you are uncertain ask the court to explain this.



*Your Guide to Child Custody in Minnesota*

Know What The Labels Mean & How Custody is Decided in Minnesota

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- Speak to the parties before the hearing;
- (Ethically, there is no barrier if you give legal information v. legal advice)
- Many people do not understand the system; it is helpful to hear it explained different ways
- Follow up by advising the court of unusual issues if a litigant forgets or is unable to advise the court
- By showing guidelines calculations it clarifies issues and can help avoid sticker shock
- Speaking to the parties before *Hopp* or *Mahady* hearings is helpful and important

A cartoon showing two parrots perched on a branch. One parrot is speaking and says, "Can we talk?". The cartoon is signed "© 2014 Bizarro Comics" and "www.bizarrocomics.com".

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## Attention to Detail ✓

Include information in your affidavit which builds a record for the case so details of the full picture don't get ignored in subsequent hearings. Minn. Stat. Sec. 518A.46, subd. 3

- Non-joint children
- Noting the date (and case #) of the controlling parenting time order
- Noting if an agreement constitutes a deviation
- Noting whether overtime income has been included
- Include all presumed fathers in an action
- Address custody/parenting time in the complaint
- Mention where the child(ren) is/are residing

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Be precise with language in your proposed orders or affidavits.

- Avoid acronyms you don't define
- Avoid undefined terms of art

A cartoon comparing products in 1997 and today. In 1997, a man lists "4 PRODUCTS: iMac, Power Mac, iBook" and says "OUR MANTRA IS FOCUS AND SIMPLICITY." In today's scene, a man lists "TO DO ANYTHING, YOU'LL NEED 17 DIFFERENT TYPES OF DONGLES - LIGHTNING, USB-C TO USB-A, HDMI, DVI, AV, VGA, SD..." and the other man asks "WTF?". The cartoon is signed "© marketoonist.com".

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**When speaking before the Court**

- Give us the County's position (avoid deferring to the Court)
- Provide case information on each case
  - Wage match
  - Order history
  - Whether public assistance is being paid
  - Guidelines worksheets
- Appear at hearings unless the only issue is non public assistance related.




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**DOMESTIC VIOLENCE**



- Develop an alternative seating arrangement in court when D.V.
- Some litigants will not mention the abuse to you
- Not all cases with abuse have orders for protection
- Do not meet with the parties together
- Keep your antenna out for power imbalances
- Do not hesitate to advise the court if you have concerns
- Make sure your office has a protocol to consider good cause exemptions

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Vexing issues - Potential Income

- *In Re: custody of M.L., Sands v. Lovick*, 2018 WL 1787698 (April 16, 2018)(unpublished)
- What is the logic/philosophy of seeking every possible dollar from obligor when the obligor does not have the ability to pay.




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Teenagers as Parents

- Rule 17.02 MRCP: Requires appointment of a Guardian ad litem (GAL)
- A default judgment issued against a minor without a GAL is voidable. *Eisenmenger v. Murphy*, 42 Minn. 84, 43 N.W. 784 (Minn. 1889).
- Assure that parties and their Guardians receive notice of hearings and pleadings.




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Vexing issues - different jurisdictions for different children

What to do about modification or contempt cases for parents with governing orders for children in different districts or counties?




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CONTACT INFORMATION

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