

Bar *Bulletin*

Serving San Luis Obispo
County's Legal Community

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The Appellate Court and
the Standard of Review

SB 1300 in the Era
of #MeToo and #TimesUp

The Third Time's a Success (As Were the First Two)!

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The 2019 San Luis Obispo County Minor's Counsel Training was held in Pismo Beach on February 16 and 17, 2019. This was the third iteration of the program and the most successful to date.

What Is Minor's Counsel?

"If the court determines that it would be in the best interest of the minor child, the court may appoint private counsel to represent the interests of the child in a custody or visitation proceeding...." Cal. Fam. Code §3150(a). While most custody cases do not require minor's counsel, there are those cases where their appointment is a necessity.

When appointed pursuant to Cal. Fam. Code §3150, minor's counsel acts as any other attorney would on behalf of a client. They have the right to prepare and file pleadings, conduct discovery, examine witnesses at hearings and trial and engage in settlement discussions. They also have unfettered access to the medical, mental health and academic records of their minor clients.

Training Requirements

In order to be appointed as minor's counsel, an attorney must receive 12 hours of initial training. Cal. Rules Courts, Rule 5.242(c). To remain eligible for appointment as minor's counsel, an attorney must complete an additional 8 hours of training each year thereafter. Cal. Rules Courts, Rule 5.242(d).

Both the initial and annual training must address:

- The statutes, rules of court and case law regarding child custody and visitation;
- The special issues that arise in representing children, including information regarding the stages of child development;
- How to communicate with children at various developmental stages and present their view;
- Being able to understand and address the complex issues of substance abuse, family violence and the effects of childhood trauma (also known as Adverse Childhood Experiences, or ACES).

These are all important subjects; however, they are not areas of practice easily accessible to San Luis Obispo County attorneys.

Genesis of the San Luis Obispo County's Minor's Counsel Training

Our local training program began as a direct response to Presiding Judge Ginger Garrett's concern there were not enough experienced, trained attorneys willing to represent minors in family court. Apparently the lure (in most cases) of earning \$85 an hour in order to be reviled by one or both parents was not incentive enough for local counsel to travel to Sonoma or Los Angeles for a weekend to obtain the required training. We were literally down to one attorney, who had announced they were at capacity. An acute need for other attorneys to fill the void was identified. And the conclusion reached was this need could only be filled if the annual training was provided locally.

Year One

In our first year, the training was sponsored by the San Luis Bar Association Family Law Section. We were able to cobble together four hours of child custody instructional videos and eight hours of live programming. Total attendance was 37 attorneys, with San Luis Obispo and four adjacent counties represented. The program speakers included what continues to be the core educators in the program: The Honorable Erin M. Childs, Attorney Gregory F. Gillett and myself.

Year Two

The Second Annual San Luis Obispo County Minor's Counsel Training was far more ambitious. We moved from a cramped court room to the Cliff's Hotel and Resort in Pismo Beach. Sponsored again by the Family Law Section, the event was marketed statewide. As a result, we had 101 registrants representing 28 different counties and three local judicial officers attend.

In addition to the local team of educators, we recruited speakers with a statewide reputation.

The Honorable Mark Juhas from Los Angeles County agreed to attend and present. We also had Philip Stahl, a psychologist and custody evaluator, whose reports and opinions are extremely well regarded. He was joined by Rebecca Stahl, an attorney and author, who addressed trauma-informed decision making when representing children in family court.

The 2018 Minor's Counsel Training exceeded expectations. And word got out that San Luis Obispo County was the place to go to get your annual minor's counsel training. As one attendee put it: "I have attended a number of MCLE conferences for minor's counsel, but the conference in Shell Beach was the best by far. It was especially helpful because of the focus on the attorney and how to help them do their job rather than just going over laws and procedures. This conference was the 'Crown Jewel' of all conferences and I hope to attend every year."

Year Three

The Third Annual Minor's Counsel Training was just completed in February. It is clear that we have firmly established this event as the premier minor's counsel training in California. This year the event was sponsored by the Family Law Section of the *California Lawyers Association*, which allowed us to market to the more than 4,000 attorneys who are members of the section. We had 140 registrants who practice in 30 different counties throughout the state. The venue was at maximum capacity.

We recruited the Honorable Thomas Trent Lewis of the Los Angeles County Superior Court to speak this year. He is a rock star among family law judicial officers. Judge Lewis addressed

"Evidentiary Issues for Minor's Counsel," including the significant issue of how to keep children out of the courtroom. We also had presentations by Mary Kelly Persyn of the Persyn Law & Policy group. She addressed how to "Relate, Represent and Advocate for Child Trauma Survivors." Her second presentation addressed the significant issue of the secondary traumatic stress that can be experienced by minor's counsel who represent child trauma victims.

We also had an extremely entertaining and informative presentation by Cheryl Scott, the Manager of Fresno County Superior Court Family Court Services. Scott was extremely adept at using humor to educate minor's counsel on how to best interact with Family Court Services. As always, we had stellar presentations from our local team of Commissioner Childs and Gregory Gillett. I will not comment on my own performance.¹

Fourth Annual San Luis Obispo County's Minor's Counsel Training

Given the success of our training, I can confirm there will be a fourth training program. When the last registrant left the presentation hall, Commissioner Childs, Gregory Gillett and I began planning for next year.

Collectively, we understand the Minor's Counsel Training serves a vital need for our local courts. It provides the education necessary for attorneys to carry out the thankless but incredibly rewarding task of representing the most vulnerable people in family court: the children. That is why, in February 2020, there will be a Fourth Annual San Luis Obispo County Minor's Counsel Training. ■



Third Annual SLO County's Minor's Counsel Training at The Cliffs.

¹ Although in fairness to my ego and my reputation, I did receive the following evaluation back: "Hi Stephen: Thank you for the excellent Minor's Counsel training; it was one of the best, if not the best seminar that I have attended for many years. Of course, your presentations were the best I heard so I guess that makes you best of the best." I have sent that attendee a free registration for 2020.