Ethics and Matrimonial Representation Annotated Bibliography

Barbara Glesner Fines* and Nancy Levit**

This bibliography addresses articles and symposia since 2007 addressing ethical issues that arise in the divorce or child custody context. Omitted are articles that discuss ethical issues generally, without regard to practice setting. Articles for which the title is self-explanatory or that concern only a single case, state, or statute are cited, but not annotated.

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**Alternative Dispute Resolution (See also Judicial Ethics / Family Court, Mediation, Pro Se Representation)**

Glenna Goldis, *When Family Courts Shun Adversarialism*, 18 U.C. DAVIS J. JUV. L. & POL’Y 195 (2014) (arguing that the alternative to adversarial processes in child custody determination is “freestyle judging” and that adherence to formal adversarial processes best protects children, especially in cases involving abusive parents).

Elena B. Langan, “*We Can Work It Out*: Using Cooperative Mediation—a Blend of Collaborative Law and Traditional Mediation—to Resolve Divorce Disputes”, 30 REV. LITIG. 245 (2011) (addressing ethical concerns about collaborate law practice in the family law area, including issues of zealous representation, confi-
dentiality, advising clients fully of their rights, and the potential of the ability to dismiss the opponent’s counsel).

Jane C. Murphy, *Revitalizing the Adversary System in Family Law*, 78 U. CIN. L. REV. 891 (2010)(evaluating the relative benefits of the therapeutic approach used in problem-solving court systems and adversarial approaches in traditional judicial processes for resolving family conflicts and advocating repair of the adversary system rather than wholesale change in the mission and structure of the justice system in family law).

Thomas D. Vu, Note, *Going to Court as a Last Resort: Establishing a Duty for Attorneys in Divorce Proceedings to Discuss Alternative Dispute Resolution with Their Clients*, 47 FAM. CT. REV. 586 (2009) (advocating for an ethical rule requiring attorneys to discuss alternative dispute resolution, mediation, and collaborative law with their clients, arguing that by doing so the attorney is emphasizing cooperation and negotiation which may limit the harmful effects of the divorce on the children).


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**Child Representation (including Guardians Ad Litem; See also Standards of Practice)**

Barbara A. Atwood, *Representing Children Who Can’t or Won’t Direct Counsel: Best Interests Lawyering or No Lawyer at All?*, 53 ARIZ. L. REV. 381 (2011) (drawing on the Arizona practice of best interests attorneys to question the American Academy of
Matrimonial Lawyers’ standards that oppose appointment of lawyers for children who do not have the ability to direct counsel, arguing that lawyers can draw on witness testimony and other evidence to effectively represent the interests of non-directive children).

Marcia Boumil et al., *Legal and Ethical Issues Confronting Guardian Ad Litem Practice*, 13 J. L. & Fam. Stud. 43 (2011) (exploring various roles in which GALs operate, including investigator, mental health evaluator, and mediator, and analyzing when GALs should give non-confidentiality warnings and evaluating under what circumstances GALs have the power and at times the responsibility to waive children’s privileges).


Barbara Glesner Fines, *Pressures Toward Mediocrity in the Representation of Children*, 37 Cap. U.L. Rev. 411 (2008)(Describing poor funding, heavy caseloads, limited training requirements, and uncertain role expectations as creating pressures for some attorneys to minimize some of their responsibilities in representing children and suggesting ways for attorneys to fulfill ethical requirements and minimize the pressures toward incomplete representation).

Peter Margulies, *Lawyering for Children: Confidentiality Meets Context*, 81 St. John’s L. Rev. 601 (2007) (emphasizing local competence and situational knowledge to avoid the false dichotomy of either all-knowing or incompetent child clients).

Janet G. Sherwood, *Representing the Child in Abuse and Neglect Cases*, 41 Fam. Advoc. 28 (Winter 2009) (explaining the different models of child representation prescribed by the ABA, the National Association of Counsel for Children and the National Conference of Commissioners on Uniform State Laws regarding the child’s right to direct the litigation and conflicts of interest).


Roger A. Eddleman & John A. DiNucci, *Due Process and the Guardian Ad Litem in Elder Law Disputes: Which Hat Will She
Don with Her Cloak of Neutrality?, 13 MARQ. ELDER’S ADVISOR 129 (2012).


Andrea Khoury, Why A Lawyer?-The Importance of Client-Directed Legal Representation for Youth, 48 FAM. CT. REV. 277 (2010).


Candice L. Maze & Jennifer Renne, Representing Very Young Children Ethical Consideration: Model Rule 4.2 Communicating with Represented Parties, 29 CHILD. L. PRAC. 142 (Nov. 2010).


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**Symposia Issues on Child Representation**

36 U. DAYTON L. REV. 300-362 (Spring 2011), *Essays from “Custody Through the Eyes of the Child,” the 2011 Gilvary Symposium on Law, Religion & Social Justice*, includes the following articles of general interest on the topic of child representation:


36 NOVA L. REV. 309-431 (Summer 2012), *Symposium on the American Bar Association (ABA) Model Act Governing Repre-
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sentation of Children in Abuse, Neglect, and Dependency Proceedings, includes the following articles of general interest on the topic of child representation:


27 PACE L. REV. 539-1088 (Summer 2007), Symposium on the Miller Commission on Matrimonial Law, includes the following articles of general interest on the topic of child representation:


**Children’s Interests in Custody Disputes (See also High Conflict Divorce)**

Jonathan W. Gould & David A. Martindale, *Including Children in Decision Making About Custodial Placement*, 22 *J. AM. ACAD. MATRIM. LAW.* 303 (2009) (arguing that children should be involved in the decision making process regarding custodial arrangements; addressing myths about child participation, looking at research conducted on the subject, and advising how to interview children about their living arrangements with each parent).


Joan B. Kelly & Mary Kay Kisthardt, *Helping Parents Tell Their Children About Separation and Divorce: Social Science Frameworks and the Lawyer’s Counseling Responsibility*, 22 *J. AM. ACAD. MATRIM. LAW.* 315 (2009) (explaining the social science research regarding the importance of parents’ communicating with children regarding their separation or divorce and suggesting that attorneys will provide better representation with this understanding and that they have an ethical duty to counsel parents to communicate appropriately with their children).

Liisa R. Speaker & Jodi M. Latuszek, *Communicating with Children in Custody Disputes*, 33 *FAM. ADVOC.* 44 (Fall 2010) (addressing the vagueness of the ethical rules relating to a parents’ attorneys’ communications with a child who is at the center of a custody battle, and suggesting the critical role of evaluating the effect on the communication on the child).


**Civility**

Judith D. Fischer, *Incivility in Lawyers’ Writing: Judicial Handling of Rambo Run Amok*, 50 Washburn L.J. 365 (2011) (exploring judicial reactions to incivility in pleadings, trying to delineate when incivility crosses the line from zealous representation, and cataloguing a variety of judicial sanctions for uncivil behavior).


Moshe Jacobius, *Civility and the Family Law Gladiator*, 33 Fam. Advoc. 6 (Fall 2010) (addressing importance of civility and approaches to balance zealous advocacy for the client with civility to court, counsel and staff).


Katherine Sylvester, *Current Development, I'm Rubber, You're Sued: Should Uncivil Lawyers Receive Ethical Sanctions?*, 26
GEO. J. LEGAL ETHICS 1015 (2013) (arguing that a mandatory civility code is unworkable and that the market should handle misbehavior).

Thomas G. Wilkinson, Jr. & Jordan Fox, Encouraging Attorney Civility During Depositions: The Enduring Impact of Hall v. Clifton Precision, 84 PA. B.A. Q. 104 (July 2013) (discussing the Model Rules relevant to attorney civility and addressing emerging case law extending the civility obligations specifically to depositions and other out of court activities).

Donald E. Campbell, Raise Your Right Hand and Swear to Be Civil: Defining Civility as an Obligation of Professional Responsibility, 47 GONZ. L. REV. 99 (2012).


Client Conduct (See also Confidentiality)

Landon C. Davis III, Isaac McBeth & Elizabeth Southall, *A Distinction Without A Difference? An Examination of the Legal and Ethical Difference Between Asset Protection and Fraudulent Transfers Under Virginia Law*, 47 U. RICH. L. REV. 381 (2012)(explaining the ethical and legal differences between assisting a client in assets protection or assisting a fraudulent transfer, including discussion of divorce as an asset protection tool).

Barbara Glesner Fines, *Criminal Acts & Ethical Dilemmas: Some Client Nightmares Sneak Up on You!*, 33 FAM. ADVOC. 32 (Spring 2011)(providing guidance on issues raised by clients who have engaged in criminal conduct related to the representation, including perjury, fee forfeiture, and the attorney’s receipt of fruits or instrumentalities of crime).

Marcia L. Proctor, *The Wayward Client*, 33 FAM. ADVOC. 36 (Fall 2010) (addressing what to do when the attorney suspects the client has engaged in illegal activity, committed perjury, or may commit violence, and offers advice on how to handle situations in which clients place their lawyers in ethical dilemmas where the lawyers have conflicting obligations).

Susan E. Thrower, *Neither Reasonable Nor Remedial: The Hopeless Contradictions of the Legal Ethics Measures to Prevent Perjury*, 58 CLEV. ST. L. REV. 781 (2010) (arguing that the Rules of Professional Conduct are internally contradictory and provide no clear direction to resolve the tension between the duty of client confidentiality and candor to a court when faced with client perjury).


J. Anthony McLain, *Ethical Obligations of a Lawyer When His Client Has Committed or Intends to Commit Perjury*, 71 ALA. LAW. 159 (Mar. 2010).


**Client Identity (including Prospective Clients)**


David D. Dodge, *Disclaimers, Good Faith and the Prospective Client*, 48 ARIZ. ATT’Y 10 (Feb. 2012).

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Stuart D. Zimring, Ethical Issues in Representing Seniors, Persons with Disabilities and Their Families, 4 NAELA J. 125 (2008).


Clients with Diminished Capacity (See also Child Representation)


Roberta K. Flowers, The Five Commandments of Preparing Diminished-Capacity Witnesses, 22:2 Experience 28 (2012) (emphasizing the differences between incapacity and diminished capacity and discussing ways to maximize the client’s capacities).

Jamie Rosen, Note, The Child’s Attorney and the Alienated Child: Approaches to Resolving the Ethical Dilemma of Diminished Capacity, 51 Fam. Ct. Rev. 330 (2013)(analyzing the ethical dilemma created for lawyers who use a “client-centered” approach when representing children rather than “best interests,” when the child has been alienated from one parent by the other parent, and arguing that children who have been diagnosed as being alienated from one parent may have diminished capacity to direct the representation even as compared to other children of similar age).

Carol M. Suzuki, *When Something Is Not Quite Right: Considerations for Advising a Client to Seek Mental Health Treatment*, 6 HASTINGS RACE & POVERTY L.J. 209 (2009) (addressing attorneys’ obligations in Model Rule 1.14 regarding representation of clients that attorneys reasonably believe have diminished capacity as well as practical considerations of whether mental health evaluations and treatment will affect clients’ legal matters).

Laura J. Whipple, Comment, *Navigating Mental Capacity Assessment*, 29 TEMP. J. SCI. TECH. & ENVT. L. 369 (2010) (explaining the different standards for testamentary capacity and guardianship capacity and assessment tools to evaluate cognitive function, and recognizing the ethical difficulties lawyers face when dealing with a client’s potential incapacity, particularly the obligation to maintain confidentiality and problems posed with possible conflicts of interest and the duty to keep the client informed).


Collaborative Law Practice (See also Conflicts of Interest)

Susan Daicoff, Collaborative Law: A New Tool for the Lawyer’s Toolkit, 20 U. FLA. J.L. & PUB. POL’Y 113 (2009) (addressing in depth the ethical concerns raised about collaborative law, including the difficulties with clients’ informed consent to the limited scope of representation, potential conflicts of interest, termination of the relationship, and confidentiality waivers).

Rebecca A. Koford, The Ethics of Limited Representation in Collaborative Law, 21 GEO. J. LEGAL ETHICS 827 (2008) (probing financial pressures in collaborative law on clients who have limited financial means and unpacking the ABA Committee on Ethics and Professional Responsibility’s formal opinion about the ethics of agreements with opposing parties).

Margaret B. Drew, Collaboration and Coercion, 24 HASTINGS WOMEN’S L.J. 79 (2013) (using experiences from mediation to address the dynamics of collaborative law practice in cases involving intimate partner violence).

Christopher M. Fairman, Growing Pains: Changes in Collaborative Law and the Challenge of Legal Ethics, 30 CAMPBELL L. REV. 237 (2008) (addressing the Colorado ethics opinion finding collaborative law unethical and the subsequent Colorado Supreme Court rule revisions as well as the ABA’s Formal Opinion 07-447, and evaluating some nuances of how the candor rules should operate in collaborative practice).

Barbara Glesner Fines, Ethical Issues in Collaborative Lawyering, 21 J. AM. ACAD. MATRIM. LAW. 141 (2008)(exploring the ethical challenges of communication, competency, and client consent presented by collaborative law practice and suggesting that attorneys must fully understand the collaborative law model to be able to provide ethical collaborative practice).


John Lande & Forrest S. Mosten, *Before You Take a Collaborative Law Case: What the Ethical Rules Say About Conflicts of Interest, Client Screening, and Informed Consent*, 33 FAM. ADVOC. 31 (Fall 2010) (cataloging applicable rules of professional conduct relevant to collaborative law practice and emphasizing the importance of screening collaborative law cases in the first place to prevent conflicts of interest).


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**Uniform Collaborative Law Act**

Diana M. Comes, Note, *Meet Me in the Middle: The Time Is Ripe for Tennessee to Adopt the Uniform Collaborative Law Act*, 41 U.
MEM. L. REV. 551 (2011) (examining individual state efforts to address some of the ethical issues raised by collaborative law, including limited scope representation, conflicts, and confidentiality, and concluding that the Uniform Collaborative Law Act provides the best resolution of these issues).


Communication with Clients (See also Competence and Diligence and Confidentiality)

James N. Bow, Michael C. Gottlieb, Dianna J. Gould-Saltman & Lesly Hendershot, Partners in the Process: How Attorneys Prepare Their Clients for Custody Evaluations and Litigation, 49 FAM. CT. REV. 750 (2011) (surveying family attorneys about how they prepare their clients for child custody evaluations and litigation and finding that attorneys reported using professionally acceptable procedures and appropriate advocacy but that they believed that allegations of parental alienation and domestic violence were often used to gain leverage in custody cases).

Paul L. Stoller, Documenting the Client Relationship: Protecting Yourself and the Client, 50 ARIZ. ATT’Y 38 (Mar. 2014) (addressing conflict waivers, communications about the scope of engagement, and communications when clients choose not to follow a lawyer’s advice).

and risks (especially waiver of the attorney-client privilege) of weaving in third party professionals who can help the attorney understand the client’s full story, assist in communications, or find services the client needs).

Eli Wald, Taking Attorney-Client Communications (and Therefore Clients) Seriously, 42 U.S.F. L. Rev. 747 (2008) (observing that most assessments of attorney-client communications look only at the confidentiality afforded to things clients tell their lawyers, and proposing an emphasis on requiring attorneys to disclose to their clients all material matters regarding the clients’ cases).


Communication with Represented Parties (See also Pro Se)

George M. Cohen, *Beyond the No-Contact Rule: Ex Parte Contact by Lawyers with Nonclients*, 87 Tul. L. Rev. 1197 (2013) (comparing the general “no contact” rule, Model Rule 4.2, with other no-contact provisions (expert witnesses, potential clients, and tribunals) to consider what interests each protects).

Geoffrey C. Hazard Jr. & Dana Remus Irwin, *Toward a Revised 4.2 No-Contact Rule*, 60 Hastings L.J. 797 (2009) (explaining Model Rule 4.2 and its exceptions (when communications are consented to or when they are “authorized by law”) and suggesting that there should be additional exceptions, such as when a lawyer has a reasonable belief of imminent harm).

Liisa R. Speaker & Jodi M. Latuszek, *Communicating with Children in Custody Disputes*, 33 Fam. Advocate 44 (Fall 2010) (addressing the ethical dilemma raised for family law attorneys when a minor child is involved in a custody dispute and communication occurs between the child and the attorney for one of the parents).


John W. Cooper, *L.E.O. 2014 - 01 the Duty of Counsel to Treat All Persons Represented by a Guardian ad Litem the Same as Any Other Person or Party in Terms of Prohibited Direct Contact*, W. Va. Law. 50 (Jan.-Mar. 2014) (West Virginia).

Dean R. Dietrich, *Client Contacts with Adverse Parties*, 84 Wis. Law. 25 (Nov. 2011).


Competence and Diligence (See also Technology)

Sarah Freeman, *Ensuring Effective Counsel for Parents: Extending Padilla to Termination of Parental Rights Proceedings*, 42
Hofstra L. Rev. 303 (2013) (arguing for interpretation of effective assistance of counsel rights of criminal defendants to include counseling on termination of parental rights as a possible collateral consequence of incarceration).

Barbara Glesner Fines & Cathy Madsen, Caring too Little, Caring too Much: Competence and the Family Law Attorney, 75 UMKC L. Rev. 965 (2007) (arguing that attorneys in family law practice must maintain appropriate professional boundaries and watch for signs of vicarious trauma in order to provide competent representation).

Gail E. Silverstein, All’s Well That Ends Well: The Importance of Full and Effective Closure in Lawyer-Client Relationships, 19 Clinical L. Rev. 555 (2013) (providing a three-step model for ending meetings with clients to help bring effective closure to the emotional and relational aspects of the representation).

Lynn D. Wardle, Counselors and Gatekeepers: The Professional Responsibilities of Family Lawyers in Divorce Cases, 79 UMKC L. Rev. 417 (2010) (arguing that the ethical obligation of competence requires attorneys, at times, to refer divorce cases to counselors rather than to simply accomplish the legal procedure for the parties).


Confidentiality (including Attorney-Client Privilege; see also Technology)

Rebecca Aviel, When the State Demands Disclosure, 33 Cardozo L. Rev. 675 (2011) (exploring the constitutionality of mandated reporting statutes application to attorneys and concluding
that, in most instances, the question of whether these statutes govern attorneys is a matter for judicial interpretation).

Elisia M. Klinka & Russell G. Pearce, *Confidentiality Explained: The Dialogue Approach to Discussing Confidentiality with Clients*, 48 SAN DIEGO L. REV. 157 (2011) (arguing that explaining confidentiality to clients is not just a check off of ethical obligations or a way to encourage trust, but is instead part of a larger dialogue that builds a relationship, and offering suggestions as to how to explain the exceptions to confidentiality).

David Wechsler, *The Indispensable Advisor: Why Communications with Certain Non-Parties Should Fall Within the Attorney-Client Privilege*, 12 HOUS. BUS. & TAX L.J. 388 (2012) (making the case for extension of the attorney-client privilege to “indispensable advisors”—such as accountants, translators, consultants, and developers—who are not otherwise covered as employees or agents).


Los Angeles County Bar Association Professional Responsibility and Ethics & Committee, *Whether There Is a Self-Defense Exception to an Attorney’s Duty to Protect and Preserve Confidential Client Information in Order to Permit the Attorney to Defend Against Third Party Claims*, 30 L.A. LAW. 76 (Apr. 2007) (California).


**Conflicts of Interest**

Rebecca Aviel, *Counsel for the Divorce*, 55 B.C. L. REV. 1099 (2014) (analyzing the issue of joint representation of couples during divorce and advocating that divorcing couples should be treated no differently than other prospective clients who seek joint representation).

Daniel J. Bussel, *No Conflict*, 25 GEO. J. LEGAL ETHICS 207 (2012) (critiquing the rule preventing lawyers from representing parties who have adverse interests to a current client, even if the matter is unrelated).

Sande L. Buhai, *Emotional Conflicts: Impaired Dispassionate Representation of Family Members*, 21 GEO. J. LEGAL ETHICS 1159 (2008)(arguing that attorneys who have emotional ties to clients (as when representing spouses, family members, or intimates) cannot provide objective counsel and should be required to consider these emotional ties as potential conflicts of interest).

Donald R. Lundberg, *Rule 1.8 Conflicts of Interest and Client Consents to Conflicts*, 57 RES GESTAE 19 (Feb. 2014) (exploring business transactions with, gifts from, and financial assistance to clients).

Roberto Concepción, Jr. & Laird Nelson, *Dual Representation in the Family Law Context: A Case Study (of Parenthood)*, 29 CHILD. L. PRAC. 78 (2010) (evaluating decisions whether to represent both parents in terminating a father’s child support action and providing a checklist of issues when considering dual representation).

Cynthia Godsoe, *All in the Family: Towards a New Representational Model for Parents and Children*, 24 GEO. J. LEGAL ETHICS 303 (2011) (urging a concept of representing families instead of individual child clients in special education cases because the rights of children and their parents are usually aligned and intertwined in these sorts of cases).


Kevin H. Michels, *What Conflicts Can Be Waived? A Unified Understanding of Competence and Consent*, 65 RUTGERS L. REV. 109 (2012) (exploring Model Rule 1.7(b) and evaluating when clients can provide knowing consent to joint representation and what competence and diligence to both clients means in various contexts).
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The Ethics Committee, *Conflict of Interest—Prior Representation*, 42 Md. B.J. 59 (June 2009) (Maryland—divorce and bankruptcy).


H. Joseph Gitlin, *Lawyer Disqualification for Conflict of Interest: Denying a Prospective Client the Lawyer of His or Her Choice Is a Serious Decision and Should Not Be Done Lightly*, 101 Ill. B.J. 48 (Jan. 2013) (Illinois).


**Domestic Violence**

Jeffrey R. Baker, Necessary Third Parties: Multidisciplinary Collaboration and Inadequate Professional Privileges in Domestic Violence Practice, 21 Colum. J. Gender & L. 283 (2011) (arguing that evidentiary privilege rules and confidentiality obligations should be reformed to permit the presence of “necessary third parties” in interactions between attorneys and domestic violence clients and permit the privileged professionals to collaborate and communicate on behalf of the common client without destroying their privileges).

Phyliss Craig-Taylor, Lifting the Veil: The Intersectionality of Ethics, Culture, and Gender Bias in Domestic Violence Cases, 32 Rutgers L. Rec. 31 (2008) (discussing ethical issues that arise in domestic violence representation and advocating for a standard of specialization when evaluating attorney competence in these cases).

Njeri Mathis Rutledge, Turning a Blind Eye: Perjury in Domestic Violence Cases, 39 N.M. L. Rev. 149 (2009) (discussing concepts of recanting in domestic abuse cases and how the perjury laws should react to those instances).

Julie Saffren, Professional Responsibility in Civil Domestic Violence Matters, 24 Hastings Women’s L.J. 3 (2013) (exploring several ethical issues in representing victims of domestic violence, including client capacity, confidentiality, and especially the duty of competence regarding the need for attorneys to understand the dynamics of abuse and to assess for lethality).

Nancy Ver Steegh et. al., Look Before You Leap: Court System Triage of Family Law Cases Involving Intimate Partner Violence, 95 Marq. L. Rev. 955 (2012) (arguing for more nuanced categorization of intimate partner violence to recognize that not all violence includes dynamics of power and control).


**Family Businesses**

David P. Dunning & Michael V. Bourland, *Ethics Issues in Representing Owners of Family Businesses and Their Families*, CU005 ALI-CLE 921 (July 18-20, 2012) (addressing issues of who the client is, confidentiality, and conflicts of interest, and providing sample forms such as an engagement letter).


**Family Law Education**

Susan B. Apel, *No More Casebooks: Using Simulation-Based Learning to Educate Future Family Law Practitioners*, 49 Fam. Ct. Rev. 700 (2011) (discussing an approach to teaching family law that integrates simulations into the learning process and teaches about the ethical and professional issues students will face).


Mary Kay O'Malley, *Through a Different Lens: Using Film to Teach Family Law*, 49 Fam. Ct. Rev. 715 (2011) (advocating the use of movies to teach law students about the complex family relationships they may encounter).


### Family Law Practice


Nancy Ver Steegh, *Family Court Reform and ADR: Shifting Values and Expectations Transform the Divorce Process*, 42 Fam. L.Q. 659 (2008) (addressing how the way divorces are handled has changed over the last fifty years and how it has affected the role of the lawyer and the judge; also foreshadowing the impact that decreases in funding will have on the divorce process).

**Fees**

Denise Fields, *Risky Business or Clever Thinking? An Examination of the Ethical Considerations of Disguised Contingent Fee Agreements in Domestic Relations Matters*, 75 UMKC L. Rev. 1065 (2007).

Carl W. Gilmore, *Credit Cards Make Client Bill Paying Easy*, 29 Fam. Advoc. 44 (Spring 2007) (addressing the advantages and disadvantages of allowing clients to pay with a credit card as well as the ethical issues that may arise from doing so).


Evan Marks & Carolyn W. West, *Seven Commandments for Drafting Ethical Fee Agreements*, 33 Fam. Advoc. 10 (Fall 2010) (providing ethical guidelines for how to draft fee agreements and manage client funds).


Lee S. Rosen, *Get the Cash in Hand*, 32 Fam. Advoc. 8 (Fall 2009) (discussing general principles one should follow when accepting and managing client payments).

Tyler Moore, Current Development, *Flat Fee Fundamentals: An Introduction to the Ethical Issues Surrounding the Flat Fee After*


**Guardians ad Litem (See Child Representation)**

**High Conflict Divorce**

Sarah M. Buel, De Facto Witness Tampering, 29 Berkeley J. Gender L. & Just. 72 (2014) (describing methods of witness intimidation and manipulation used by perpetrators of intimate partner violence and human trafficking and arguing for an expansion of remedial statutory schemes to recognize these forms of de facto witness tampering).

Barbara Jo Fidler & Nicholas Bala, Children Resisting Post-separation Contact with a Parent: Concepts, Controversies, and Conundrums, 48 Fam. Ct. Rev. 10 (2010) (addressing ethical issues regarding coercion and with respect to treating therapists making recommendations to a court).

Arnold T. Shienvold, The High-Conflict Divorce and Your Children's Adjustment, 34 Fam. Advoc. 32 (Summer 2011) (noting that the best predictors of children’s negative reactions to divorce are the cooperation or conflict between the parents and the parents’ own emotional health).


**Judicial Ethics in Family Courts**

Kevin McGrath, *Settling Dissolution Cases: Court Rules and Judges’ Roles*, 45 FAM. L.Q. 37 (2011) (addressing judges’ objectives in handling dissolution cases and their role in the process, and advocating that the court should be involved in settlement discussions at an early stage).

Jessica Dixon Weaver, *Overstepping Ethical Boundaries? Limitations on State Efforts to Provide Access to Justice in Family Courts*, 82 FORDHAM L. REV. 2705 (2014) (arguing that at times state efforts to complete self-help forms and provide assistance to pro se litigants can undermine clients’ needs for legal representation to address complex matters).


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**Limited Task Representation (Unbundling) (See also Pro Se Representation)**

Kathleen A. Hogan, *Unbundling for Clients Who Want a Do-It-Yourself Divorce*, 35 Fam. Advoc. 4 (Fall 2012) (discussing the advantages and pitfalls of unbundling as well as ethical concerns it creates for lawyers).

Will Hornsby, *Unbundling and the Lawyer's Duty of Care*, 35 Fam. Advoc. 26 (Fall 2012) (unpacking Model Rule 1.2(c) and discussing what lawyers should consider when they limit their services to pieces of the lawyer-client relationship, such as just consultation or only document drafting).

Stephanie L. Kimbro, *The Ethics of Unbundling*, 33 Fam. Advoc. 27 (Fall 2010) (providing a step-by-step plan for ethically unbundling legal services in family law matters, from assessing the client’s legal needs to determining whether the client can handle certain responsibilities to constructing a limited legal services agreement).

Forrest S. Mosten, *Unbundled Legal Services Today—and Predictions for the Future*, 35 Fam. Advoc. 14 (Fall 2012) (addressing both horizontal and vertical unbundling with respect to a variety of discrete tasks, including research, advice, and negotiation).

Keven M. P. O’Grady, *Making the Limited-Scope Relationship Work: A Written Fee Agreement Is the First Step in Documenting the Lawyer’s Role*, 35 Fam. Advoc. 22 (Fall 2012) (discussing ways to draft a retention letter that embodies a checklist of services that a lawyer will and won’t perform to create an appropriate limited-scope representation, and offering cautions about how to avoid “mission creep” and how to train staff).

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