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PRESIDENT'S MESSAGE



J. Benjamin Stevens
AAML President

Dear Fellows,

I hope everyone is having a great Spring and that those who attended our recent Midyear Meeting have now caught up after returning to their offices. I believe that everyone had a great time, which was the primary goal, and for those who couldn't join us, please know that you were missed.

Looking ahead, registration is now open for our [Arbitration Training](#), which takes place in Chicago from June 6 – 7 and offers AAML Fellows an opportunity to receive their AAML Arbitrator certification. The instructors, [Carolyn Moran Zack](#), [Rochelle B. “Shelly” Grossman](#), and [David M. Johnson](#) are widely recognized as experts in this field, and Ms. Zack's treatise, *Family Law Arbitration: Practice, Procedures, and Forms*, will be provided to the attendees as part of their materials. Space is limited, so claim your spot soon.

Kentucky, Florida, Northern California, and Alabama Chapters in the coming months. If your Chapter would like for me or one of our other officers to visit, please feel free to reach out and we will do our best to accommodate your requests. May the lengthening days and our upcoming gatherings illuminate fresh possibilities for serving clients and strengthening our profession.

I'm grateful to be part of this band of esteemed professionals, and I look forward to reuniting on the road ahead. I leave you

I want to take a moment to express my gratitude to everyone who worked so hard to make the meeting a success: our amazing meeting planner, [Susan Stafford](#), for handling all of the logistics and ensuring everything was perfect; Fellows Kiilu Davis and Jessica Drennan, who organized thought-provoking CLE, with the help of day coordinators Helen Davis, Kathryn Murphy, and Leigh Kahn; and our Executive Director Cindy Tomei and her team, who survived their first AAML meeting relatively unscathed.

A few spaces are remaining for the AAML's inaugural [National Family Law Conference](#), which will take place in Nashville from May 16 – 18. Help spread the word to your colleagues and non-Fellows, as the impressive CLE lineup, including keynotes from legal innovator Jack Newton and our own Steve Peskind, will provide attendees a taste of the excellent programming we enjoy as Fellows.

This time of year begins “travel season” for me, and I look forward to seeing Fellows from the

with the following from John Mellencamp: *“There is plenty of goodness in this world. I hope some day to find it all. I hope the same goes for you.”*

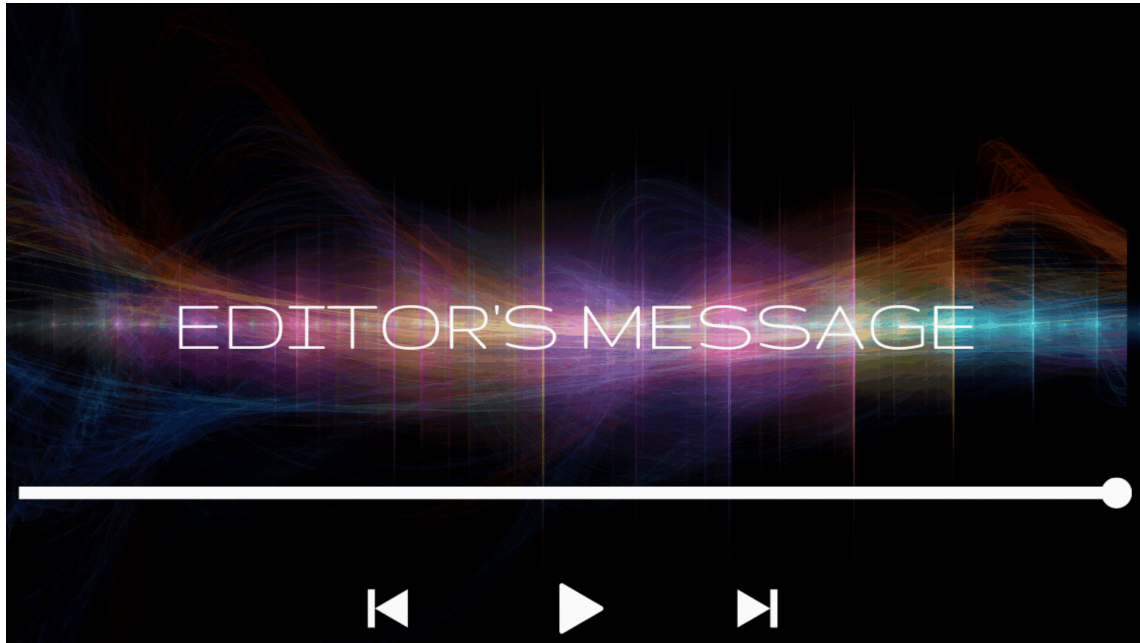
Yours truly,

Ben Stevens

AAML President



[View more images from the AAML Midyear Meeting.](#)



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from Newsletter Editor
[Rod Firoozye](#)

THE EDITOR'S NOTE – APRIL 2024

By [Rod Firoozye](#), AAML Newsletter Editor

After practicing business litigation for several years, the first few times I litigated in family court I was quite surprised to see how often parties or even opposing counsel seemed to be quite untruthful. A family attorney told me then, “Don’t worry Rod, everyone lies in family court.”

After many years of practicing in family court, I am happy to say that not everyone lies in family court. However, detecting a party (including your own) that may be lying can provide a major advantage in reaching a successful outcome.

This month, we have several articles from Fellows regarding when or why parties may lie and how to deal with those situations.

Our guest article this month is from former FBI agent and best-selling author, Joe Navarro. I asked Joe about the detection of a lies. Joe is considered an expert in “body language” interpretation, and if you are interested you can read one of his [many books](#) or watch some of [his videos](#).

Thank you to all the Fellows who contributed articles and your continued support of the AAML Newsletter.

[This Month's Videos and Webinars:](#)

- April 5, 2024 (noon - 1:30 p.m. CST): [The Myth of Cross-Border Asset Protection](#)
- Please view our fantastic [previous webinars](#)

This Month's Articles:

- [David W. Griffin and Eva Marie Fox Article](#): The Perfect (Nightmare) Client: What to Watch For, How to Intervene and How to Maintain Your Sanity.
- [Guest Article - Joe Navarro, M.A.](#): The Truth About Using Body Language to Detect Deception.
- [Bonnie Frost Article](#): To Lie or Not to Lie – That is the Question.
- [Lisa Sharpe Article](#): April Digital Foolishness.
- [Jim Vedder Article](#): Addressing Hidden or Undisclosed Assets.
- [Mark E. Sullivan Article](#): The Survivor Benefit Plan: 7 Myths.
- [AAML Foundation Update](#): Georgia Center for Child Advocacy.



UPCOMING NATIONAL EVENTS/MEETINGS

[AAML National Family Law Conference](#)

May 16-18, 2024
Nashville, Tennessee

[AAML Arbitration Training Institute](#)

June 6-7, 2024
Chicago, IL

[Click to View More](#)



AAML National Family Law Conference

This inaugural AAML [National Family Law Conference](#) is specifically planned to attract attorneys who are not yet Fellows but who should be good candidates to apply to the Academy now or in the future. This is a unique opportunity for non-Fellows to attend AAML-quality CLE, learn more about our organization and fast-track their practice. Please [share the information](#) about this first-of-its-kind conference with your friends, colleagues, local and state bars, etc.

REGISTER



Save your seat for the [2024 AAML Arbitration Training Institute](#), June 6-7, 2024, in Chicago. With family law arbitration trending as an increasingly viable ADR process across the country, and as the only professional training family law arbitration institute in the country, AAML offers its Fellows an opportunity to receive their AAML Arbitrator certification. **Seats are limited, so don't wait to register.**

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AMERICAN ACADEMY OF
MATRIMONIAL LAWYERS

TAKE THE
SURVEY



The Perfect (Nightmare) Client

What to Watch For, How to Intervene and How to Maintain Your Sanity

By [David W. Griffin](#)
(Partner) and Eva Marie
Fox (Senior Associate)

Rutkin, Oldham &
Griffin, LLC

Westport, CT

We have a fictional client who is all too real to all of us. For the sake of simplicity, we will have the client be male, but these characteristics – flaws – challenges – difficulties – faults – problems are in fact an amalgamation of many clients both male and female. Please meet our perfect (nightmare) client. As we approach April Fool's Day, we extend our best hopes to you that these behaviors only come out once a year.

For each of the characteristics we are listing, we are certain that our talented colleagues around the

We also invite feedback from our colleagues with additional ideas about how to spot and address nightmare behaviors in clients.

1. **Characteristic 1 – He speaks to the kids about adult matters, about their mother and about the case, then denies it.**

As the custody case is progressing, you begin to get repeated communications from the lawyer on the other side and the guardian ad litem that the children are making statements attributable to your client, along the lines of, “your mother had an affair” or “your mother is a loser” or “I never wanted this divorce – your mother is destroying our family.” When confronted, the client denies any such statements

end, it is critical to reiterate to the client that even if their spouse is a bad actor, it is in the children's best interest to be shielded from parental discord and disparagement. It is also important to explain to the client that this behavior can be damaging to his custody case, and possibly his entire case, if he is perceived by the Court to be dishonest and unremorseful about his transgressions or self-centered rather than child-centric in his world view. It may (likely will) also benefit the client to recommend individual therapy to process his feelings and vent his frustrations in a more appropriate setting.

1. **Characteristic 2 – He has a significant drinking problem but looks you straight in the eye and denies it.**

As the custody case is progressing, you receive a pleading seeking temporary sole legal and physical custody, alleging that your client arrived home drunk one

country could add many more challenging characteristics to the list, “improving” this catastrophe of a profile into an even more vivid nightmare. For each characteristic, there are associated consequences, and flowing from those consequences are new challenges, responses or fixes required of the client’s lawyer. This survey of challenging characteristics is intended to help us spot the problems early, attempt interventions promptly and do our best to continue to advocate for the client and meet our ethical obligations, even as he continues to make his own case, his own life – and ours – far more difficult than it needs to be. We are sure this sounds familiar.

and begins telling you how horrible a mother the other party is (and what a jerk the other lawyer is).

What do you do?

Clients often feel that they have been wronged by their spouse. They tend to voice their grievances as often as they can, particularly at the onset of a divorce. Whether their grievances are real or perceived, it is imperative that clients not lose sight of who an appropriate audience is (or isn’t) for them to express this frustration. To that

night, stumbled into house and fell asleep in the spare bed in the 12 year-old’s room. When confronted, the client dismisses the claim as exaggerated and overblown. You warn the client about the potential consequences. The client is unmoved.

[Read more.](#)



The Truth About Using Body Language to Detect Deception

By [Joe Navarro, M.A.](#)

“What is the truth about lie detection?” This is a question that I am often asked and one that is profound because every day we assess each other for veracity, be it at home, work, or social situations. Over the years, both in my writings and lectures, I have tried to give insight

(Ekman & O’Sullivan 1991, 913-920; Granhag & Strömwall, 2004, 169; Mann & Vrij 2004). That means that if you toss a coin in the air, you will be as likely to detect deception as the truth. And while it is true that a very few people are better at detecting deception than others, they are barely above chance. In fact, those that are really good are only correct somewhere around 60% of the time; that means that 40% of the time they are wrong,

witness was lying because they had “heard somewhere that if you touch your nose you are lying.” Likewise, I have talked to many a law enforcement officer who is convinced that they are experts at detecting deception. They have deluded themselves that they are, as have judges and other professionals. In fact, every time I hear Judge Judy (of TV fame) say, “I know you are lying,” I cringe (unlike us she is covered by judicial

into this important question.

As the best researchers can tell, and in my own experience as an FBI Special Agent (now retired), detecting deception is very difficult. Every study conducted since 1986, when the famed researcher Paul Ekman first wrote about this, has demonstrated that we humans are no better than chance at detecting deception

and you would not like them sitting on a jury judging you.

Unfortunately, many people have come along and declared themselves deception experts over the years and that has influenced professionals and society in significant ways. I have listened to jurors post trial comment that they thought a

privilege in saying what she wishes, the rest of us would be sued for slander). What she and others don't realize is that as Ekman, De Paulo, Frank, Mann, O'Sullivan, Vrij and others have stated, there is no single behavior indicative of deception (Ekman 1985 et.al., infra.)

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To Lie or Not To Lie – That is the Question

By: [Bonnie Frost, AAML](#)

(Originally published in the New Jersey Law Journal by Law.com, November 14, 2019)

The legal system is based on everyone, lawyers and litigants alike, telling the truth. Litigants take oaths to tell the truth. Lawyers take oaths to tell the truth and to uphold a code of ethics which directs lawyers to show “candor to the tribunal” and not make misrepresentations. Lying is never acceptable.

In 2004, a book called “the Cheating Culture was published where the author posited that stress from economic inequality has corroded moral values resulting in a ‘winner take all’” philosophy such that people cheat i.e. lie in all areas of life-sports, business, law, academics, journalism, entertainment and medicine. What is

All too often, litigants going through divorce where emotions run high and can overtake good judgment and common sense, will lie to their lawyers, to their spouse as well as the court. A not infrequent example is when a client comes in and tells a lawyer that he has cash which he does not want his spouse to know about. Once that revelation is made a lawyer must tell the client that he must reveal this or the lawyer cannot represent him. A lawyer cannot assist a client in committing perjury (lying to the court when he reveals his assets).

Either the client agrees to reveal the cash or, he does not hire that lawyer, goes to another lawyer and does not reveal the cash. This scenario perpetrates a lie upon the court and the spouse. Since the existence of cash is often very difficult to prove without spending a large amount of money on a forensic accountant, the

media is all too ready to report.

Take, for example, the case of Jessie Smolett. Jessie Smolett allegedly staged an attack by two men to appear that he was the victim of an anti-gay and racist assault because he was unhappy with his salary on the show “Empire.” Within two months, all charges he made were dismissed because they were untrue. He lost his job on “Empire” and the city of Chicago is suing him for reimbursement of \$130,000 for the overtime spent investigating the false charges.

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upsetting about this book and events which continue to catch our attention with the 24-hour news cycle, is that lying can be seen as a way to use the legal system to one's advantage to "get it over" on the other side.

litigant who is willing to lie about possessing cash (or lie by omission) is able to reap the benefit of the lie.

Recently, I began thinking about the frequency of lying we see around us which the



April Digital Foolishness

By [Lisa Sharpe](#)

Digital foolishness can challenge the integrity of divorce proceedings. Is it electronic stalking and "coercive control" or simply an effort to keep tabs on the safety of a child? Is a parent putting an Airtag in their child's backpack or following the other spouse on the Tesla app a safety precaution or a legal problem?

Examples from the AAML trenches:

- We have had a case in which one spouse smashed a mobile phone of the other spouse while attempting to destroy a recording...but was captured on a Ring cam while doing so.
- Another time a spouse followed the other spouse around the house while video recording. The recorded spouse appeared to do no

- One of our clients hid a voice activated recorder in his daughter's stuffed animal that he would send with her during time-sharing. Wife found it and he is now facing criminal charges.
- Gmail on a laptop has a "Details" tab at the bottom. If you press "Details" it brings up "activity on this account" and shows every IP location that accessed the Gmail account. At trial, emails were hotly contested, with Wife denying that she sent them. She presented the "Details" tab to show that the account had been accessed frequently in Seattle, where her Husband lived and worked, Wife lived in Florida.

to privacy and the protection against unwarranted surveillance, underscoring the seriousness of these actions. This is particularly true in instances where one spouse uses technology to monitor or track the spouse's movements, communications, or interactions without consent, often crossing the line into what can be legally recognized as coercive control or electronic stalking.

Victims may have access to protective orders, and the perpetrators may face significant legal consequences, including criminal charges.

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Laws Against Electronic Monitoring

wrong but the recording spouse talked with the minor children while walking past them 2 times in the process of recording...and asked the kids twice if they agreed that the other parent was “horrible” and “hurting our family.”

It is crucial for a family law attorney to understand that there are laws against unauthorized electronic monitoring, and these can be quite stringent in several jurisdictions. Such activities can sometimes be construed as a form of domestic violence, especially when they infringe upon the privacy and autonomy of the other individual. The law recognizes the right



Addressing Hidden or Undisclosed Assets

By [Jim Vedder](#)

On occasion a party makes a fool of themselves by failing to disclose an asset. The failure to disclose can be either intentional or unintentional. An unintentional failure to disclose is often easier to address than an intentional failure to disclose, but both present issues.

With respect to an unintentional failure to disclose an asset, once a party or an attorney becomes aware of an asset that was not disclosed, it should be disclosed immediately.

Often attorneys will include language in their Divorce Decrees to address omitted assets and either direct that such assets will be equally or equitably divided. If such an asset is to be equitably divided, it may make sense to have a process in place to address such an issue, such as a binding arbitration, which may be less expensive and more streamlined than returning to Court to address it.

The intentional failure to disclose is more problematic. If a party knowingly fails to disclose an asset they can subject themselves and their attorney to

sanctions and fees. The attorney handling such a situation should immediately disclose the asset once it becomes known to them and propose a resolution of how the asset should be divided. If the asset was not disclosed by a client intentionally, the attorney should consider counseling their client to make a generous offer to try to resolve the issue quickly outside of Court. Failure to do so could result in a lengthy Court process that will be expensive and difficult.

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The Survivor Benefit Plan: 7 Myths

by Mark E. Sullivan

The Survivor Benefit Plan, or SBP, is an important benefit for the spouse or former spouse of a servicemember or military retiree (hereafter “member”). SBP coverage for the former spouse in a divorce case ensures a continued stream of income for the beneficiary upon the death of the member. In a hypothetical divorce case, it provides Jane Doe – the former spouse – with monthly payments of 55% of the selected base amount if her husband or ex-husband dies before her. This base amount is often the full retired pay of the member, John Doe. And the former spouse will continue to receive these payments for the rest of her life. The monthly payments are taxable income, but they are adjusted by inflation through COLAs (cost-of-living adjustments).

Because SBP coverage is a valuable death benefit protection for “Jane Doe,” it is important for servicemembers, retirees, spouses, former spouses and lawyers to know what mistakes to avoid, what “urban legends” to ignore, and what problems to put aside when settling or trying a military divorce case. Here are seven of the myths that are frequently associated with this survivor annuity.

Myth #1 - As long as you say that the former spouse, Jane Doe, gets her proper share of the military retirement benefits of her ex-husband, John Doe, you’ve gotten the death benefit for her.

Response: Words matter, and the proper phrasing of the SBP clause can avoid the receipt of a rejection letter from the government. If you want Jane to be covered, you’d say “The member, John Doe, will promptly elect the former spouse,

Jane Doe, for former-spouse Survivor Benefit Plan coverage.” When maximum coverage is intended, you’d add: “The member will elect full retired pay as the SBP base amount upon applying for the start of retired pay.”

Myth #2 – You have to have SBP since it goes with military pension division.

Response: The Survivor Benefit Plan is distinct from military retired pay. Military pensions are authorized at Title 10, U.S. Code, Chapter 71 (for those retiring from active duty) and Chapter 1223 (for Guard/Reserve retirements). The legislative authorization for SBP coverage, costs and eligibility is found at Chapter 73 of Title 10. In short, the court can award SBP without dividing the pension, and it can divide the military retired pay without allocating former-spouse SBP coverage in a divorce. They are not linked.

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**AAML Foundation
Update: Georgia Center
for Child Advocacy**

The statistics related to child sexual abuse are sobering. 10% of children will be sexually abused before they turn 18; of the children who are sexually abused, 20% are abused before the age of 8. 90% of sexual abuse victims know their abuser. Only 4-8% of child sexual abuse reports are fabricated. A history of child sexual abuse increases the chances of dropping out of school and alcohol and drug abuse.

It is in this context that, in 2023, the AAML Foundation awarded a \$5,000.00 grant to the Georgia Center for Child Advocacy (GCCA). GCCA's mission is to "champion the needs of sexually and severely physically abused children through prevention, intervention, therapy, and collaboration." The GCCA also leads Prevent Child Abuse Atlanta (PCA), with the goal of empowering and strengthening families across the Atlanta area

to raise healthy children who will lead tomorrow's communities. PCA engages with local communities through prevention activities, including training, involvement in local and statewide coalitions, public awareness campaigns, and other educational activities.

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Editor:
[Rod Firoozye](#)



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