

The Future of Family Law: An Annotated Bibliography

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This bibliography covers emerging issues in family law that may become increasingly important in the not too distant future. The bibliography primarily focuses on articles published in the past five years, from 2015 to 2020, but reaches back further on several topics for which the amount of recent literature is limited.

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* The William R. Jacques Constitutional Law Scholar and Professor of Law, University of Missouri-Kansas City School of Law.

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COVID-19

Impact on Family Law

Gia M. Conti, *COVID-19: Key Considerations in Divorce and Related Support Obligations*, FAM. ADVOC., Aug. 1, 2020, at 36 (reviewing how the COVID-19 crisis and resulting uncertainty affects those contemplating divorce or seeking modifications of child or spousal support).

Joann Feld, *Mediation May Be the Best Option for Divorced Families Dealing with the Impacts of COVID-19*, N.Y. ST. B.J., June/July 2020, at 34 (recommending mediation as an alternative to litigation because it can be done while maintaining social distancing and regardless of court closures).

Aimee Key & Lindsey Obenhaus, *COVID-19 and Family Law – What Every Attorney Needs to Know*, 83 TEX. B.J. 310 (2020) (discussing new issues for family law clients and children, includ-

ing how shelter-in-place lockdowns affect parenting, how a parent's potential exposure to COVID-19 affects co-parenting, the impact of remote learning on parents' communications and responsibilities, and the impact of unemployment on child support obligations).

Clare McMahon, *Domestic Relations Practice During the COVID-19 Pandemic*, CBA REC., May/June 2020, at 23 (discussing how the COVID-19 pandemic has affected office and case management for family law attorneys).

David P. Monarch & Daniel J. Boehm, *COVID-19 Gives Rise to the Birth of the Remote Voluntary Settlement Conference Program*, ORANGE CTY. LAW., Aug. 2020, at 36 (describing the remote voluntarily settlement conference program implemented in Orange County, California, for family law cases).

Tony Pacione & Hope Mercado, "I Need Help, but I'm Not Ready" – *Motivating Clients to Accept Legal Advice in a Time of Uncertainty*, ILL. B.J., Sept. 2020, at 50 (discussing how the COVID-19 pandemic has affected many people and their families, and how the heightened anxiety and uncertainty affect interactions between family law attorneys and their clients).

Christopher Vatsaas & Kendal O'Keefe, *Pandemic Family Stress Equals Pandemic Family Law Stress*, BENCH & B. MINN., May/June 2020, at 33 (describing how the COVID-19 pandemic put additional stress on families, resulting in an increase in activity in family law systems, including courts and all forms of alternative dispute resolution).

Vaccinations and Child Custody

Elizabeth Angeley, *Anti-Vaccination: A Growing Epidemic?*, 32 J. AM. ACAD. MATRIM. LAW. 271 (2020) (reviewing how parental disputes about vaccinating children can affect custody decisions).

Rena Seidler & Margaret Ryznar, *Recent Developments in Indiana Family Law: October 2016 to September 2017*, 51 IND. L. REV. 1085 (2018) (briefly discussing a notable child custody case in Indiana about the impact of a vaccination disagreement on joint legal custody).

Cryptocurrency and Other Digital Assets

Divorce and Property Division

Julie Colton, *Cryptocurrency: The Naturally Hidden Asset*, LAW. J. (Allegheny Cty. B. Ass'n), Oct. 25, 2019, at 14 (explaining the importance of ensuring that virtual currencies are properly discovered and valued in family law cases).

Bryce Hopson, *Bitcoin Battles – Is Your Spouse Hiding Assets via Cryptocurrency?*, 81 TEX. B.J. 936 (2018) (discussing how digital currencies can complicate the equitable division of assets in a divorce).

Caline Hou, *A Bit-ter Divorce: Using Bitcoin to Hide Marital Assets*, 16 N.C. J.L. & TECH. ONLINE 74 (2015) (proposing that Bitcoin should be categorized as a security in order to improve courts' ability to properly value divorcing parties' assets and make a fair distribution of marital property).

Inheritance and Estate Planning

Michael Austin, Comment, *Virtual World, Real Money: Estate Planning Considerations for the Online Gamer*, 9 EST. PLAN. & COMMUNITY PROP. L.J. 85 (2016) (proposing a set of questions for estate planners preparing to handle a client's digital assets)

Gerry W. Beyer, *What Estate Planners Need to Know About Cryptocurrency*, EST. PLAN., June 2019, at 24 (reviewing the estate planning and administration issues arising from cryptocurrencies and recommending how estate planners can address virtual currencies).

Naomi Cahn, *Postmortem Life On-Line*, PROB. & PROP., July/Aug. 2011, at 36 (describing the growing importance of digital assets in estate planning).

Naomi Cahn, *Probate Law Meets the Digital Age*, 67 VAND. L. REV. 1697 (2014) (suggesting reforms to state and federal laws affecting estate executors gathering and distributing digital assets).

Abigail J. Farmer & Cory Elizabeth Tyszka, *Virtual Currency Estate Planning, Bit by Bit*, 40 ACTEC L.J. 249 (2014) (identifying special problems that bitcoins pose in estate planning).

Michael Alan Goldberg, *Estate Planning for Cryptocurrency*, 106 ILL. B.J. 38 (Feb. 2018) (advising estate planners about special issues that can arise from the death of a person holding cryptocurrencies).

Greg Lastowka & Trisha Hall, *Living and Dying in a Virtual World: Estate Planning for Digital Assets*, N.J. LAW., Oct. 2013, at 29 (noting the importance of accounting for digital assets in estate planning and administration).

Angela Morris, *Next Generation*, ABA J., Nov. 2018, at 33 (offering advice for estate-planning lawyers with clients who have investments in bitcoin and other digital currencies).

Aubrey K. Noonan, Comment, *Bitcoin or Bust: Can One Really “Trust” One’s Digital Assets?*, 7 EST. PLAN. & COMMUNITY PROP. L.J. 583 (2015) (discussing how the accumulation of digital wealth will affect estate planning).

Maria Perrone, *What Happens When We Die: Estate Planning of Digital Assets*, 21 COMM LAW CONSPECTUS 185 (2012) (arguing that the increasing importance of digital assets creates a need for uniform laws to protect interests in such assets).

Emily Stutts, *Will Your Digital Music and E-Book Libraries “Die Hard” with You?: Transferring Digital Music and E-Books upon Death*, 16 SMU SCI. & TECH. L. REV. 371 (2013) (encouraging consumers to pressure service providers to allow for the free transfer of digital assets such as music and e-books).

Parker F. Taylor et al., *Estate Planning with Cryptocurrency*, PROB. & PROP., July/Aug. 2019, at 22 (advising attorneys about how to create the best estate plans and properly administer the estates of clients holding cryptocurrencies).

Sandi S. Varnado, *Your Digital Footprint Left Behind at Death: An Illustration of Technology Leaving the Law Behind*, 74 LA. L. REV. 719 (2014) (noting the need to consider digital assets in estate planning).

Claudine Wong, *Can Bruce Willis Leave His iTunes Account to His Children?: Inheritability of Digital Media in the Face of EU-LAs*, 29 SANTA CLARA COMPUTER & HIGH TECH. L.J. 703 (2013) (urging individuals to create digital estate plans specifying what happens to their online accounts at death).

International Child Abduction

Determining the “Habitual Residence” of a Child

Chantal Choi, Note, *It Is More than Custody: The Balance Between Parental Intention and the Child’s Perspective in Hague Convention Cases*, 52 SUFFOLK U. L. REV. 297 (2019) (asserting that it is vital to have a uniform standard for determining “habitual residence” in cases under the Hague Convention on the Civil Aspects of International Child Abduction, and arguing that the Eighth Circuit’s approach, blending consideration of the child’s acclimatization to a country and the parents’ shared intent about the child’s place of residence, would best serve the Hague Convention’s objectives).

Joe Digirolamo & Manal Cheema, *Monasky v. Taglieri: The (International) Case for a “True” Hybrid Approach*, 60 VA. J. INT’L L. ONLINE 1 (2020) (arguing that the Supreme Court should adopt a “true” hybrid approach to determination of “habitual residence” of a child under the Hague Convention, which would mean considering the shared intent or agreement of the parents about where the child would reside, as well as where the child had become acclimatized or accustomed to living, with neither the parental intent nor the child’s acclimatization considerations being presumptively favored as the more important factor).

Olivia Claire Dobard, Comment, *The Supreme Court Addresses International Child Abduction Under the Hague Convention*, 32 J. AM. ACAD. MATRIM. LAW. 435 (2020) (discussing the Supreme Court’s decision in *Monasky v. Taglieri*, 140 S. Ct. 719 (2020), and providing resources for family law attorneys handling Hague Convention cases).

Erin Gallagher, Note, *A House Is Not (Necessarily) a Home: A Discussion of the Common Law Approach to Habitual Residence*, NYU J. INT’L L. & POL. 463 (2015) (comparing approaches to

the determination of a child's "habitual residence" in the courts of Canada, the United States, and the United Kingdom).

Caroline Holley, Comment, *Habitual Residence: Perspectives from the United Kingdom*, 30 J. AM. ACAD. MATRIM. LAW. 233 (2017) (reviewing standards for determining the "habitual residence" of children, under the Hague Convention and other laws, used by the Court of Justice of the European Union and the United Kingdom's Supreme Court).

Madison Homan, Case Comment, *Treaty Law – Eighth Circuit Applies “the Child’s Perspective” Standard to Determine Habitual Residence Under the Hague Convention – Cohen v. Cohen*, 858 F.3d 1150 (8th Cir. 2017), 41 SUFFOLK TRANSNAT'L L. REV. 247 (2018) (endorsing the Eighth Circuit's use of a child-centered approach to determining habitual residence of a child for Hague Convention purposes).

William C. Johnston, Case Comment, *Family Law – Children Alienated from Father: Third Circuit Discounts Hague Convention on Legally Inseparable Caribbean Island – Didon v. Castillo*, 838 F.3d 313 (3rd Cir. 2016), 40 SUFFOLK TRANSNAT'L L. REV. 413 (2017) (arguing that, contrary to a Third Circuit ruling, a child could have two places of "habitual residence" if living on an island where there are officially two jurisdictions, such as French Saint Martin and Dutch Sint Maarten, but the border between them is virtually imperceptible for all practical purposes and the children's daily routine transcends the border).

Morgan McDonald, *Home Sweet Home? Determining Habitual Residence Within the Meaning of the Hague Convention*, 59 B.C. L. REV. E-SUPPLEMENT 427 (2018) (discussing the circuit split over how to determine the "habitual residence" of a child and arguing that courts should adopt an approach that focuses on objective, child-centered evidence).

Aimee Weiner, Comment, *Home Is Where the Heart Is: Determining the Standard for Habitual Residence Under the Hague Convention Based on a Child-Centric Approach*, 11 SETON HALL CIRCUIT REV. 454 (2015) (arguing for the use of a hybrid subjective and objective reasonableness standard, focused on the child's perspective and past experience, for determining the loca-

tion of a child's "habitual residence" for Hague Convention purposes).

Mo Zhang, *Habitual Residence v. Domicile: A Challenge Facing American Conflict of Laws*, 70 ME. L. REV. 161 (2018) (considering how the concept of "habitual residence" under the Hague Convention compares to the concept of domicile under traditional American conflict of laws principles).

Effectiveness and Enforcement

Patricia E. Apy, *The Case for Reciprocity*, N.J. LAW., Oct. 2016, at 46 (discussing the significance of the International Child Abduction Prevention and Recovery Act for lawyers practicing in international family law, with a focus on the issue of whether lack of treaty reciprocity should prevent the assertion of claims for the return of a child to a country that is not a Hague Convention signatory).

Robert D. Arenstein, *How to Prosecute an International Child Abduction Case Under the Hague Convention*, 30 J. AM. ACAD. MATRIM. LAW. 1 (2017) (advising family law attorneys handling Hague Convention cases and emphasizing that effective representation of clients in these cases requires attorneys to be prepared to educate judges who are not familiar with the Hague Convention and its provisions).

Michael Samson, Note, *Parental Kidnappings: An Epidemic That Is Escalating*, 23 CARDOZO J.L. & GENDER 309 (2016) (explaining problems that limit the effectiveness of the Hague Convention and suggesting various ways that enforcement could be improved).

Mary W. Sheffield & Matthew D. Rowland, *International Hague Network of Judges: Significance in Implementation of the 1980 and 1996 Hague Conventions on the Civil Aspects of International Child Abduction*, 57 FAM. CT. REV. 175 (2019) (describing how the creation of the International Hague Network of Judges has helped to educate judges, facilitate communication among judges at the international level, and improve the effectiveness and enforcement of the Hague Convention).

Andrew A. Zashin et al., *The United States as a Refuge State for Child Abductors: Why the United States*, 28 J. AM. ACAD. MATRIM. LAW. 249 (2015) (asserting that the U.S. system for enforcement of the Hague Convention is systematically inefficient and biased against left-behind parents seeking to have children returned back to other countries).

Exceptions or Defenses

Janelle Aaron, *Moreno v. Basilio Pena*, 2015 WL 4992005 (*S.D.N.Y. Aug. 19, 2015*), 29 N.Y. INT'L L. REV. 47 (2016) (reviewing a New York federal court case denying an action for return of a child to the Dominican Republic, based in part on the ground that the defense of consent or acquiescence had been established).

Lauren Cleary, Note, *Disaggregating the Two Prongs of Article 13(b) of the Hague Convention to Cover Unsafe and Unstable Situations*, 88 FORDHAM L. REV. 2619 (2020) (arguing that Article 13(b) of the Hague Convention establishes two exceptions to the general requirement that a child must be returned to the place of habitual residence, with one exception covering situations where the return would expose the child to a “grave risk” of physical or psychological harm, and the other exception covering situations where the child would be placed in an “intolerable situation” such as going into a zone of war, but courts have improperly conflated these two defenses and thereby reduced the protection that children should receive under Article 13(b)).

Andres R. Cordova, Case Comment, *International Law: Honoring the Letter and Spirit of International Treaties – Lozano v. Montoya Alvarez*, 134 S. Ct. 1224 (2014), 27 FLA. J. INT'L L. 441 (2015) (suggesting that, given the Supreme Court’s decision that bars left-behind parents from relying on equitable tolling in situations where an abducting parent claims that an abducted child is “well-settled” in a new place after having lived there for at least one year and therefore should not be returned to the country from which the child was abducted, the fact that the abducting parent concealed the child’s whereabouts is likely to be treated as an important negative factor weighing against the abducting parent in determinations of whether the child has become “well-settled” in the country where the child is living).

Michael DiMauro, Case Comment, *Family Law – Multifactor Test Applies to Determine Well-Settled Defense Under Hague Convention on International Child Abduction – Hernandez v. Pena*, 820 F.3d 782 (5th Cir. 2016), 41 SUFFOLK TRANSNAT'L L. REV. 233 (2018) (reviewing the Fifth Circuit's ruling that a child's immigration status in the United States is not determinative but is one factor in a multifactor test to determine whether the child has become "well-settled" in the United States within the meaning of the Hague Convention).

Kevin Eberle, "Settled" Law, S.C. LAW., NOV. 2016, at 22 (discussing the Fourth Circuit's treatment of the Hague Convention defense that enables a court to decline to return a child who has already become "well-settled" in a new home).

Cassandra Erler, Comment, *Far from Now-Settled: The Supreme Court's Decision in Lozano v. Montoya Alvarez*, 26 AM. U. J. GENDER SOC. POL'Y & L. 793 (2018) (arguing that parents' due process rights are violated by the Supreme Court's refusal to apply equitable tolling principles to the Hague Convention provisions that allow a court to find that a child who was abducted more than one year ago is "well-settled" in the child's new home and should not be automatically returned to the country from which the child was abducted).

Lisa R. Havilland, *One Year Isn't Enough: How the Hague Abduction Convention's One-Year Limitation Encourages Abductors to Conceal Their Child's Whereabouts*, 51 FAM. L.Q. 73 (2017) (contending that the Supreme Court was wrong to find that equitable tolling does not apply under the Hague Convention, because it encourages abducting parents to conceal the whereabouts of the child so that one year will pass and the abducting parent can then rely on the defense that the child is "well-settled" in the place where the child is living and should not be automatically returned to the place from which the child was abducted).

Hannah Loo, Comment, *In the Child's Best Interests: Examining International Child Abduction, Adoption, and Asylum*, 17 CHI. J. INT'L L. 609 (2017) (arguing that the Hague Convention's defenses, exceptions, and other standards inadequately provide for consideration of the child's best interests and proposing that re-

forms to address this could include empowering a central authority figure to make a neutral assessment of what is best for the child in the situation, similar to what is done under the Hague Adoption Convention and the U.N. High Commissioner on Refugees Guidelines).

Laura E. Petkovich, Note, *Equitable Tolling Denied: Uniform Standards Breaks Abuser's Control Within Domestic Violence*, 10 MOD. AM. 39 (2017) (asserting that the Supreme Court was right to find that equitable tolling cannot apply under the Hague Convention, so that if a child has been in the United States for more than one year, the child may be found to be "well-settled" in the United States and not subject to automatic return to another country, even if the parent bringing the Hague Convention action claims the one-year limitations period should have been paused while the parent was pursuing the action).

Kevin Wayne Puckett, Comment, *Hague Convention on International Child Abduction: Can Domestic Violence Establish the Grave Risk Defense Under Article 13*, 30 J. AM. ACAD. MATRIM. LAW. 259 (2017) (contending that the Hague Convention's defenses offer inadequate aid to domestic violence victims and their children because so few courts have recognized that domestic violence is a type of "grave risk" under Article 13(b) of the Convention that would justify a court to decline to return a child).

Krista Schlueck, *In re the Matter of D.A., No. 14-CV0586, 2015 WL 2344079 (E.D.N.Y. May 14, 2015)*, 29 N.Y. INT'L L. REV. 31 (2016) (describing a New York federal case in which the Hague Convention exception for age and maturity was used successfully, with the court finding that the child had sufficiently mature reasons for wanting to remain in the United States).

Kyle Simpson, Comment, *What Constitutes a "Grave Risk of Harm?": Lowering the Hague Child Abduction Convention's Article 13(b) Evidentiary Burden to Protect Domestic Violence Victims*, 24 GEO. MASON L. REV. 841 (2017) (arguing that courts are applying an overly demanding standard by requiring a parent to show a "grave risk" of harm, under the Hague Convention's Article 13(b) defense, to avoid the return of a child to a parent accused of abusive behavior).

Christine Sutherland, Case Comment, *International Family Law – The Balancing Act of the Grave Risk of Harm Exception Under the Hague Convention of Civil Aspects of International Child Abuse – Ermini v. Vittori*, 758 F.3d 153 (2d Cir. 2014), 38 SUFFOLK TRANSNAT'L L. REV. 267 (2015) (reviewing the Second Circuit's decision that the Hague Convention exception for grave risks of harm, allowing courts to decline to return a child to another country where doing so would pose a grave risk of physical or psychological harm to the child, could apply where a child with autism would be separated from autism treatment).

General Discussions

Nigel V. Lowe & Victoria Stephens, *Global Trends in the Operation of the 1980 Hague Abduction Convention: The 2015 Statistics*, 52 FAM. L.Q. 349 (2018) (discussing the statistics on Hague Convention actions released in conjunction with the Seventh Meeting, held in 2017, of the Special Commission on the Hague Convention on international criminal abduction).

Robert G. Spector, *International Abduction of Children: Why the UCCJEA Is Usually a Better Remedy than the Abduction Convention*, 49 FAM. L.Q. 385 (2015) (explaining what family law attorneys need to know about the interplay between the 1980 Hague Convention on international child abduction, the Uniform Child Custody Jurisdiction and Enforcement Act, and the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children).

Robert G. Spector & Melissa A. Kucinski, *International Family Law*, 49 YEAR IN REV. (ABA) 147 (2015) (reporting on new developments in international family law over the previous year, including new court decisions in Hague Convention cases).

Robert G. Spector & Melissa A. Kucinski, *International Family Law*, 50 YEAR IN REV. (ABA) 141 (2016) (reporting on new developments in international family law over the previous year, including new court decisions in Hague Convention cases).

Robert G. Spector & Melissa A. Kucinski, *International Family Law*, 51 YEAR IN REV. (ABA) 145 (2017) (reporting on new de-

velopments in international family law over the previous year, including new court decisions in Hague Convention cases).

Robert G. Spector & Melissa A. Kucinski, *International Family Law*, 52 YEAR IN REV. (ABA) 177 (2018) (reporting on new developments in international family law over the previous year, including new court decisions in Hague Convention cases).

Robert G. Spector & Melissa A. Kucinski, *The International Law Year in Review: Family Law*, 53 YEAR IN REV. (ABA) 155 (2019) (reporting on new developments in international family law over the previous year, including new court decisions in Hague Convention cases).

Robert G. Spector & Melissa A. Kucinski, *International Family Law*, 54 YEAR IN REV. (ABA) 175 (2020) (reporting on new developments in international family law over the previous year, including new court decisions in Hague Convention cases).

Robert G. Spector, *Proceedings Under the Hague Child Abduction Convention: 2017-2018*, 52 FAM. L.Q. 567 (2019) (reviewing recent cases decided by U.S. courts about the international child abduction convention and related legislation).

Immigration Issues

Ann Laquer Estin, *Protecting Child Welfare in Abduction and Asylum Proceedings*, 41 N.C. J. INT'L L. 793 (2016) (discussing problems posed by the interaction of multiple bodies of law that relate to cross-border issues about children, including the immigration laws that govern asylum claims, the Hague Convention and other laws about international child abductions, and child welfare laws).

James D. Garbolino, *Intersecting Issues Involving Asylum in the United States and Cases Arising Under the 1980 Hague Convention on the Civil Aspects of International Child Abduction*, 57 FAM. CT. REV. 159 (2019) (considering the issues that can arise when a parent is a party in a Hague Convention case about international child abduction and the parent is simultaneously asserting asylum claims in immigration proceedings).

Nicole Su, Comment, *The International Custody Battle: Conflict of Law Between the Hague Abduction Convention and U.S. Asy-*

lum Law, 39 HOUS. J. INT'L L. 433 (2017) (discussing conflicts that can arise between Hague Convention actions and immigration proceedings, such as situations in which a child seeks asylum in order to remain in the United States as a refugee but a parent is simultaneously seeking to remove the child from the United States through a Hague Convention claim).

Jurisdiction and Procedures

Timothy L. Arcaro, *Think Fast: Post Judgment Considerations in Hague Child Abduction Cases*, 23 SUFFOLK J. TRIAL & APP. ADVOC. 237 (2018) (discussing the tension between the goal of promptly resolving international child abduction cases and the need for fair post-trial review of decisions and effective post-trial procedural remedies).

Megha Bhatt, *International Child Abduction: Modifying the 1980 Hague Convention on the Civil Aspects of Child Abduction and Proposals for a New United Nations Judicial Body*, 20 U.C. DAVIS J. JUV. L. & POL'Y 213 (2016) (arguing that a neutral United Nations body comprised of a group of rotating members from various nations should hear cases about international child abductions).

Nicole Clark, Note, *Putting the "Remedy" Back in the International Child Abduction Remedies Act - Enforcing Visitation Rights for the Left Behind Remedies Act - Enforcing Visitation Rights for the Left Behind Parent*, 89 ST. JOHN'S L. REV. 997 (2015) (contending that federal courts have jurisdiction to consider claims for enforcement of visitation rights in cases under the Hague Convention and the International Child Abduction Remedies Act).

Sam F. Halabi, *The Hague Convention on the Civil Aspects of International Child Abduction and the Latent Domestic Relations Exception to Federal Question Jurisdiction*, 41 N.C. J. INT'L L. 691 (2016) (describing how federal courts have aggressively asserted their jurisdiction over claims seeking the return of a child to a foreign country, but they have largely refrained from exercising their jurisdiction over access claims seeking visitation with a child in the United States, creating a two-track system in which federal courts jealously guard their authority over the remedy of

return but delegate decisions about access to state courts or the State Department).

Sarah J. Kniep, Note, *What Do Courts Do Now?: The Effects and Potential Solutions in the Aftermath of Chafin v. Chafin*, 133 S. Ct. 1017 (2013), 93 NEB. L. REV. 750 (2015) (discussing the problem of how to allow for meaningful appellate review while also achieving the Hague Convention's objective of quick judicial resolution of international child abduction cases, and proposing a plan under which a final decision about return of a child, including an appellate decision, would be made within six weeks).

Rachel Koehn, Note & Comment, *Family Law Frustrations: Addressing Hague Convention Issues in Federal Courts*, 69 BAYLOR L. REV. 636 (2017) (arguing that federal judges' lack of familiarity with family law may hinder their handling of Hague Convention cases and proposing that some family-law-oriented factual determinations in federal Hague Convention cases be referred to state court judges).

Keelikolani Lee Ho, Comment, *The Need for Concentrated Jurisdiction in Handling Parental Child Abduction Cases in the United States*, 14 SANTA CLARA J. INT'L L. 596 (2016) (explaining that many countries are "shrinking the bench" for Hague Convention cases by concentrating the cases on a limited number of specialized judges and considering the arguments for and against changing jurisdiction in the United States to limit the number of judges handling these cases).

George K. Walker, *The Hague Child Abduction Convention and the International Child Abduction Remedies Act: Comments for U.S. Practice*, 41 N.C. J. INT'L L. 741 (2016) (discussing complications that arise for federal courts handling international child abduction cases, including complex conflict of laws issues).

Preventing Abductions

Ashley N. Dowd, *International Parental Kidnapping: Combatting Abduction Through Prevention*, 8 CREIGHTON INT'L & COMP. L.J. 136 (2017) (contending that given the difficulty of obtaining the return of children abducted to foreign countries, U.S. courts should focus on preventative measures that could reduce the number of international child abductions, such as by imposing

strict travel and visitation safeguards in situations where there are factors that suggest the risk of an abduction is heightened).

Alexandra Galdos, Note, *When a Stranger Isn't the Danger: International Child Abduction and the Necessity of Mandatory Preventative Measures in the European Union*, 49 GEO. WASH. INT'L L. REV. 983 (2017) (asserting that all countries should take a proactive approach to preventing international child abductions, as the United Kingdom has done with its system of tipstaff orders and port alerts that enable law enforcement to take preventative actions in situations where there is a high risk for abductions to occur).

Jeanne M. Hannah, *Protecting Children from Parental Abduction*, FAM. ADVOC., Spring 2017, at 26 (explaining how family law attorneys can use the Uniform Child Custody Jurisdiction and Enforcement Act and the Uniform Child Abduction Prevent Act to reduce the risks of international child abductions, particularly abductions by parents who are from countries that are not Hague Convention signatories).

Mishal Pahrand, Student Note, *Not Without My Children: The Need for Modification of International Child Abduction Laws*, 55 FAM. CT. REV. 139 (2017) (arguing that because of limitations on the Hague Convention's effectiveness, Congress should enact stricter exit controls for children whose parents wish to travel outside of the United States with them, so that international child abductions become less frequent).

Relations with Other Countries

Breanna Atwood, Comment, *Addressing the Problem of Implementing the Hague Abduction Convention on the Civil Aspects of International Child Abduction Between the U.S. and Mexico*, 4 PENN. ST. J.L. & INT'L AFF. 790 (2016) (discussing Mexico's difficulties with fulfilling its obligations under the Hague Convention and considering potential solutions such as better educating judges about Hague Convention return cases, creating Hague Convention specialized courts, enhancing financial and legal resources for left-behind parents bringing Hague Convention actions, and strengthening Mexican authorities' efforts to locate abducted children).

Tarja Cajudo, Comment, *Japan's Failure to Protect Japanese-American Children from International Parental Kidnapping in Violation of the Hague Convention on Child Abduction*, 33 AM. U. INT'L L. REV. 477 (2017) (discussing how Japan's legal culture clashes with its obligations under the Hague Convention and recommending ways that amendments to Japanese laws or international pressure could be used to improve Japan's compliance).

Emily C. Dougherty, *International Child Abduction and the Hague Convention: Inconsistencies Between the United States and the United Kingdom – A Call for Amendments*, 24 WILLAMETTE J. INT'L L. & DISPUTE RESOL. 297 (2017) (comparing how the United States and the United Kingdom handle disputes with countries that have not signed the Hague Convention and explaining the need for an amendment to the Hague Convention that would prioritize the child's welfare in all decision making and lend guidance for situations involving children taken to non-signatory countries).

Kristy Horvath & Margaret Ryznar, *Protecting the Parent-Child Relationship*, 47 GEO. WASH. INT'L L. REV. 303 (2015) (explaining how Japan, having recently ratified the Hague Convention, can take steps to ensure proper compliance with its new obligations).

Yoko Konno, Comment, *A Haven for International Child Abduction: Will the Hague Convention Shape Japanese Family Law?*, 46 CAL. W. INT'L L.J. 39 (2015) (explaining how Japan's legal system, which does not recognize the joint custody or visitation rights of non-custodial parents, cannot adequately implement the Hague Convention).

Peter J. Messitte, *Getting Tough on International Child Abduction*, 58 FAM. CT. REV. 195 (2020) (arguing that the U.S. State Department's Bureau of Consular Affairs has not made adequate efforts to sanction countries, such as Brazil, that fail to fulfill their responsibilities under the Hague Convention).

Mary Rose Pritchard, Case Summary, *Smedley v. Smedley*, 772 F.3d 184 (4th Cir. 2014) – *The Effect of International Comity on the Hague Convention*, 11 S.C. J. INT'L L. & BUS. 261 (2015) (discussing a court decision about the extent to which American courts should respect judicial decrees from foreign courts in

Hague Convention cases based on the principle of international comity).

Barbara Stark, *Foreign Fathers, Japanese Mothers, and the Hague Abduction Convention: Spirited Away*, 41 N.C. J. INT'L L. 761 (2016) (explaining why the application of the Hague Convention to Japanese nationals, especially Japanese mothers, is problematic and discussing more generally why it is difficult to harmonize the family laws of different countries).

Multiple Parents

Haim Abraham, *A Family Is What You Make It? Legal Recognition and Regulation of Multiple Parents*, 25 AM. U. J. GENDER SOC. POL'Y & L. 405 (2017) (examining how legislatures and courts in California, Canada, and the United Kingdom have dealt with the issue of multi-parent families).

Naomi Cahn & June Carbone, *Custody and Visitation in Families with Three (or More) Parents*, 56 FAM. CT. REV. 399 (2018) (discussing the problems that arise in trying to recognize multiple parents of a child and suggesting solutions that assign rights to parents based on their function with respect to care for the child rather than inflexibly trying to maintain equal standing for each of the multiple parents).

Judith Daar, *Multi-Party Parenting in Genetics and Law: A View from Succession*, 49 FAM. L.Q. 71 (2015) (exploring how to deal with estates and inheritance issues in multi-parent families created via mitochondrial manipulation technologies).

Jason de Jesus, *When It Comes to Parents, Three's No Longer a Crowd: California's Answer to In re M.C.*, 49 LOY. L.A. L. REV. 779 (2016) (examining California's legislation enabling courts to recognize a child as having more than two parents and arguing that recognition of multiple parents can benefit children in financial and emotional ways).

Emily B. Gelmann, *What About Susan? Three's Company, Not a Crowd: The Importance of Allowing Third Party Parent Adoptions When Both Legal Parents Consent*, 30 WIS. J.L. GENDER & SOC'Y 57 (2015) (arguing that, given the continuing evolution and increasing complexity and diversity of family structures,

courts should have authority to recognize three people as legal parents of a child).

Daniel Green, Note & Comment, *Assessing Parental Rights for Children with Genetic Material from Three Parents*, 19 MINN. J.L. SCI. & TECH. 251 (2018) (arguing that courts should adopt a bright-line rule that an individual donating mitochondrial DNA to a child via mitochondrial replacement therapy does not have parental rights).

Tricia Kazinetz, *You Can't Have One Without the Other: Why the Legalization of Same Sex Marriage Created a Need for Courts to Have Discretion in Granting Legal Parentage to More than Two Individuals*, 24 WIDENER L. REV. 179 (2018) (contending that given the range of new and evolving family structures, states should follow California's lead and allow courts to recognize a child as having more than two parents).

Amy B. Leiser, Note, *Parentage Disputes in the Age of Mitochondrial Replacement Therapy*, 104 GEO. L.J. 413 (2016) (proposing the use of an intent test for resolving parentage disputes in the context of mitochondrial replacement therapy).

Myrisha S. Lewis, *Biology, Genetics, Nurture, and the Law: The Expansion of the Legal Definition of Family to Include Three or More Parents*, 16 NEV. L.J. 743 (2016) (introducing "parentage in praxi," a new doctrine of parental recognition based on the idea that one may stand "in the shoes of a parent," and which would allow a child to have more than two parents if doing so is in the child's best interests).

Stu Marvel, *The Evolution of Plural Parentage: Applying Vulnerability Theory to Polygamy and Same-Sex Marriage*, 64 EMORY L.J. 2047 (2015) (discussing how the evolution of the concept of marriage, including the movement toward recognition of the legitimacy of polygamous families, will eventually transform the traditional two-parent model of caring for children).

Tiffany L. Palmer, *How Many Parents? – Multiparent Families Are Increasingly Recognized by Law and Society*, FAM. ADVOC., Spring 2018, at 36 (discussing how most states will only recognize two individuals as a child's legal parents even though families to-

day are raising children in diverse and evolving structures that often involve three or more co-parents).

Colleen M. Quinn, *Mom, Mommy & Daddy and Daddy, Dad & Mommy: Assisted Reproductive Technologies & the Evolving Legal Recognition of Tri-Parenting*, 31 J. AM. ACAD. MATRIM. LAW. 175 (2018) (describing how assisted reproductive technology and expanded views about who has a right to marry will inevitably soon raise more multi-parent situations, and arguing that the resulting issues should be approached from a child-centric approach that focuses on the best interests of the child).

Mallory Ullrich, Student Note, *Tri-Parenting on the Rise: Paving the Way for Tri-Parenting Families to Receive Legal Recognition Through Preconception Agreements*, 71 RUTGERS U. L. REV. 909 (2019) (arguing that New Jersey should allow families with more than two parents to gain legal recognition by entering into narrowly tailored preconception agreements that express the intent of all three parties to parent the child).

Multiple Spouses

Cultural and Social Norms

Lisa Fishbayn Joffe, *What's the Harm in Polygamy? Multicultural Toleration and Women's Experience of Plural Marriage*, 31 J.L. & RELIGION 336 (2016) (discussing four recent books about polygamy; looking at the representation of polygamy in literature and popular culture; considering the role of cultural and religious intolerance in opposition to polygamy; assessing the purported harms of polygamy; considering whether there could be forms of polygamy that are not oppressive or exploitative; and suggesting that South Africa's Recognition of Customary Marriages Act might be a model for how to give legal recognition to polygamous relationships while empowering women to resist and alter discriminatory aspects of their marital practices).

Elizabeth S. Scott & Robert E. Scott, *From Contract to Status: Collaboration and the Evolution of Novel Family Relationships*, 115 COLUM. L. REV. 293 (2015) (describing the process that non-traditional family relationships go through in moving toward acceptance and achieving the legal status of families, which

requires demonstrating that these nontraditional family forms can function effectively as long-term commitments to mutual care and interdependence, with polyamorous relationships used as a primary example of this process).

Decriminalization

Casey E. Faucon, *Decriminalizing Polygamy*, 2016 UTAH L. REV. 709 (arguing that laws prohibiting polygamy should be struck down as unconstitutional under a combination of substantive due process and free speech grounds, which would result in the decriminalization of informal polygamy even if it did not mean extending the right to marriage to plural or group relationships).

Maura Irene Strassberg, *Can We Still Criminalize Polygamy: Strict Scrutiny of Polygamy Laws Under State Religious Freedom Restoration Acts After Hobby Lobby*, 2016 U. ILL. L. REV. 1605 (arguing that where state religious freedom laws require the application of strict scrutiny to claims about religious freedom to practice polygamy, states will need to show that they have compelling interests in avoiding harms resulting from polygamy and that criminalization of polygamy is the least restrictive way to serve those interests).

Maura I. Strassberg, *Scrutinizing Polygamy: Utah's Brown v. Buhman and British Columbia's Reference Re: Section 293*, 64 EMORY L.J. 1815 (2015) (arguing that polygamy poses a broad range of social and personal harms that provide a compelling state interest for criminalizing polygamy).

Jonathan Turley, *The Loadstone Rock: The Role of Harm in the Criminalization of Plural Unions*, 64 EMORY L.J. 1905 (2015) (exploring the concept of harm as the basis for enactment of criminal laws, and finding that the criminalization of plural relationships has been based largely on assumptions about harm driven by anecdotal evidence, moral opinions, and a focus on the most extreme forms of polygyny).

McLaurine H. Zentner, Comment, *Keeping "I Do" Between Two: A Post-Obergefell Analysis of Bigamous Marriage and Its Implications for Louisiana's Matrimonial Regime*, 78 LA. L. REV. 335 (2017) (contending that even though the fundamental right to marry should not be extended to bigamous relationships, laws

that criminalize bigamy should be struck down as unconstitutional violations of privacy rights).

Divorce

Michael J. Higdon, *Polygamous Marriage, Monogamous Divorce*, 67 DUKE L.J. 79 (2017) (arguing that states have a compelling economic interest in limiting marriage to two people because otherwise a person who never intended to truly have more than one spouse at any given time could marry a series of people over time, without ever divorcing any of them or facing a risk of prosecution for bigamy, and take financial advantage of each of the victims of this sequential form of bigamy).

Estate Planning

Naomi Cahn & Kim Kamin, *Adapt Old Strategies to Fit New Family Arrangements*, 47 EST. PLAN. 30 (2020) (discussing the increasing number of potential complexities in family arrangements, including polyamorous relationships, that should be considered by estate planners).

Carrie A. Harrington, *Bigger Love: Considerations for Polyamorous Clients*, 46 EST. PLAN. 15 (NOV. 2019) (discussing ways for estate planners to deal with the challenges of successfully structuring estate plans for clients with multiple spouse-like partners).

Family Law Practice

Helen Casale, *Does It Take Three to Tango?*, N.J. LAW., Dec. 2018, at 22 (advising family law practitioners about issues raised by multi-parent families, including the need to advise clients about the importance of entering into written agreements to spell out relationships and arrangements).

Immigration

Jonathan E. Amgott, *Post-Windsor Prospects for Morals Legislation: The Case of Polygamous Immigrants*, 26 STAN. L. & POL'Y REV. 513 (2015) (predicting that constitutional challenges to the provisions of immigration law that are unfavorable to

polygamists would probably be unsuccessful, despite the recent decisions recognizing a right to same-sex marriage).

Marriage Rights

Hadar Aviram & Gwendolyn M. Leachman, *The Future of Polyamorous Marriage: Lessons from the Marriage Equality Struggle*, 38 HARV. J.L. & GENDER 269 (2015) (discussing the effect that the movement toward legalization of same-sex marriage could have on a potential similar movement for expanding marriage rights to polyamorous relationships).

Sonu Bedi, *An Illiberal Union*, 26 WM. & MARY BILL RTS J. 1081 (2018) (arguing that the Supreme Court decisions recognizing a right to same-sex marriage may seem to affirm principles of liberalism, but they in fact run counter to principles of liberal neutrality by treating marriage as a spiritual status in violation of separation of church and state, stigmatizing people who choose not to marry, and promoting monogamy over polygamy and other alternative forms of relationships).

Amberly N. Beye, Comment, *The More, the Marry-er? The Future of Polygamous Marriage in the Wake of Obergefell v. Hodges*, 47 SETON HALL L. REV. 197 (2016) (predicting that the outcome for constitutional claims about polygamous marriage will depend on the level of scrutiny that courts apply, and even if the fundamental right to marry applies, laws prohibiting polygamous marriage may nevertheless survive scrutiny because of state interests in protecting women and children from harms arising from polygamous marriages).

Ronald C. Den Otter, *Three May Not Be a Crowd: The Case for a Constitutional Right to Plural Marriage*, 64 EMORY L.J. 1977 (2015) (assessing the substantive due process and equal protection arguments for legal recognition of plural marriages and predicting that marriage may become a concept that allows for greater diversity of choices and that does a better job of meeting people's needs).

Casey E. Faucon, *Polygamy After Windsor: What's Religion Got to Do with It?*, 9 HARV. L. & POL'Y REV. 471 (2015) (contending that constitutional arguments for legal recognition of plural marriage practices will be more successful if based on substantive

due process arguments, about equal dignity and intimacy privacy, rather than freedom of religion).

Jack B. Harrison, *On Marriage and Polygamy*, 42 OHIO N.U. L. REV. 89 (2015) (discussing how the Supreme Court's recognition of a constitutional right to same-sex marriage may lead to the eventual legal recognition of polygamous marriages).

John O. Hayward, *Plural Marriage: When One Spouse Is Not Enough*, 19 U. PA. J. CONST. L. ONLINE 1 (2017) (discussing how extension of constitutional rights from same-sex marriage to plural marriage may threaten the traditional concept of marriage by destroying the exclusivity of the marital bond).

Olivia Kinnear, Comment, *Legal Relationships, Illegal Marriage: Examining Plural Marriage and a Legal Inconsistency*, 28 TUL. J.L. & SEXUALITY 59 (2019) (explaining why legalization of plural marriage is the logical next step after recognition of the constitutional right to same-sex marriage).

Jonathan A. Porter, Comment, *L'Amour for Four: Polygyny, Polyamory, and the State's Compelling Economic Interest in Normative Monogamy*, 64 EMORY L.J. 2093 (2015) (arguing that states have a compelling interest in prohibiting polyamory because social science research shows that normative monogamy has strengthened societies economically by encouraging long-term investments in relationships and by steering men to direct their resources away from mate-seeking and toward child-rearing, saving, and other productive investments).

Sarah Rogozen, *Prioritizing Diversity and Autonomy in the Polygamy Legalization Debate*, 24 UCLA WOMEN'S L.J. 107 (2017) (contending that a right to polygamous marriage should be recognized, based on the substantive due process interest in people having autonomy in making decisions about personal matters).

Renuka Santhanagopalan, Note, *Ménage à What? The Fundamental Right to Plural Marriage*, 24 WM. & MARY J. WOMEN & L. 415 (2018) (asserting that the constitutional arguments for same-sex marriage rights apply fully to polygamous relationships).

Edward Stein, *Plural Marriage, Group Marriage and Immutability in Obergefell v. Hodges and Beyond*, 84 UMKC L. REV. 871

(2016) (considering the ways in which same-sex marriage and polygamy may be distinguished, so that polygamy would remain prohibited despite the recognition of a constitutional right to same-sex marriage, with a particular focus on whether a distinction can be based on the ground that sexual orientation is immutable but the desire to engage in plural or group relationships is a choice and not an immutable characteristic).

John Witte, Jr., *Why Two in One Flesh? The Western Case for Monogamy over Polygamy*, 64 EMORY L.J. 1675 (2015) (predicting that polygamy will be a hot topic in family law in the near future, and arguing that there are sound justifications for laws privileging monogamous relationships over polygamous ones because social science evidence shows that polygamy often causes substantial harm to women, children, and communities in which it is practiced and there is little evidence that polygamy is as effective as monogamy at promoting equality and the stability and well-being of families).

B.J. Wray et al., *The Most Comprehensive Judicial Record Ever Produced: The Polygamy Reference*, 64 EMORY L.J. 1877 (2015) (looking at the litigation over the constitutionality of Canada's prohibition of polygamy, from the perspective of lawyers who helped to defend the prohibition on behalf of the Attorney General of Canada).

Deborah Zalesne & Adam Dexter, *From Marriage to Households: Towards Equal Treatment of Intimate Forms of Life*, 66 BUFF. L. REV. 909 (2018) (proposing that law should regard marriage as a matter of contract formation among the members of a household, rather than a unique status to which the government can limit access, and that this shift in approach would open the door to polyamorous relationships being legally recognized as marriages).

Nonmarital Legal Status

Sally F. Goldfarb, *Legal Recognition of Plural Unions: Is a Nonmarital Relationship Status the Answer to the Dilemma?*, 58 FAM. CT. REV. 157 (2020) (arguing that a formal nonmarital legal status, such as a civil union or domestic partnership status, should be afforded to participants in plural unions, which would give

polyamorists the benefits of legal recognition of their relationships but without extending the legal definition of marriage to include situations involving oppressive systemic polygyny).

Edward Stein, *How U.S. Family Law Might Deal with Spousal Relationships of Three (or More) People*, 51 ARIZ. ST. L.J. 1395 (2019) (suggesting that since practical and political realities make it unlikely that legal recognition will be extended to plural or group marriages in the near future, a beneficial alternative approach would be to give some form of legal recognition to plural or group marriages, such as allowing them to be recognized as civil unions or domestic partnerships rather than marriages).

Post-Mortem Reproduction

Constitutional Interests

Kristin L. Antall, Note, *Who Is My Mother?: Why States Should Ban Posthumous Reproduction by Women*, 9 HEALTH MATRIX: J.L.-MED. 203 (1999) (arguing that the fundamental constitutional right to procreate does not apply to a woman after her death and that states should ban posthumous reproduction by women).

John A. Gibbons, Comment, *Who's Your Daddy?: A Constitutional Analysis of Post-Mortem Insemination*, 14 J. CONTEMP. HEALTH L. & POL'Y 187 (1997) (arguing that the constitutional right to procreate and to use reproductive technology encompasses the use of post-mortem insemination, but does not encompass a right to have the posthumously conceived child legally declared to be the child of the male donor).

Karin Mika & Bonnie Hurst, *One Way to Be Born? Legislative Inaction and the Posthumous Child*, 79 MARQUETTE L. REV. 993 (1996) (arguing that legal rules governing posthumous children must be based on the fundamental right to procreate rather than principles of contract law).

Laurence C. Nolan, *Posthumous Conception: A Private or Public Matter?*, 11 BYU J. PUB. L. 1 (1997) (arguing that there is no fundamental constitutional right to posthumous conception and that states should regulate posthumous reproduction in ways that ensure a minimum quality of life for the potential child).

Cindy L. Steeb, Note, *A Child Conceived After His Father's Death? Posthumous Reproduction and Inheritance Rights – An Analysis of Ohio Statutes*, 48 CLEV. ST. L. REV. 137 (2000) (arguing that postmortem reproduction is directly related to the fundamental constitutional right to procreate and therefore statutes must support posthumous conception).

Ethical and Moral Concerns

Janet J. Berry, *Life After Death: Preservation of the Immortal Seed*, 72 TULANE L. REV. 231 (1997) (examining the legal, moral, and ethical issues arising from post-mortem artificial insemination).

Ronald Chester, *Freezing the Heir Apparent: A Dialogue on Postmortem Conception, Parental Responsibility, and Inheritance*, 33 HOUS. L. REV. 967 (1996) (discussing the legal and moral questions surrounding treatment of posthumously conceived children and proposing ways to strike a balance between the deceased parent's interests and the resulting child's needs).

Katie Christian, "It's Not My Fault!": *Inequality Among Posthumously Conceived Children and Why Limiting the Degree of Benefits to Innocent Babies Is a "No-No!"*, 36 MISS. C. L. REV. 194 (2017) (arguing that courts should defer to a gestational parent's intent and that this is the best approach to reducing inequality among posthumously conceived children).

Sheri Gilbert, Note, *Fatherhood from the Grave: An Analysis of Postmortem Insemination*, 22 HOFSTRA L. REV. 521 (1993) (arguing that postmortem use of a deceased person's sperm for artificial insemination should be permitted in some circumstances even without the deceased person's consent).

Laurence C. Nolan, *Critiquing Society's Response to the Needs of Posthumously Conceived Children*, 82 OR. L. REV. 1001, 1067 (2003) (arguing that legislatures and courts must do more to adequately protect the interests of posthumously conceived children).

John A. Robertson, *Posthumous Reproduction*, 69 IND. L.J. 1027 (1994) (exploring how the concept of autonomy can resolve conflicts about postmortem reproduction).

Anne Reichman Schiff, *Arising from the Dead: Challenges of Posthumous Procreation*, 75 N.C. L. REV. 901 (1997) (discussing philosophical and moral questions underlying legal issues about postmortem reproduction).

Shelly Simana, *Creating Life After Death: Should Posthumous Reproduction Be Legally Permissible Without the Deceased's Prior Consent?*, 5 J.L. & BIOSCIENCES 329 (2018) (discussing justifications for permitting posthumous reproduction without the deceased person's prior consent).

Carson Strong, *Consent to Sperm Retrieval and Insemination After Death or Persistent Vegetative State*, 14 J.L. & HEALTH 243 (2000) (examining legal and ethical issues posed by retrieval and use of sperm from a person who has died or is in a persistent vegetative state, and proposing legal approaches for handling these situations).

Bruce Wilder, *Posthumous and Post-Incompetency Reproduction: Legal Ramifications for Family Law and for the Law of Probate*, 13 DIVORCE LITIG. 57 (2001) (drawing parallels between the legal issues arising in situations involving reproduction after a person's death and reproduction after a person has been rendered incompetent by a severe injury).

Bruce L. Wilder, *Test-Tube Parents: Cryopreservation and the Fertile Corpse*, FAM. ADVOC., Spring 2018, at 40 (arguing that legal analysis of posthumous reproduction requires a pragmatic consideration of how the child will grow up, who will be the child's parent, and how parentage of the child may affect other beneficiaries of an estate).

Hilary Young, *The Right to Posthumous Bodily Integrity and Implications of Whose Right It Is*, 14 MARQ. ELDER'S ADVISOR 197 (2013) (considering reasons for protecting bodily integrity after death, with a section on how requiring consent for postmortem reproduction protects interests in posthumous bodily integrity).

Grandparenthood

Nofar Yakovi Gan-Or, *Security Posterity: The Right to Post-mortem Grandparenthood and the Problem for Law*, 37 COLUM. J. GENDER & L. 109 (2019) (discussing the use of postmortem

reproduction technology by bereaved parents, or would-be grandparents, who wish to produce a grandchild following the death of an adult son).

Inheritance and Other Benefits

Benjamin Carpenter, *A Chip Off the Old Iceblock: How Cryopreservation Has Changed Estate Law, Why Attempts to Address the Issue Have Fallen Short, and How to Fix It*, 21 CORNELL J.L. & PUB. POL'Y 347 (2011) (arguing that posthumously conceived children should be recognized as heirs if the deceased parent consented to the posthumous use of his or her genetic material for reproduction, but courts or legislatures should create rules enabling estates to distribute assets if they are not notified within a reasonable time after the decedent's death that a surviving spouse or partner intends to use the decedent's genetic material for reproductive purposes).

Andrea Corvalan, Comment, *Fatherhood After Death: A Legal and Ethical Analysis of Posthumous Reproduction*, 7 ALB. L.J. SCI. & TECH. 335 (1997) (arguing that posthumously conceived children should be recognized as heirs where the deceased parent clearly consented to the practice of posthumous reproduction, but that post-mortem reproduction should not be allowed in situations where the intent is unclear, such as in situations where sperm is harvested from a deceased person who did not indicate consent or intent).

William H. Danne, Jr., *Legal Status of Posthumously Conceived Child of Decedent*, 17 A.L.R.6th 593 (2006) (discussing court decisions about whether posthumously conceived children have a right to inherit from the estate of the deceased parent or a right to receive Social Security benefits on account of the deceased parent).

Barry Dunn, Note, *Created After Death: Kentucky Law and Posthumously Conceived Children*, 48 U. LOUISVILLE L. REV. 167 (2009) (arguing that Kentucky's legislature should pass legislation allowing posthumously conceived children to inherit from the deceased parent only if provided for by will).

Ellen J. Garside, Comment, *Posthumous Progeny: A Proposed Resolution to the Dilemma of the Posthumously Conceived Child*,

41 *LOY. L. REV.* 713 (1996) (proposing changes to Louisiana law to recognize limited inheritance rights for posthumously conceived children).

John L. Gordon, *Successive Rights of Posthumously Conceived Children*, 18 *J. JUV. L.* 84 (1997) (arguing for courts and legislatures to recognize inheritance rights for posthumously conceived children).

Joshua Greenfield, Note, *Dad Was Born a Thousand Years Ago? An Examination of Post-Mortem Conception and Inheritance, with a Focus on the Rule Against Perpetuities*, 8 *MINN. J.L. SCI. & TECH.* 277 (2007) (arguing for the creation of hard deadlines cutting off inheritance rights of posthumously conceived children who were not in gestation at the time of the fathers' death).

Robert Matthew Harper, *Dead Hand Problem: Why New York's Estates, Powers and Trusts Law Should Be Amended to Treat Posthumously Conceived Children as Decedents' Issue and Descendants*, 21 *QUINNIPIAC PROB. L.J.* 267 (2008) (proposing amendments to New York law to recognize posthumously conceived children as descendants for inheritance purposes).

Joseph H. Karlin, Comment, "*Daddy, Can You Spare a Dime?*": *Intestate Heir Rights of Posthumously Conceived Children*, 79 *TEMPLE L. REV.* 1317 (2006) (proposing legislative measures to clarify the rights of posthumously conceived children).

Robert J. Kerekes, *My Child. . . But Not My Heir: Technology, the Law, and Post-Mortem Conception*, 31 *REAL PROP. PROB. & TR. J.* 213 (1996) (proposing a uniform act to address the rights of posthumously conceived children).

Charles P. Kindregan, Jr., *Dead Dads: Thawing an Heir from the Freezer*, 35 *WM. MITCHELL L. REV.* 433 (2009) (providing an overview of issues raised by postmortem reproduction).

Kristine S. Knaplund, *Equal Protection, Postmortem Conception, and Intestacy*, 53 *U. KAN. L. REV.* 627 (2005) (suggesting that state legislatures limit inheritance claims by posthumously conceived children, allowing them to inherit only if specifically provided for by the decedent's will or trust).

Kristine S. Knaplund, *Postmortem Conception and a Father's Last Will*, 46 *ARIZ. L. REV.* 91 (2004) (arguing that posthumously

conceived children generally will not be able to inherit under their father's will, unless there is clear extrinsic evidence of a testator's intention to provide for inheritance by such children).

Ann-Patton Nelson, *A New Era of Dead-Beat Dads: Determining Social Security Survivor Benefits for Children Who Are Posthumously Conceived*, 56 *MERCER L. REV.* 759 (2005) (reviewing a Ninth Circuit decision allowing a posthumously conceived child to receive Social Security survivor benefits).

Mary F. Radford, *Postmortem Sperm Retrieval and the Social Security Administration: How Modern Reproductive Technology Makes Strange Bedfellows*, 2 *EST. PLAN. & COMMUNITY PROP. L.J.* 33 (2009) (explaining the Ninth Circuit's decision not to extend Social Security benefits to a child born via postmortem sperm retrieval done without the decedent's consent).

Jamie Rowsell, Note, *Stayin' Alive*, 41 *FAM. CT. REV.* 400 (2003) (discussing scientific developments that have increased the likelihood of posthumous reproduction, arguing that posthumous use of cryopreserved sperm and eggs should be permitted only with clear and convincing evidence of the deceased person's consent, and considering when a posthumously conceived child should be permitted to inherit from the deceased person's estate).

Helene S. Shapo, *Matters of Life and Death: Inheritance Consequences of Reproductive Technologies*, 25 *HOFSTRA L. REV.* 1091 (1997) (analyzing the issues surrounding inheritance by children born through reproductive technologies, with a section on whether a biological father should have financial responsibility for his children conceived after his death).

Melissa B. Vegter, Note, *The "ART" of Inheritance: A Proposal for Legislation Requiring Proof of Parental Intent Before Posthumously Conceived Children Can Inherit from a Deceased Parent's Estate*, 38 *VAL. U. L. REV.* 267 (2003) (proposing legislation that would establish requirements for claims on behalf of a posthumously conceived child seeking to inherit from the deceased parent, including the need to prove that the parent knowingly agreed to the conception of the child and the need to bring the claim within a specified limitations period).

Bruce L. Wilder, *Assisted Reproduction Technology: Trends and Suggestions for the Developing Law*, 18 J. AM. ACAD. MATRIM. LAW. 177 (2002) (discussing the difficulty of applying old legal rules to new situations arising because of assisted reproduction, with a section on posthumous reproduction).

Issues and Advice for Attorneys

Susan L. Crockin & Gary A. Debele, *Ethical Issues in Assisted Reproduction: A Primer for Family Law Attorneys*, 27 J. AM. ACAD. MATRIM. LAW. 289 (2015) (advising family law attorneys about ethical dilemmas posed by assisted reproduction, with a section on posthumous reproduction issues).

Gary A. Debele & Susan L. Crockin, *Legal Issues Surrounding Embryos and Gametes: What Family Law Practitioners Need to Know*, 31 J. AM. ACAD. MATRIM. LAW. 55 (2018) (providing advice for family law attorneys who do not practice assisted reproduction law but encounter some issues relating to assisted reproduction, with a section on posthumous reproduction issues).

Bruce A. Fowler & Teresa C. Baird, *Frozen in Time: Planning for the Posthumously Conceived Child*, COLO. LAW., June 2008, at 45 (describing steps a lawyer should take to make sure clients are adequately informed about their options with respect to post-mortem reproduction).

Cynthia E. Fruchtman, *Tales from the Crib: Posthumous Reproduction and ART*, 33 WHITTIER L. REV. 311 (2012) (advising lawyers about the importance of exploring and documenting the wishes of their clients regarding posthumous reproduction).

Susan N. Gary, *Definitions of Children and Descendants: Construing and Drafting Wills and Trust Documents*, 5 EST. PLAN. & COMMUNITY PROP. L.J. 283 (2013) (considering how to define children and descendants in estate planning documents, with a section on posthumously conceived children).

Charles P. Kindregan, Jr. & Maureen McBrien, *Posthumous Reproduction*, 39 FAM. L.Q. 579 (2005) (exploring the evolving issues created by use of cryopreserved gametes and embryos after the death of one or both of the gamete providers).

Browne Lewis, *Graveside Birthday Parties: The Legal Consequences of Forming Families Posthumously*, 60 CASE W. RES. L. REV. 1159 (2010) (discussing three major legal issues raised by postmortem reproduction: parentage, procreative freedom, and inheritance).

Kathryn Venturatos Lorio, *Conceiving the Inconceivable: Legal Recognition of the Posthumously Conceived Child*, 34 ACTEC J. 154 (2008) (providing advice on how estate planners can address the possibility of posthumously conceived children).

Legislation

Linda Choe, *What, in the Name of Conception? A Comparative Analysis of the Inheritance Rights of Posthumously Conceived Children in the United States and the United Kingdom*, 25 SYRACUSE SCI. & TECH. L. REP. 53 (2011) (suggesting that the United States should follow the United Kingdom's lead in adopting a uniform national rule recognizing the parents of posthumously conceived children).

Jean Denise Krebs, Note, *Any Man Can Be a Father, but Should a Dead Man Be a Dad?: An Approach to the Formal Legalization of Posthumous Sperm Retrieval and Posthumous Reproduction in the United States*, 47 HOFSTRA L. REV. 775 (2018) (advocating for the adoption of amendments to the Uniform Anatomical Gift Act that would explicitly address posthumous sperm retrieval and posthumous reproduction).

Raymond C. O'Brien, *The Momentum of Posthumous Conception: A Model Act*, 25 J. CONTEMP. HEALTH L. & POL'Y 332 (2009) (discussing how legislatures can draw upon the Model Act Governing Assisted Reproductive Technology to address issues concerning postmortem reproduction).

Mary Ward Scott, Comment, *A Look at the Rights and Entitlements of Posthumously Conceived Children: No Surefire Way to Tame the Reproductive Wild West*, 52 EMORY L.J. 963 (2003) (discussing the need for legislative measures to address the issues raised by postmortem reproduction and emphasizing the importance of careful postmortem planning to anticipate the complex issues raised by posthumous conception).

Susan C. Stevenson-Popp, Comment, “*I Have Loved You in My Dreams*”: *Posthumous Reproduction and the Need for Change in the Uniform Parentage Act*, 52 *CATH. U. L. REV.* 727 (2003) (arguing for the adoption of uniform legal rules giving rights to posthumously conceived children).

Jenna M. F. Suppon, Note, *Life After Death: The Need to Address the Legal Status of Posthumously Conceived Children*, 48 *FAM. CT. REV.* 228 (2010) (proposing a model statute that would enable posthumously conceived children to be treated equally with naturally conceived children).

Military Service Members

Maria Doucettperry, *To Be Continued: A Look at Posthumous Reproduction as It Relates to Today’s Military*, *ARMY LAW.*, May 2008, at 1 (discussing posthumous reproduction issues related to military service members).

David Teitelbaum, Note, *Be Fruitful and Multiply After Death, but at Whose Expense?*” *Survivor Benefits for the Posthumously Conceived Children of Fallen Soldiers*, 14 *CARDOZO PUB. L. POL’Y & ETHICS J.* 425 (2016) (discussing posthumous conception in the military setting and regulations determining whether posthumously conceived children of soldiers can receive survivor benefits, including a look at the issue in Israel).

Self-Represented Litigants

Effect on Legal Outcomes

Christine E. Cerniglia, *The Civil Self-Representation Crisis: The Need for More Data and Less Complacency*, 27 *GEO. J. ON POVERTY L. & POL’Y* 355 (2020) (discussing the shortage of reliable data on self-represented litigants and their impact on the civil justice system and calling for collection of data at the national level).

Ryan Fortson & Troy C. Payne, *Lawyering Up: The Effects of Legal Counsel on Outcomes of Custody Determinations*, 22 *U.C. DAVIS J. JUV. L. & POL’Y* 1 (2018) (reporting results of an empirical study of Alaska custody outcomes, finding that a parent has a substantially better chance of achieving the desired outcome in a

custody proceeding if the parent is represented by an attorney and the opposing parent is not).

Michael J. Klepperich, Comment, *Just How Liberal Is Liberal?: Wyoming Courts' Treatment of Civil Pro Se Pleadings*, 18 WYO. L. REV. 351 (2018) (describing the unique challenges facing pro se litigants in family law cases and discussing conflicting precedents in Wyoming about whether judges should be more lenient in applying procedural standards to pro se litigants).

Kathryn M. Kroeper, *Underestimating the Unrepresented: Cognitive Biases Disadvantage Pro Se Litigants in Family Law Cases*, 26 PSYCHOL. PUB. POL'Y & L. 198 (2020) (providing results of randomized experiments with civil court judges and attorney-mediators which found that legal officials devalue the merits of pro se litigants' cases relative to otherwise identical litigants represented by counsel).

Emily S. Taylor Poppe & Jeffrey J. Rachlinski, *Do Lawyers Matter? The Effect of Legal Representation in Civil Disputes*, 43 PEPP. L. REV. 881 (2016) (reviewing empirical research on how having legal representation affects the outcomes for a party in civil disputes, and finding that in almost all areas of law, including family law, having professional legal representation is associated with better outcomes).

Impact on Lawyers

Anne C. Adams, *Tips for Providing Limited-Scope Representation in Family Law Cases*, GPSOLO, July/Aug. 2015, at 26 (offering practical advice to attorneys about how to start providing limited-scope services for self-represented parties in divorce, child custody, and other family law matters).

Joni Berner et al., *Unbundled Legal Services*, 90 PA. B.A. Q. 96 (Apr. 2019) (discussing how lawyers can unpackage or unbundle legal services, doing segmented tasks for clients rather than providing full-service representation, and suggesting that lawyers who are not unbundling services are missing opportunities to increase their revenue and increase access to justice for self-represented parties).

Amy Calvo MacNamara, *Pro Se Roadblocks: How to Get Around Them*, GPSOLO, Jan./Feb. 2020, at 57 (recommending ways that family law attorneys can proactively work with pro se litigants to avoid or resolve the roadblocks that can get in the way of efficient trials and fair settlements).

Linda S. Smith & Eric Frazer, *Child Custody Innovations for Family Lawyers: The Future Is Now*, 51 FAM. L.Q. 193 (2017) (describing how dramatic changes affecting the practice of family law, including the increase in self-represented litigants, will require family law attorneys to respond and adapt in how they do business).

Innovative Programs and Reforms

Julian Aprile, *Limited License Legal Technicians: Non-Lawyers Get Access to the Legal Profession, but Clients Won't Get Access to Justice*, 40 SEATTLE U. L. REV. 217 (2016) (arguing that Washington State's creation of Limited License Legal Technicians was a poor solution to the problem of people lacking representation in family law cases, because people need lawyers rather than non-lawyers able to provide only limited services).

Rebecca Aviel, *Family Law and the New Access to Justice*, 86 FORDHAM L. REV. 2279 (2018) (observing that family law is the area that has had the most significant reforms promoting access to justice, particularly for self-represented litigants, and considering whether that experience can be a model for reform in other areas of law or whether instead family law is simply too exceptional to serve as a pattern for other legal fields).

Stacy Brustin, *Making Turner a Reality – Improving Access to Justice Through Court-Annexed Resource Centers and Same Day Representation*, 20 TEX. J. ON C.L. & C.R. 17 (2015) (describing the potential benefits and the challenges faced by programs seeking to provide pro se assistance and limited representation in order to help protect the rights of unrepresented litigants in child support matters).

Stacy Brustin & Lisa Martin, *Bridging the Justice Gap in Family Law: Repurposing Federal IV-D Funding to Expand Community Based Legal and Social Services for Parents*, 67 HASTINGS L.J. 1265 (2016) (arguing that federal funding relating to child sup-

port proceedings should be redirected, so that rather than having large numbers of government attorneys involved in child support cases representing the state's interest in securing support so that children will not be dependent on welfare assistance, the government should instead be using its resources to more broadly and holistically address the needs of low-income families and improve access to justice for parents representing themselves in child support cases).

Dean Christoffel, *People Who Self-Represent – A Judicial Review*, FAM. ADVOC., Summer 2020, at 6 (discussing, from a judge's point of view, how a focus on the status of self-represented people leads to differential treatment by the court system and suggesting some potential measures such as unbundled legal services that could enhance access to justice for self-represented people).

Andrew H. Cohn, *Reducing the Civil “Justice Gap” by Enhancing the Delivery of Pro Bono Legal Assistance to Indigent Pro Se Litigants: A “Field” Assessment and Recommendations*, 28 U. FLA. J.L. & PUB. POL'Y 101 (2017) (analyzing several possible ways to improve legal assistance for indigent pro se litigants, including the use of “hotline” telephone advising, online legal advising, and “Lawyer-for-a-Day” programs in which attorneys consult on a pro bono basis but with a very limited and specific time commitment).

Lauren Cook, Comment, *Paralegal Assistance and Limited Representation as Alternatives to Self-Representation*, 32 J. AM. ACAD. MATRIM. LAW. 193 (2019) (explaining the reasons for the rise in self-representation in family cases and discussing the potential risks and benefits of addressing the problem by offering self-represented litigants the opportunity to get help from a paralegal or from an attorney on a limited representation basis).

Rebecca M. Donaldson, *Law by Non-Lawyers: The Limit to Limited License Legal Technicians Increasing Access to Justice*, 42 SEATTLE U. L. REV. 1 (2018) (discussing Washington state's new rule that created the nation's first paraprofessional licensing scheme that allows non-lawyers to give legal advice, and how the first cohorts licensed through the program will be in the family law field because of the substantial unmet need for legal assis-

tance and the growing number of pro se litigants in family law matters).

Melody Finnemore, *A Modern Reality – Recession’s Ripple Effect Fuels Self-Representation*, OR. ST. B. BULL., Apr. 2015, at 26 (describing measures implemented in Oregon to provide more resources to self-represented parties in family law cases, including requiring the use of simplified forms and procedures, educating judges and staff about how to interact with self-represented parties, expanding facilitation programs, and supporting attorney involvement in pro bono, reduced-fee, and unbundled legal work for self-represented litigants).

Mark G. Harmon et al., *Remaking the Public Law Library into a Twenty-First Century Legal Resource Center*, 110 LAW LIBR. J. 115 (2018) (discussing how a public law library can be a legal resource and self-help center for people who have legal issues but are not represented by a lawyer).

William J. Howe III & Jeffrey E. Hall, *Oregon’s Informal Domestic Relations Trial: A New Tool to Efficiently and Fairly Manage Family Court Trials*, 55 FAM. CT. REV. 70 (2017) (describing the success of a pilot program in Deschutes County, Oregon, where parties in family cases can choose to have an informal trial in which parties speak under oath directly to the judge with no direct or cross-examination, experts are the only permissible non-party witnesses, and any exhibits offered by the parties are automatically admitted).

Elizabeth L. MacDowell, *Domestic Violence and the Politics of Self-Help*, 22 WM. & MARY J. WOMEN & L. 203 (2016) (reporting the problems found with staff members in a study of courthouse self-help programs assisting unrepresented litigants applying for domestic violence protection orders, including lack of neutrality, stereotyping of domestic violence victims, and failure to provide adequate assistance with safety planning and important economic remedies).

Marsha M. Mansfield, *Litigants Without Lawyers: Measuring Success in Family Court*, 67 HASTINGS L.J. 1389 (2016) (reviewing the results of a study of self-represented family law litigants in Dane County, Wisconsin, which compared cases where neither party was represented by counsel with cases where self-repre-

sented litigants received limited scope representation and assistance from students at the University of Wisconsin Law School's Family Court clinic, and which concluded that the clinical program helped litigants understand how to handle the next steps needed in their cases, improved their chances of success in completing the matter successfully, and enhanced their satisfaction with the legal process).

Forrest S. Mosten, *Unbundled Services to Enhance Peacemaking for Divorcing Families*, 53 FAM. CT. REV. 439 (2015) (discussing the peacemaking roles that a lawyer can provide to reduce conflicts in divorcing families when providing unbundled services to unrepresented divorce litigants).

Forrest S. Mosten & Lara Traum, *It Takes a Village: Using Seniors to Help Divorcing Families*, 17 CARDOZO J. CONFLICT RESOL. 767 (2016) (proposing the creation of an Elder Volunteer Corps that could provide assistance to pro se litigants dealing with family conflicts).

Lynda B. Munro et al., *Administrative Divorce Trends and Implications*, 50 FAM. L.Q. 427 (2016) (discussing how several states have responded to the dramatic increase in self-represented litigants by creating simplified, faster, more efficient processes for obtaining divorces).

Lori W. Nelson, *LLLT – Limited License Legal Technician: What It Is, What It Isn't, and the Grey Area in Between*, 50 FAM. L.Q. 447 (2016) (assessing the value of new categories of nonlawyer legal professionals, such as Limited License Legal Technicians in Washington State, who can assist self-represented litigants with family law matters).

Deborah L. Rhode et al., *Access to Justice Through Limited Legal Assistance*, 16 NW. J. HUM. RTS. 1 (2018) (providing the results of an empirical study of Alaska Legal Services' limited legal assistance program for low-income, self-represented people in family law cases).

Linda F. Smith, *Drinking from a Firehose: Conversation Analysis of Consultations in a Brief Advice Clinic*, 43 OHIO N.U. L. REV. 63 (2017) (assessing the effectiveness of a brief advice family law clinic, using detailed analysis of communications between volun-

teer consulting attorneys and self-represented parties, and suggesting ten best practices for a brief advice clinic to follow).

Susan Drisko Zago, *Riding Circuit: Bringing the Law to Those Who Need It*, 12 FLA. A&M U. L. REV. 1 (2016) (reviewing various attempts to improve self-represented litigants' ability to access the legal system, with a focus on law librarians and how they should have a role in the state commissions and outreach programs aimed at the problem).

Evan G. Zuckerman, Note, *JusticeCorps: Helping Pro Se Litigants Bridge a Divide*, 49 COLUM. J.L. & SOC. PROB. 551 (2016) (discussing JusticeCorps, a family law self-help center in Los Angeles that provides legal information to pro se litigants but does not establish an attorney-client relationship with them, and noting some aspects of the program in need of improvement, but ultimately endorsing the expansion of the program).

Social Justice

Dale Margolin Cecka, *Inequity in Private Child Custody Litigation*, 20 CUNY L. REV. 203 (2016) (examining the multiple forms of inequality that exist in the administration of family law, including the high proportion of people who do not have attorneys, and how these inequalities have a disparate impact on poor people of color).

Elizabeth L. MacDowell, *Reimagining Access to Justice in the Poor People's Courts*, 22 GEO. J. ON POVERTY L. & POL'Y 473 (2015) (arguing that a social justice approach requires connecting issues about access to justice in "poor people's courts" to discourses about subordination, the operation of state power, and progressive law practice, using family courts as the quintessential example of courts where poor people litigate against one another without attorneys).

Victor D. Quintanilla, *Doing Unrepresented Status: The Social Construction and Production of Pro Se Persons*, 69 DEPAUL L. REV. 543 (2020) (describing how unrepresented status is a social construction, created through the application of stereotypes, schemas, biases, expectations, and labels put onto unrepresented persons).

Jessica K. Steinberg, *Demand Side Reform in the Poor People's Court*, 47 CONN. L. REV. 741 (2015) (arguing that the problems created by rising numbers of cases with self-represented litigants, particularly in family law matters, cannot be adequately solved by supply-side reforms trying to make more legal help available to unrepresented people, and could be better addressed by demand-side reforms focused on dismantling procedural, evidentiary, and other barriers that prevent self-represented people from being able to function effectively in legal proceedings).

Technology

Raymond H. Brescia et al., *Embracing Disruption: How Technological Change in the Delivery of Legal Services Can Improve Access to Justice*, 78 ALB. L. REV. 553 (2014-2015) (discussing how disruptive innovation created by new technologies has impacted the provision of legal services and will continue to do so in the future, using the issue of self-represented litigants in family law cases as one example).

Alan Carlson, *Imagining an AI-Supported Self-Help Portal for Divorce*, JUDGES' J., Winter 2020, at 26 (explaining how new technology utilizing artificial intelligence could give self-represented parties an efficient and effective method for navigating through the divorce process).

John M. Greacen, *Eighteen Ways Courts Should Use Technology to Better Serve Their Customers*, 57 FAM. CT. REV. 515 (2019) (describing key ways that new technology can improve the operation and effectiveness of courts, especially for self-represented litigants).

Danielle Linneman, Comment, *Online Dispute Resolution for Divorce Cases in Missouri: A Remedy for the Justice Gap*, 2018 J. DISP. RESOL. 281 (analyzing the benefits of online dispute resolution for self-represented parties in divorce cases in Missouri).

Lois R. Lupica et al., *The Apps for Justice Project: Employing Design Thinking to Narrow the Access to Justice Gap*, 44 FORDHAM URB. L.J. 1363 (2017) (discussing the Maine Family Law Helper, a tool developed by the Apps for Justice Project at Maine Law School, which is designed to be used for initial infor-

mation intake in divorce cases for clients of legal services organizations and private sector low-bono legal service providers).

Katherine L.W. Norton, *Mind the Gap: Technology as a Lifeline for Pro Se Child Custody Appeals*, 58 DUQ. L. REV. 82 (2020) (discussing how artificial intelligence systems and other technology can enhance access to justice by assisting self-represented litigants with creating the initiating documents for child custody appeals).

J.J. Prescott, *Improving Access to Justice in State Courts with Platform Technology*, 70 VAND. L. REV. 1993 (2017) (describing how state courts can enhance access and efficiency by making the use of an online asynchronous platform, rather than in-person appearances at a courthouse, the baseline mode of interaction between litigants and decision makers in the court system).

Amy J. Schmitz, *Expanding Access to Remedies Through E-Court Initiatives*, 67 BUFF. L. REV. 89 (2019) (considering how the handling of family law issues and other disputes can be radically changed by the development of virtual courthouses and the use of artificial intelligence and algorithms).

Ayelet Sela, *Streamlining Justice: How Online Courts Can Resolve the Challenges of Pro Se Litigation*, 26 CORNELL J.L. & PUB. POL'Y 331 (2016) (contending that online courts can address many of the problems associated with the increase in self-representation).

Lonni Summers et al., *Perceptions of Remote and Walk-In Service Delivery in Family Law Cases*, 57 FAM. CT. REV. 501 (2019) (reporting the results of a study of several modes of providing assistance to self-represented litigants in family law cases, and finding that all of the service delivery methods achieved high satisfaction rates, but services provided through a live online chat were less effective than those provided through phone conversations or those provided in person at walk-in self-help centers).

John Zeleznikow, *The Challenges of Using Online Dispute Resolution for Self-Represented Litigants*, 23 J. INTERNET L. 3 (2020) (considering how the use of artificial intelligence in online dispute resolution programs could assist self-represented litigants with family law issues).

Social Media

Clients' Use of Social Media

Marcia Canavan & Eva Kolstad, *Does the Use of Social Media Evidence in Family Law Litigation Matter?*, 15 WHITTIER J. CHILD & FAM. ADVOC. 49 (2016) (arguing that the impact of social media evidence in family law cases may be less than many people believe, because family law cases have always involved many forms of evidence of alleged bad behavior).

Simon R. Goodfellow, *Social Media as Evidence: Navigating the Limits of Privacy*, FAM. ADVOC., Spring 2015, at 32 (arguing that social media evidence does not really pose new issues, but instead simply involves the application of basic discovery and evidentiary principles to a new type of information).

Rahul Gupta, *Commentary: Authenticating Social Media Evidence in California, the Social Media Capital of the World*, 30 J. AM. ACAD. MATRIM. LAW. 343 (2018) (reviewing California cases about how to authenticate and lay the proper foundation for social media evidence).

William Hamilton & Wendy K. Akbar, *E-Discovery in the Age of Facebook, Twitter, & the Digital Family*, FAM. ADVOC., Fall 2010, at 16 (explaining why family law attorneys must know how to economically and effectively handle clients' social media and other electronically stored information).

Brian M. Karpf & Maxwell J. Dauerman, *How Not to Sabotage Your Case*, FAM. ADVOC., Summer 2018, at 20 (explaining what clients in divorce cases need to know to avoid damaging their cases through ill-advised use of social media).

Emily Miskel, *Electronic Evidence FAQs: A Family Law Judge Weighs In*, FAM. ADVOC., Winter 2019, at 30 (describing, from a family court judge's perspective, the key issues that arise with use of evidence from social media and other electronic sources).

Ronald W. Nelson, *Ethical Obligations of Family Law Attorneys in Dealing with Social Media and Discovery*, 31 J. AM. ACAD. MATRIM. LAW. 415 (2019) (advising family law attorneys about issues arising from use of social media, including handling social media communications before, during, and after litigation).

Sharon D. Nelson et al., *The Technology “Do Not Do” List: A Guide for Clients*, FAM. ADVOC., Winter 2019, at 18 (recommending ways for lawyers handling divorce and child custody cases to prevent clients from making damaging missteps with use of social media).

Melanie K. Reichert, *Authenticating Facebook Posts, Photos, and Other Evidence*, FAM. ADVOC., Spring 2015, at 28 (explaining how to handle social media and other electronic evidence in litigation).

Daniel J. Siegel & Thomas G. Wilkinson, *Tech Ethics Challenges for Family Lawyers Abound*, FAM. ADVOC., Winter 2019, at 22 (warning family law attorneys about the need to advise clients about the use of social media and about the obligation to obtain and preserve social media data).

Gene Brentley Tanner, *Navigating the Social Media Minefield*, FAM. ADVOC., Summer 2019, at 35 (considering ways in which social media can affect legal matters relating to divorce and separation).

Stuart Teicher, *Tech Tock, Tech Tock: The Countdown to Your Ethical Demise*, 31 J. AM. ACAD. MATRIM. LAW. 481 (2019) (explaining ethical issues that can arise for lawyers because of social media and other new technologies).

Lawyers’ and Judges’ Use of Social Media

Stephen Fairley, *7 Rules for Social Media Rainmakers*, FAM. ADVOC., Spring 2015, at 36 (advising family law attorneys about how to use social media for marketing and client development).

Anne Marie Lancour, *Judicial Use of Social Media: New Guidance*, 32 CHILD L. PRAC. 77 (2013) (discussing an ABA opinion on judicial use of social media and what it means for judges who handle child welfare cases).

Transgender Issues in Family Law

Transgender Children

Katherine A. Kivalanka et al., *An Exploratory Study of Custody Challenges Experienced by Affirming Mothers of Transgender*

and Gender-Nonconforming Children, 57 FAM. CT. REV. 54 (2019) (reporting the results of an exploratory, qualitative study of ten affirming mothers of transgender or gender-nonconforming children who faced challenges over child custody, and explaining how the study's findings demonstrate the need for better-educated family court professionals and socioemotional, financial, and legal support for such parents).

Jaime B. Margolis, *Two Divorced Parents, One Transgender Child, Many Voices*, 15 WHITTIER J. CHILD & FAM. ADVOC. 125 (2016) (discussing the importance of properly selecting and utilizing expert witnesses in custody cases involving transgender children and offering potential guidelines for selecting experts who can address the "best interest of the child" standard and recommend primary custody for the parent who supports the child's gender dysphoria diagnosis and treatment).

Kasia Szczerbinski, *I Am Whoever You Say I Am: How the Custodial Decisions of Parents Can Affect and Limit a Transgender Child's Freedom and State of Mind*, 36 CHILD. LEGAL RTS. J. 177 (2016) (recommending the adoption of best practices standards for approaching gender dysphoria treatment in cases involving determinations about custody of a transgender child).

Transgender Parents

Rachel H. Farr & Abbie E. Goldberg, *Sexual Orientation, Gender Identity, and Adoption Law*, 56 FAM. CT. REV. 374 (2018) (discussing the challenges that may arise for transgender and other LGBTQ people seeking to adopt).

Sonia K. Katyal & Ilona M. Turner, *Transparenthood*, 117 MICH. L. REV. 1593 (2019) (investigating systematic biases against transgender parents in family law and the family court system).

Marika E. Kitamura, Note, *Once a Woman, Always a Man? What Happens to the Children of Transsexual Marriages and Divorces? The Effects of a Transsexual Marriage on Child Custody and Support*, 5 WHITTIER J. CHILD & FAM. ADVOC. 227 (2005) (arguing that transgender people should be recognized as parents for all purposes in family law proceedings, including issues of child support and custody).

Gerald P. Mallon, *The Home Study Assessment Process for Gay, Lesbian, Bisexual, and Transgender Prospective Foster and Adoptive Families*, 7 J. GLBT FAM. STUD. 7 (2011) (discussing social work practice with transgender and other LGBTQ people undergoing the home study process as part of certification and licensing for becoming foster or adoptive parents).

Shannon Price Minter, *Transgender Family Law*, 56 FAM. CT. REV. 410 (2018) (analyzing the main legal issues facing transgender parents and suggesting ways to ensure that transgender people are able to protect their families and their parental rights).

Charlotte J. Patterson & Carlos A. Ball, *Perspectives on Sexual Orientation and Gender Identity in Family Law*, 56 FAM. CT. REV. 361 (2018) (introducing a special issue of the *Family Court Review* on the challenges faced by transgender and other LGBTQ parents in family law matters).

Shannon Shafron Perez, *Is It a Boy or a Girl? Not the Baby, the Parent: Transgender Parties in Custody Battles and the Benefit of Promoting a Truer Understanding of Gender*, 9 WHITTIER J. CHILD & FAM. ADVOC. 367 (2010) (discussing the custody issues that can arise for transgender persons who become parents, reviewing “pro-trans” and “anti-trans” case law, and arguing that courts’ misunderstanding of gender leads them to misapply the “best interests of the child” standard and deprive children and parents of their fundamental rights to parent/child relationships).

Jake Pyne et al., *Transphobia and Other Stressors Impacting Trans Parents*, 11 J. GLBT FAM. STUD. 107 (2015) (providing the first published profile of transgender parents and reviewing the challenges they face, including losing legal access to their child or losing custody or having reduced custody).

Marcus C. Tye, *Lesbian, Gay, Bisexual, and Transgender Parents – Special Considerations for the Custody and Adoption Evaluator*, 41 FAM. CT. REV. 92 (2003) (providing recommendations for evaluators making assessments about custody, adoption, or fitness to parent in cases involving transgender or other LGBT people).

Virtual Communication Technology

Virtual Adultery

Brenda Cossman, *The New Politics of Adultery*, 15 COLUM. J. GENDER & L. 274 (2006) (examining the rise of virtual adultery and other aspects of the contemporary cultural politics of adultery).

Christina Tavella Hall, *Sex Online: Is This Adultery?*, 20 HASTINGS COMM. & ENT. L.J. 201 (1997) (looking at non-traditional adultery cases, such as those involving love letters, for clues to how courts might treat virtual extramarital affairs and concluding that online affairs should not be considered “adultery” for legal purposes).

Kathryn Pfeiffer, Comment, *Virtual Adultery: No Physical Harm, No Foul?*, 46 U. RICH. L. REV. 667 (2012) (proposing that the traditional definition of adultery should be expanded to include virtual adultery as a fault-based ground for divorce).

Sandi S. Varnado, *Avatars, Scarlet “A”s, and Adultery in the Technological Age*, 55 ARIZ. L. REV. 371 (2013) (arguing that the legal definition of adultery should be expanded to include some forms of online infidelity).

Virtual Visitation

Elisabeth Bach-Van Horn, *Virtual Visitation: Are Webcams Being Used as an Excuse to Allow Relocation?*, 21 J. AM. ACAD. MATRIM. LAW. 171 (2008) (considering the growing popularity of virtual visitation and the positive and negative effects of that trend).

Christina S. Glenn & Denise Hallmark, *When You Can’t Be There in Person – Virtual Visitation Can Open a Door into Your Child’s World*, FAM. ADVOC., Summer 2015, at 18 (providing practical advice about virtual solutions to the problem of long-distance parenting).

Sarah L. Gottfried, Note, *Virtual Visitation: The New Wave of Communication Between Children and Non-Custodial Parents in Relocation Cases*, 9 CARDOZO WOMEN’S L.J. 567 (2003) (discussing how virtual visitation can ease dilemmas that restrictive relo-

cation laws pose for women seeking to pursue educational or career opportunities).

Andrea Himel et al., *1-800-Skype-Me*, 54 FAM. CT. REV. 457 (2016) (describing how forward thinking family law professionals can provide creative solutions that will enable parents and children to achieve better outcomes).

Jason LaMarca, Note, *Virtually Possible – Using the Internet to Facilitate Custody and Parenting Beyond Relocation*, 38 RUTGERS COMPUTER & TECH. L.J. 146 (2012) (endorsing the expanded use of online tools to maximize the interests of children and parents).

Anne LeVasseur, Note, *Virtual Visitation: How Will Courts Respond to a New and Emerging Issue?*, 17 QUINNIPIAC PROB. L.J. 362 (2004) (recommending that Connecticut increase the use of virtual visitation in resolving custody and visitation issues).

Michael Saini & Shely Polak, *The Benefits, Drawbacks, and Safety Considerations in Digital Parent-Child Relationships: An Exploratory Survey of the Views of Legal and Mental Health Professionals in Family Law*, 56 FAM. CT. REV. 597 (2018) (reporting the results of a survey of legal and mental health professionals who shared their views on the advantages and disadvantages of the use of virtual communication technology to maintain parent/child contact).

Kimberly R. Shefts, *Virtual Visitation: The Next Generation of Options for Parent-Child Communication*, 36 FAM. L.Q. 303 (2002) (proposing that virtual communication technology should be utilized extensively in child visitation orders to promote ongoing relationships between parents and children).

Jenna Charlotte Spatz, Note, *Scheduled Skyping with Mom or Dad: Communicative Technology's Impact on California Family Law*, 31 LOY. L.A. ENT. L. REV. 143 (2011) (analyzing the national trend toward virtual visitation and arguing that it is a useful tool in custody decision making and should be recognized and utilized in California).

David Welsh, Statute Note, *Virtual Parents: How Virtual Visitation Legislation Is Shaping the Future of Custody Law*, 11 J.L. &

FAM. STUD. 215 (2008) (exploring the growing role of virtual visitation technology in custody agreements).