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Journal of the American Academy of  
**Matrimonial Lawyers**



**THE FUTURE OF FAMILY LAW**

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This issue is devoted to:

**THE FUTURE OF FAMILY LAW**

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## About This Issue

This issue of the Journal is devoted to the future of family law, a topic that is being widely discussed today. It features an article on how law schools are responding to the potential changes as they train future family law attorneys as well as what we might expect in litigating Hague abduction disputes and advocating for LGBTQ clients. Advances in assisted reproductive technology are bound to raise new issues as discussed in a thoughtful piece on post-mortem sperm retrieval. New types of marital property are explored in an instructive article on cryptocurrency. Finally, we take a more critical look at expert testimony in family law cases and how recent changes in the tax laws will affect families.

Our first article, *The Future of Family Law Education* is written by a law school dean as she considers the changing landscape of family law practice and how to better prepare future lawyers for it. Barbara Glesner Fines is Dean and Rubey M. Hulen Professor at the University of Missouri – Kansas City School of Law. She notes that changes in family law practice will likely be gradual, but will need to be continually considered by the legal academic community. She considers the ways in which families are changing and the different legal needs of non-traditional and low- and middle-income families. The role of technology is also discussed as its greater impact on legal practice becomes clearer. Finally, she focuses on the interpersonal nature of family law practice and the importance of training students in the necessary “soft-skills” including those that foster cultural competency. Dean Glesner Fines is a nationally recognized expert in legal education, family law and professional ethics. She has authored numerous articles and books and lectures extensively throughout the country to judges and lawyers. Her book, *ETHICAL ISSUES IN FAMILY REPRESENTATION* is used in many law schools to train future family law attorneys.

In *The Future of Litigating an International Child Abduction Case in the United States*, Melissa Kucinski discusses the trends and challenges in the United States when litigating an international parental child abduction case, including additional expenses and changes in the law. She considers the use of the Uniform Child Custody Jurisdiction and Enforcement Act as an alternative to using the Hague abduction treaty as well as a new law to be implemented in the United States to address these cases. She considers the complexities of handling an international child abduction case and how an awareness of these alternatives will benefit practitioners who provide legal services to parents of abducted children. Ms. Kucinski is a lawyer in Washington, D.C. She

routinely consults on international custody, relocation, and abduction matters throughout the United States and globally. She consulted for the Hague Conference on Private International Law in the Netherlands in 2013 on the Child Abduction and Child Protection treaties, is a member of the U.S. Department of State's Advisory Committee on Private International Law, and is a Member of the Board of International Social Service – USA. She is also a Fellow of the International Academy of Family Lawyers. Her firm website is: [www.mkfamilylawfirm.com](http://www.mkfamilylawfirm.com).

Our next article considers the implications and advancements in assisted reproductive technologies. It is entitled, *The Legal and Medical Ethics of Post-Mortem Sperm Retrieval on Behalf of Grandparents* and provides a guide to the law and ethics concerning post-mortem sperm retrieval. It is co-authored by Laura Morgan and Hannah Morgan. In addition to describing the medical procedure of post-mortem sperm retrieval (PMSR), it surveys the case law, domestic and foreign, that has addressed PMSR with a focus on PMSR on behalf of grandparents in the legal context. It then surveys the medical ethics implicated in such cases discussing guidelines and hospital protocols used for the procedure. In conclusion, the authors argue that the law should follow the lead of medical ethical considerations and focus not on the consent of the deceased, but on the best interests of the child. Laura W. Morgan owns and operates Family Law Consulting in Amherst, Massachusetts, providing legal research and writing to family law attorneys nationwide, in the form of memoranda, trial briefs, and appellate advocacy. She is the author of *CHILD SUPPORT GUIDELINES: INTERPRETATION AND APPLICATION*, the leading treatise on child support guidelines in the United States, the co-author with Brett R. Turner of *ATTACKING AND DEFENDING MARITAL AGREEMENTS*, numerous law review articles, and she is a contributing author to family law manuals and compilations. Laura can be reached at [goddess@famlawconsult.com](mailto:goddess@famlawconsult.com). Hannah Morgan received a Bachelor of Arts in anthropology and biological sciences from Vanderbilt University and a Master of Public Health from Columbia University Mailman School of Public Health. She is currently employed in New York City in the field of public health and health policy research.

Dana Prescott is the author of our next article entitled, *Bending the Light of Social Science in Family Court: Epistemic Injustice and Epistemic Exceptionalism Matter*. In this piece, Mr. Prescott examines the use of expert testimony based on research that excludes entire groups or includes only privileged populations. He argues that at a minimum, research as applied to family courts should explicitly identify these limitations. Mr. Prescott is a licensed attorney in Maine and Massachusetts, and a Fellow of the International Academy of Family Lawyers and the

American Academy of Matrimonial Lawyers. A member of the Journal Board, Dr. Prescott holds an MSW and a PhD in social work and serves as an adjunct faculty member in social work at Simmons College and Boston College. He may be contacted at [dana@southernmainelaw.com](mailto:dana@southernmainelaw.com).

*Beyond the Myth of Affluence: The Intersection of LGBTQ Family Law and Poverty* is written by Catherine Sakimura, the Deputy Director and Family Law Director at the National Center for Lesbian Rights. In the article she addresses the discrimination and challenges faced by LGBTQ parents and parents of LGBTQ children in custody and guardianship proceedings and the failures of the child welfare system, particularly the disproportionate impact on LGBTQ families of color. She advocates for policy and legislative changes that would advance the goal of providing meaningful legal rights and remedies for low-income, nonbiological, LGBTQ parents. In 2012, Ms. Sakimura was named one of the Best LGBT Lawyers under 40 by the National LGBT Bar Association. She is a co-author of the book *LESBIAN, GAY, BISEXUAL, AND TRANSGENDER FAMILY LAW*.

In *Changing Tax Laws and Support: Keeping Up as the Ground Shifts*, Nancy Chausow Shafer focuses on the tax law changes that could impact child and spousal support. She examines the Tax Cuts and Jobs Act passed in December 2017, including repeal of the alimony deduction and the temporary reduction of the dependent exemption, and the financial impacts of the CARES Act and other legislative responses to the COVID-19 pandemic. Because many of these tax law changes are recent with no appellate decisions interpreting them she suggests arguments that advocates can use in representing either payees or payors of family support. Ms. Shafer is a principal in the Highland Park IL firm, CHAUSOW SHAFER, PC, concentrating in matrimonial law, including litigation, mediation and collaboration. She also accepts Child Representation and Guardian ad Litem appointments. She is a Fellow of the American Academy of Matrimonial Lawyers and a frequent presenter at, and organizer of, continuing legal education programs. A focus of her energies is increasing the education of professionals and the public on options for the divorce process, including collaborative practice.

Our final article addresses the questions many legal professionals have concerning cryptocurrency. In *A Divorce Practitioner's Bitcoin Primer*, the authors Richard West and Jonathan Fields discuss how cryptocurrency can be classified, valued and taxed. They focus on the divorce process and the challenges presented in discovering and dividing these assets. A very helpful glossary of terms used in the article is also included. Mr. West has been in practice for over 40 years and is the

past president and a current Fellow of the Florida Chapter of the American Academy of Matrimonial Lawyers. He is also a Diplomate of The American College of Family Trial Lawyers. He is a Fellow of the International Academy of Family Lawyers, and past chair of the Florida Bar's Family Law Section. In 2020 he was named Orlando's Family Lawyer of the Year 2021, the fourth time he achieved this distinction. Mr. Fields, a practicing attorney for nearly thirty years, is a founding partner of Fields and Dennis, LLP, a matrimonial practice in Wellesley, Massachusetts. Mr. Fields is widely published and speaks nationally on topics ranging from trusts and inheritances in divorce, prenuptial agreements, and cryptocurrency and divorce. He is an experienced divorce mediator and has served as President of the Massachusetts Council on Family Mediation. Mr. Fields was also one of four private lawyers appointed to the Massachusetts Trial Court Child Support Guidelines Taskforce in 2016.

Our student comments also address current issues in social media evidence, the pandemic and changes in family structures. They are: *An Overview of Authentication Methods for Social Media Evidence* by Yasmin Herdoiza; *How to Stay-At-Home When You Have Two Homes: Covid-19's Effect on Co-Parenting and Child Custody* by Madison McBratney; and *You, Me, and Dad?: An Update on the Progression of Multi-Parent Families and the Governing Hand of a Child's Best Interest* by Iris Siadatifard.

Our issue concludes with an extensive annotated bibliography of articles related to the future of family law authored by Allen Rostron, William R. Jacques Constitutional Law Scholar and Professor of Law at the University of Missouri-Kansas City School of Law.

Mary Kay Kisthardt  
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