

# Family Law in the Twenty-First Century: An Annotated Bibliography

by  
© Nancy Levit\*

The twenty-first century will bring, among other things, an explosion of technology (in domains ranging from electronic to reproductive), greater personal mobility, and an aging population. Thus, this bibliography emphasizes cutting edge issues in areas as wide-ranging as elder law, electronic discovery, changes in the legal profession (such as internet advertising and provision of legal services), multidisciplinary and multijurisdictional practice, and the new world of reproductive technologies. Since family law in the future will be exceptionally more interactive, we polled members of the American Academy of Matrimonial Lawyers about topics they would like to see covered in this bibliography. Those who contributed helpful suggestions for topical coverage include Alton Abramowitz, Charles Abut, Lynn Burleson, Linda Fidnick, Bruce E. Friedman, Honey Hastings, Melvyn Frumkes, Mary Kay Kisthardt, Phil Schwartz, Candace Scott, Linda Lea M. Viken, and Peter M. Walzer.

This bibliography covers law review articles, A.L.R. entries, and some web articles published after 2002, with an emphasis on those in more recent years. The bibliography for the first time expands to include some prominent internet web sites in various topical areas. Articles for which the title is self-explanatory or that concern only a single case, state, or statute are cited, but not annotated.

|  |     |          |
|--|-----|----------|
| Adoption.....                                      | 274 | <b>R</b> |
| Same-Sex and Second Parent Adoption .....          | 275 | <b>R</b> |
| Bankruptcy.....                                    | 277 | <b>R</b> |
| Child Custody, Child Support, and Visitation ..... | 282 | <b>R</b> |
| Child Support .....                                | 283 | <b>R</b> |

---

\* Curators' and Edward D. Ellison Professor of Law, University of Missouri-Kansas City School of Law.

272 *Journal of the American Academy of Matrimonial Lawyers*

|  |     |   |
|--|-----|---|
| Custody Evaluators .....   | 285 | R |
| Joint Custody and Shared Parenting .....   | 287 | R |
| Parenting Coordinators .....   | 289 | R |
| Parent and Child Divorce Education Programs ....   | 290 | R |
| Parenting Plans .....  | 292 | R |
| Relocation .....   | 294 | R |
| Representation of Children .....   | 296 | R |
| Visitation .....   | 297 | R |
| Grandparent, Sibling, and Third Party Visitation ..  | 298 | R |
| Supervised Visitation .....  | 299 | R |
| Collaborative Lawyering, and Interdisciplinary,<br>Multidisciplinary, and Multijurisdictional Practice ..... | 301 | R |
| Collaborative Lawyering .....  | 301 | R |
| Holistic Lawyering .....   | 304 | R |
| Therapeutic Jurisprudence .....  | 305 | R |
| Interdisciplinary Practice .....   | 306 | R |
| Multidisciplinary Practice .....   | 306 | R |
| Multijurisdictional Practice .....   | 308 | R |
| Divorce .....  | 310 | R |
| Alimony, Maintenance, or Support .....   | 310 | R |
| Prenuptial and Postnuptial Agreements.....   | 312 | R |
| Property Division .....  | 313 | R |
| Domestic Violence .....  | 314 | R |
| Elder Law .....  | 318 | R |
| Assisted Living and Nursing Homes .....  | 318 | R |
| Capacity, Competence, and Adult Guardianships..  | 320 | R |
| Elder Abuse .....  | 323 | R |
| End of Life Decision-Making.....   | 324 | R |
| Ethical Issues .....   | 325 | R |
| Insurance Coverage and Medical Care .....  | 326 | R |
| Medicaid .....   | 327 | R |
| Medicare .....   | 329 | R |
| Special or Supplemental Needs Trusts .....   | 330 | R |
| Electronic Discovery .....   | 331 | R |
| Electronic Filing .....  | 335 | R |
| Metadata .....   | 336 | R |
| Spoliation of Evidence.....  | 337 | R |
| <i>Zubulake v. UBS Warburg</i> .....   | 338 | R |
| Estate Law and Planning.....   | 339 | R |
| Divorce .....  | 341 | R |

*Vol. 21, 2008*                      *An Annotated Bibliography*                      273

|  |     |   |
|--|-----|---|
| Trusts .....   | 341 | R |
| Wills .....  | 343 | R |
| Families—Changing Rights and Responsibilities .....            | 344 | R |
| Cohabitation .....   | 345 | R |
| Domestic Partner Rights and Benefits .....                     | 346 | R |
| Fatherhood and Paternity .....                                 | 348 | R |
| Lesbian, Gay, Bisexual, and Transgendered<br>Parents .....     | 351 | R |
| Family Court Reform .....                                      | 354 | R |
| Unified Family Court .....                                     | 355 | R |
| Family Law Education Reform .....                              | 357 | R |
| Immigration .....  | 357 | R |
| Legal Profession .....   | 359 | R |
| Advertising Through Internet Ads, Blogs, and<br>Websites ..... | 360 | R |
| Billing Practices .....  | 361 | R |
| Discrete Task or Limited Scope Representation ...              | 361 | R |
| E-Mail and Internet Security and Confidentiality ..            | 363 | R |
| Personnel and Outsourcing .....                                | 364 | R |
| Provision of Legal Services on the Internet .....              | 365 | R |
| Technology .....   | 366 | R |
| Marriage and Its Alternatives .....                            | 367 | R |
| Covenant Marriage .....  | 367 | R |
| Domestic Partnerships and Civil Unions .....                   | 369 | R |
| Same-Sex Marriage .....  | 369 | R |
| Nonjudicial Resolution .....                                   | 371 | R |
| Alternative Dispute Resolution (ADR) .....                     | 371 | R |
| Mediation .....  | 372 | R |
| Online Dispute Resolution .....                                | 375 | R |
| Pensions .....   | 376 | R |
| QDROs .....  | 377 | R |
| Pets or Companion Animals .....                                | 377 | R |
| Religion and Family Law .....                                  | 378 | R |
| Reproductive Technology .....                                  | 380 | R |
| Assisted Reproductive Technologies (ART) .....                 | 380 | R |
| Embryo Disputes and Preconception Agreements .                 | 382 | R |
| Surrogacy .....  | 384 | R |
| Social Security .....  | 385 | R |
| Taxes .....  | 386 | R |

## Adoption<sup>1</sup>

Sacha Coupet, *Swimming Upstream Against the Great Adoption Tide: Making the Case for "Impermanence,"* 34 *CAP. U. L. REV.* 405 (2005) (urging consideration of long-term kinship caregiving in lieu of taking children away from their families to give them up for permanent adoption).

Cecily L. Helms & Phyllis C. Spence, *Take Notice Unwed Fathers: An Unwed Mother's Right to Privacy in Adoption Proceedings,* 20 *WIS. WOMEN'S L.J.* 1 (2005) (examining various state laws regarding whether mothers are compelled to identify putative fathers).

Solangel Maldonado, *Discouraging Racial Preferences in Adoptions,* 39 *U.C. DAVIS L. REV.* 1415 (2006) (observing that many Americans seek international adoptions based on the myth that no healthy infants are available for adoption in America, and drawing on empirical evidence to condemn agencies' practices of race-matching).

Laura Oren, *Thwarted Fathers or Pop-Up Pops?: How to Determine When Putative Fathers Can Block the Adoption of Their Newborn Children,* 40 *FAM. L.Q.* 153 (2006) (assessing the evidence of efforts to create the necessary paternal relationship to meet the threshold of "biology plus" that courts seem to require to withhold consent to adoptions).

Elizabeth J. Samuels, *Time to Decide? The Laws Governing Mothers' Consents to the Adoption of Their Newborn Infants,* 72 *TENN. L. REV.* 509 (2005) (assessing the market for domestic infant adoptions and surveying varying state laws on revocation of maternal consent).

---

Rosemary Cabellero, *Open Records Adoption: Finding the Missing Piece,* 30 *S. ILL. U. L.J.* 291 (2006).

---

<sup>1</sup> For references to articles on International Adoptions, see Nancy Levit, *Federalization of Matrimonial Law: A Supplemental Annotated Bibliography, 2001-2006,* 20 *J. AM. ACAD. MATRIM. LAW.* 351, 368-71 (2007).

Erin Green, Note, *Unwed Fathers' Rights in Adoption: The Virginia Code vs. The Uniform Adoption Act*, 11 WM. & MARY J. WOMEN & L. 267 (2005) (Virginia).

Mary Eschelbach Hansen & Daniel Pollack, *The Regulation of Inter-country Adoption*, 45 BRANDEIS L.J. 105 (2006).

Cara Rodriguez, Comment, *Oklahoma's Parentless Child: Determining the Best Interests of the Child by Making Multilateral Adoption Decisions*, 59 OKLA. L. REV. 319 (2006) (Oklahoma).

Susan C. Wawrose, "Can We Go Home Now?": *Expediting Adoption and Termination of Parental Rights Appeals in Ohio State Courts*, 4 J. APP. PRAC. & PROCESS 257 (2002) (Ohio).

#### Same-Sex and Second Parent Adoption<sup>2</sup>

Linda S. Anderson, *Protecting Parent-Child Relationships: Determining Parental Rights of Same-Sex Parents Consistently Despite Varying Recognition of Their Relationship*, 5 PIERCE L. REV. 1 (2006) (examining how courts decide parental rights issues when same-sex parents living in a state that acknowledges their union later move to a state that does not).

Kari E. Hong, *Parens Patri[archy]: Adoption, Eugenics, and Same-Sex Couples*, 40 CAL. W. L. REV. 1 (2003) (probing the moral arguments behind contemporary bans on same-sex couple adoption).

Jeff LeBlanc, Comment, *My Two Moms: An Analysis of the Status of Homosexual Adoption and the Challenges to Its Acceptance*, 27 J. JUV. L. 95 (2006) (surveying state laws on adoption and evaluating equal protection clause challenges).

Eleanor Michael, Note, *Approaching Same-Sex Marriage: How Second Parent Adoption Cases Can Help Courts Achieve the "Best Interests of the Same-Sex Family"*, 36 CONN. L. REV. 1439 (2004) (exploring second parent adoption as a means of creating families).

---

<sup>2</sup> The *Federalization* bibliography also addressed this topic. See *id.* at 371-72.

276 *Journal of the American Academy of Matrimonial Lawyers*

Margaret S. Osborne, Note, *Legalizing Families: Solutions to Adjudicate Parentage for Lesbian Co-Parents*, 49 VILL. L. REV. 363 (2004) (explaining that current custody standards, co-parenting agreements, and second-parent adoption rules do not adequately protect the children of same-sex parents).

Scott D. Ryan & Scottye Cash, *Adoptive Families Headed by Gay or Lesbian Parents: A Threat . . . Or Hidden Resource?*, 15 U. FLA. J.L. & PUB. POL'Y 443 (2004) (examining a wealth of psychosocial data on parenting skills of gay and lesbian adoptive parents, and concerns about sexual development and social stigma of adoptive children, which show that gay and lesbian adoptive parents are caring, committed, and stable).

Marcus C. Tye, *Lesbian, Gay, Bisexual, and Transgender Parents: Special Considerations for the Custody and Adoption Evaluator*, 41 FAM. CT. REV. 92 (2003) (drawing on interdisciplinary empirical data to show that sexual orientation does not have a negative impact on parenting).

Peter Wendel, *Inheritance Rights and the Step-Partner Adoption Paradigm: Shades of the Discrimination Against Illegitimate Children*, 34 HOFSTRA L. REV. 351 (2005) (sorting through various state rules concerning step-parent and step-partner adoption and inheritance rights).

---

Richard R. Bradley, *Making a Mountain Out of a Molehill: A Law and Economics Defense of Same-Sex Foster Care Adoptions*, 45 FAM. CT. REV. 133 (2007).

Heather Buehe, Note, *Second Parent Adoption and the Equitable Parent Doctrine: The Future of Custody and Visitation Rights for Same-Sex Partners in Missouri*, 20 WASH. U. J.L. & POL'Y 283 (2006) (Missouri).

Lisa S. Chen, Comment, *Second Parent Adoptions: Are They Entitled to Full Faith and Credit?*, 46 SANTA CLARA L. REV. 171 (2005).

Alona R. Croteau, Comment, *Voices in the Dark: Second Parent Adoptions When the Law Is Silent*, 50 LOY. L. REV. 675 (2004) (Louisiana).

Debra E. Guston & William S. Singer, *The State of Gay and Lesbian Adoption in New Jersey*, 239 N.J. LAW. 35 (Apr. 2006) (New Jersey).

Chris S. Haaff, *Same-Sex Adoptions and the Best Interest of Children*, 89 ILL. B.J. 28 (2001) (Illinois).

Christopher D. Jozwiak, *Lofton v. Secretary of the Dep't of Children & Family Services: Florida's Gay Adoption Ban Under Irrational Equal Protection Analysis*, 23 LAW & INEQ. 407 (2005) (Florida).

Martha Elizabeth Lieberman, Comment, *The Status of Same Sex Adoption in the Keystone State Subsequent to the State Supreme Court's Decision in Adoption of R.B.F. and R.C.G.*, 12 J.L. & POL'Y 287 (2003) (Pennsylvania).

Felice T. Londa, *Two Mommies or Two Daddies: Child Custody Issues for Gay and Lesbian Couples*, 239 N.J. LAW. 27 (Apr. 2006) (New Jersey).

Casey Martin, Comment, *Equal Opportunity Adoption & Declaratory Judgments: Acting in a Child's Best Interest*, 43 SANTA CLARA L. REV. 569 (2003) (California).

Charlotte J. Patterson, *Lesbian and Gay Parenting: Summary of Research Findings*, (2007), <http://www.apa.org/pi/parent.html>.

Shannon E. Smith, "Second Parent" Same-Sex Adoptions Are Valid If in the Best Interest of the Child: In Re Adoption of R.B.F. and R.C.F., 41 DUQ. L. REV. 653 (2003) (Pennsylvania).

Richard F. Storrow, *Rescuing Children from the Marriage Movement: The Case Against Marital Status Discrimination in Adoption and Assisted Reproduction*, 39 U.C. DAVIS L. REV. 305 (2006).

Michael S. Wald, *Adults' Sexual Orientation and State Determinations Regarding Placement of Children*, 40 FAM. L.Q. 381 (2006).

## **Bankruptcy**

Erwin Chemerinsky, *Constitutional Issues Posed in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*,

278 *Journal of the American Academy of Matrimonial Lawyers*

79 AM. BANKR. L.J. 571 (2005) (analyzing whether the Bankruptcy Abuse Prevention and Consumer Protection Act (“BAPCPA”) limits on attorney advertising and advice violate the First Amendment, Tenth Amendment or separation of powers, whether the means test for bankruptcy relief violates equal protection principles, and whether the provisions requiring debtors to disclose tax returns to creditors violate debtors’ rights to privacy).

Andrew Cosgrove, Note, *Breaking Up Is Hard to Do . . . Especially When a Bankruptcy Is Involved: A Look at the Unfair Results That Occur When Bankruptcy Intervenes in Domestic Relations Cases*, 14 AM. BANKR. INST. L. REV. 235 (2006) (evaluating the effect of the bankruptcy automatic stay on domestic relations cases).

Deborah H. Devan, *Attorneys’ Ethical Obligations Clash with Recent Amendments to the Bankruptcy Code*, 40 MD. B.J. 4 (June 2007) (reporting on recently filed cases challenging BAPCPA’s limits on the advice attorneys can give their clients as violations of the First Amendment).

Jackie Gardina, *The Perfect Storm: Bankruptcy, Choice of Law, and Same-Sex Marriage*, 86 B.U. L. REV. 881 (2006) (addressing the hypothetical situation of how bankruptcy courts should handle property interests incident to same-sex civil unions in light of the Defense of Marriage Act).

Margaret M. Mahoney, *Debts, Divorce, and Disarray in Bankruptcy*, 73 UMKC L. REV. 83 (2004) (examining the statutory exceptions to discharge relating to a divorcing debtor’s obligations as well as the allocation of third party debts incurred during the marriage).

Lynne F. Riley & Maria C. Furlong, *The Complex Intersection of Divorce and Bankruptcy in the 21st Century*, 16 J. BANKR. L. & PRAC. 2 Art. 1 (Apr. 2007) (addressing revisions in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and the effect of *Marshall v. Marshall* (the Anna Nicole Smith case), in which the Supreme Court narrowly construed the probate exception to federal court jurisdiction, on probate or divorce cases when a simultaneous bankruptcy proceeding exists).



Anthony Michael Sabino, *Violence of Action: The Bankruptcy Code, Domestic Relations Law, and the New War With State Probate Law*, 19 QUINNIPIAC PROB. L.J. 264 (2006) (covering distinctions between domestic support debts and property settlements, concurrent jurisdiction issues and exceptions to the automatic stay for collection of alimony, maintenance and support, and marital debts that are nondischargeable because of fraud).

Eugene R. Wedoff, *Major Consumer Bankruptcy Effects of BAPCPA*, 2007 U. ILL. L. REV. 31 (covering, among other things, the extension of time between discharges, audits, debtor education and credit counseling, the automatic stay, the eviction exception for leased residential real estate, the nondischargeability of credit card debts and student loans, limits on the homestead exemption, the means test to avoid dismissal of a chapter 7 proceeding for abuse, and new duties and possible sanctions for debtor's counsel).

---

Daniel A. Austin, *For Debtor or Worse: Discharge of Marital Debt Obligations Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*, 51 WAYNE L. REV. 1369 (2005).

Amanda Barkey, Note, *The Application of Constructive Fraud to Divorce Property Settlements: What's Fraud Got To Do With It?*, 52 WAYNE L. REV. 221 (2006).

William Houston Brown, *Taking Exception to a Debtor's Discharge: The 2005 Bankruptcy Amendments Make It Easier*, 79 AM. BANKR. L.J. 419 (2005).

Andrew M. Campbell, Annotation, *Bankruptcy Discharge of Student Loan on Ground of Undue Hardship Under § 523(a)(8)(B) of Bankruptcy Code of 1978 (11 U.S.C.A. § 523(A)(8)(B)) Discharge of Student Loans*, 144 A.L.R. FED. 1 (1998 & Supp. 2005).

Edward Paul Canterbury, Comment, *The Discharge of Student Loans in Bankruptcy: A Debtor's Guide to Obtaining Relief*, 32 OHIO N.U. L. REV. 149 (2006).

280 *Journal of the American Academy of Matrimonial Lawyers*

David Gray Carlson, *Cars and Homes in Chapter 13 After the 2005 Amendments to the Bankruptcy Code*, 14 AM. BANKR. INST. L. REV. 301 (2006).

Christopher Celentino, *Divorce and Bankruptcy: Spousal Support as Property of the Estate*, 28 CAL. BANKR. J. 542 (2006).

Randy French, *The Impact of the New Bankruptcy Law on Divorce, Property Settlements, and the Allocation of Debt in Divorce*, 49 ADVOCATE (IDAHO) 17 (Jan. 2006).

Jennifer Greene, Note, *Bankruptcy Beyond Borders: Recognizing Foreign Proceedings in Cross-Border Insolvencies*, 30 BROOK. J. INT'L L. 685 (2005).

James A. Haller & William A. Mueller, *The New Bankruptcy Law: A Consumer Lawyer's Guide*, 93 ILL. B.J. 454 (Sep. 2005).

Bradley R. Hightower, *It Means Just What I Choose It to Mean: The Preclusive Effect of Divorce Agreements Under § 523(A)(5) of the Bankruptcy Code*, 65 ALA. LAW. 327 (Sep. 2004).

Paul M. Hoffmann & Jerald S. Enslein, *Overview of Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*, 62 J. MO. B. 300 (Sep./Oct. 2006).

David C. Hoskins, *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*, 35 COLO. LAW. 15 (Feb. 2006).

Melissa B. Jacoby, *Bankruptcy Reform and Home Ownership Risk*, 2007 U. ILL. L. REV. 323.

Robert F. Kidd & Frederick C. Hertz, *Partnered in Debt: The Impacts of California's New Registered Domestic Partner Law on Creditor's Remedies and Debtor's Rights, Under California Law and Under Federal Bankruptcy Law*, 28 CAL. BANKR. J. 148 (2006) (California).

Marc R. Kivitz, *Domestic Support Obligations Under BAPCA*, 40 MD. B.J. 50 (May/June 2007).

Alson R. Martin, *Creditors' and Debtors' Rights in Retirement Benefits: Developments After the Bankruptcy Abuse Prevention*

and Consumer Protection Act of 2005, SM047 ALI-ABA 309 (Sep. 28-30, 2006).

Judith Greenstone Miller & John C. Murray, *Waivers of the Automatic Stay: Are They Enforceable (and Does the New Bankruptcy Act Make a Difference)?*, 41 REAL PROP. PROB. & TR. J. 357 (2006).

Rafael I. Pardo & Michelle R. Lacey, *Undue Hardship and the Bankruptcy Courts: An Empirical Assessment of the Discharge of Educational Debt*, 74 U. CIN. L. REV. 405 (2005).

Pamela D. Perdue, *Bankruptcy and Qualified Plans*, SM058 ALI-ABA 799 (Feb. 22-24, 2007).

Larry A. Pittman II & Jeffrey A. Deines, *A Hitchhiker's Guide to Consumer Bankruptcy Reform*, 75 J. KAN. B.A. 20 (Nov./Dec. 2006).

Mark F. Scurti, *Bankruptcy Intersects Family Law*, 40 MD. B.J. 44 (June 2007).

George H. Singer, *The Year in Review: Case Law Developments Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*, 29 CAL. BANKR. J. 37 (2007).

Sarah Edstrom Smith, Note, *Should the Eighth Circuit Continue to Be the Lone Ranger? A Look at the Totality of the Circumstances Test for Discharging Student Loans Under the Undue Hardship Exception in Bankruptcy*, 29 HAMLINE L. REV. 602 (2006).

Michael St. James, *Terminating Transmutation: Is There an Alternative to Divorce When One Spouse Becomes Insolvent?*, 27 CAL. BANKR. J. 400 (2005).

Shayna M. Steinfeld & Bruce R. Steinfeld, *A Brief Overview of Bankruptcy and Alimony/Support Issues*, 38 FAM. L.Q. 127 (2004).

Catherine E. Vance & Corinne Cooper, *Nine Traps and One Slap: Attorney Liability Under the New Bankruptcy Law*, 79 AM. BANKR. L.J. 283 (2005).

282 *Journal of the American Academy of Matrimonial Lawyers*

Robert Wann, Jr., Note, “*Debt Relief Agencies*”: *Does the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 Violate Attorneys’ First Amendment Rights?*, 14 AM. BANKR. INST. L. REV. 273 (2006).

Scott Waterman, *Bankruptcy Law Reform: A Primer for the General Practitioner—Consumer Bankruptcies*, 77 PA. B.A. Q. 93 (July 2006).

David B. Young, *Overview of Changes to the Automatic Stay Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*, 887 PLI/COMM 441 (Apr. 24-25, 2006).

### **Child Custody, Child Support, and Visitation**

Elizabeth Barker Brandt, *De Facto Custodians: A Response to the Needs of Informal Kin Caregivers*, 38 FAM. L.Q. 291 (2004) (evaluating the provisions of “de facto custodian statutes” adopted in Kentucky, Minnesota, Indiana, and Idaho to afford some rights to children’s caregivers).

Patrick Parkinson, *Family Law and the Indissolubility of Parenthood*, 40 FAM. L.Q. 237 (2006) (discussing ways to maintain the involvement of both parents post-separation and covering parenting plans, relocation, and ways to encourage shared parenting).

Eugene Volokh, *Parent-Child Speech and Child Custody Speech Restrictions*, 81 N.Y.U. L. REV. 631 (2006) (evaluating cases depriving parents of custody for endorsing unpopular religious, political or sexual practices, such as atheism, communism or nonmarital sex).

---

ADR Subcommittee of the Florida Family Court Steering Committee, *Comprehensive Service Model for the Resolution of Parenting Issues* [http://www.afcnet.org/pdfs/parenting\\_continuum.pdf](http://www.afcnet.org/pdfs/parenting_continuum.pdf) (last visited Mar. 26, 2007).

Association of Family and Conciliation Courts, *Resource Center*, [http://www.afcnet.org/resources/resources\\_professionals.asp](http://www.afcnet.org/resources/resources_professionals.asp) (last visited Mar. 26, 2007).

Barbara A Atwood, *The Child's Voice in Custody Litigation: An Empirical Survey and Suggestions for Reform*, 45 ARIZ. L. REV. 629 (2003) (Arizona).

Margaret K. Dore, *The "Friendly Parent" Concept: A Flawed Factor for Child Custody*, 6 LOY. J. PUB. INT. L. 41 (Fall 2004).

Janet R. Johnston, *Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child*, 38 FAM. L.Q. 757 (2005).

Steven N. Peskind, *Determining the Undeterminable: The Best Interest of the Child Standard as an Imperfect But Necessary Guidepost to Determine Child Custody*, 25 N. ILL. U. L. REV. 449 (2005).

Mark E. Sullivan, *Military Custody: Twists and Turns*, 28 FAM. ADVOC. 23 (Fall 2005).

#### Child Support

Ira Mark Ellman, *Fudging Failure: The Economic Analysis Used to Construct Child Support Guidelines*, 2004 U. CHI. LEGAL F. 167 (explaining that the Consumer Expenditure Survey of the Bureau of Labor Statistics on which the model child support guidelines are based systematically "undercount . . . income for the lower 40 percent of the population, and . . . expenditures for the upper 20 percent").

---

Nicholas Bala et al., *Regulating Cross-Border Child Support Within Federated Systems: The United States, Canada, and the European Union*, 15 TRANSNAT'L L. & CONTEMP. PROBS. 87 (2005).

Jo Michelle Beld & Len Biernat, *Federal Intent for State Child Support Guidelines: Income Shares, Cost Shares, and the Realities of Shared Parenting*, 37 FAM. L.Q. 165 (2003).

Caroline P. Blair, Note, *It's More Than a One-Night Stand: Why a Promise to Parent Should Obligate a Former Lesbian Partner to Pay Child Support in the Absence of a Statutory Requirement*, 39 SUFFOLK U. L. REV. 465 (2006).

284 *Journal of the American Academy of Matrimonial Lawyers*

Jay Chiu, Note, *Is California's Uniform Child Support Guideline Formula Really More Bizarre Than Alice in Wonderland? Yes!*, 31 W. ST. U. L. REV. 311 (2004) (California).

Sara R. David, Note, *Turning Parental Rights into Parental Obligations—Holding Same-Sex, Non-Biological Parents Responsible for Child Support*, 39 NEW ENG. L. REV. 921 (2005) (Massachusetts).

Leah duCharme, Note, *The Cost of a Higher Education: Post-Minority Child Support in North Dakota*, 82 N.D. L. REV. 235 (2006) (North Dakota).

Stephen K. Erickson, *If They Can Do Parenting Plans, They Can Do Child Support Plans*, 33 WM. MITCHELL L. REV. 827 (2007).

Family Law—*Same-Sex Couples' Parental Rights and Obligations—California Supreme Court Holds Child Support Provisions of Its Uniform Parentage Act Applicable to Same-Sex Couples—Elisa B. v. Superior Court*, 117 P.3d 660 (Cal. 2005), 119 HARV. L. REV. 1614 (2006) (California).

Michael L. Hopkins, Comment, “*What Is Sauce for the Gander Is Sauce for the Goose*”: *Enforcing Child Support on Former Same-Sex Partners Who Create a Child Through Artificial Insemination*, 25 ST. LOUIS U. PUB. L. REV. 219 (2006) (California).

Susan Isard, Note, *Stock Options and Child Support: The Price of Accuracy*, 14 HASTINGS WOMEN'S L.J. 215 (2003).

Kimberly Jinks, *The Child's Right to Support When Parents are High Income Earners*, 236 N.J. LAW. 28 (Oct. 2005) (New Jersey).

Clayton P. Kawski, Comment, *Stepping In(come): Evaluating the Inherent Inconsistency of Illinois's Trend Toward Consideration of New Spouse Income in Child Support Modification*, 27 N. ILL. U. L. REV. 247 (2007) (Illinois).

Gina Mercurio, Recent Decisions, *The Duty to Support Minor Children Does Not Extend to the Estate of a Deceased Parent But Ends at That Parent's Death: Benson ex. rel. Patterson v. Patterson*, 42 DUQ. L. REV. 905 (2004) (Pennsylvania).

Lani P. Shaw, Comment, “*Show Me the Money!*”: *Analyzing an Adult Child’s Standing to Recover Retroactive Child Support Payments*, 48 HOW. L.J. 1053 (2005).

Drew A. Swank, *The National Child Non-Support Epidemic*, 2003 MICH. ST. DCL L. REV. 357.

Jane C. Venohr & Tracy E. Griffith, *Child Support Guidelines: Issues and Reviews*, 43 FAM. CT. REV. 415 (2005).

Timothy C. Voit, *QDROs—A Powerful Tool for Child Support Enforcement*, 79 FLA. B.J. 38 (Jan. 2005).

Thomas J. Walsh, *The Rise and Fall of an Archetype: Revisions to the “Wisconsin Model” Child Support Guidelines*, 36 U. MEM. L. REV. 1013 (2006).

#### Custody Evaluators

Lynne Kenney Markan & David K. Weinstock, *Expanding Forensically Informed Evaluations and Therapeutic Interventions in Family Court*, 43 FAM. CT. REV. 466 (2005) (reviewing various types of evaluations, including dispute assessments, child developmental evaluations, child forensic interviews, and emergency case stabilizations, as well as different types of therapeutic interventions, including reunification and forensically informed treatments).

Mary Johanna McCurley et al., *Protecting Children from Incompetent Forensic Evaluations and Expert Testimony*, 19 J. AM. ACAD. MATRIM. LAW. 277 (2005) (describing various model guidelines (such as those of the American Psychological Association and the Association of Family and Conciliation Courts) for custody evaluations and techniques of evaluation as well as the ways reliability, validity and relevance problems can arise during evaluations).

Sarah H. Ramsey & Robert F. Kelly, *Social Science Knowledge in Family Law Cases: Judicial Gate-Keeping in the Daubert Era*, 59 U. MIAMI L. REV. 1 (2004) (reviewing ways to assess social science evidence—including the need for empirically validated measurements, internal and external validity, standards for sam-

pling and generalizing, and explanations of statistical significance).

Philip M. Stahl, *Deposing the Custody Evaluator: What You Need to Know About Current Child Custody Research and the Use of Psychological Testing*, 2 ANN. 2003 ATLA-CLE 1953 (July 2003) (explaining evaluation instruments, such as the MMPI-2, the MCMI-III, projective personality tests (like the Rorschach and the Thematic Apperception Test), specific tests for custody evaluations (like the Ackerman Schoendorf Scales for Parent Evaluation of Custody, the Parent Awareness Skills Survey, and the Perceptions of Relationships Test), and parenting inventories).

Timothy M. Tippins & Jeffrey P. Wittmann, *Empirical and Ethical Problems with Custody Recommendations: A Call for Clinical Humility and Judicial Vigilance*, 43 FAM. CT. REV. 193 (2005) (summarizing the limits on psychological knowledge regarding the components custody evaluators are asked to address, as well as the definitional, reliability and validity problems with the tools (interviews and psychological tests) clinicians use to develop their custody recommendations).

---

Dana Royce Baerger et al., *Methodology for Reviewing the Reliability and Relevance of Child Custody Evaluations*, 18 J. AM. ACAD. MATRIM. LAW. 35 (2002).

Nicholas Bala, *Tippins and Wittmann Asked the Wrong Question: Evaluators May Not Be "Experts," But They Can Express Best Interests Opinions*, 43 FAM. CT. REV. 554 (2005).

James N. Bow & Francella A. Quinnell, *A Critical Review of Child Custody Evaluation Reports*, 40 FAM. CT. REV. 164 (2002).

James N. Bow & Francella A. Quinnell, *Critique of Child Custody Evaluations by the Legal Profession*, 42 FAM. CT. REV. 115 (2004).

Nancy S. Erickson, *Use of the MMPI-2 in Child Custody Evaluations Involving Battered Women: What Does Psychological Research Tell Us?*, 39 FAM. L.Q. 87 (2005).

Lyn R. Greenberg et al., *Is the Child's Therapist Part of the Problem: What Judges, Attorneys, and Mental Health Professionals*



*Need to Know About Court-Related Treatment for Children*, 37 FAM. L.Q. 241 (2003).

Daniel J. Hynan, *Parent-Child Observations in Custody Evaluations*, 41 FAM. CT. REV. 214 (2003).

Joan B. Kelly & Janet R. Johnston, Commentary, *Commentary on Tippins and Wittmann's "Empirical and Ethical Problems with Custody Recommendations: A Call for Clinical Humility and Judicial Vigilance,"* 43 FAM. CT. REV. 233 (2005).

Mary Kay Kisthardt & Barbara Glesner Fines, *Making a Place at the Table: Reconceptualizing the Role of the Custody Evaluator in Child Custody Disputes*, 43 FAM. CT. REV. 229 (2005).

Jean E. Lacrosse, *Blueprint for a Custody Evaluation: Getting You and Your Client Through a Custody Evaluation—Thoughts from a Custody Evaluator*, 26 FAM. ADVOC. 36 (Winter 2004).

Lorraine Martin, Commentary, *To Recommend or Not to Recommend: That Is Not the Question*, 43 FAM. CT. REV. 246 (2005).

David A. Martindale, *Model Standards of Practice for Child Custody Evaluation*, 45 FAM. CT. REV. 70 (2007) (Association of Family and Conciliation Courts Model Standards).

Claude Schleuderer & Vicky Campagna, *Assessing Substance Abuse Questions in Child Custody Evaluations*, 42 FAM. CT. REV. 375 (Apr. 2004).

Daniel W. Shuman, *The Role of Mental Health Experts in Custody Decisions: Science, Psychological Tests, and Clinical Judgment*, 36 FAM. L.Q. 135 (2002).

#### Joint Custody and Shared Parenting

Margaret F. Brinig, *Does Parental Autonomy Require Equal Custody at Divorce?*, 65 LA. L. REV. 1345 (2005) (using an economic model to study 3,800 cases of middle and high school students living with their mothers in Oregon and concluding that joint custody presumptions can result in increased motions to modify custody and other negative consequences).

William S. Comanor, *Child Visitation and Performance: The Evidence*, 66 LA. L. REV. 763 (2006) (criticizing Brinig's empirical

288 *Journal of the American Academy of Matrimonial Lawyers*

methodology, from the contours of her sample that omitted younger children and those living with their fathers to her measurements of visiting time and the lack of support for her conclusion that joint custody is harmful).

Michael T. Flannery, *Is "Bird Nesting" in the Best Interest of Children?*, 57 SMU L. REV. 295 (2004) (considering the practical difficulties of having the children remain in the marital home post-divorce while the parents move in and out, and evaluating the social science research on children's adjustment to divorce under various circumstances).

Graeme B. Wilson, *The Non-Resident Parental Role for Separated Fathers: A Review*, 20 INT'L J.L. & POL'Y & FAM. 286 (2006) (reviewing research on father involvement under various familial conditions, including employment, wealth, and differing inter-parental relationships).

---

Stephen Gilmore, *Contact/Shared Residence and Child Well-Being: Research Evidence and Its Implications for Legal Decision-Making*, 20 INT'L J.L. & POL'Y & FAM. 344 (2006).

Judith G. Greenberg, *Domestic Violence and the Danger of Joint Custody Presumptions*, 25 N. ILL. U. L. REV. 403 (2005).

Robert F. Kelly & Shawn L. Ward, *Social Science Research and the American Law Institute's Approximation Rule*, 40 FAM. CT. REV. 350 (2002).

Matthew A. Kipp, *Maximizing Custody Options: Abolishing the Presumption Against Joint Physical Custody*, 79 N.D. L. REV. 59 (2003) (North Dakota).

Marygold S. Melli, *The American Law Institute Principles of Family Dissolution, the Approximation Rule and Shared-Parenting*, 25 N. ILL. U. L. REV. 347 (2005).

Charlee Perrow, Comment, *The Origin and Evolution of Florida's Presumption Against Rotating Custody: A Guideline for Florida Judges*, 30 FLA. ST. U. L. REV. 503 (2003) (Florida).

Shelley A. Riggs, *Is the Approximation Rule in the Child's Best Interests? A Critique from the Perspective of Attachment Theory*, 43 FAM. CT. REV. 481 (2005).

### Parenting Coordinators

AFCC Task Force on Parenting Coordination, *Parenting Coordination: Implementation Issues*, 41 FAM. CT. REV. 533 (2003) (covering issues ranging from appointment and removal of parenting coordinators to their qualifications and training, access to privileged information, and judicial review of parenting coordinators' decisions).

Christine A. Coates et al., *Parenting Coordination for High-Conflict Families*, 42 FAM. CT. REV. 246 (2004) (addressing the theory of delegating authority to resolve custody issues to mental health experts in nonadversarial settings, statutory authority permitting this delegation and constitutional challenges to it, as well as liability of parenting coordinators).

---

AFCC Task Force on Parenting Coordination, *Guidelines for Parenting Coordination*, 44 FAM. CT. REV. 164 (2006), available at <http://www.afcnet.org/pdfs/AFCCGuidelinesforParentingcoordinationnew.pdf>.

AFCC Task Force on Parenting Coordination, *Parenting Coordination: Implementation Issues*, 41 FAM. CT. REV. 533 (2003).

Sarah Arnett, *Parenting Coordinators in High Conflict Divorce Cases*, 45 ADVOCATE (IDAHO) 7 (Sep. 2002).

Barbara Ann Bartlett, *Parenting Coordination: A New Tool for Assisting High-Conflict Families*, 75 OKLA. B.J. 453 (2004), available at [http://www.okbar.org/obj/articles\\_04/021404.htm](http://www.okbar.org/obj/articles_04/021404.htm).

Victoria M. Ho et al., *Parent Coordinators: An Effective New Tool in Resolving Parental Conflict in Divorce*, 74 FLA. B.J. 101 (2000).

Janet Griffiths Peterson, *The Appointment of Special Masters in High Conflict Divorces*, 15 UTAH B.J. 16 (Aug./Sep. 2002) (Utah).

290 *Journal of the American Academy of Matrimonial Lawyers*

Dana E. Prescott, *When Co-Parenting Falters: Parenting Coordinators, Parents-in-Conflict, and the Delegation of Judicial Authority*, 20 ME. B.J. 240 (2005) (Maine).

Matthew J. Sullivan, *Ethical, Legal and Professional Practice Issues Involved in Acting as a Psychologist Parent Coordinator in Child Custody Cases*, 42 FAM. CT. REV. 576 (2004).

#### Parent and Child Divorce Education Programs

Sanford L. Braver et al., *Prevention Programs for Divorced Non-resident Fathers*, 43 FAM. CT. REV. 81 (2005) (evaluating different types of post-divorce intervention programs intended to promote father-child relationships, including programs addressing parenting skills, familial commitment, and conflict-management).

Jeffrey T. Cookston et al., *Prospects for Expanded Parent Education Services for Divorcing Families with Children*, 40 FAM. CT. REV. 190 (2002) (reporting results of efficacy studies).

Matthew Goodman et al., *Parent Psychoeducational Programs and Reducing the Negative Effects of Interparental Conflict Following Divorce*, 42 FAM. CT. REV. 263 (2004) (reviewing controlled studies evaluating program content).

JoAnne L. Pedro-Carroll, *Fostering Resilience in the Aftermath of Divorce: The Role of Evidence-Based Programs for Children*, 43 FAM. CT. REV. 52 (Jan. 2005) (suggesting that while education programs for children of divorce are much less frequently used than parent-education programs, programs for children that involve conveying information and group support help strengthen children's abilities to weather the emotions of divorce).

---

Jack Arbuthnot, *Courts' Perceived Obstacles to Establishing Divorce Education Programs*, 40 FAM. CT. REV. 371 (2002).

Brenda L. Bacon & Brad McKenzie, *Parent Education After Separation/Divorce: Impact of the Level of Parental Conflict on Outcomes*, 42 FAM. CT. REV. 85 (2004) (Canadian study).

Karen R. Blaisure & Margie J. Geasler, *The Divorce Education Intervention Model*, 38 FAM. CT. REV. 501 (2000).

Debra A. Clement, *1998 Nationwide Survey of the Legal Status of Parent Education*, 37 FAM. CT. REV. 219 (1999).

Desmond Ellis & Dawn Y. Anderson, *The Impact of Participation in a Parent Education Program for Divorcing Parents on the Use of Court Resources: An Evaluation Study*, 21 CONFL. RESOL. Q. 169 (2003).

Solveig Erickson & Nancy Ver Steegh, *Mandatory Divorce Education Classes: What Do the Parents Say?*, 28 WM. MITCHELL L. REV. 889 (2001) (Minnesota study).

Russell Fowler, *Courts, Courses and Controversies: The Constitutional and Procedural Challenges to Rules of Court Requiring Attendance at Parenting Seminars*, 37 NEW ENG. L. REV. 25 (2002).

Evelyn Frazee, *Sensitizing Parent Education Programs to Domestic Violence Concerns: The Perspective of the New York State Parent Education Advisory Board*, 43 FAM. CT. REV. 124 (2005) (New York).

Geri S. W. Fuhrmann et al., *Parent Education's Second Generation: Integrating Violence Sensitivity*, 37 FAM. CT. REV. 24 (1999).

Margie J. Geasler & Karen R. Blaisure, *1998 Nationwide Survey of Court-Connected Divorce Education Programs*, 37 FAM. CT. REV. 36 (1999).

Robyn J. Geelhoed et al., *Status of Court-connected Programs for Children Whose Parents Are Separating or Divorcing*, 39 FAM. CT. REV. 393 (2001).

Joan B. Kelly, *Psychological and Legal Interventions for Parents and Children in Custody and Access Disputes: Current Research and Practice*, 10 VA. J. SOC. POL'Y & L. 129 (2002).

Victoria L. Lutz & Cara E. Gady, *Necessary Measures and Logistics to Maximize the Safety of Victims of Domestic Violence Attending Parent Education Programs*, 42 FAM. CT. REV. 363 (2004).

Nancy Thoennes & Jessica Pearson, *Parent Education in the Domestic Relations Court: A Multisite Assessment*, 37 FAM. CT. REV.

292 *Journal of the American Academy of Matrimonial Lawyers*

195 (1999) (assessing programs in Arizona, Connecticut, Michigan, New Jersey, and Oklahoma).

### Parenting Plans

Robin M. Deutsch & Arline S. Rotman, *Parenting Plans: How to Settle on Appropriate Access*, 26 *FAM. ADVOC.* 28 (Spring 2004) (offering a developmental approach, from infancy to preschool and through adolescence).

Linda Jellum, *Parents Know Best: Revising Our Approach to Parental Custody Agreements*, 65 *OHIO ST. L.J.* 615 (2004) (discussing the different standards states apply to parental agreements about custody and suggesting that parental deference is best).

Joan B. Kelly, *Developing Beneficial Parenting Plan Models for Children Following Separation and Divorce*, 19 *J. AM. ACAD. MATRIM. LAW.* 237 (2005) (presenting empirical research that should inform parenting plans, including research on attachment processes and overnight stays, patterns of father involvement and child adjustment, how joint physical custody works, and what to do in high conflict situations).

Mary Kay Kisthardt, *The AAML Model for a Parenting Plan*, 19 *J. AM. ACAD. MATRIM. LAW.* 223 (2005) (describing the process by which the AAML developed its parenting plan model and the key provisions).

Marsha Kline Pruett et al., *Critical Aspects of Parenting Plans for Young Children: Interjecting Data into the Debate about Overnights*, 42 *FAM. CT. REV.* 39 (2004) (reporting results of a study of 132 families with participants drawn from the Connecticut Collaborative Divorce Project which showed that girls benefited from overnights while boys did not, but that other factors, such as consistency of schedule and family relationship variables, mattered more to children's well-being than overnights).

---

Sherri M. Anderson, *Contested Parenting Plan Matters*, 30306 *NBI-CLE* 1 (2006) (Washington).

Francis J. Catania, Jr., *Learning from the Process of Decision: The Parenting Plan*, 2001 *BYU L. REV.* 857.

Risa J. Garon et al., *From Infants to Adolescents: A Developmental Approach to Parenting Plans*, 38 FAM. & CONCILIATION CTS. REV. 168 (2000).

Judith K. Guibert, *Development of Parenting Plans*, 5627 NBI-CLE 27 (2004) (North Carolina).

Joan B. Kelly & Michael E. Lamb, *Using Child Development Research to Make Appropriate Custody and Access Decisions for Young Children*, 38 FAM. & CONCILIATION CTS. REV. 297 (2000).

Elizabeth LaFlamme, *Missouri's Parenting Plan Requirement: Is It in the Best Interests of Domestic Violence Victims?*, 56 J. MO. B. 30 (2000) (Missouri).

Michael E. Lamb, *Placing Children's Interests First: Developmentally Appropriate Parenting Plans*, 10 VA. J. SOC. POL'Y & L. 98 (2002).

Michael E. Lamb & Joan B. Kelly, *Using the Empirical Literature to Guide the Development of Parenting Plans for Young Children: A Rejoinder to Solomon and Biringen*, 39 FAM. CT. REV. 365 (2001).

Rhonda J. Lilley, *Parenting Plans for Children's Changing Developmental Needs*, 23241 NBI-CLE 81 (Aug. 24, 2004).

Patrick A. McCall, *Parenting Plan Guidelines*, 30303 NBI-CLE 74 (2006) (California).

Oregon Judicial Dept., *Basic Parenting Plan Guide for Parents* (2003), <http://www.ojd.state.or.us/osca/cpsd/courtimprovement/familylaw/documents/PPWGGUIDE-ENTIREVer07-123103.pdf>

Peter V. Rother, *Balancing Custody Issues: Minnesota's New Parenting Plan Statute*, 57 BENCH & B. MINN. 27 (Dec. 2000) (Minnesota).

Judith Solomon & Zeynep Biringen, *Another Look at the Developmental Research: Commentary on Kelly and Lamb's "Using Child Development Research to Make Appropriate Custody and Access Decisions for Young Children,"* 39 FAM. CT. REV. 355 (2001).

294 *Journal of the American Academy of Matrimonial Lawyers*

Christine W. Stephens, *Development of Parenting Plans*, 29919 NBI-CLE 40 (2005) (Tennessee).

Margaret Anne Ward, *Crafting Developmentally Appropriate Child Custody and Child Contact with Parent Plans*, 17298 NBI-CLE 92 (2004) (New Hampshire).

Craig Wymetalek, *Development of Parenting Plans*, 17570 NBI-CLE 35 (2004) (Oregon; considering the use of a custody evaluator).

### Relocation

Carol S. Bruch, *Sound Research or Wishful Thinking in Child Custody Cases? Lessons from Relocation Law*, 40 FAM. L.Q. 281 (2006) (summarizing the psychological research on children's needs regarding their adjustment in relocation situations and critiquing interpretations of research by lawyers and legal theorists whose works are not held to scientific standards or subjected to peer review, and offering criteria to distinguish scientifically credible works from those that are methodologically weak).

W. Dennis Duggan, *Rock-Paper-Scissors: Playing the Odds with the Law of Child Relocation*, 45 FAM. CT. REV. 193 (2007) (arguing that the law of relocation is in disarray and that judges have little ability to predict what is in the best interests of the child, and suggesting 36 factors courts should examine in move-away cases).

Lucy S. McGough, *Starting Over: The Heuristics of Family Relocation Decision Making*, 77 ST. JOHN'S L. REV. 291 (2003) (tracing the doctrinal history of relocation law and the different burdens and standards courts use).

Robert Pasahow, *A Critical Analysis of the First Empirical Research Study on Child Relocation*, 19 J. AM. ACAD. MATRIM. LAW. 321 (2005) (evaluating the early works of Judith Wallerstein, Stanford Braver, and Richard Warshak).

Linda Lea M. Viken, *Evaluating the Relocation Case*, 28 FAM. ADVOC. 12 (2006) (distinguishing carefully among types of relocation cases—those occurring at divorce, post-divorce, and with unwed parents).



Kenneth Waldron, *A Review of Social Science Research on Post Divorce Relocation*, 19 J. AM. ACAD. MATRIM. LAW. 337 (2005) (noting an absence of outcomes research or systematic attention to shared parenting situations).

---

Charles C. Abut, *Child Removal: A Matrimonial Litigator's Checklist*, 21 MATRIM. STRATEGIST 1 (Feb. 2003).

Lance Cagle, Comment, *Have Kids, Might Travel: The Need for a New Roadmap in Illinois Relocation Cases*, 25 N. ILL. U. L. REV. 255 (2005) (Illinois).

David M. Cotter, *Relocation of the Custodial Parent: A State-by-State Survey*, 18 DIVORCE LITIG. 89 (June 2006).

Ericka Domarew, Comment, *Michigan Keeps It Within Limits: Relocation No More Than "100 Miles,"* 20 T.M. COOLEY L. REV. 547 (2003) (Michigan).

Kelly Gibbons, Comment, *The Ties That Bind: Why Texas Should Adopt a Presumption That Relocation Is Not in the Best Interests of the Child*, 12 TEX. WESLEYAN L. REV. 555 (2006) (Texas).

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).

David N. Hofstein et al., *A Moving Case for Staying Put: Opposing Relocation at Trial*, 28 FAM. ADVOC. 25 (Spring 2006).

Tricia Kelly, Comment, *Presumptions, Burdens, and Standards, Oh My: In Re Marriage of Lamgusa's Search for a Solution to Relocation Disputes*, 74 U. CIN. L. REV. 213 (2005) (California).

Jill S. Kingsbury, "Mommy, Are We Moving? No . . . Maybe . . . Yes . . ."—*The Evolution of Missouri's Relocation Law*, 60 J. MO. B. 83 (2004) (Missouri).

Dara Labrum, *Idaho's Immobile Burden: Roberts v. Roberts and Custodial Parent Relocation*, 41 IDAHO L. REV. 147 (2004) (Idaho).

296 *Journal of the American Academy of Matrimonial Lawyers*

Samuel Roll & Candace Kern, *What a Move May Mean for the Child*, 28 FAM. ADVOC. 34 (Spring 2006).

Jacqueline M. Valdespino, *Making the "Must Move" Case at Trial: Arguing That Relocation Is Right for the Kids*, 28 FAM. ADVOC. 19 (Spring 2006).

Kimberly R. Willoughby, *Relocation in Family Law Cases*, 35 COLO. LAW. 47 (Mar. 2006) (Colorado).

Kathleen Yaeger, Note, *An Examination of Relocation Law in Massachusetts, Connecticut and Rhode Island: Successful Trends Toward Determining the Best Interests of the Child*, 10 SUFFOLK J. TRIAL & APP. ADVOC. 153 (2005).

Jay M. Zitter, Annotation, *Custodial Parent's Relocation as Grounds for Change of Custody*, 70 A.L.R. 5TH 377 (1999 & Supp. 2003).

#### Representation of Children

Barbara Ann Atwood, *Representing Children: The Ongoing Search for Clear and Workable Standards*, 19 J. AM. ACAD. MATRIM. LAW. 183 (2005) (describing the tensions when a lawyer is appointed to represent a child in a hybrid guardian ad litem capacity, and contrasting the proposed ABA standards and American Academy of Matrimonial Lawyers' guidelines for representing children).

---

American Bar Association Section of Family Law, *Standards of Practice for Lawyers Representing Children in Custody Cases*, 37 FAM. L.Q. 131 (2003).

Barry J. Berenberg, Comment, *Attorneys for Children in Abuse and Neglect Proceedings: Implications for Professional Ethics and Pending Cases*, 36 N.M. L. REV. 533 (2006) (New Mexico).

Susan L. Brooks, *Representing Children in Families*, 6 NEV. L.J. 724 (2006).

Laura Cohen & Randi Mandelbaum, *Kids Will Be Kids: Creating a Framework for Interviewing and Counseling Adolescent Clients*, 79 TEMP. L. REV. 357 (2006).

John Crouch, *The Child's Attorney: New ABA Rules Clarify the Roles of Lawyers Who Represent Children*, 26 FAM. ADVOC. 31 (Winter 2004).

Annette M. Gonzalez & Linda M. Rio Reichmann, *Representing Children in Civil Cases Involving Domestic Violence*, 39 FAM. L.Q. 197 (2005).

Andrew Hoffman, *The Role of Child's Counsel in State Intervention Proceedings: Toward a Rebuttable Presumption in Favor of Family Reunification*, 3 CONN. PUB. INT. L. J. 326 (2004).

Jean Koh Peters, *How Children Are Heard in Child Protective Proceedings, in the United States and Around the World in 2005: Survey Findings, Initial Observations and Areas for Further Study*, 6 NEV. L.J. 966 (2006).

Hollis R. Peterson, Comment, *In Search of the Best Interests of the Child: The Efficacy of the Court Appointed Special Advocate Model of Guardian ad Litem Representation*, 13 GEO. MASON L. REV. 1083 (2005-06).

*Recommendations of the UNLV Conference on Representing Children in Families: Child Advocacy and Justice Ten Years After Fordham*, 6 NEV. L.J. 592 (2006).

### Visitation

Ira Mark Ellman, *Should Visitation Denial Affect the Obligation to Pay Support?*, 36 ARIZ. ST. L.J. 661 (2004) (questioning the independence of support and visitation in cases of child concealment by the custodial parent).

Daniel Pollack & Susan Mason, *Mandatory Visitation: In the Best Interest of the Child*, 42 FAM. CT. REV. 74 (2004) (examining the idea of visitation as a compulsory obligation).

---

Celia Guzaldo Gamrath, *Visitation Abuse v. Unlawful Visitation Interference—Is There Comfort for Noncustodial Parents?*, 91 ILL. B.J. 450 (Sept. 2003).

298 *Journal of the American Academy of Matrimonial Lawyers*

Anne LeVasseur, Note, *Virtual Visitation: How Courts Will Respond to a New and Emerging Issue?*, 17 QUINNIPIAC PROB. L.J. 362 (2004).

M. Dee Samuels & Randall Friesen, *E-Visiting and Other Long-Distance Links*, 26 FAM. ADVOC. 34 (Spring 2004).

*Grandparent, Sibling, and Third Party Visitation*

John DeWitt Gregory, *Defining the Family in the Millennium: The Troxel Follies*, 32 U. MEM. L. REV. 687 (2002) (arguing that *Troxel* has not supported family autonomy, despite the decision's citations to earlier family autonomy precedents).

---

Brent Bennett et al., Comment, *To Grandmother's House We Go: Examining Troxel, Harrold, and the Future of Third Party Visitation*, 74 U. CIN. L. REV. 1549 (2006) (Ohio).

Joan Catherine Bohl, Comment, *That "Thorny Issue" Redux: California Grandparent Visitation Law in the Wake of Troxel v. Granville*, 36 GOLDEN GATE U. L. REV. 121 (2006) (California).

Angela Ferraris, Comment, *Sibling Visitation as a Fundamental Right in Herbst v. Swan*, 39 NEW ENG. L. REV. 715 (2004-05) (California).

Mary Ellen Gill, Note, *Third Party Visitation in New York: Why the Current Statute Is Failing Our Families*, 56 SYRACUSE L. REV. 481 (New York).

Michael K. Goldberg, *Over the River and Through the Woods—Again: The New Illinois Grandparent Visitation Act*, 29 S. ILL. U. L.J. 403 (2005) (Illinois).

Michael Hamlin, Note, *Blakely and Missouri's Grandparent Visitation Statute: An Abridgement of Parents' Constitutional Rights?*, 68 MO. L. REV. 691 (2003) (Missouri).

Suzanne Carey McAllister, *What's Become of Grandma, Grandpa, and the Troxels? An Update on Grandparent Visitation Rights in Kansas*, 75 J. KAN. B.A. 34 (July/Aug. 2006) (Kansas).

Stephen A. Newman, *Grandparent Visitation Claims: Assessing the Multiple Harms of Litigation to Families and Children*, 13 B.U. PUB. INT. L.J. 21 (2003).

Christopher Piekarski, Note, *The Effect of an Increasingly Mobile Society on Kentucky's Grandparent Visitation Statute: The Ability of Courts to Enforce Their Orders*, 42 BRANDEIS L.J. 693 (2004) (Kentucky).

Natalie Reed, Note, *Third-Party Visitation Statutes: Why Are Some Families More Equal Than Others?*, 78 S. CAL. L. REV. 1529 (2005) (California).

Kristine L. Roberts, *State Supreme Court Applications of Troxel v. Granville and the Courts' Reluctance to Declare Grandparent Visitation Statutes Unconstitutional*, 41 FAM. CT. REV. 14 (2003).

Tracy C. Schofield, Comment, *All the Better to Eat You With, My Dear: The Need for a Heightened Harm Standard in Utah's Grandparent Visitation Statute*, 2006 B.Y.U. L. REV. 1669 (Utah).

Elliott Scheinberg, *Grandparental Visitation: Its Evolution in New York State*, 2 CARDOZO PUB. L. POL'Y & ETHICS J. 289 (2004) (New York).

Meghann M. Seifert, Note, *Sibling Visitation After Adoption: The Implications of the Massachusetts Sibling Visitation Statute*, 84 B.U. L. REV. 1467 (2004) (Massachusetts).

Desiree Sierens, Comment, *Protecting the Parent-Child Relationship: The Need for Illinois Courts to Extend Standing to Non-Biological Parents in Relation to Visitation Proceedings*, 25 N. ILL. U. L. REV. 483 (2005) (Illinois).

Jeffrey J. Trapani, Comment, *Grandparent Visitation Rights in Massachusetts After Troxel: Blixt v. Blixt*, 38 NEW ENG. L. REV. 759 (2004) (Massachusetts).

### Supervised Visitation

Rachel Birnbaum & Ramona Alaggia, *Supervised Visitation: A Call for a Second Generation of Research*, 44 FAM. CT. REV. 119 (2006) (reviewing research on efficacy of and problems with su-

300 *Journal of the American Academy of Matrimonial Lawyers*

pervised visitation and urging additional research on outcomes and unintended consequences).

---

Jerry H. Dunn et al., *An Exploratory Study of Supervised Access and Custody Exchange Services: The Children's Experience*, 42 *FAM. CT. REV.* 60 (2004).

Barbara E. Flory et al., Note, *An Exploratory Study of Supervised Access and Custody Exchange Services: The Parental Experience*, 39 *FAM. CT. REV.* 469 (2001).

National Council of Juvenile and Family Court Judges, *Navigating Custody and Visitation Evaluations in Cases with Domestic Violence: A Judges Guide* (2004), <http://www.afccnet.org/pdfs/BenchGuide.pdf>.

Karen Oehme & Sharon Maxwell, *Florida's Supervised Visitation Programs: The Next Phase*, 78 *FLA. B.J.* 44 (Jan. 2004) (Florida).

Nat Stern & Karen Oehme, *Increasing Safety for Battered Women and Their Children: Creating a Privilege for Supervised Visitation Intake Records*, 41 *U. RICH. L. REV.* 499 (2007).

Nat Stern & Karen Oehme, *The Troubling Admission of Supervised Visitation Records in Custody Proceedings*, 75 *TEMPLE L. REV.* 271 (2002).

Supervised Visitation Network, *Standards and Guidelines of the Supervised Visitation Network* (2003-04), <http://www.svnetwork.net/StandardsAndGuidelines.html>.

Scott A. Young, *A Presumption for Supervised Visitation in Texas: Understanding and Strengthening Family Code Section 153.004(e)*, 37 *TEX. TECH L. REV.* 327 (2005) (Texas).

## **Collaborative Lawyering, and Interdisciplinary, Multidisciplinary, and Multijurisdictional Practice**

### Collaborative Lawyering (See also Nonjudicial Resolution)

Katherine R. Kruse, *Fortress in the Sand: The Plural Values of Client-Centered Legal Representation*, 12 CLINICAL L. REV. 369 (2006) (discussing client-centered legal practice, the teaching of it in clinical legal education, and its various models—including client empowerment, emphasizing clients' narratives, holistic lawyering that reaches beyond legal problems in clients' lives, and lawyering for social change—and addressing lawyer autonomy and ethics issues that arise from these new models of practice).

John Lande, *Possibilities for Collaborative Law: Ethics and Practice of Lawyer Disqualification and Process Control in a New Model of Lawyering*, 64 OHIO ST. L.J. 1315 (2003) (urging experimentation with cooperative negotiation—a collaborative model without the disqualification agreement—to avoid excessive pressures to settle and consequent ethical problems).

John Lande & Gregg Herman, *Fitting the Forum to the Family Fuss: Choosing Mediation, Collaborative Law, or Cooperative Law for Negotiating Divorce Cases*, 42 FAM. CT. REV. 280 (2004) (explaining differences among the models, especially the disqualification agreement in collaborative law and its absence in cooperative law, and discussing the types of cases for which each model is best suited).

Julie Macfarlane, *Experiences of Collaborative Law: Preliminary Results from the Collaborative Lawyering Research Project*, 2004 J. DISP. RESOL. 179 (reporting the results of a three year empirical study of both lawyers' and clients' experiences with collaborative practice in Minneapolis and San Francisco in the United States and Vancouver and Medicine Hat in Canada, covering topics such as ethical dilemmas, mismatches between clients' and lawyers' expectations, and concerns about who is in charge of the case).

302 *Journal of the American Academy of Matrimonial Lawyers*

Ronalda Murphy, *Is the Turn Toward Collaborative Law a Turn Away from Justice?*, 42 *FAM. CT. REV.* 460 (2004) (suggesting that collaborative models may ignore power imbalances between the parties and sacrifice factual determinations to achieve cooperation).

Ascanio Piomelli, *The Democratic Roots of Collaborative Lawyering*, 12 *CLINICAL L. REV.* 541 (2006) (observing the multiple meanings of “collaborative lawyering” and developing the theoretical roots of the branch of collaborative law practice—such as critical lawyering, rebellious lawyering, and reconstructive poverty law—that emphasizes lawyers and clients working together for social change).

William H. Schwab, *Collaborative Lawyering: A Closer Look at an Emerging Practice*, 4 *PEPP. DISP. RESOL. L.J.* 351 (2004) (noting that collaborative law is practiced in more than half of the states and that “an estimated 3,000 lawyers have been trained in the process,” addressing ethical concerns raised by the practice, and reporting the results of a survey of lawyers and clients in seven states about their collaborative law experiences).

Larry R. Spain, *Collaborative Law: A Critical Reflection on Whether a Collaborative Orientation Can Be Ethically Incorporated into the Practice of Law*, 56 *BAYLOR L. REV.* 141 (2004) (describing various models of collaborative lawyering and family mediation, and addressing possible ethical problems, such as confidentiality and conflicts).

Symposium, *Collaborative Family Law—The Big Picture*, 4 *PEPP. DISP. RESOL. L.J.* 401 (2004) (reporting a colloquy among lawyers and mental health professionals).

Pauline H. Tesler, *Collaborative Family Law*, 4 *PEPP. DISP. RESOL. L.J.* 317 (2004) (offering a basic introduction to the collaborative law process in the context of family law and distinguishing the approach from the traditional settlement negotiation).

J. Kim Wright & Dolly M. Garlo, *Law as a Healing Profession: New Trends Are Expanding Choices in Law Practice*, 63 *OR. ST. B. BULL.* 9 (Apr. 2003) (defining the newer movements and approaches of therapeutic jurisprudence, collaborative lawyering,



holistic justice, preventive law, creative problem solving, restorative justice, peacemaking, and community lawyering).

---

American Bar Association Standing Committee on the Delivery of Legal Services, *Innovations in the Delivery of Legal Services: Alternative and Emerging Models for the Practicing Lawyer*, 2002, <http://www.abanet.org/legalservices/downloads/delivery/innovations.pdf>.

Zachery Z. Annable, Comment, *Beyond the Thunderdome—The Search for a New Paradigm of Modern Dispute Resolution: The Advent of Collaborative Lawyering and Its Conformity with the Modern Rules of Professional Conduct*, 29 J. LEGAL PROF. 157 (2005).

Sandra S. Beckwith & Sherri Goren Slovin, *The Collaborative Lawyer as Advocate: A Response*, 18 OHIO ST. J. ON DISP. RESOL. 497 (2003).

Board of Directors Texas Collaborative Law Council, Inc., *Participation Agreement* (2005), [http://www.collaborativelaw.us/articles/TCLC\\_Participation\\_Agreement\\_With\\_Addendum.pdf](http://www.collaborativelaw.us/articles/TCLC_Participation_Agreement_With_Addendum.pdf).

Jill Schachner Chanen, *Collaborative Counselors: Newest ADR Option Wins Converts, While Suffering Some Growing Pains*, 92 A.B.A. J. 52 (June 2006).

Gay G. Cox & Robert J. Matlock, *The Case for Collaborative Law*, 11 TEX. WESLYAN L. REV. 45 (2004) (Texas).

Christopher M. Fairman, *Ethics and Collaborative Lawyering: Why Put Old Hats on New Heads?*, 18 OHIO ST. J. ON DISP. RESOL. 505 (2003).

Christopher M. Fairman, *A Proposed Model Rule for Collaborative Law*, 21 OHIO ST. J. ON DISP. RESOL. 73 (2005).

Joshua Isaacs, Current Development, *A New Way to Avoid the Courtroom: The Ethical Implications Surrounding Collaborative Law*, 18 GEO. J. LEGAL ETHICS 833 (2005).

John Lande, *The Promise and Perils of Collaborative Law*, 12 DISP. RESOL. MAG. 29 (Fall 2005).

304 *Journal of the American Academy of Matrimonial Lawyers*

James K.L. Lawrence, *Collaborative Lawyering: A New Development in Conflict Resolution*, 17 OHIO ST. J. ON DISP. RESOL. 431 (2002).

Julie Macfarlane, *The Emerging Phenomenon of Collaborative Family Law (CFL): A Qualitative Study of CFL Cases* (2005), <http://www.justice.gc.ca/en/ps/pad/reports/2005-FCY-1/2005-FCY-1.pdf>.

Scott R. Peppet, *Lawyers' Bargaining Ethics, Contract, and Collaboration: The End of the Legal Profession and the Beginning of Professional Pluralism*, 90 IOWA L. REV. 475 (2005).

David M. Rosoff, *Choosing Collaborative Family Practice*, 7 N.Y. FAM. L. MONTHLY 1 (Dec. 2005) (New York).

William H. Schwab, *Collaborative Lawyering: A Closer Look at an Emerging Practice*, 4 PEPP. DISP. RESOL. L.J. 351 (2004).

Sherri Goren Slovin, *The Collaborative Process: Divorce with Dignity*, 16 EXPERIENCE 13 (Spring 2006).

Elizabeth K. Strickland, Comment, *Putting "Counselor" Back in the Lawyer's Job Description: Why More States Should Adopt Collaborative Law Statutes*, 84 N.C. L. REV. 979 (2006).

Gary M. Young, *Malpractice Risks of Collaborative Divorce*, 75 WIS. LAW. 14 (May 2002).

### *Holistic Lawyering*

J. Kim Wright & Dolly M. Garlo, *Law as a Healing Profession: New Trends Are Expanding Choices in Law Practice*, 63 OR. ST. B. BULL. 9 (Apr. 2003) (explaining new practice models that focus on humanistic solutions, problem solving, and the relations of the parties, such as collaborative lawyering, preventive law, therapeutic jurisprudence, and holistic lawyering).

---

International Alliance of Holistic Lawyers, About IAHL, <http://iahl.org/index.cfm/hurl/obj=AboutIAHL/AboutIAHL.cfm> (last visited Mar. 18, 2007).

Ellen Marrus, *Best-Interests Equals Zealous Advocacy: A Not So Radical View of Holistic Representation for Children Accused of Crime*, 62 MD. L. REV. 288 (2003).

Edward D. Shapiro, *Fresh Perspectives: The Practice of Holistic Lawyering*, 16 CBA REC. 38 (Mar. 2002).

Robin G. Steinberg, *Beyond Lawyering: How Holistic Representation Makes for Good Policy, Better Lawyers, and More Satisfied Clients*, 30 N.Y.U. REV. L. & SOC. CHANGE 625 (2006) (criminal defense context).

### Therapeutic Jurisprudence

Susan Daicoff, *Law as a Healing Profession: The "Comprehensive Law Movement,"* 6 PEPP. DISP. RESOL. L.J. 1 (2006) (examining differences and convergences among collaborative lawyering, holistic lawyering, preventive lawyering, problem solving courts and therapeutic jurisprudence).

David Wexler, International Network on Therapeutic Jurisprudence, <http://www.law.arizona.edu/depts/upr-intj/> (last visited Mar. 20, 2007) (offering an overview and introduction to therapeutic jurisprudence, a series of guest columns, a list of upcoming programs and events, and a comprehensive bibliography).

---

Robert G. Madden & Raymie H. Wayne, *Constructing a Normative Framework for Therapeutic Jurisprudence Using Social Work Principles as a Model*, 18 TOURO L. REV. 487 (2002).

Patricia C. McManus, Comment, *A Therapeutic Jurisprudential Approach to Guardianship of Persons With Mild Cognitive Impairments*, 36 SETON HALL L. REV. 591 (2006).

Symposium, *Therapeutic Jurisprudence and Preventive Law's Transforming Legal Practice and Education*, 5 PSYCHOL., PUB. POL'Y & L. 793 (1999).

Bruce J. Winick, *Applying the Law Therapeutically in Domestic Violence Cases*, 69 UMKC L. REV. 33 (2000).

Bruce J. Winick, *Therapeutic Jurisprudence and Problem Solving Courts*, 30 FORDHAM URB. L.J. 1055 (2003).

306 *Journal of the American Academy of Matrimonial Lawyers*

### Interdisciplinary Practice

Alexis Anderson et al., *Professional Ethics in Interdisciplinary Collaboratives: Zeal, Paternalism, and Mandatory Reporting*, 13 *CLINICAL L. REV.* 659 (2007) (addressing ethical issues that arise when lawyers collaborate with mental health professionals, such as the proscription against lawyers' reporting abuse while social workers are often mandatory reporters).

Mary Kay Kisthardt, *Working in the Best Interest of Children: Facilitating the Collaboration of Lawyers and Social Workers in Abuse and Neglect Cases*, 30 *RUTGERS L. REC.* 1 (2006) (exploring the tensions between lawyers' and social workers' views of their own and each other's roles in the child protection system and explaining a model cross-training program to improve collaboration between professionals in these disciplines).

---

Jane Aiken & Stephen Wizner, *Law as Social Work*, 11 *WASH. U. J.L. & POL'Y* 63 (2003).

Carolyn Capps Hartley & Carrie J. Petrucci, *Practicing Culturally Competent Therapeutic Jurisprudence: A Collaboration Between Social Work and Law*, 14 *WASH. U. J.L. & POL'Y* 133 (2004).

Katherine R. Kruse, *Lawyers Should Be Lawyers, But What Does That Mean?: A Response to Aiken & Wizner and Smith*, 14 *WASH. U. J.L. & POL'Y* 49 (2004).

Marsha Kline Pruett, Glendessa M. Insabella & Katherine Gustafson, *The Collaborative Divorce Project: A Court-Based Intervention for Separating Parents with Young Children*, 43 *FAM. CT. REV.* 38 (2005).

Harvey Schweitzer & Daniel Pollack, *Ethical and Legal Dilemmas in Adoption Social Work*, 44 *FAM. CT. REV.* 258 (2006).

Carwina Weng, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Awareness*, 11 *CLINICAL L. REV.* 369 (2005).

### Multidisciplinary Practice

Stacy L. Brustin, *Legal Services Provision Through Multidisciplinary Practice—Encouraging Holistic Advocacy While Protecting*

*Ethical Concerns*, 73 U. COLO. L. REV. 787 (2002) (considering the prospects for multidisciplinary practice particularly in cases involving intimate violence, elder law, poverty law or community economic development).

Rees M. Hawkins, Comment, *Not "If," But "When" and "How": A Look at Existing De Facto Multidisciplinary Practices and What They Can Teach Us About the Ongoing Debate*, 83 N.C. L. REV. 481 (2005) (offering an overview of the current state of multidisciplinary practice law and different jurisdictions' approaches, and examining groups such as the Boston Law Collaborative that offer services in law, mediation, psychology, and finance in one setting or the Boston Medical Center's Family Advocacy Program's joint work of doctors, lawyers and mental health professionals to address health care for poor children).

Susan Poser, *Main Street Multidisciplinary Practice Firms: Laboratories for the Future*, 37 U. MICH. J.L. REFORM 95 (2003) (distinguishing small firm and solo practitioners who associate with financial planners or social workers from mega-law firms that partner with accounting firms or banks and arguing that the smaller associations pose much fewer practical and ethical problems).

Tanina Rostain, *The Emergence of "Law Consultants,"* 75 FORDHAM L. REV. 1397 (2006) (tracing the rise of compliance and business and investigative consulting that essentially provides clients the desired multidisciplinary services but is outside the bounds of professional regulation).

---

Larry O. Natt Gantt, II, *More Than Lawyers: The Legal and Ethical Implications of Counseling Clients on Nonlegal Considerations*, 18 GEO. J. LEGAL ETHICS 365 (2005).

Steven Keeva, *A Multidoor Law Office: Divorce Clients at this Firm Can Get Team Advice on Emotional and Financial Issues*, 89 A.B.A. J. 96 (Oct. 2003) (Boston Law Collaborative).

Corinne N. Lalli, Note, *Multidisciplinary Practices: The Ultimate Department Store for Professionals*, 17 ST. JOHN'S J. LEGAL COMMENT. 283 (2003) (New York).

308 *Journal of the American Academy of Matrimonial Lawyers*

L. Harold Levinson, *Collaboration Between Lawyers and Others: Coping With the ABA Model Rules After Resolution 10F*, 36 WAKE FOREST L. REV. 133 (2001).

John Paul Lucci, Note, *New York Revises Ethics Rules to Permit Limited MDPs: A Critical Analysis of the New York Approach, the Future of the MDP Debate After Enron, and Recommendations for Other Jurisdictions*, 8 FORDHAM J. CORP. & FIN. L. 151 (2003).

Laura Noroski, Note, *New York's Controversial Ethics Code Changes: An Attempt to Fit Multidisciplinary Practice Within Existing Ethical Boundaries*, 76 S. CAL. L. REV. 483 (2003) (New York).

Karel Ourednik IV, *Multidisciplinary Practice and Professional Responsibility After Enron*, 4 FLA. COASTAL L.J. 167 (2003).

George Steven Swan, *A Multidisciplinary Bar and Financial Planners: The Recommendation of the District of Columbia Special Committee on Multidisciplinary Practice*, 32 CAP. U. L. REV. 369 (2003).

Timothy L. Takacs, *The Life Care Plan: Integrating a Healthcare-Focused Approach to Meeting the Needs of Your Clients and Families into Your Elder Law Practice*, 16 NAELA Q. 2 (Winter 2003).

Fred C. Zacharias, *The Legal Profession in the Year 2050*, 15 WIDENER L.J. 253 (2006).

Jay S. Zimmerman & Matthew J. Kelly, *MDPs May Be Dead After Enron/Anderson, But Subsidiary Businesses Thrive*, 29 LAW & SOC. INQUIRY 639 (2004).

#### Multijurisdictional Practice

Cynthia L. Fountaine, *Have License, Will Travel: An Analysis of the New ABA Multijurisdictional Practice Rules*, 81 WASH. U. L.Q. 737 (2003) (reviewing the original multijurisdictional practice (MJP) cases, such as *Birbrower, Montalbano, Condon & Frank, P.C. v. Superior Court*, and the MJP Commission recommendations for amendments to Model Rule 5.5).

Stephen Gillers, *Lessons from the Multijurisdictional Practice Commission*, 44 ARIZ. L. REV. 685 (2002) (describing the considerations behind the recommendations of the ABA Commission on Multijurisdictional Practice).

Bruce E. Meyerson, *An Update on Multijurisdictional Practice and ADR*, 58 DISP. RESOL. J. 20 (Oct. 2003) (covering rules adopted in Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Iowa, Louisiana, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Pennsylvania, South Dakota, and Virginia).

Andrew M. Perlman, *A Bar Against Competition: The Unconstitutionality of Administrative Rules for Out-of-State Lawyers*, 18 GEO. J. LEGAL ETHICS 135 (2004) (surveying state residence and reciprocity rules for admission to practice and arguing that duplicative licensure requirements violate the dormant Commerce Clause and the Privileges and Immunities Clause).

Soha F. Turfler, Note, *A Model Definition of the Practice of Law: If Not Now, When? An Alternative Approach to Defining the Practice of Law*, 61 WASH. & LEE L. REV. 1903 (2004) (describing Model Rule 5.5, which permits MJP that is “reasonably related” to ongoing litigation on a temporary basis, evaluating the rules against unauthorized practice, and arguing for rules to be construed in a way that permits access to legal services).

---

Christopher Bopst & Stanley A. Beiley, *Florida’s New Rules on Multijurisdictional Practice: A Mixed Bag for Arbitration Attorneys*, 60 DISP. RESOL. J. 34 (Oct. 2005) (Florida).

Liz Carson, *Multijurisdictional ADR Practice*, 59 DISP. RESOL. J. 88 (Apr. 2004) (Illinois).

Mark Hansen, *MJP Picks Up Steam: More States Are Looking at ABA Proposals to Ease Rules on Multijurisdictional Practice*, 90 A.B.A. J. 43 (Jan. 2004).

Mark D. Hinderks, *On the Proper State of Things: Multijurisdictional Practice for the Kansas Practitioner*, 74 J. KAN. B.A. 20 (Feb. 2005) (Kansas).

310 *Journal of the American Academy of Matrimonial Lawyers*

Jane Hawthorne Merrill, *Multijurisdictional Practice of Law Under the Revised South Carolina Rules of Professional Conduct*, 57 S.C. L. REV. 549 (2006) (South Carolina).

Gary A. Munneke, *Multijurisdictional Practice of Law: Recent Developments in the National Debate*, 27 J. LEGAL PROF. 91 (2003)

Philip L. Pomerance, *Multijurisdictional Practice and the Health Lawyer: Will Your Practice Benefit from the New ABA Model Rules of Professional Conduct*, 37 J. HEALTH L. 113 (Winter 2004).

George A. Riemer, *A State of Flux: Trends in the Regulation of the Multijurisdictional Practice of Law*, 64 OR. ST. B. BULL. 19 (Sep. 2004).

## **Divorce**

Karen Turnage Boyd, *The Tale of Two Systems: How Integrated Divorce Laws Can Remedy the Unintended Effects of Pure No-Fault Divorce*, 12 CARDOZO J.L. & GENDER 609 (2006) (suggesting that because of its serious emotional repercussions, fault such as adultery or cruelty should factor into alimony and property division even when divorce is awarded without fault allegations).

### Alimony, Maintenance, or Support

Jennifer L. McCoy, Comment, *Spousal Support Disorder: An Overview of Problems in Current Alimony Law*, 33 FLA. ST. U. L. REV. 501 (2005) (discussing the trend toward limited rehabilitative alimony, the weaknesses of spousal support guidelines and possible alternative spousal support models based on compensation or rehabilitation).

David S. Rosettenstein, *Alimony and Alimony Surrogates and the Imputation of Income in American Family Law*, 25 QUINNIPIAC L. REV. 1 (2006) (examining the range of theories underlying the alimony provisions of the ALI Principles of the Law of Family Dissolution, from a fault-based regime to one that awards alimony based on conferring a human capital benefit to the other spouse).



Cynthia Lee Starnes, *One More Time: Alimony, Intuition, and the Remarriage-Termination Rule*, 81 IND. L.J. 971 (2006) (evaluating the historical reasons underlying the termination of alimony upon remarriage rule to argue that it is a senseless and harsh doctrine).

---

Joseph N. DuCanto, *Using QDROs to Collect Support Payments: The Impact of In Re Marriage of Thomas*, 92 ILL. B.J. 474 (Sept. 2004).

Virginia R. Dugan & Jon A. Feder, *Alimony Guidelines: Do They Work?*, 25 FAM. ADVOC. 20 (Spring 2003).

Lara Lenzotti Kapalla, Comment, *Some Assembly Required: Why States Should Not Adopt the ALI's System of Presumptive Alimony Awards in Its Current Form*, 2004 MICH. ST. L. REV. 207.

Alicia Brokars Kelly, *Rehabilitating Partnership Marriage as a Theory of Wealth Distribution at Divorce: In Recognition of a Shared Life*, 19 WIS. WOMEN'S L.J. 141 (2004).

Patricia A. Krogman, Comment, *Maintenance Payments and Same-Sex Relationships: When an Ex-Spouse "Cohabits" With a Member of the Same Sex*, 109 PENN ST. L. REV. 317 (2004).

Twila B. Larkin, *Guidelines for Alimony: The New Mexico Experiment*, 38 FAM. L.Q. 29 (2004) (New Mexico).

Mary Frances Lyle & Jeffrey L. Levy, *From Riches to Rags: Does Rehabilitative Alimony Need To Be Rehabilitated?*, 38 FAM. L.Q. 3 (2004).

Sally L. McClellan, *Maintenance in Gross: An Alternative Support Program*, 18 DCBA BRIEF 14 (Feb. 2006).

J. Mark Taylor, *Alimony Termination: How Significant Is Your "Other?"*, 17 S.C. LAW. 26 (Mar. 2006).

Brett R. Turner, *Spousal Support in Chaos*, 25 FAM. ADVOC. 14 (Spring 2003).

312 *Journal of the American Academy of Matrimonial Lawyers*

David Westfall, *Unprincipled Family Dissolution: The American Law Institute's Recommendations for Spousal Support and Division of Property*, 27 HARV. J.L. & PUB. POL'Y 917 (2004).

### Prenuptial and Postnuptial Agreements

*Marriage as Contract and Marriage as Partnership: The Future of Antenuptial Agreement Law*, 116 HARV. L. REV. 2075 (2003) (reviewing the ALI Principles of the Law of Family Dissolution and comparing the provisions of the Uniform Premarital Agreement Act).

Karen Servidea, Note, *Reviewing Premarital Agreements to Preserve the State's Interest in Marriage*, 91 VA. L. REV. 535 (2005) (using cognitive limits theory to argue that parties to premarital agreements often lack rational capacity and that these limitations justify piercing court review of premarital agreements).

Jeffrey G. Sherman, *Prenuptial Agreements: A New Reason to Revive an Old Rule*, 53 CLEV. ST. L. REV. 359 (2005) (arguing that prenuptial agreements reduce incentives for partners to try to make marriages work).

---

Alton Abramowitz, *Standards for the Enforcement of Separation Agreements and Pre-nuptial Agreements, Including Ethical Considerations*, 73 PLI/NY 173 (2000).

Paul Brewer, Comment, *Family Law—Bratton v. Bratton: The Tennessee Supreme Court Considers Postnuptial Agreements and Allows Married Parties to Agree That They May Eventually Disagree*, 35 U. MEM. L. REV. 579 (2005) (Tennessee).

Susan F. Bullard, *Unintended Waiver of Spousal Rights: When Is a Spouse Not a Surviving Spouse?*, 60 BENCH & B. MINN. 23 (Dec. 2003) (Minnesota).

Melvyn B. Frumkes & Christopher A. Tiso, *Probable Problematic Pitfalls in Preparing Prenuptial Agreements*, 79 FLA. B.J. 37 (Apr. 2005) (Florida).

Rebecca Glass, Comment, *Trading Up: Postnuptial Agreements, Fairness, and a Principled New Suitor for California*, 92 CALIF. L. REV. 215 (2004) (California).

Doreen Inkeles, *The Uniform Premarital Agreement Act: Taking Casto to a New Level for Prenuptial Agreements*, 81 FLA. B.J. 32 (Mar. 2007).

Paul Bennett Marrow & Kimberly S. Thomsen, *Drafting Matrimonial Agreements Requires Consideration of Possible Unconscionability Issues*, 76 N.Y. ST. B.J. 26 (Apr. 2004) (New York).

Julia Halloran McLaughlin, *Should Marital Property Rights Be Inalienable? Preserving the Marriage Ante*, 82 NEB. L. REV. 460 (2003).

Christine C. Nierenz, *Marital Agreements and the Colorado Marital Agreement Act*, 32 COLO. LAW. 59 (Aug. 2003) (Colorado).

Nancy R. Schembri, Note, *Prenuptial Agreements and the Significance of Independent Counsel*, 17 ST. JOHN'S J. LEGAL COMMENT. 313 (2003).

Joline F. Sikaitis, Comment, *A New Form of Family Planning? The Enforceability of No-Child Provisions in Prenuptial Agreements*, 54 CATH. U. L. REV. 335 (2004).

Richard H. Singer, Jr., *A Primer on Preparing Premarital Agreements*, 223 N.J. LAW. 54 (Aug. 2003).

Susan Wolfson, *Premarital Waiver of Alimony*, 38 FAM. L.Q. 141 (2004).

### Property Division<sup>3</sup>

Brett R. Turner, *Unlikely Partners: The Marital Home and the Concept of Separate Property*, 20 J. AM. ACAD. MATRIM. LAW. 69 (2006) (urging courts to treat the marital home under the same rules of classification applicable to other assets, rather than always as marital property).

Sarah C. Acker, Comment, *All's Fair in Love and Divorce: Why Divorce Attorney's Fees Should Constitute a Dissipation of Marital Assets in Order To Retain Equity in Marital Property Distributions*, 15 AM. U. J. GENDER SOC. POL'Y & L. 147 (2006).

---

<sup>3</sup> See generally *Symposium on Unique Property Issues*, 20 J. AM. ACAD. MATRIM. LAW. 1 (2006).

314 *Journal of the American Academy of Matrimonial Lawyers*

Karen E. Boxx, *Community Property Across State Lines: Square Pegs and Round Holes*, 19 *PROB. & PROP.* 9 (Feb. 2005).

Bruce E. Friedman, *Fair and Equitable Asset and Liability Division*, 27553 *NBI-CLE* 45 (2005).

Bruce E. Friedman, *Forensic Accounting and Valuation in Divorce*, 27553 *NBI-CLE* 1 (2005).

Peter M. Walzer, *Division of Assets and Debts and Disclosures and Discovery*, 33067 *NBI-CLE* 13 (2006).

## **Domestic Violence**

Sarah M. Buel, *Access to Meaningful Remedy: Overcoming Doctrinal Obstacles in Tort Litigation Against Domestic Violence Offenders*, 83 *OR. L. REV.* 945 (2004) (addressing social and doctrinal impediments to tort claims by domestic violence victims, and specifically proposing solutions regarding bankruptcy, statutes of limitations, and other barriers to recovery).

Ruth Colker, *Marriage Mimicry: The Law of Domestic Violence*, 47 *WM. & MARY L. REV.* 1841 (2006) (explaining the gaps in protection of laws against intimate violence for those in marriage-like relationships).

Alexander Detschelt, *Recognizing Domestic Violence Directed Towards Men: Overcoming Societal Perceptions, Conducting Accurate Studies, and Enacting Responsible Legislation*, 12 *KAN. J.L. & PUB. POL'Y* 249 (2003) (exploring the lack of attention to the phenomenon of male victims of intimate violence).

Margaret Drew, *Lawyer Malpractice and Domestic Violence: Are We Revictimizing Our Clients*, 39 *FAM. L.Q.* 7 (2005) (alerting lawyers to specific malpractice traps in intimate violence cases, such as the inability to recognize the symptoms of violence, unfamiliarity with protective order statutes, and failure to raise claims that could result in division of assets).

Justine A. Dunlap, *Sometimes I Feel Like a Motherless Child: The Error of Pursuing Battered Mothers for Failure to Protect*, 50 *LOY. L. REV.* 565 (2004) (opposing the classification of witnessing domestic violence as child abuse or neglect).

Deborah Epstein et al., *Transforming Aggressive Prosecution Policies: Prioritizing Victims' Long-Term Safety in the Prosecution of Domestic Violence Cases*, 11 AM. U. J. GENDER SOC. POL'Y & L. 465 (2003) (discussing "no drop" policies and the delicate balance between imposing responsibility on the offender and protecting the victim from abuse).

Edna Erez & Peter R. Ibarra, *Making Your Home a Shelter: Electronic Monitoring and Victim Re-Entry in Domestic Violence Cases*, 47 BRIT. J. CRIMINOLOGY 100 (2007) (reporting the results of a study in which domestic violence victims remained in their homes protected by the electronic monitoring technology).

Sarah M. Harless, Note, *From the Bedroom to the Courtroom: The Impact of Domestic Violence Law on Marital Rape Victims*, 35 RUTGERS L.J. 305 (2003) (evaluating states' differential treatment of marital rape and the impact of mandatory prosecution and no drop policies in marital rape cases).

Linda Kelly, *Disabusing the Definition of Domestic Abuse: How Men Batter Men and the Role of the Feminist State*, 30 FLA. ST. U. L. REV. 791 (2003) (reviewing statistics on the use, frequency and severity of intimate violence perpetrated by women against male partners).

Carolyn N. Ko, *Civil Restraining Orders for Domestic Violence: The Unresolved Question of "Efficacy,"* 11 S. CAL. INTERDISC. L.J. 361 (2002) (reviewing studies examining the effectiveness of temporary restraining orders).

Joan S. Meier, *Domestic Violence, Child Custody, and Child Protection: Understanding Judicial Resistance and Imagining the Solutions*, 11 AM. U. J. GENDER SOC. POL'Y & L. 657 (2003) (arguing that judges tend to discriminate against domestic violence victims in custody disputes, considering empirical evidence regarding the relevance of adult domestic violence to child custody, and urging coordination between prosecutors, civil lawyers, and child protection workers).

Linda C. Neilson, *Assessing Mutual Partner-Abuse Claims in Child Custody and Access Cases*, 42 FAM. CT. REV. 411 (2004) (examining abuser characteristics and litigation strategies of

316 *Journal of the American Academy of Matrimonial Lawyers*

abusers as well as empirical data that may help persuade courts to consider patterns of abuse in custody cases).

Judith A. Smith, *Battered Non-Wives and Unequal Protection-Order Coverage: A Call for Reform*, 23 *YALE L. & POL'Y REV.* 93 (2005) (exploring the typical limitations of domestic violence protection orders to marital relationships and the dating, cohabiting, and familial relationships that are outside these orders).

---

Molly Butler Bailey, *Improving the Sentencing of Domestic Violence Offenders in Maine: A Proposal to Prohibit Anger Management Therapy*, 21 *ME. B.J.* 140 (2006) (Maine).

Beverly Balos, *Domestic Violence Matters: The Case for Appointed Counsel in Protective Order Proceedings*, 15 *TEMP. POL. & CIV. RTS. L. REV.* 557 (2006).

Sarah Buel & Margaret Drew, *Do Ask and Do Tell: Rethinking the Lawyer's Duty to Warn in Domestic Violence Cases*, 75 *U. CIN. L. REV.* 447 (2006).

Lynn A. Combs, Note, *Between a Rock and a Hard Place: The Legacy of Castle Rock v. Gonzales*, 58 *HASTINGS L.J.* 387 (2006) (Supreme Court).

Anique Drouin, Comment, *Who Turned Out the Lights? How Maryland Laws Fail to Protect Victims of Domestic Violence from Third Party Abuse*, 36 *U. BALT. L. REV.* 105 (2006) (Maryland).

Shannon M. Garrett, *Battered by Equality: Could Minnesota's Domestic Violence Statutes Survive a "Fathers' Rights" Assault?*, 21 *LAW & INEQ.* 341 (2003) (Minnesota).

Paul S. Haberman, Note, *Before Death We Must Part: Relocation and Protection for Domestic Violence Victims in Volatile Divorce and Custody Situations*, 43 *FAM. CT. REV.* 149 (2005) (New Jersey).

Cynthia Grover Hastings, Note, *Letting Down Their Guard: What Guardians ad Litem Should Know About Domestic Violence in Child Custody Disputes*, 24 *B.C. THIRD WORLD L.J.* 283 (2004).

Donna J. Hitchens & Patricia Van Horn, *The Court's Role in Supporting and Protecting Children Exposed to Domestic Violence*, 6 J. CENTER FOR FAM., CHILD. & CTS. 31 (2005).

David Hodson, *Spare the Child and Hit the Pocket: Toward a Jurisprudence on Domestic Abuse as a Quantum Factor in Financial Outcomes on Relationship Breakdown*, 44 FAM. CT. REV. 387 (2006).

Peter G. Jaffe et al., *Parenting Arrangements After Domestic Violence*, 6 J. CENTER FOR FAM., CHILD. & CTS. 81 (2005).

Anne C. Johnson, Note, *From House to Home: Creating a Right to Early Lease Termination for Victims of Domestic Violence*, 90 MINN. L. REV. 1859 (2006).

Veronica J. Joice, Comment, *A Restraining Order and a Handgun: North Carolina's Attempt to "Empower" Victims of Domestic Violence*, 50 HOW. L.J. 289 (2006) (North Carolina).

Laura Jontz, Note, *Eighth Circuit to Battered Kenyan: Take a Safari—Battered Immigrants Face New Barrier When Reporting Domestic Violence*, 55 DRAKE L. REV. 195 (2006) (Eighth Circuit).

Tamara L. Kuennen, "No-Drop" Civil Protection Orders: Exploring the Bounds of Judicial Intervention in the Lives of Domestic Violence Victims, 16 UCLA WOMEN'S L.J. 39 (2007).

Janet Mickish & Kathleen Schoen, *Protection Orders and Animal Abuse in Family Violence*, 35 COLO. LAW. 105 (Sep. 2006) (Colorado).

Myrna S. Raeder, *Domestic Violence Victims in Federal Court: Abused Women as Victims, Survivors and Offenders*, 19 FED. SENT. REP. 91 (Dec. 2006).

Joanna Bunker Rohrbaugh, *Domestic Violence in Same Gender Relationships*, 44 FAM. CT. REV. 287 (2006).

Nancy Ver Steegh, *Differentiating Types of Domestic Violence: Implications for Child Custody*, 65 LA. L. REV. 1379 (2005).

318 *Journal of the American Academy of Matrimonial Lawyers*

Prentice L. White, *You May Never See Your Child Again: Adjusting the Batterer's Visitation Rights to Protect Children from Future Abuse*, 13 AM. U. J. GENDER SOC. POL'Y & L. 327 (2005).

## **Elder Law**

---

Ralph Randazzo, *Elder Law and Estate Planning for Gay and Lesbian Individuals and Couples*, 6 MARQ. ELDER'S ADVISOR 1 (Fall 2004).

### Assisted Living and Nursing Homes

Elisabeth Belmont et al., *A Guide to Legal Issues in Life-Limiting Conditions*, 38 J. HEALTH L. 145 (2005) (containing a series of pertinent questions to ask about home health care, nursing care or assisted living facilities).

Patrick A. Bruce, Note, *The Ascendancy of Assisted Living: The Case for Federal Regulation*, 14 ELDER L.J. 61 (2006) (reviewing the inconsistencies among state regulations).

Nathan P. Carter, *Who's Really Running the Nursing Home?*, 42 TRIAL 50 (Nov. 2006) (explaining the corporate maze that typically runs nursing homes, including real estate assets in real estate investment trusts, outside entities such as a limited liability corporation, and corporate officers and executives).

Cori F. Brown, Note, *Nursing Homes: Status-Based Evictions and the Medicaid Crisis*, 12 ELDER L.J. 355 (2004).

Eric M. Carlson, *Does the Nursing Home Reform Law Matter? Establishing the Standard of Care in Nursing Facility Cases*, 3 NAELA Q. 13 (Spring 2003).

Centers for Medicare and Medicaid Services, U.S. Dep't of Health and Human Services, *Nursing Home Quality Initiative Overview* (2005), [http://www.cms.hhs.gov/NursingHomeQuality-Initiatives/01\\_Overview.asp](http://www.cms.hhs.gov/NursingHomeQuality-Initiatives/01_Overview.asp).

Mary Jane Ciccarello & Joanne Wetzler, *Assisted Living in Utah: A Brief Overview for Consumers*, 19 UTAH B.J. 24 (Feb. 2006) (Utah).



David A. Couch, *What Is a Case for Nursing Home Neglect?*, 2 ANN. 2006 ATLA-CLE 2195 (2006).

Michael J. Davidson, *Governmental Responses to Elder Abuse and Neglect in Nursing Homes: The Criminal Justice System and the Civil False Claims Act*, 12 ELDER L.J. 327 (2004).

M. Carl Glatstein, *Placement on a Secure Unit by Surrogate Decision-Makers*, 34 COLO. LAW. 49 (Oct. 2005).

Helen Gunnarson, *State Can't Dun Surviving Spouse's Estate for Nursing Home Bill*, 94 ILL. B.J. 398 (2006) (Illinois).

Charlene Harrington et al., *State Nursing Home Enforcement Systems*, 29 J. HEALTH POL. POL'Y & L. 43 (Feb. 2004).

Robert Hornstein, *The Fiction of Freedom of Contract—Nursing Home Admission Contract Arbitration Agreements: A Primer on Preserving the Right of Access to Court Under Florida Law*, 16 ST. THOMAS L. REV. 319 (2003) (Florida).

Marshall B. Kapp, *Resident Safety and Medical Errors in Nursing Homes: Reporting and Disclosure in a Culture of Mutual Distrust*, 24 J. LEGAL MED. 51 (2003).

Mark R. Kosieradzki et al., *How to Prove Management Flaws in Nursing Homes: Diligent Discovery Will Generate Documents That Show Systemic Failures in a Facility*, 40 TRIAL 30 (Oct. 2004).

Ann E. Krasuski, *Mandatory Arbitration Agreements Do Not Belong in Nursing Home Contracts with Residents*, 8 DEPAUL J. HEALTH CARE L. 263 (2004).

National Senior Citizens Law Center, *Paying for Assisted Living*, <http://www.nslc.org/consumer/paying-for-assisted-living> (last visited Mar. 25, 2007).

Nursing Home Abuse Resource, [http://www.nursing-home-abuse-resource.com/nursing\\_home\\_abuse/history.html](http://www.nursing-home-abuse-resource.com/nursing_home_abuse/history.html) (last visited Mar. 25, 2007).

320 *Journal of the American Academy of Matrimonial Lawyers*

Laura M. Owings & Mark N. Geller, *The Inherent Unfairness of Arbitration Agreements in Nursing Home Admission Contracts*, 43 TENN. B.J. 20 (Mar. 2007) (Tennessee).

Shawna E. Oyabu, Comment, *Holding Hawai'i Nursing Facilities Accountable for the Inadequate Pain Management of Elderly Residents*, 27 U. HAW. L. REV. 233 (2004) (Hawaii).

Katherine Palm, Note, *Arbitration Clauses in Nursing Home Admission Agreements: Framing the Debate*, 14 ELDER L.J. 453 (2006).

Katherine C. Pearson, *The Responsible Thing to Do About "Responsible Party" Provisions in Nursing Home Agreements: A Proposal for Change on Three Fronts*, 37 U. MICH. J.L. REFORM 757 (2004).

D'Lisa Simmons & Skip Comsia, *Assisted Living: What's the Difference Between Assisted Living and Nursing Homes?*, 43 HOUS. LAW. 44 (June 2006).

Karen Stevenson, ElderWeb: Assisted Living Facilities, <http://www.elderweb.com/home/taxonomy/term/6368> (last visited Mar. 25, 2007).

U.S. Gov't Accountability Office, Publ'n No. 06-117, *Nursing Homes: Despite Increased Oversight, Challenges Remain in Ensuring High-Quality Care and Resident Safety* (2005), <http://www.gao.gov/new.items/d06117.pdf>.

Victoria Vron, Note, *Using RICO to Fight Understaffing in Nursing Homes: How Federal Prosecution Using RICO Can Reduce Abuse and Neglect of the Elderly*, 71 GEO. WASH. L. REV. 1025 (2003).

Jason Young & David Marks, *The Nursing Home Conundrum: Advising the Client on Nursing Home Selection, Resident Rights, and Actionable Neglect*, 43 HOUS. LAW. 48 (June 2006) (Texas).

#### Capacity, Competence, and Adult Guardianships

Angela Chaput Foy, *Adult Adoption and the Elder Population*, 8 MARQ. ELDER'S ADVISOR 109 (Fall 2006) (explaining the differ-

ences between adult and child adoption and examining the law of states where it is available).

Lawrence A. Frolik, *Legal Implications of Mental Incapacity: Guardianship and Conservatorship*, SL071 ALI-ABA 67 (Feb. 23-24, 2006) (explaining definitions of incapacity, types of guardianships, including guardians of the estate, guardians of persons, plenary and limited guardianships, as well as guardianship procedures).

Donna S. Harkness, "Whenever Justice Requires": *Examining the Elusive Role of Guardian ad Litem for Adults with Diminished Capacity*, 8 MARQ. ELDER'S ADVISOR 1 (Fall 2006) (discussing the differences between general guardianships, conservatorships, and guardian ad litem positions for purposes of specific individual lawsuits and explaining Federal Rule 17(c) and state analogues).

Sally Balch Hurme, *Mobile Guardianships: Partial Solutions to Interstate Jurisdiction Problems*, 17 NAELA Q. 6 (Summer 2004) (covering the Uniform Guardianship and Protective Proceedings Act, interstate movement, concepts of full faith and credit, and state guardianship statutes).

Jennifer L. Wright, *Protecting Who From What, and Why, and How?: A Proposal for an Integrative Approach to Adult Protective Proceedings*, 12 ELDER L.J. 53 (2004) (addressing distinctions between guardianships and protective proceedings).

---

Alison Barnes, *The Liberty and Property of Elders: Guardianship and Will Contests as the Same Claim*, 11 ELDER L.J. 1 (2003).

Eleanor M. Crosby & Rose Nathan, *Adult Guardianship in Georgia: Are the Rights of Proposed Wards Being Protected? Can We Tell?*, 16 QUINNIPIAC PROB. L.J. 249 (2003) (Georgia).

Linda S. Ershow-Levenberg, *Guardianship Actions Against Individuals Who Have Selected an Agent as Power of Attorney: When Should the Courts Say "No?"*, 7 MARQ. ELDER'S ADVISOR 83 (Fall 2005).

322 *Journal of the American Academy of Matrimonial Lawyers*

Lawrence A. Frolik & Mary F. Radford, *"Sufficient" Capacity: The Contrasting Capacity Requirements for Different Documents*, 2 NAELA J. 303 (2006).

James D. Gallagher & Cara M. Kearney, *Representing a Client with Diminished Capacity: Where the Law Stands and Where It Needs to Go*, 16 GEO. J. LEGAL ETHICS 597 (2003).

Colin K.K. Goo et al., *Protecting Minors and Incapacitated Adults—Hawaii's New Conservatorship & Guardianship Law*, 10 HAW. B.J. 4 (Apr. 2006) (Hawaii).

Helen W. Gunnarsson, *Can an Incompetent Principal Revoke a POA?: A Recent Fourth District Opinion Raises This and Other Questions*, 94 ILL. B.J. 170 (Apr. 2006) (Illinois).

Helen Gunnarsson, *New Statutory Language Targets Elder Self-Neglect: Soon-to-Be-Effective Changes to the Elder Abuse and Neglect Act Will Give Authorities New Power to Intervene when Elderly People Can't Take Care of Themselves*, 94 ILL. B.J. 647 (Dec. 2006) (Illinois).

A. Frank Johns, *Older Clients With Diminished Capacity and Their Advance Directives*, 39 REAL PROP. PROB. & TR. J. 107 (2004).

A. Frank Johns, *What's an Elder Law Attorney to Do? Clients With Diminished Capacity—Applying the ABA Model Rules of Professional Responsibility*, 15 EXPERIENCE 14 (Summer 2005).

Nancy J. Knauer, *Defining Capacity: Balancing the Competing Interests of Autonomy and Need*, 12 TEMP. POL. & CIV. RTS. L. REV. 321 (2003).

Patricia C. McManus, Comment, *A Therapeutic Jurisprudential Approach to Guardianship of Persons with Mild Cognitive Impairment*, 36 SETON HALL L. REV. 591 (2006) (New York).

Jennifer Moye, *Evaluating the Capacity of Older Adults: Psychological Models and Tools*, 17 NAELA Q. 3 (Summer 2004).

Joan L. O'Sullivan, *Role of the Attorney for the Alleged Incapacitated Person*, 31 STETSON L. REV. 687 (2002)

Bruce S. Ross, *Conservatorship Litigation and Lawyer Liability: A Guide Through the Maze*, 31 STETSON L. REV. 757 (2002) (California).

Kingshuk K. Roy, *Sleeping Watchdogs of Personal Liberty: State Laws Disenfranchising the Elderly*, 11 ELDER L.J. 109 (2003).

Larry L. Teply, *The Elderly and Civil Procedure: Service and Default, Capacity Issues, Preserving and Giving Testimony, and Compulsory Physical or Mental Examinations*, 30 STETSON L. REV. 1273 (2001).

U.S. Gov't Accountability Office, Report to the Chairman, Special Comm. on Aging, U.S. Senate, Publ'n No. 04-655, *Guardianships: Collaboration Needed to Protect Incapacitated Elderly People* (July 2004), <http://www.gao.gov/new.items/d04655.pdf>.

Tricia M. York, Note, *Conservatorship Proceedings and Due Process: Protecting the Elderly in Tennessee*, 36 U. MEM. L. REV. 491 (2006) (Tennessee).

#### Elder Abuse

Carolyn L. Dessin, *Financial Abuse of the Elderly: Is the Solution a Problem?*, 34 MCGEORGE L. REV. 267 (2003) (addressing difficulties in the definition of abuse because of varying definitions of "abuse" and "exploitation" and evaluating statutes targeting financial abuse).

Julie A. Lemke & Seymour Moskowitz, *Protecting the Gold in the Golden Years: Practical Guidance for Professionals on Financial Exploitation*, 7 MARQ. ELDER'S ADVISOR 1 (Fall 2005) (covering issues ranging from ethical concerns about client identification to warning signs of exploitation, to practical remedies, including the role of Adult Protective Services).

Shelby A.D. Moore & Jeanette Schaefer, *Remembering the Forgotten Ones: Protecting the Elderly from Financial Abuse*, 41 SAN DIEGO L. REV. 505 (2004) (addressing the range of types of financial abuse of the elderly, including mail fraud, exploitation, fraudulent charity solicitation and fright mail, as well as current civil and criminal protections).

324 *Journal of the American Academy of Matrimonial Lawyers*

Sarah S. Sandusky, Note, *The Lawyer's Role in Combating the Hidden Crime of Elder Abuse*, 11 *ELDER L.J.* 459 (2003) (offering statistics and covering attorney ethical obligations to report abuse).

Mary Twomey et al., *From Behind Closed Doors: Shedding Light on Elder Abuse and Domestic Violence in Late Life*, 6 *J. CENTER FOR FAM., CHILD. & CTS.* 73 (2005) (providing various statutory definitions and commenting on prevalence and new court projects to identify and address elder abuse).

---

William J. Brisk, *No Bad Deed Should Go Unpunished: Evaluation and Discovery of Cases of Financial Abuse of Elders*, 16 *NAELA Q.* 8 (Fall 2003).

Jeanne Finberg, *Financial Abuse of the Elderly in California*, 36 *LOY. L.A. L. REV.* 667 (2003) (California).

Robert A. Hawks, *Grandparent Molesting: Sexual Abuse of Elderly Nursing Home Residents and Its Prevention*, 8 *MARQ. ELDER'S ADVISOR* 159 (Fall 2006).

National Center on Elder Abuse, *What is Elder Abuse?* <http://www.elderabusecenter.org/default.cfm?p=faqs.cfm> (last visited Mar. 25, 2007).

Donna Schuyler & Bryan A. Liang, *Reconceptualizing Elder Abuse: Treating the Disease of Senior Community Exclusion*, 15 *ANNALS HEALTH L.* 275 (2006) (California).

#### End of Life Decision-Making

Ed de St. Aubin et al., *Elders and End of Life Medical Decisions: Legal Context, Psychological Issues, and Recommendations to Attorneys Serving Seniors*, 7 *MARQ. ELDER'S ADVISOR* 259 (Spring 2006) (reviewing the law regarding end of life decision-making, including the Patient Self-Determination Act of 1990 and Uniform Health-Care Decisions Act of 1993, as well as the psychological literature linking autonomy and patient health).

Elisabeth Belmont et al., *A Guide to Legal Issues in Life-Limiting Conditions*, 38 *J. HEALTH L.* 145 (2005) (detailing issues to include in a final letter of instruction, reviewing considerations

regarding advances directives and durable powers of attorney, proposing long term care insurance questions to ask and possible sources of elder care benefits, as well as questions to ask personal care assistants or agencies).

David Orentlicher & Christopher M. Callahan, *Feeding Tubes, Slippery Slopes, and Physician-Assisted Suicide*, 25 J. LEGAL MED. 389 (2004) (offering an introduction to the medical literature on feeding tubes and a legal perspective on their withdrawal).

---

Emily A. Donaldson, *Advance Directives: What Directions Does Kansas Allow*, 75 J. KAN. B.A. 19 (Mar. 2006) (Kansas).

Casey Frank, *Surrogate Decision-Making for "Friendless" Patients*, 34 COLO. LAW. 71 (Apr. 2005) (Colorado).

Helen W. Gunnarsson, *Help Your Client Choose the Right Advance Directive*, 93 ILL. B.J. 284 (June 2005).

Diane E. Hoffmann & Anita J. Tarzian, *Dying in America—An Examination of Policies That Deter Adequate End-of-Life Care in Nursing Homes*, 33 J.L. MED. & ETHICS 294 (2005).

Charles M. Key, *Who Will Decide? Helping Your Clients with End-of-Life Directives*, 42 TENN. B.J. 12 (Dec. 2006) (Tennessee).

Kenneth C. Kirk, *The Alaska Health Care Decisions Act, Analyzed*, 22 ALASKA L. REV. 213 (2005) (Alaska).

Catherine Silburn, *Respecting and Responding to End-of-Life Choice*, 34 COLO. LAW. 57 (Oct. 2005) (Colorado).

Kathryn L. Tucker, *U.S. Supreme Court Ruling Preserves Oregon's Landmark Death With Dignity Law*, 2 NAELA J. 291 (2006).

### Ethical Issues

---

Gaines B. Brake, Comment, *Ethical Issues in Dealing with Families of Elderly Clients*, 30 J. LEGAL PROF. 103 (2006).

326 *Journal of the American Academy of Matrimonial Lawyers*

Roberta K. Flowers, *To Speak or Not to Speak: Effect of Third Party Presence on Attorney Client Privilege*, 2 NAELA J. 153 (2006).

Gregory S. French, *Practical Answers to Ethical Questions Arising in Elder Law (A Quick Reference Guide)*, 2 NAELA J. 5 (2006).

Jennifer S. Gormley, *Ethical Concerns When Dealing with the Elder Client*, 34 COLO. LAW. 27 (Oct. 2005) (Colorado).

A. Frank Johns, *Revised ABA Model Rules of Professional Conduct Applied in Elder Law: The Basics Framed in Core Values Get Complicated Fast, MRCP 1.0-1.6*, 1 NAELA J. 59 (Spring 2005).

National Academy of Elder Law Attorneys, *Aspirational Standards for the Practice of Elder Law with Commentaries*, 2 NAELA J. 5 (2006).

#### Insurance Coverage and Medical Care

Leah Snyder Batchis, Comment, *Can Lawsuits Help the Uninsured Access Affordable Hospital Care? Potential Theories for Uninsured Patient Plaintiffs*, 78 TEMP. L. REV. 493 (2005) (examining potential consumer protection theories against hospitals that claim tax-exempt status but charge profit-making rates).

John J. Campbell, *Bad Moon Rising: The Dark Side of Medicare D and Medigap*, 34 COLO. LAW. 71 (Oct. 2005) (explaining Medicare Parts A, B, C and D, the basic prescription drug coverage under Part D, the enrollment period, the appeals process, the financial means test for low income benefits, and Medigap insurance).

Centers for Medicare & Medicaid Services, U.S. Dept. of Health & Human Services, <http://www.cms.hhs.gov> (last visited Feb. 24, 2007) (containing manuals, forms, regulations and explanations of coverage for Medicare, Medicaid, and State Children's Health Insurance Program (SCHIP), including an interactive help line for questions).

Andrew H. Hook & Thomas D. Begley, Jr., *Lawyering for Older Clients: A New Paradigm*, 1 NAELA J. 269 (2005) (observing



that many services attorneys used to provide for their elderly clients are now being provided by financial institutions, accounting firms, or internet forms, and addressing the issues that will arise if lawyers expand their practices to add selling insurance, investments or real estate brokerage services, as well as serving as fiduciaries, and drafting self-settled special needs trusts).

Kaiser Family Foundation, Medicaid Benefits: Online Database, <http://www.kff.org/medicaid/benefits/index.jsp> (last visited Feb. 24, 2007) (providing an online, interactive database with state-by-state information about institutional, practitioner, products, and prescription drug services, as well as long term care).

Alison McMorran Sulentic, *Can Systems Analysis Help Us To Understand C.O.B.R.A.? A Challenge to Employment-Based Health Insurance*, 39 J. MARSHALL L. REV. 753 (2006) (explaining basic continuation coverage benefits under COBRA and the role of COBRA in the health care financing system).

---

Eliot Abarbanel, *A Practical Guide to Medicaid and Medicare*, 17 DCBA BRIEF 8 (June 2005).

Jason A. Frank, *Long Term Care in the 21st Century*, 38 MD. B.J. 18 (Aug. 2005) (Maryland).

Keith Bradoc Gallant, *Long Term Care Insurance: Planning and Paying for "Long Term Care,"* SM054 ALI-ABA 61 (Sept. 28 - 29, 2006).

Mayo Clinic Staff, *Long Term Care for Your Parents: Plan Ahead* (Jan. 13, 2006), <http://www.mayoclinic.com/health/long-term-care/HA00054>.

### *Medicaid*

Lawrence A. Frolik & Doris E. Hawks, *Basic Benefits: Social Security, Medicaid and Medicare*, SL071 ALI-ABA 303 (Feb. 24, 2006) (explaining in a clear and well-organized way the range of benefits (Social Security, Medicaid, Medicare and Medigap Insurance), eligibility, and spousal coverage).

John A. Miller, *Voluntary Impoverishment to Obtain Government Benefits*, 13 CORNELL J.L. & PUB. POL'Y 81 (2003) (offering an

328 *Journal of the American Academy of Matrimonial Lawyers*

overview of Medicaid and describing ways to plan toward impoverishment to create eligibility for benefits).

Timothy L. Takacs & David L. McGuffey, *Medicaid Planning: Can It Be Justified? Legal and Ethical Implications of Medicaid Planning*, 29 WM. MITCHELL L. REV. 111 (2002) (explaining the process of Medicaid planning to transfer assets and “artificially impoverish” the potential recipient, and addressing possible ethical objections).

---

Thomas D. Begley, Jr. & Jo-Anne Herina Jeffreys, *Medicaid Planning for Married Couples*, 17 NAELA Q. 19 (Spring 2004).

Diane Lourdes Dick, Note, *The Impact of Medicaid Estate Recovery on Nontraditional Families*, 15 U. FLA. J.L. & PUB. POL'Y 525 (2004).

Linda S. Ershow-Levenberg, *Court Approval of Medicaid Spend-Down Planning by Guardians*, 6 MARQ. ELDER'S ADVISOR 197 (Spring 2005).

Alicia M. Farmer, Note, *Drowning in a Sea of Ambiguity: Analyzing the South Dakota Department of Social Services' Decision to Include Alimony Payments as Available Income When Determining Medicaid Benefits*, 51 S.D. L. REV. 313 (2006).

Janel C. Frank, Note, *How Far Is Too Far? Tracing Assets in Medicaid Estate Recovery*, 79 N.D. L. REV. 111 (2003).

Monica J. Franklin, *How the Deficit Reduction Act of 2005 Affects Medicaid Recipients*, 42 TENN. B.J. 18 (May 2006).

Howard S. Krooks, *Analysis of Changes to Federal Medicaid Laws Under the Deficit Reduction Act of 2005*, SM054 ALI-ABA 565 (Sept. 29, 2006).

David G. Lupo, *Medicaid—Long Term Care in Missouri: An Update Since OBRA 1993*, 62 J. MO. B. 188 (July/Aug. 2006) (Missouri).

Cindy Mann & Tim Westmoreland, *Attending to Medicaid*, 32 J.L. MED. & ETHICS 416 (Fall 2004).

Elsa Mannarelli Miller, *Medicaid and Long-Term Care: A Primer for the General Practitioner*, 14 EXPERIENCE 19 (Spring 2004).

John A. Miller, *Voluntary Impoverishment to Obtain Government Benefits*, 13 CORNELL J. L. & PUB. POL'Y 81 (2003)

James B. Noble & James A. Jaeger, *A New World for Medical Assistance Planning*, 79 WIS. LAW. 8 (May 2006) (Deficit Reduction Act 2005).

Ian S. Oppenheim & Alex L. Moschella, *National Perspective on Expanded Estate Recovery: Case Law Analysis, Emerging Legislative Trends and Responsive Strategies for the Elder Law Attorney*, 1 NAELA J. 7 (Spring 2005).

Katherine C. Pearson, *The Lawyer's Ethical Considerations in Medicaid Planning for the Elderly: Representing Smith and Jones*, 76 PA. B.A. Q. 1 (Jan. 2005).

Bryn A. Poland, Comment, *Don't Plan on Aging: The Kansas Supreme Court Reaffirms Its Hostility Toward Medicaid Planning* [Brewer v. Schalansky, 102 P.3d 1145 (Kan. 2004)], 45 WASHBURN L.J. 491 (2006) (Kansas).

Susan Shubin & Carol Carnett, *Assisting Clients Who Are Denied Medicaid Eligibility*, 38 MD. B.J. 38 (Aug. 2005).

Matthew Wilson, *The Future of Medicaid Planning in Missouri*, 62 J. MO. B. 62 (Mar./Apr. 2006) (Missouri).

Andrew D. Wone, Note, *Don't Want to Pay for Your Institutionalized Spouse? The Role of Spousal Refusal and Medicaid in Funding Long Term Care*, 14 ELDER L.J. 485 (2006) (2nd Circuit).

Wesley E. Wright et al., *Dramatic Changes to Medicaid Funding of Long-Term Care*, 43 HOUS. LAW. 28 (June 2006).

### Medicare

Susan Adler Channic, *The Medicare Prescription Drug, Improvement, and Modernization Act of 2003: Will It Be Good Medicine for U.S. Health Policy*, 14 ELDER L.J. 237 (2006) (explaining the new Medicare Part D for prescription drug coverage).

330 *Journal of the American Academy of Matrimonial Lawyers*

Alfred J. Chiplin, Jr., *Breathing Life into Discharge Planning*, 13 ELDER L.J. 1 (2005) (explaining numerous Medicare rules, including the notice of non-coverage, rules governing skilled nursing facilities, the Nursing Home Reform Law, home health care rules, and discharge plans and re-assessment processes).

---

Craig Caplan, AARP Public Policy Inst., *The Medicare Program: A Brief Overview* (2005), [http://assets.aarp.org/rgcenter/health/fs103\\_medicare.pdf](http://assets.aarp.org/rgcenter/health/fs103_medicare.pdf).

Robert M. Hayes et al., *Medicare: Nuts and Bolts*, 329 PLI/Est 87 (Aug. 19-20, 2004).

U.S. Dep't of Health and Human Serv., *Medicare Spotlights*, <http://www.medicare.gov/spotlights.asp> (last visited Mar. 25, 2007).

Pi-Yi Mayo, *Medicare: Part D*, 43 HOUS. LAW. 22 (June 2006).

#### Special or Supplemental Needs Trusts

Alicia F. Curtis, *Pooled Supplemental Needs Trusts Help Keep Wolves from Seniors' Doors*, 21 ME. B.J. 28 (discussing the use of a master nonprofit organization to act as a trustee for disabled people expecting to receive some money who still want to retain their eligibility for government benefits).

Jason D. Lazarus, *Protect Public Benefits for Your Special Needs Clients*, 41 TRIAL 44 (June 2005) (explaining the limits of special needs trusts, such as items for which funds can be used, termination of trusts, and Medicare lien and reimbursement issues).

---

John J. Campbell, *Preserving Public Benefits in Physical Injury Settlements: Special-Needs Trusts and Beyond*, 2 NAELA J. 367 (2006).

Robert F. Collins, *The Greater Asset Protection Self-Settled Special Needs Trust (or GAPSNT)*, 1 NAELA J. 111 (Spring 2006).

Richard E. Davis & Stanley C. Kent, *The Impact of the Uniform Trust Code on Special Needs Trusts*, 1 NAELA J. 235 (2006).

Jacqueline D. Farinella, Note, *Come on In, the Water's Fine: Opening Up the Special Needs Pooled Trust to the Eligible Elderly Population*, 14 ELDER L.J. 127 (2006).

Kemp C. Scales & Linda M. Anderson, *Special Needs Trusts: Practical Tips for Avoiding Common Pitfalls*, 74 PA. B.A. Q. 169 (Oct. 2003).

Caryl Shortridge Peters & Roy W. Froemming, *Minimizing Income Taxes with "Qualified" Supplemental Needs Trusts*, 1 NAELA J. 87 (Spring 2005).

Jeffrey T. Reeder, *Preserving Your Client's Public Benefits Through a Pooled Special Needs Trust*, 51 La. B.J. 328 (Feb./Mar. 2004) (Louisiana).

## Electronic Discovery

Jason R. Baron, *Toward a Federal Benchmarking Standard for Evaluating Information Retrieval Products Used in E-Discovery*, 6 SEDONA CONF. J. 237 (2005) (assessing search methodologies for retrieving information from electronic documents, such as Boolean, concept, natural language, and fuzzy logic searches).

Alan F. Blakley, *Unanswered Questions in the December 2006 Federal Rules Changes*, 53 FED. LAW. 39 (Dec. 2006) (covering initial disclosures under Rule 26, production format under Rule 26(f), "inaccessible" data under Rule 26(b)(2)(B), "claw-back agreements" regarding inadvertent disclosures under Rule 26(b)(5)(B), and the "one-bite" provision under Rule 34 that gives parties only one chance to request electronic information).

Tracey L. Boyd, *The Information Black Hole: Managing the Issues Arising from the Increase in Electronic Data Discovery in Litigation*, 7 VAND. J. ENT. L. & PRAC. 323 (2005) (evaluating the allocation of costs of electronic discovery and examining the Federal Rules of Civil Procedure regarding it).

John L. Carroll, *Preservation of Documents in the Electronic Age—What Should Courts Do?*, 2005 FED. CTS. L. REV. 5 (assessing reasonable timing, scope and standards for preservation orders).

332 *Journal of the American Academy of Matrimonial Lawyers*

Maria Perez Crist, *Preserving the Duty to Preserve: The Increasing Vulnerability of Electronic Information*, 58 S.C. L. REV. 7 (2006) (covering document retention and destruction policies, the litigation hold, bad faith sanctions, and the safe harbor provision of Rule 37).

Shannon M. Curreri, Note, *Defining "Document" in the Digital Landscape of Electronic Discovery*, 38 LOY. L.A. L. REV. 1541 (2005) (examining metadata, embedded data, and deleted data and distinguishing "document" from "electronically stored information").

Beryl A. Howell, *Digital Forensics: Sleuthing on Hard Drives and Networks*, 31 VT. B.J. 39 (Fall 2005) (offering an overview of computer usage, explaining embedded metadata, where files are stored on hard drives and some document hiding techniques such as renaming files).

David K. Isom, *Electronic Discovery Primer for Judges*, 2005 FED. CTS. L. REV. 1 (covering comprehensive definitions of document and electronic information, preserving information, expediting e-discovery, inspecting computers, discovering new sources of electronic information, recovering back-up data, cost-allocation, production formats, and safe harbors).

Richard L. Marcus, *E-Discovery and Beyond: Toward Brave New World or 1984?*, 25 REV. LITIG. 633 (2006) (discussing videotape depositions, service by e-mail, virtual trials, and some of the potential threats of technology to reduce human face-to-face interactions).

Louis R. Pepe & Jared Cohane, *Document Retention, Electronic Discovery, E-Discovery Cost Allocation and Spoliation of Evidence: The Four Horsemen of the Apocalypse in Litigation Today*, 80 CONN. B.J. 331 (Dec. 2006) (covering statutory and regulatory sources of duties to retain evidence, *Zubulake v. UBS Warburg, LLC*, and advice on retention policies; offering a brief lexicon of terms (e.g., LAN, WAN, active data, and off-line data; and exploring interpretations of the new federal rules).

Marian K. Riedy & Suman Beros, *Win the Battle for Access to E-Data*, 42 TRIAL 49 (Dec. 2006) (discussing "reasonable accessible data" and cost-shifting).

Howard L. Speight & Lisa C. Kelly, *Electronic Discovery, Not Your Father's Discovery*, 37 ST. MARY'S L.J. 119 (2005) (analyzing preservation of electronic evidence to avoid spoliation, burdensome document requests, paying for e-discovery and cost-shifting).

Ramana Venkata, *How To Meet the Electronic Discovery Challenge*, 25 OF COUNSEL 5 (Oct. 2006) (discussing advanced technology to organize electronic evidence).

---

Thomas Y. Allman, *The Case for a Preservation Safe Harbor in Requests for E-Discovery*, 70 DEF. COUNS. J. 417 (2003).

Thomas Y. Allman, *The Impact of the Proposed Federal E-Discovery Rules*, 12 RICH. J. L. & TECH. 13 (2006).

Thomas Y. Allman, *Rule 37(f) Meets Its Critics: The Justification for a Limited Preservation Safe Harbor for ESI*, 5 NW. J. TECH. & INTELL. PROP. 1 (2006).

Lisa M. Arent et al., *EDiscovery: Preserving, Requesting & Producing Electronic Information*, 19 SANTA CLARA COMPUTER & HIGH TECH. L.J. 131 (2002).

Craig Ball, *A Practical Guide to E-Mail Discovery: Do You Know What to Ask for When Seeking a Defendant's E-Mail Records? Learning Which Technology Propels E-Mail Systems and Where Messages Are Stored Is the First Step*, 41 TRIAL 29 (Oct. 2005).

John M. Barkett, *E-Discovery Help May Be On the Way. . . Sort of: Civil Rules, Advisory Committee Proposal*, 72 DEF. COUNS. J. 37 (2005).

Robert A. Barrer, *Unintended Consequences: Avoiding and Addressing the Inadvertent Disclosure of Documents*, 77 N.Y. ST. B.J. 35 (Dec. 2005) (New York).

Anthony J. Battaglia, *Dealing With Electronically Stored Information: Preservation, Production, and Privilege*, 53 FED. LAW. 26 (May 2006).

334 *Journal of the American Academy of Matrimonial Lawyers*

Shannon M. Curreri, Note, *Defining "Document" in the Digital Landscape of Electronic Discovery*, 38 LOY. L.A. L. REV. 1541 (2005).

Laura Catherine Daniel, Note, *The Dubious Origins and Dangers of Clawback and Quick-Peek Agreement: An Argument Against Their Codification in the Federal Rules of Civil Procedure*, 47 WM. & MARY L. REV. 663 (2005).

Sasha K. Danna, Note, *The Impact of Electronic Discovery on Privilege and the Applicability of the Electronic Communications Privacy Act*, 38 LOY. L.A. L. REV. 1683 (2005).

Ophir D. Finkelthal, Note, *Scope of Electronic Discovery and Methods of Production*, 38 LOY. L.A. L. REV. 1591 (2005).

Daniel B. Garrie & Matthew J. Armstrong, *Electronic Discovery and the Challenge Posed by the Sarbanes-Oxley Act*, 2005 UCLA J. L. TECH. 2.

Daniel B. Garrie et al., *Hiding the Inaccessible Truth: Amending The Federal Rules to Accommodate Electronic Discovery*, 25 REV. LITIG. 115 (2006).

Richard K. Herrmann et al., *Managing Discovery in the Digital Age: A Guide to Electronic Discovery in the District of Delaware*, 8 DEL. L. REV. 75 (2005) (Delaware).

James M. (Duke) Johnston Jr. & Philip A. Whistler, *E-Discovery: A Critical Litigation Issue for Franchisors and Franchisees*, 26 FRANCHISE L.J. 20 (Summer 2006).

Virginia Llewellyn, *Electronic Discovery Best Practices*, 10 RICH. J.L. & TECH. 51 (2004).

Lino Lipinsky et al., *Duty to Preserve Electronic Evidence After Enron and Andersen*, 32 COLO. LAW. 55 (June 2003).

Henry S. Noyes, *Is E-Discovery So Different That It Requires New Discovery Rules? An Analysis of Proposed Amendments to the Federal Rules of Civil Procedure*, 71 TENN. L. REV. 585 (2004).



Kathleen Peterson & Todd Nunn, *Electronic Discovery, Inadvertent Production and the New Federal Rules*, 48 ORANGE COUNTY LAW. 14 (Aug. 2006).

Mohammad Iqbal, *New Paradigms of E-Discover and Cost-Shifting: Determining Who Pays for Electronic Discovery*, 72 DEF. COUNS. J. 283 (2005).

Sarah A. L. Phillips, Comment, *Discoverability of Electronic Data Under the Proposed Amendments to the Federal Rules of Civil Procedure: How Effective Are Proposed Protections for "Not Reasonably Accessible" Data?*, 83 N.C. L. REV. 984 (2005).

Rebecca Rockwood, Comment, *Shifting Burdens and Concealing Electronic Evidence: Discovery in the Digital Era*, 12 RICH. J. L. & TECH. 16 (2006).

Sonia Salinas, Note, *Electronic Discovery and Cost-Shifting: Who Foots the Bill?*, 38 LOY. L.A. L. REV. 1639 (2005).

Howard L. Speight & Lisa C. Kelly, *Electronic Discovery: Not Your Father's Discovery*, 37 ST. MARY'S L.J. 119 (2005).

Robert H. Thornburg, *Electronic Discovery in Florida*, 80 FLA. B.J. 34 (Oct. 2006) (Florida).

Kenneth J. Withers, *Electronically Stored Information: The December 2006 Amendment to the Federal Rules of Civil Procedure*, 4 NW. J. TECH. & INTELL. PROP. 171 (2006).

#### Electronic Filing

Michael Whiteman, *Appellate Court Briefs on the Web: Electronic Dynamos or Legal Quagmire?*, 97 LAW LIBR. J. 467 (2005) (discussing briefs as research tools, listing court rules on their use, and providing internet sites where they are available).

---

Kraettli Q. Epperson, *A Status Report: On-Line Images and E-Filing of Land Documents in Oklahoma*, 59 CONSUMER FIN. L.Q. REP. 316 (2005) (Oklahoma).

Robert A. Guy, Jr., *A Model Protocol for Electronic Filing: Best Practices for Law Firms Making the Transition to Case Management/Electronic Case Files*, 53 FED. LAW. 38 (Aug. 2006).

336 *Journal of the American Academy of Matrimonial Lawyers*

H. Craig Hall, Jr., *Electronic Filing in Federal Court: Where Are We Now?*, 20 UTAH B.J. 32 (Feb. 2007) (Utah).

Susan Larson, *The State of Electronic Court Filing: Courts are Moving Ahead to Implement Electronic Filing Systems—With or Without Input from the Local Bar*, 40 TRIAL 31 (Jan. 2004).

Matthew R. Schreck, *Preventing “You’ve Got Mail”™ From Meaning “You’ve Been Served:” How Service of Process by E-Mail Does Not Meet Constitutional Procedural Due Process Requirements*, 38 J. MARSHALL L. REV. 1121 (2005).

Maria N. Vernance, Comment, *E-Mailing Service of Process: It’s a Shoe-In!*, 36 UWLA L. REV. 274 (2005) (9th Cir.).

### Metadata

J. Brian Beckham, *Production, Preservation, and Disclosure of Metadata*, 7 COLUM. SCI. & TECH. L. REV. 1 (2005-06) (explaining metadata, reverse editing and scrubbing, and discussing inadvertent disclosures).

Sheila Blackford, *Metadata: Danger or Delight?*, 66 OR. ST. B. BULL. 29 (May 2006) (discussing metadata cleaning programs).

Tom Mighell, *The New Federal Rules—Are You Ready?*, 69 TEX. B.J. 1042 (Dec. 2006) (discussing requests for electronic data in its “native” format to obtain metadata and listing electronic discovery websites, such as Discovery Resources, Electronic Discovery News, at <http://www.discoveryresources.org>).

Campbell C. Steele, Note, *Attorneys Beware: Metadata’s Impact on Privilege, Work Product, and the Ethical Rules*, 35 U. MEM. L. REV. 911 (2005) (discussing the problem of metadata (data hidden in a document but not visible on its face) that may be inadvertently disclosed in electronic discovery).

---

*ABA Ethics Opinion: Lawyers Receiving E-Documents May Examine “Hidden” Metadata*, 24 LAW. PC 6 (Dec. 15, 2006).

David Hricik, *I Can Tell When You’re Telling Lies: Ethics and Embedded Confidential Information*, 30 J. LEGAL PROF. 79 (2006).

Steve Leben, *Considering the Inadvertent Disclosure of Metadata*, 75 J. KAN. B.A. 26 (Apr. 2006).

Peter Mierzwa, *Metadata: Now You Don't See It—Now You Do*, 20 CBA REC. 52 (Oct. 2006).

Marjorie A. Shields, Annotation, *Discoverability of Metadata*, 2006 A.L.R. 6TH 6.

### Spoliation of Evidence

Rena Durrant, *Spoliation of Discoverable Electronic Evidence*, 38 LOY. L.A. L. REV. 1803 (2005) (explaining when the duty to preserve electronic evidence arises, summarizing obligations to preserve, discussing the recovery of deleted data, and reviewing the range of sanctions courts impose for spoliation).

Lloyd S. van Oostenrijk, Comment, *Paper or Plastic?: Electronic Discovery and Spoliation in the Digital Age*, 42 HOUS. L. REV. 1163 (2005) (evaluating the proposed federal rules, damages for spoliation, and discovery costs).

---

Thomas G. Fischer, Annotation, *Intentional Spoliation of Evidence, Interfering with Prospective Civil Action, as Actionable*, 70 A.L.R. 4TH 984 (1989 & Supp. 2006).

Linda C. Fowler, *Spoliation: Tort Liability for Missing Evidence*, 53 LA. B.J. 427 (Apr./May 2006) (Louisiana).

T. Patrick Gumkowski, Comment, *Protecting the Integrity of the Rhode Island Judicial System and Assuring an Adequate Remedy for Victims of Spoliation: Why an Independent Cause of Action for Spoliation of Evidence Is the Solution*, 10 ROGER WILLIAMS U. L. REV. 795 (2005) (Rhode Island).

Jason B. Hendren, *Spoliation of Evidence: Why This Evidentiary Concept Should Not Be Transformed into Separate Causes of Action*, 27 U. ARK. LITTLE ROCK L. REV. 281 (2005).

David Paul Horowitz, *Spoliation . . . Not Spoilation*, 78 N.Y. ST. B.J. 17 (Apr. 2006) (New York).

338 *Journal of the American Academy of Matrimonial Lawyers*

Margaret Z. Johns, *Using Federal Civil Rights Statutes to Right the Wrong of Evidence Spoliation in Civil Cases in State Court*, 28 AM. J. TRIAL ADVOC. 279 (2004).

Nathan Drew Larsen, *Evaluating the Proposed Changes to Federal Rules of Civil Procedure 37: Spoliation, Routine Operation and the Rules Enabling Act*, 4 NW. J. TECH. & INTELL. PROP. 212 (2006).

Michael R. Nelson & Mark H. Rosenberg, *A Duty Everlasting: The Perils of Applying Traditional Doctrines of Spoliation to Electronic Discovery*, 12 RICH J.L. & TECH. 14 (2006).

Michael D. Starks, *Deconstructing Damages for Destruction of Evidence: Martino Eradicates the First-party Tort of Spoliation of Evidence*, 80 FLA. B.J. 36 (Aug. 2006) (Florida).

Brian F. Stayton & Jesse L. Ray, *Spoliation of Evidence: An Overview and Practical Suggestions*, 24 CONSTRUCTION LAW. 31 (Winter 2004).

Rachel L. Sykes, *A Phantom Menace: Spoliation of Evidence in Idaho Civil Cases*, 42 IDAHO L. REV. 821 (2006) (Idaho).

Benjamin J. Vernia, Annotation, *Negligent Spoliation of Evidence, Interfering with Prospective Civil Action, as Actionable*, 101 A.L.R. 5TH 61 (2002 & Supp. 2006).

Irene C. Warshauer, *Electronic Discovery in Arbitration: Privilege Issues and Spoliation of Evidence*, 61 DISP. RESOL. J. 9 (Jan. 2007).

#### Zubulake v. UBS Warburg

James M. Evangelista, *Polishing the "Gold Standard" on the E-Discovery Cost-Shifting Analysis: Zubulake v. UBS Warburg, LLC*, 9 J. TECH. L. & POL'Y 1 (2004).

Elaine Ki Jin Kim, Comment, *The New Electronic Discovery Rules: A Place for Employee Privacy*, 115 YALE L.J. 1481 (2006) (*Zubulake*).

Janet Ramsey, *Zubulake V: Counsel's Obligations to Preserve and Produce Electronic Information*, 84 MICH. B.J. 26 (Oct. 2005).

Jessica Lynn Repa, Comment, *Adjudicating Beyond the Scope of Ordinary Business: Why the Inaccessibility Test in Zubulake Unduly Stifles Cost-Shifting During Electronic Discovery*, 54 AM. U. L. REV. 257 (2004).

Bahar Shariati, Note, *Zubulake v. UBS Warburg: Evidence that the Federal Rules of Civil Procedure Provide the Means for Determining Cost Allocation in Electronic Discovery Disputes?*, 49 VILL. L. REV. 393 (2004).

Daniel Van Horn, *Preserving Electronic Evidence: How Closely Should a Tennessee Court Follow Zubulake?*, 41 TENN. B.J. 25 (Apr. 2005) (Tennessee).

### **Estate Law and Planning (See also Taxes)**

*Estate Planning/Administration*, 22 LAW PC 14 (Nov. 15, 2004) (comparing estate planning software from various manufacturers that tracks assets, creates a charitable financial planner, provides templates for powerpoint presentations for clients, offers a pension distribution calculator, manages bond portfolios, and offers a fiduciary accounting program, among other things).

---

Vicki L. Anderson, *How to QTIP an IRA—New Rules*, 50 RES GESTAE 28 (Oct. 2006).

Alexandra Laboutin Bannon, *Estate Planning for California Domestic Partners*, 27 L.A. LAW. 14 (Feb. 2005).

Donna R. Bashaw, *Are In Terrorem Clauses No Longer Terrifying? If So, Can You Avoid Post-Death Litigation With Pre-Death Procedures*, 2 NAELA J. 349 (2006).

Joan M. Burda, *Estate Planning Issues for LGBT Individuals and Couples (With Forms)*, 20 PRAC. TAX LAW. 17 (Spring 2006).

Jeffrey A. Cooper et al., *State Estate Taxes After EGTRRA: A Long Day's Journey into Night*, 17 QUINNIPIAC PROB. L.J. 317 (2004).

Cornell Law School, Legal Information Institute, Estate Planning Law Materials, [http://www.law.cornell.edu/topics/estate\\_planning.html](http://www.law.cornell.edu/topics/estate_planning.html) (last visited June 11, 2007).

340 *Journal of the American Academy of Matrimonial Lawyers*

Edwin G. Fee, Jr., *Maryland Estate Tax: Past, Present and Future*, 36 U. BALT. L.F. 105 (2006) (Maryland).

Susan N. Gary, *Transfer-on-Death Deeds: The Nonprobate Revolution Continues*, 41 REAL PROP. PROB. & TR. J. 529 (2006).

Thomas Earl Geu, *Selected Estate Planning Aspects of the Uniform Limited Partnership Act (2001)*, 37 SUFFOLK U. L. REV. 735 (2004).

Jason E. Havens, Legal Research for Estate Planners, <http://www.jasonhavens.net> (last visited June 17, 2007).

Keith A. Herman, *Coordinating Retirement Accounts with Estate Planning 101 (What Every Estate Planner Needs to Know)*, 20 PROB. & PROP. 53 (Feb. 2006).

The Humane Society of the United States, *Providing for Pets in Estate Plans*, 32 MONT. LAW. 9 (Apr. 2007).

Michael A. Kirtland, *Estate Planning for Protected Persons*, 65 ALA. LAW. 405 (Nov. 2004) (Alabama).

Barry L. Kohler, *Handling the Mega-Estate Planning Case: A Guide for the General Practitioner*, 19 ME. B.J. 228 (Fall 2004).

Kristen M. Lynch, *The Top Five Things Practitioners Need to Know About IRAs Now: A Discussion of State Law, Case Law, and Other Considerations*, 78 FLA. B.J. 54 (Aug. 2004) (Florida).

Thomas A. Pasquesi, *Estate Planning for Disabled Adults: The Legal Framework*, 94 ILL. B.J. 242 (May 2006) (Illinois).

Camille M. Quinn & Shawna S. Baker, *Essential Estate Planning for the Constitutionally Unrecognized Families in Oklahoma: Same-Sex Couples*, 40 TULSA L. REV. 479 (2005) (Oklahoma).

Amy K. Rosenberg, *The Common Law Spouse in Colorado Estate Administration*, 35 COLO. LAW. 85 (Sep. 2006) (Colorado).

Dennis Toman, The Estate Planning Links Web Site, <http://www.estateplanninglinks.com> (last visited June 1, 2007).

Kayla VanCannon, Note, *Fathering a Child From the Grave: What Are the Inheritance Rights of Children Born Through New*

*Technology After the Death of a Parent?*, 52 DRAKE L. REV. 331 (2004).

### Divorce

---

Jeffrey A. Baskies, *Every Divorcing Client Needs Estate Planning*, 80 FLA. B.J. 62 (Dec. 2006).

Susan N. Gary, *Applying Revocation-on-Divorce Statutes to Will Substitutes*, 18 QUINNIPIAC PROB. L.J. 83 (2004).

Wendy C. Gerzog, *Equitable Apportionment: Recent Cases and Continuing Trends*, 41 REAL PROP. PROB. & TR. J. 671 (2007).

Wendy S. Goffe, *Estate Planning with Trusts for Divorcing Spouses*, 38 FAM. L.Q. 157 (2004).

### Trusts

John K. Eason, *Policy, Logic and Persuasion in the Evolving Realm of Trust Asset Protection*, 27 CARDOZO L. REV. 2621 (2006) (covering the large-scale changes in the law of trusts proposed by the Uniform Trust Code of 2000 and the Restatement (Third) of Trusts).

John H. Langbein, *Mandatory Rules in the Law of Trusts*, 98 NW. U. L. REV. 1105 (2004) (explaining new developments in the default rules in the law of trusts following the recent codification in the Uniform Trust Code of 2000 and the “benefit-the-beneficiaries” rule in the Restatement (Third) of Trusts).

Melanie B. Leslie, *Trusting Trustees: Fiduciary Duties and the Limits of Default Rules*, 94 GEO. L.J. 67 (2005) (arguing that limitations should exist on parties’ powers to modify fiduciaries’ obligations, such as the duties of care and loyalty).

---

Alton L. Abramowitz & George Santana, *To Trust or Not to Trust?*, 8 N.Y. FAM. L. MONTHLY 1 (Dec. 2006) (New York).

Pamela Champine, *Taxing Middle Class Trust(s)*, 7 FLA. TAX REV. 505 (2006).

342 *Journal of the American Academy of Matrimonial Lawyers*

Mark A. Chorney, *Interests in Trusts as Property in Dissolution of Marriage: Identification and Valuation*, 40 REAL PROP. PROB. & TR. J. 1 (2005).

Mark Cohen, *The Top Fourteen Things You Need to Know About the Uniform Trust Code*, 2 NAELA J. 259 (2006).

Joseph E. Doussard, *Domestic Asset Protection Planning: A Colorado Perspective*, 35 COLO. LAW. 61 (June 2006) (Colorado).

Keith A. Herman, *Asset Protection Under the New Missouri Uniform Trust Code*, 62 J. Mo. B. 196 (July/Aug. 2006) (Missouri).

John H. Martin: *The Joint Trust: Estate Planning in a New Environment*, 39 REAL PROP. PROB. & TR. J. 275 (2004).

Alan Newman, *Elder Law: The Intention of the Settlor Under the Uniform Trust Code: Whose Property Is It, Anyway?*, 38 AKRON L. REV. 649 (2005).

Alan Newman, *Spendthrift and Discretionary Trusts: Alive and Well Under the Uniform Trust Code*, 40 REAL PROP. PROB. & TR. J. 567 (2005).

Thomas K. Riley, *New Drafting Issues for Revocable Trusts*, 62 J. Mo. B. 22 (2006) (Missouri).

Dennis M. Sandoval, *Drafting Trusts for Maximum Asset Protection from Creditors*, 17 NAELA Q. 5 (Fall 2004).

Constance D. Smith, *Retaining Control of Gifts to Minors: UTMA and IRC 2503(c) Trust Options*, 34 COLO. LAW. 39 (Nov. 2005).

Bruce A. Tannahill, *Are Nonqualified Annuities Trust-worthy? Avoiding the Tax Traps When a Trust Owns or Is the Beneficiary of a Nonqualified Annuity*, 20 PROB. & PROP. 22 (Aug. 2006).

Valerie J. Vollmar, *The Oregon Uniform Trust Code and Comments*, 42 WILLAMETTE L. REV. 187 (2006) (Oregon).

Steven M. Weiser, *Stretching Tax-Deferred Retirement Benefits Using Separate Accounts and Trusts as Beneficiaries*, 36 COLO. LAW. 59 (Mar. 2007).



### Wills

Richard F. Storrow, *Judicial Discretion and the Disappearing Distinction Between Will Interpretation and Construction*, 56 CASE W. RES. L. REV. 65 (2005) (detailing how courts have moved from formalistic rules to a search for the testator's intent and discussing the contemporary view of the plain meaning rule and the role of extrinsic evidence).

---

Richard Lewis Brown, *The Holograph Problem—The Case Against Holographic Wills*, 74 TENN. L. REV. 93 (2006).

Pamela Champine, *Expertise and Instinct in the Assessment of Testamentary Capacity*, 51 VILL. L. REV. 25 (2006).

Christine A. Hammerle, Note, *Free Will to Will? A Case for the Recognition of Intestacy Rights for Survivors to a Same-Sex Marriage or Civil Union*, 104 MICH. L. REV. 1763 (2006).

Stephen J. Hyland, *Domestic Partners and the New State Probate Code*, 239 N.J. LAW. 20 (Apr. 2006) (New Jersey).

Cameron Krier, *Heir on the Side of the Exclusion? Addressing the Problems Created by Assisted Reproductive Technologies to the Inheritance Rights of a Class Named in a Funded Trust or Probated Will*, 20 QUINNIPIAC PROB. L.J. 47 (2006).

John H. Langbein, *Curing Execution Errors and Mistaken Terms in Wills: The Restatement of Wills Delivers New Tools (and New Duties) to Probate Lawyers*, 18 PROB. & PROP. 28 (Feb. 2004).

Donna Litman, *The Interrelationship Between the Elective Share and the Marital Deduction*, 40 REAL PROP. PROB. & TR. J. 539 (2005).

Thomas A. Pasquesi, *When Can a Disabled Surviving Spouse Renounce a Will*, 92 ILL. B.J. 310 (June 2004) (Illinois).

Max N. Pickelsimer, *Attorney Malpractice in Will Drafting: Will South Carolina Expand Privity to Impose a Duty to Intended Beneficiaries of a Will?*, 58 S.C. L. REV. 581 (2007) (South Carolina).

344 *Journal of the American Academy of Matrimonial Lawyers*

Chad Michael Ross, Comment, *Probate—Taylor v. Holt: The Tennessee Court of Appeals Allows a Computer Generated Signature to Validate a Testamentary Will*, 35 U. MEM. L. REV. 603 (2005) (Tennessee)

Frederic S. Schwartz, *Models of Will Revocation*, 39 REAL PROP. PROB. & TR. J. 135 (2004).

Leigh A. Shipp, Comment, *Equitable Remedies for Nonconforming Wills: New Choices for Probate Courts in the United States*, 79 TUL. L. REV. 723 (2005).

Stephanie J. Willbanks, *Parting Is Such Sweet Sorrow, But Does It Have To be So Complicated? Transmission of Property at Death in Vermont*, 29 VT. L. REV. 895 (2005) (Vermont).

## **Families—Changing Rights and Responsibilities**

Elizabeth Bartholet, *Guiding Principles for Picking Parents*, 27 HARV. WOMEN'S L.J. 323 (2004) (reviewing theories of parenthood, including intended parenthood and biological and legal presumptions, and offering instead guiding criteria that would select early on permanent, nurturing parents and hold them responsible for parenting).

June Carbone, *The Legal Definition of Parenthood: Uncertainty at the Core of Family Identity*, 65 LA. L. REV. 1295 (2005) (noting that the confluence of greater certainty in parentage brought about by DNA coupled with greater marital instability has made the question of who deserves recognition as a child's parents one of the most contentious in family law; evaluating the marital presumption, the role of stepparents, unmarried fathers, and donated genetic materials, and concluding that parenthood needs to be about the child's identity, which considers a combination of biology and relationships among adults).

June Carbone & Naomi Cahn, *Which Ties Bind? Redefining the Parent-Child Relationship in an Age of Genetic Certainty*, 11 WM. & MARY BILL RTS. J. 1011 (2003) (proposing that parent-child relationships should not be based on either legal presumptions or necessarily biology, but instead on the likelihood of protecting the child's best interests).

James G. Dwyer, *A Taxonomy of Children's Existing Rights in State Decision Making About Their Relationships*, 11 WM. & MARY BILL RTS. J. 845 (2003) (examining the state of children's rights to make decisions about their intimate relationships).

Jessica G. Gray, Note, *De-Sensationalizing the Child "Divorce": A Jurisdictional Analysis on a Child's Role in Terminating Parental Rights*, 39 SUFFOLK U. L. REV. 489 (2006) (exploring different states' approaches to the phenomenon of children "divorcing" their parents, with an emphasis on Florida, Massachusetts, and Pennsylvania).

David D. Meyer, *The Constitutionality of "Best Interests" Parentage*, 14 WM. & MARY BILL RTS. J. 857 (2006) (imagining a system of parenthood based not on biology, but on the best interests of the child and testing its constitutionality).

William Wesley Patton, *The Status of Siblings' Rights: A View into the New Millennium*, 51 DEPAUL L. REV. 1 (2001) (assessing the constitutional associational rights of siblings in various contexts—adoption, visitation, and foster care placement—and observing that the law does not comport with psychosocial research on the importance of sibling bonds).

Judith Stacey, *Toward Equal Regard for Marriages and Other Imperfect Intimate Affiliations*, 32 HOFSTRA L. REV. 331 (2003) (describing several types of intimate three and four parent families and urging the creation of a registered kinship system to acknowledge families of choice).

### Cohabitation

Margaret F. Brinig & Steven L. Nock, *Marry Me, Bill: Should Cohabitation Be the (Legal) Default Option?*, 64 LA. L. REV. 403 (2004) (arguing that cohabitation does not warrant legal treatment equivalent to the rights and obligations of marriage).

Marsha Garrison, *Is Consent Necessary? An Evaluation of the Emerging Law of Cohabitant Obligation*, 52 UCLA L. REV. 815 (2005) (criticizing emerging trends in protecting cohabitant relationships based on status rather than contract, because cohabitation is generally of shorter duration than marriage; and arguing

346 *Journal of the American Academy of Matrimonial Lawyers*

that unrecompensed cohabitation does not exploit women or children).

Margaret M. Mahoney, *Forces Shaping the Law of Cohabitation for Opposite Sex Couples*, 7 J. L. FAM. STUD. 135 (2005) (discussing the limited recognition given in some states to unmarried cohabitants through rights and duties).

Emily Sherwin, *Love, Money and Justice: Restitution Between Cohabitants*, 77 U. COLO. L. REV. 711 (2006) (discussing the new Restatement (Third) of Restitution and Unjust Enrichment that would permit former cohabitants to bring claims for unjust enrichment).

---

Frank S. Berall, *Estate Planning Considerations for Unmarried Same or Opposite Sex Cohabitants*, 23 Q.L.R. 361 (Dec. 2004).

Alisha M. Carlile, Note, *Like Family: Rights of Nonmarried Cohabitational Partners in Loss of Consortium Actions*, 46 B.C. L. REV. 391 (2005).

Jonathon D. Hurley, Note, *Loss of Consortium Claims by Unmarried Cohabitants in the Shadow of Goodridge: Has the Massachusetts SJC Misapprehended the Relational Interest in Consortium as a Property Interest?*, 39 NEW ENG. L. REV. 163 (2004) (Massachusetts).

Theresa E. Julian, *A Survey of the Enforceability of Cohabitation Agreements in New Jersey*, 223 N.J. LAW. 45 (Aug. 2003) (New Jersey).

#### Domestic Partner Rights and Benefits

American Bar Association Section of Family Law, *A White Paper: An Analysis of the Law Regarding Same Sex Marriage, Civil Unions, and Domestic Partnerships*, 38 FAM. L.Q. 339 (2004) (covering comprehensively statutory protections for same-sex couples, employee benefits, and case law protection of particular rights, such as adoption).

Human Rights Campaign Foundation, *Domestic Partners*, [http://www.hrc.org/Template.cfm?Section=Domestic\\_partners1&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=23&Con-](http://www.hrc.org/Template.cfm?Section=Domestic_partners1&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=23&Con-)

tentID=10326 (last visited May 25, 2007) (identifying addresses for domestic partner registries, providing a collection of legal documents to protect partners, and a list of insurance carriers offering coverage for domestic partners).

---

Shawna S. Baker & Camille M. Quinn, *Essential Estate Planning for the Constitutionally Unrecognized Families in Oklahoma: Same-Sex Couples*, 40 TULSA L. REV. 479 (2005) (Oklahoma).

Alexandra Laboutin Bannon, *Estate Planning for California Domestic Partners*, 27 L.A. LAW. 14 (Feb. 2005) (California).

Frank S. Berall, *Legal and Tax Status of Persons in Connecticut Civil Unions and Other Unmarried Cohabitants*, 78 CONN. B.J. 261 (2004) (Connecticut).

Paul J. Buser, *Domestic Partner and Nonmarital Claims against Probate Estates: Marvin Theories Put to a Different Use*, 38 FAM. L.Q. 315 (2004).

Greta E. Cowart, *Spousal Rights Alternatives; Domestic Partner Issues, with Emphasis on Health Plans*, SM079 ALI-ABA 943 (Mar. 28-39, 2007).

R. Brent Drake, *Status or Contract? A Comparative Analysis of Inheritance Rights Under Equitable Adoption and Domestic Partnership Doctrines*, 39 GA. L. REV. 675 (2005).

T.P. Gallanis, *Inheritance Rights for Domestic Partners*, 79 TUL. L. REV. 55 (2004).

Kimberly Menashe Glassman, Note, *Balancing the Demands of the Workplace with the Needs of the Modern Family: Expanding Family and Medical Leave to Protect Domestic Partners*, 37 U. MICH. J.L. REFORM 837 (2004).

Greg Johnson, *Civil Union, A Reappraisal*, 30 VT. L. REV. 891 (2006) (Vermont).

Eric J. Lobsinger, Comment, *A National Model for Reconciling Equal Protection for Same-Sex Couples With State Marriage Amendments: Alaska Civil Liberties Union ex rel. Carter v. Alaska*, 23 ALASKA L. REV. 117 (2006) (Alaska).

348 *Journal of the American Academy of Matrimonial Lawyers*

Kaiponanea T. Matsumura, Comment, *Reaching Backward While Looking Forward: The Retroactive Effect of California's Domestic Partner Rights and Responsibilities Act*, 54 UCLA L. REV. 185 (2006) (California).

Neal S. Schelberg & Carrie L. Mitnick, *Same-Sex Marriage: The Evolving Landscape for Employee Benefits*, 22 HOFSTRA LAB. & EMP. L.J. 65 (2004).

Richard A. Wilson, *The State of the Law Protecting and Securing the Rights of Same-Sex Partners in Illinois Without Benefit of Statutory Rights Accorded Heterosexual Couples*, 38 LOY. U. CHI. L.J. 323 (2007) (Illinois).

#### Fatherhood and Paternity (See also Adoption)

Katharine K. Baker, *Bargaining or Biology? The History and Future of Paternity Law and Parental Status*, 14 CORNELL J.L. & PUB. POL'Y 1 (2004) (maintaining that fatherhood should not be based on biology, but on commitment or contract with the mother).

Nancy E. Dowd, *Parentage at Birth: Birthfathers and Social Fatherhood*, 14 WM. & MARY BILL RTS. J. 909 (2006) (offering a draft revision of the Uniform Parentage Act that would recognize social fatherhood and permit more than one person to be a father).

Jill E. Evans, *In Search of Paternal Equity: A Father's Right to Pursue a Claim of Misrepresentation of Fertility*, 36 LOY. U. CHI. L.J. 1045 (2005) (concluding that misrepresentation of fertility or contraceptive use should not constitute a tort).

Ronald K. Henry, *The Innocent Third Party: Victims of Paternity Fraud*, 40 FAM. L.Q. 51 (2006) (examining the pressure that federal statutes impose on identification of biological fathers and the rise in paternity fraud claims).

Melanie B. Jacobs, *When Daddy Doesn't Want to Be Daddy Anymore: An Argument Against Paternity Fraud Claims*, 16 YALE J.L. & FEMINISM 193 (2004) (explaining the ways legal fathers try to disestablish paternity).

Niccol Kording, *Nature v. Nurture: Children Left Fatherless and Family-Less When Nature Prevails in Paternity Actions*, 65 U. PITT. L. REV. 811 (2004) (examining the role of biology in defining parent-child relationships and critiquing constitutional doctrine that gives preference to marital relationships).

Paula Roberts, *Truth and Consequences: Part I. Disestablishing the Paternity of Non-Marital Children*, 37 FAM. L.Q. 35 (2003) (explaining the establishment of paternity, rescission of paternity acknowledgements, and challenges to paternity acknowledgements, as well as constitutional claims that attempt to disestablish paternity).

Paula Roberts, *Truth and Consequences: Part II. Questioning the Paternity of Marital Children*, 37 FAM. L.Q. 55 (2003) (considering cases in which paternity is disestablished in a divorce decree or questioned by a paramour, as well as statutory approaches addressing the disestablishment of paternity).

Paula Roberts, *Truth and Consequences: Part III. Who Pays When Paternity Is Disestablished?*, 37 FAM. L.Q. 69 (2003) (examining state statutes and judicial decisions that permit the cessation of support payments and forgive arrearages when paternity is disestablished).

Jana Singer, *Marriage, Biology, and Paternity: The Case for Revitalizing the Marital Presumption*, 65 MD. L. REV. 246 (2006) (presenting the case for using marriage to determine legal parenthood).

E. Gary Spitko, *The Constitutional Function of Biological Paternity: Evidence of the Biological Mother's Consent to the Biological Father's Co-parenting of Her Child*, 48 ARIZ. L. REV. 97 (2006) (critiquing constitutional cases regarding an unwed father's right to establish a biological relationship with his child).

---

Michele A. Adams, *Framing Contests in Child Custody Disputes: Parental Alienation Syndrome, Child Abuse, Gender, and Father's Rights*, 40 FAM. L.Q. 315 (2006).

Kimya Bush, Note, *WWII: The Stepparent War—The Use of Equitable Estoppel to Prevent a Stepparent from Denying Paternity*

350 *Journal of the American Academy of Matrimonial Lawyers*

in *Connecticut*, 17 QUINNIPIAC PROB. L.J. 131 (2003) (Connecticut).

Jayna Morse Cacioppo, Note, *Voluntary Acknowledgements of Paternity: Should Biology Play a Role in Determining Who Can Be a Legal Father?*, 38 IND. L. REV. 479 (2005).

Robbin Pott Gonzalez, *The Rights of Putative Fathers to Their Infant Children in Contested Adoptions: Strengthening State Laws That Currently Deny Adequate Protection*, 13 MICH. J. GENDER & L. 39 (2006).

Anne Greenwood, Comment, *Predatory Paternity Establishment: A Critical Analysis of the Acknowledgement of Paternity Process in Texas*, 35 ST. MARY'S L.J. 421 (2004) (Texas).

Ronald K. Henry, *The Innocent Third Party: Victims of Paternity Fraud*, 40 FAM. L.Q. 51 (2006).

Melanie B. Jacobs, *My Two Dads: Disaggregating Biological and Social Paternity*, 38 ARIZ. ST. L.J. 809 (2006).

Lucie R. Kantrow, Comment, *Presumption Junction: Honey, You Weren't Part of the Function—A Louisiana Mother's New Right to Contest Her Husband's Paternity*, 67 LA. L. REV. 633 (2007) (Louisiana).

Cynthia R. Mabry, *Disappearing Acts: Encouraging Fathers to Reappear for Their Children*, 7 J. L. & FAM. STUD. 111 (2005).

Solangel Maldonado, *Beyond Economic Fatherhood: Encouraging Divorced Fathers to Parent*, 153 U. PA. L. REV. 921 (2005).

Solangel Maldonado, *Deadbeat or Dead Broke: Redefining Child Support for Poor Fathers*, 39 U.C. DAVIS L. REV. 991 (2006).

Claire L. McKenna, Note, *To Unknown Male: Notice of Plan for Adoption in the Florida 2001 Adoption Act*, 79 NOTRE DAME L. REV. 789 (2004) (Florida).

Laura Oren, *The Paradox of Unmarried Fathers and the Constitution: Biology "Plus" Defines Relationships; Biology Alone Safeguards the Public Fisc*, 11 WM. & MARY J. WOMEN & L. 47 (2004).



Jeffrey A. Parness, *New Federal Paternity Laws: Securing More Fathers at Birth for the Children of Unwed Mothers*, 45 BRANDEIS L.J. 59 (2006).

Jeffrey A. Parness, *No Genetic Ties, No More Fathers: Voluntary Acknowledgement Rescissions and Other Paternity Disestablishments Under Illinois Law*, 39 J. MARSHALL L. REV. 1295 (2006) (Illinois).

Katherine Shaw Spaht, *Who's Your Momma, Who Are Your Daddies? Louisiana's New Law of Filiation*, 67 LA. L. REV. 307 (2007) (Louisiana).

#### Lesbian, Gay, Bisexual, and Transgendered Parents

Susan Frelich Appleton, *Presuming Women: Revisiting the Presumption of Legitimacy in the Same-Sex Couples Era*, 86 B.U. L. REV. 227 (2006) (arguing for an extension of the presumption of legitimacy to lesbian mothers, but not to gay fathers).

Carlos A. Ball, *Lesbian and Gay Families: Gender Nonconformity and the Implications of Difference*, 31 CAP. U. L. REV. 691 (2003) (addressing comprehensively the research about parenting by gays and lesbians, with special attention to the recommendation of the American Academy of Pediatrics' Committee on Psychosocial Aspects of Child and Family Health, following a meta-review of studies, that the best interests of children are served by allowing gays and lesbians to be parents).

Leah C. Battaglioli, Comment, *Modified Best Interest Standard: How States Against Same-Sex Unions Should Adjudicate Child Custody and Visitation Disputes Between Same-Sex Couples*, 54 CATH. U. L. REV. 1235 (2005) (addressing various state approaches to non-adoptive, non-biological parents who seek custody or visitation rights and urging adoption of a best interest of the child standard modified by consideration of who fulfills the roles of psychological parent to the child).

Helen Y. Chang, *My Father Is a Woman, Oh No!: The Failure of the Courts to Uphold Individual Substantive Due Process Rights For Transgendered Parents Under the Guise of the Best Interest of the Child*, 43 SANTA CLARA L. REV. 649 (2003) (evaluating judicial decisions regarding child custody by transgendered parents).

352 *Journal of the American Academy of Matrimonial Lawyers*

Deborah L. Forman, *Same-Sex Partners: Strangers, Third Parties, or Parents? The Changing Legal Landscape and the Struggle for Parental Equality*, 40 *FAM. L.Q.* 23 (2006) (evaluating the transformation of same-sex parents from strangers to co-parents or functional parents).

Kris Franklin, *The "Authoritative Moment": Exploring the Boundaries of Interpretation in the Recognition of Queer Families*, 32 *WM. MITCHELL L. REV.* 655 (2006) (examining how the patchwork of court decisions in such areas as estate law, adoption, name change petitions are building a mosaic for recognition of LGBT families).

Gregory M. Herek, *Legal Recognition of Same-Sex Relationships in the United States*, 61 *AM. PSYCHOLOGIST* 607 (2006) (collecting studies used by the American Psychological Association in amicus briefs about the capabilities of gay and lesbian parents).

Marika E. Kitamura, *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 Proceedings*, 5 *WHITTIER J. CHILD & FAM. ADVOC.* 227 (2005) (reviewing the case law regarding the validity of transsexual marriages and child custody and support proceedings emanating from them).

Margaret S. Osborne, Note, *Legalizing Families: Solutions to Adjudicate Parentage for Lesbian Co-Parents*, 49 *VILL. L. REV.* 363 (2004) (exploring the use of pre-birth decrees and second parent adoption to formalize co-parents' rights as well as concepts of de facto parentage to obtain rights after a relationship dissolves).

Lauren Schwartzreich, *Restructuring the Framework for Legal Analysis of Gay Parenting*, 21 *HARV. BLACKLETTER L.J.* 109 (2005) (examining scientific research supporting the parenting skills of gays and lesbians).

---

Bradley Berg, *The Three Parent Case: Family Law in the New Millennium*, [http://afccnet.org/members/2007FEB-family\\_law\\_in\\_the\\_new\\_millennium.asp](http://afccnet.org/members/2007FEB-family_law_in_the_new_millennium.asp) (last visited June 9, 2007) (AA BB CC, Jan. 2, 2007, Ontario Court of Appeals) (recognizing biological mother's same-sex partner as third parent).

Stefan H. Black, *A Step Forward: Lesbian Parentage After Elisa B. v. Superior Court*, 17 GEO. MASON U. CIV. RTS. L.J. 237 (2006) (California).

Deborah L. Forman, *Interstate Recognition of Same Sex Parents in the Wake of Gay Marriage, Civil Unions, and Domestic Partnerships*, 46 B.C. L. REV. 1 (2005).

Deborah L. Forman, *Married with Kids and Moving: Achieving Recognition for Same-Sex Parents Under the Uniform Parentage Act*, 4 WHITTIER J. CHILD & FAM. ADVOC. 241 (2005).

Nadine A. Gartner, *Lesbian (M)otherhood: Creating an Alternative Model for Settling Child Custody Disputes*, 16 LAW & SEXUALITY 45 (2007).

Oren Goldhaber, Note, *"I Want My Mommies": The Cry for Mini-DOMAs to Recognize the Best Interests of the Children of Same-Sex Couples*, 45 FAM. CT. REV. 287 (2007).

Stephen J. Hyland, *The Changing and Uncertain Status of Same-Sex Families*, 236 N.J. LAW. 16 (Oct. 2005) (New Jersey).

Courtney G. Joslin, *The Legal Parentage of Children Born to Same-Sex Couples: Developments in the Law*, 39 FAM. L.Q. 683 (2005).

Olga V. Kotlyarevskaya & Sara B. Poster, *Separation Anxiety Among California Courts: Addressing the Confusion Over Same Sex Partners' Parentage Claims*, 10 U.C. DAVIS J. JUV. L. & POL'Y 153 (2006) (California).

Benjamin G. Ledsham, Note, *Means to Legitimate Ends: Same-Sex Marriage Through the Lens of Illegitimacy-Based Discrimination*, 28 CARDOZO L. REV. 2373 (2007).

Felice T. Londa, *Two Mommies or Two Daddies: Child Custody Issues for Gay and Lesbian Couples*, 239 N.J. LAW. 27 (Apr. 2006) (New Jersey).

Maggie Manternach, *Where Is My Other Mommy? Applying the Presumed Father Provision of the Uniform Parentage Act to Recognize the Rights of Lesbian Mothers and Their Children*, 9 J. GENDER RACE & JUST. 385 (2005).

354 *Journal of the American Academy of Matrimonial Lawyers*

Nancy G. Maxwell & Richard Donner, *The Psychological Consequences of Judicially Imposed Closets in Child Custody and Visitation Disputes Involving Gay or Lesbian Parents*, 13 WM. & MARY J. WOMEN & L. 305 (2006).

David D. Meyer, *A Privacy Right to Public Recognition of Family Relationships? The Cases of Marriage and Adoption*, 51 VILL. L. REV. 891 (2006).

Kimberly D. Richman, *(When) Are Rights Wrong? Rights Discourses and Indeterminacy in Gay and Lesbian Parents' Custody Cases*, 30 LAW & SOC. INQUIRY 137 (2005).

Ellen D. B. Riggle et al., *The Execution of Legal Documents by Sexual Minority Individual*, 11 PSYCHOL. PUB. POL'Y & L. 138 (2005).

Thomas G. Robinson-O'Neill, Comment, *Making Mommies: The Washington State Court of Appeals Exceeded Its Authority by Creating a Common Law Parentage Action in In re Parentage of L.B.*, 79 WASH. L. REV. 1209 (2004) (Washington).

### **Family Court Reform (See also Nonjudicial Resolution)**

Susan Chandler & Marilou Giovannucci, *Family Group Conferences: Transforming Traditional Child Welfare Policy and Practice*, 42 FAM. CT. REV. 216 (2004) (explaining the model of family group conferences that tries to avoid removing children from families by incorporating supportive community services).

---

Lowell D. Castleton et al., *Ada County Family Violence Court: Shaping the Means to Better the Result*, 39 FAM. L.Q. 27 (2005) (Idaho).

Alicia M. Homrich et al., *The Court Care Center for Divorcing Families*, 42 FAM. CT. REV. 141 (2004) (Florida).

Dana E. Prescott, *Child Protection: Kinship and Family Group Conferencing*, 19 ME. B.J. 140 (Summer 2004) (Maine).

Carolyn D. Schwarz, *Pro Se Divorce Litigants: Frustrating the Traditional Role of the Trial Court Judge and Court Personnel*, 42 FAM. CT. REV. 655 (2004).

Symposium, *A Dialogue on Mental Health Courts*, 11 PSYCHOL., PUB. POL'Y & L. 507 (Bruce J. Winick & Susan Stefan, guest eds., 2005).

### Unified Family Court

James W. Bozzomo & Gregory Scolieri, *A Survey of Unified Family Courts: An Assessment of Different Jurisdictional Models*, 42 FAM. CT. REV. 12 (2004) (reviewing various states' experiments with unified family courts, and looking at their common characteristics, such as an integration of social services, comprehensive jurisdiction over all familial legal issues from matrimonial to juvenile delinquency to child protection).

Gerald W. Hardcastle, *Adversarialism and the Family Court: A Family Court Judge's Perspective*, 9 U.C. DAVIS J. JUV. L. & POL'Y 57 (2005) (raising concerns that the absence of adversarial process and the greater location of power in family court judges will result in a more inquisitorial and dictatorial system with greater government control of family matters and accompanying due process problems).

Eric Lane, *Due Process and Problem-Solving Courts*, 30 FORDHAM URB. L.J. 955 (2003) (addressing due process concerns raised by specialized courts, such as drug courts and domestic violence courts).

Andrew Schepard & James W. Bozzomo, *Efficiency, Therapeutic Justice, Mediation, and Evaluation: Reflections on a Survey of Unified Family Courts*, 37 FAM. L.Q. 333 (2003) (survey respondents addressed the reasons for creating a unified family court, the various services provided, and their impressions of how the courts were working).

---

American Bar Association Coordinating Council on Unified Family Courts, *What Is a Unified Family Court?*, <http://www.abanet.org/unifiedfamcrt/about.html> (last visited Feb. 18, 2007).

356 *Journal of the American Academy of Matrimonial Lawyers*

Deborah J. Chase, *Pro Se Justice and Unified Family Courts*, 37 *FAM. L.Q.* 403 (2003).

Gloria Danziger, *Delinquency Jurisdiction in a Unified Family Court: Balancing Intervention, Prevention, and Adjudication*, 37 *FAM. L.Q.* 381 (2003).

*Developments in the Law—The Law of Marriage and Family: Unified Family Courts and the Child Protection Dilemma*, 116 *HARV. L. REV.* 1997 (2003).

Anne H. Geraghty & Wallace J. Mlyniec, *Unified Family Courts: Tempering Enthusiasm With Caution*, 40 *FAM. CT. REV.* 435 (2002).

Alicia M. Homrich et al., *The Court Care Center for Divorcing Families*, 42 *FAM. CT. REV.* 141 (2004) (Florida).

Amy Kosanovich & Michael J. Chmiel, *One Family in Two Courts: Coordination for Families in Illinois Juvenile and Domestic Relations Courts*, 37 *LOY. U. CHI. L.J.* 571 (2006) (Illinois).

Erin J. May, Note, *Social Reform for Kentucky's Judicial System: The Creation of Unified Family Courts*, 92 *KY. L.J.* 571 (2004) (Kentucky).

Jim Moye, *Don't Tread on Me to Help Me: Does the District of Columbia Family Court Act of 2001 Violate Due Process by Extolling the "One Family, One Judge" Theory?*, 57 *SMU L. REV.* 1521 (2004) (D.C.).

Carolyn D. Schwarz, *Unified Family Courts: A Saving Grace for Victims of Domestic Violence Living in Nations with Fragmented Court Systems*, 42 *FAM. CT. REV.* 304 (2004).

Catherine Shaffer, *Therapeutic Domestic Violence Courts: An Efficient Approach to Adjudication?*, 27 *SEATTLE U. L. REV.* 981 (2004).

James T. Tucker, Annotation, *Family Court Jurisdiction to Hear Contract Claims*, 46 *A.L.R. 5TH* 735 (1997 & Supp. 2007).

Claudia Wright, *Representation of Children in a Unified Family Court System in Florida*, 14 U. FLA. J.L. & PUB. POL'Y 179 (2003) (Florida).

### **Family Law Education Reform**

Mary E. O'Connell & J. Herbie DiFonzo, *The Family Law Education Reform Project Final Report*, 44 FAM. CT. REV. 524 (2006) (emphasizing curricular changes to prepare law students to practice family law, including interdisciplinary training, alternative dispute resolution paths, an emphasis on skills, and a broad base of knowledge in areas such as tax, real estate, and health insurance).

---

Gregory Baker & Jennifer Zawid, *The Birth of a Therapeutic Courts Externship Program: Hard Labor But Worth the Effort*, 17 ST. THOMAS L. REV. 711 (2005).

Joshua D. Rosenberg, *Interpersonal Dynamics: Helping Lawyers Learn the Skills, and the Importance of Human Relationships in the Practice of Law*, 58 U. MIAMI L. REV. 1225 (2004).

Suzanne J. Schmitz, *The Role of Law Schools in Improving Access to Justice: The Story of the Southern Illinois University School of Law and the Family Mediation Program*, 28 S. ILL. U. L.J. 1 (2003) (Illinois).

David V. Snyder, *Using Therapeutic Jurisprudence in Teaching Lawyering Skills: Meeting the Challenge of the New ABA Standards*, 17 ST. THOMAS L. REV. 429 (2005).

*Special Issue: The Family Law Education Reform Project*, 44 FAM. CT. REV. 513 (Oct. 2006).

Christina A. Zawisza & Adela Beckerman, *Two Heads Are Better Than One: The Case-Based Rationale for Dual Disciplinary Teaching in Child Advocacy Clinics*, 7 FLA. COASTAL L. REV. 631 (2006).

### **Immigration**

Nicole Lawrence Ezer, *The Intersection of Immigration Law and Family Law*, 40 FAM. L.Q. 339 (2006) (providing an introduction

358 *Journal of the American Academy of Matrimonial Lawyers*

on sponsoring a noncitizen, marriage, and divorce of an alien, as well as tips for representing nonimmigrant and illegal alien clients).

Barbara Stark, *When Globalization Hits Home: International Family Law Comes of Age*, 39 VAND. J. TRANSNAT'L L. 1551 (2006) (explaining that in an era of increasing globalization, international human rights norms—particularly to gender equality and economic rights—can challenge domestic law and fill in gaps).

---

Eleanor Acer, *Refuge in an Insecure Time: Seeking Asylum in the Post 9/11 United States*, 28 FORDHAM INT'L L.J. 1361 (2005).

Christopher S. Carroll, *Representing the Alien in Removal Proceedings*, 18 DCBA BRIEF 14 (Nov. 2005).

Rebecca H. Gutner, *A Neglected Alternative: Toward a Workable Standard for Implementing Humanitarian Asylum*, 39 COLUM. J.L. & SOC. PROBS. 413 (2006).

Kathryn A. Dittrick Heebner, Comment, *Protecting the Truly Persecuted: Restructuring the Flawed Asylum System*, 39 U.S.F. L. REV. 549 (2005).

Alida Yvonne Lasker, Note, *Solomon's Choice: The Case for Granting Derivative Asylum to Parents*, 32 BROOK. J. INT'L L. 231 (2006).

Laura L. Lichter, *Nuts and Bolts of Family-Based Immigration*, SM018 ALI-ABA 229 (Apr. 26-27, 2007).

Lori A. Nessel, *Forced to Choose: Torture, Family Reunification, and United States Immigration Policy*, 78 TEMP. L. REV. 897 (2005).

Monica Saxena, *More Than Mere Semantics: The Case for an Expansive Definition of Persecution in Sexual Minority Asylum Claims*, 12 MICH. J. GENDER & L. 331 (2006).

Amber J. Tafoya, *Family-Based Immigration: Answers to Frequently Asked Questions*, 35 COLO. LAW. 47 (Oct. 2006).



Danuta Villarreal, Comment, *To Protect the Defenseless: The Need for Child-Specific Substantive Standards for Unaccompanied Minor Asylum Seekers*, 26 HOUS. J. INT'L L. 743 (2004).

Sarah M. Wood, Note, *VAWA's Unfinished Business: The Immigrant Women Who Fall Through the Cracks*, 11 DUKE J. GENDER L. & POL'Y 141 (2004).

Amy K.R. Zaske, Note, *Love Knows No Borders: The Same-Sex Marriage Debate and Immigration Laws*, 32 WM. MITCHELL L. REV. 625 (2006).

## Legal Profession

Anthony Alfieri, *The Fall of Legal Ethics and the Rise of Risk Management*, 94 GEO. L.J. 1909 (2006) (positing that the adoption of complicated systems of managing risks, such as advisors, conflicts check mechanisms, and external consultants and audits, has decreased the thought given to complex moral issues and ethical choices).

Lynn A. Epstein, *The Technology Challenge: Lawyers Have Finally Entered the Race But Will Ethical Hurdles Slow the Pace?*, 28 NOVA L. REV. 721 (2004) (covering rainmaking, client communications, electronic discovery and electronic filing).

Gretchen M. Nelson, *Practicing Law Ethically in a Changing Technological World*, 35 BRIEF 32 (Spring 2006) (evaluating the Model Rules and ABA Formal Opinions applicable to internet advertising and client e-mail communications).

Douglas Zucker, *Success by Design*, 25 LEGAL MGMT. 43 (Oct./Nov. 2006) (discussing location of attorney offices, new models for sharing secretaries, the accessibility of firm services, and collaborative meeting spaces).

---

James I. Averitt, Comment, *Legal Ethics and the Internet: Defining a Lawyer's Professional Responsibility in a New Sphere*, 29 J. LEGAL PROF. 171 (2004-05).

Ethan S. Burger & Carol M. Langford, *The Future of Legal Ethics: Some Potential Effects of Globalization & Technological*

360 *Journal of the American Academy of Matrimonial Lawyers*

*Change on Law Practice Management in the Twenty-First Century*, 15 WIDENER L.J. 267 (2006).

Cynthia L. Fountaine, *When Is a Computer a Lawyer? Interactive Legal Software, Unauthorized Practice of Law, and the First Amendment*, 71 U. CIN. L. REV. 147 (2002).

J. T. Westermeier, *Ethics and the Internet*, 17 GEO. J. LEGAL ETHICS 267 (2004).

#### Advertising Through Internet Ads, Blogs, and Websites

Mary Katherine Danna, *Putting Your Firm on the Web*, 93 ILL. B.J. 572 (Nov. 2005) (assessing directory listing services, client referral services, and firm web sites).

Wendy Davis, *Getting Noticed*, 25 LEGAL MGMT. 72 (Mar./Apr. 2006) (discussing blogs that market to other lawyers and corporate counsel and individual market segments, as well as podcasts, clipping services, and technology support for blogs).

Jason Krause, *Making Rain on the Net: Today's Web Offers a Wide World of Marketing Tactics, if You're Savvy*, 92 A.B.A. J. 46 (Aug. 2006) (quoting a 2004-2005 ABA Legal Technology Survey that "all firms with 50 or more lawyers now have Web sites, and 68 percent of all firms have a site," discussing ways to make web sites distinctive, buying search engine ads, and creating friendly "landing pages" that create more web hits)

John Sirman, *Law Firms Test the Waters*, 69 TEX. B.J. 842 (Oct. 2006) (discussing the purchase of search engine advertisements).

---

Charles C. Abut, *New Jersey Family Law*, [http://njdivorceblog.typepad.com/new\\_jersey\\_divorce\\_law\\_me/archives.html](http://njdivorceblog.typepad.com/new_jersey_divorce_law_me/archives.html) (last visited June 8, 2007).

Robert J. Ambrogi, *Legal Online: "Mini-Sites" for Practice Areas*, 63 BENCH & B. MINN. 21 (Mar. 2006).

Michelle G. Falkow, *Visual Literacy and the Design of Legal Web Sites*, 97 LAW LIBR. J. 435 (2005).

Christopher Hurd, Note, *Untangling the Wicked Web: The Marketing of Legal Services on the Internet and the Model Rules*, 17 GEO. J. LEGAL ETHICS 827 (2004).

Sarah Kellogg, *Do You Blog?*, 17 S.C. LAW. 31 (July 2005).

*Law Firm Marketing Now Dependent on Search Engine Optimization*, 06-6 LAW OFF. MGMT. & ADMIN. REP. 1 (June 2006).

Nia Marie Monroe, Current Development, *The Need for Uniformity: Fifty Separate Voices Lead to Disunion in Attorney Internet Advertising*, 18 GEO. J. LEGAL ETHICS 1005 (2005).

Mark Rosch, *Effective Marketing With a Website*, 22 GPSOLO 22 (June 2005).

Daniel J. Siegel, *Weave a Web Site That Attracts Clients*, 43 TRIAL 39 (Jan. 2007).

Steven T. Taylor, *An Innovative Canadian Firm Makes Gutsy Decision and Goes Video-Pod*, 25 OF COUNSEL 3 (Aug. 2006).

#### Billing Practices

Ellen Freedman, *Taking the Mystery Out of Setting and Raising Rates*, 28 PA. LAW. 48 (Nov./Dec. 2006)(offering considerations for rate-setting methods, including benchmarking, market rates, and a formula).

Mark D. Wolf, *It's 'ACES': An Alternative Billing Model That Really Works*, 24 ALTERNATIVES TO HIGH COST LITIG. 177 (Dec. 2006) (describing a billing model for law firms working with corporate clients, in which the firm reserves a portion of the total fees and recoups that based on client satisfaction).

---

Dean R. Dietrich, *Earning a Bonus for Successful Results*, 79 WIS. LAW. 20 (Feb. 2006) (Wisconsin).

#### Discrete Task or Limited Scope Representation

ABA SECTION OF LITIGATION, HANDBOOK ON LIMITED SCOPE LEGAL ASSISTANCE, A REPORT OF THE MODEST MEANS TASK FORCE (2003), <http://abanet.org/litigation/taskforces/modest/report.pdf> (explaining different varieties of limited scope represen-

tation, from hotline questions to coaching in mediation and litigation to on-line information, coverage of malpractice insurance, ethical issues arising with limited representation, and state and local initiatives and programs).

John M. Greacen, *The Status of Unbundled Legal Services*, 43 JUDGES' J. 39 (Spring 2004) (noting the encouragement of the ABA toward unbundling by both the Multijurisdictional Practice Commission and the ABA Standing Committee on Ethics and Professional Responsibility, the ethical limitations on the practice in Rule 1.2, and the controversial practice of ghostwriting).

Special Issue, *Unbundled Legal Services and Unrepresented Family Court Litigants*, 40 FAM. CT. REV. 10 (2002) (including the development of the concept of unbundling, essays on judicial experiences with discussion of various forms, and an appendix with helpful websites).

---

Brenda Star Adams, "*Unbundled Legal Services*": *A Solution to the Problems Caused by Pro Se Litigation in Massachusetts's Civil Courts*, 40 NEW ENG. L. REV. 303 (2005) (Massachusetts).

American Bar Association Standing Committee on the Delivery of Legal Services, Pro Se/Unbundling Resource Center, [www.abanet.org/legalservices/delivery/delunbund.html](http://www.abanet.org/legalservices/delivery/delunbund.html) (last visited June 17, 2007).

Barrie Althoff, *Ethical Issues Posed by Limited Scope Representation—The Washington Experience*, 2004 PROF. LAW. 67 (Washington).

Kathleen Bird, *A Look at Unbundling of Legal Services*, 63 J. MO. B. 18 (Jan./Feb. 2007) (Missouri).

Rochelle Klempner, *Unbundled Legal Services in New York State Litigated Matters: A Proposal to Test the Efficacy Through Law School Clinics*, 30 N.Y.U. REV. L. & SOC. CHANGE 653 (2006) (New York).

Maryland Legal Assistance Network, "Unbundled" Legal Services, <http://www.unbundledlaw.org> (last visited July 16, 2007).

James M. McCauley, *Some Basic Ethical and Practical Rules Relating to Unbundling of Legal Services*, 2004 PROF. LAW. 63.

James M. McCauley, *Unbundling Legal Services: The Ethics of "Ghostwriting" Pleadings for Pro Se Litigants*, 2004 PROF. LAW. 59.

Liz Pejeau, *Limited Scope Representation: Making Representation Affordable . . . and Ethical*, 48 ORANGE COUNTY LAW. 38 (Oct. 2006) (California).

Lauren A. Weeman, Note, *Bending the (Ethical) Rules in Arizona: Ethics Opinion 056-06's Approval of Undisclosed Ghostwriting May Be a Sign of Things to Come*, 19 GEO. J. LEGAL ETHICS 1041 (2006) (Arizona).

Anthony Zapata, *Legal "Ghostwriting" in Indiana: An Analysis*, 49 RES GESTAE 20 (Sep. 2005) (Indiana).

#### E-Mail and Internet Security and Confidentiality

Mark Bassingthwaighe, *Ten Technology Traps and How To Avoid Them*, 2006 W. VA. LAW. 34 (Oct. 2006) (covering backups, spam filters, antivirus programs, electronic shredding, mirrored hard drives, and other security risks).

Daniel Kamitaki, Note, *Beyond E-Mail: Threats to Network Security and Privileged Information for the Modern Law Firm*, 15 S. CAL. INTERDISC. L.J. 307 (2006) (providing an introduction to the technology of local area networks and wireless networks in law firms as well as their possible vulnerabilities to hacking; explaining the way virtual private networks offer secure access to the internet; also evaluating the law of inadvertent disclosures and attorney-client privilege).

---

Andrew Beckerman-Rodau, *Ethical Risks from the Use of Technology*, 31 RUTGERS COMPUTER & TECH. L.J. 1 (2004).

Camille Calman, Note, *Spy Vs. Spouse: Regulating Surveillance Software on Shared Marital Computers*, 105 COLUM. L. REV. 2097 (2005).

364 *Journal of the American Academy of Matrimonial Lawyers*

Joshua L. Colburn, Note, “*Don’t Read This If It Is Not for You*”: *The Legal Inadequacies of Modern Approaches to E-Mail Privacy*, 91 MINN. L. REV. 241 (2006).

John D. Comerford, *Competent Computing: A Lawyer’s Ethical Duty to Safeguard the Confidentiality and Integrity of Client Information Stored on Computers and Computer Networks*, 19 GEO. J. LEGAL ETHICS 629 (2006).

David Hricik & Amy Falkingham, *Lawyers Still Worry Too Much About Transmitting E-Mail Over the Internet*, 10 J. TECH. L. & POL’Y 265 (2005).

Gopal S. Patel, Note, *E-mail Communication and the Attorney-Client Privilege: An Ethical Quagmire*, 26 WHITTIER L. REV. 685 (2004).

Douglas R. Richmond, *Key Issues in the Inadvertent Release and Receipt of Confidential Information*, 72 DEF. COUNS. J. 110 (Apr. 2005).

Mikah Story, *Twenty-First Century Pillow Talk: Applicability of the Marital Communications Privilege to Electronic Mail*, 58 S.C. L. REV. 275 (2006).

Eric Van Buskirk, *Information Security 101: Protecting Yourself and Your Clients*, 43 ARIZ. ATT’Y 34 (Oct. 2006).

#### Personnel and Outsourcing

Alison M. Kadzik, Note, *The Current Trend to Outsource Legal Work Abroad and the Ethical Issues Related to Such Practices*, 19 GEO. J. LEGAL ETHICS 731 (2006) (recognizing that lawyers who are not licensed to practice in the United States are limited in the types of work they can perform for U.S. clients, and discussing concerns of confidentiality, client disclosures, and attorney supervision).

Steven A. Meyerowitz, *New Jobs for New Times*, 28 PA. LAW. 32 (July/Aug. 2006) (describing new organizational behavior positions in law firms that help develop business and assist with employee retention, such as “client analysis” experts who research the profiles of law firm clients and likely clients and evaluate emerging business trends, directors of “professional and personal

life integration” who assist attorneys with balancing work and home life).

---

Sharon D. Nelson & John W. Simek, *Disgruntled Employees in Your Law Firm: The Enemy Within*, 29 WYO. LAW. 22 (Aug. 2006).

Jennifer Skarda-McCann, Comment, *Overseas Outsourcing of Private Information & Individual Remedies for Breach of Privacy*, 32 RUTGERS COMPUTER & TECH. L.J. 325 (2006).

#### Provision of Legal Services on the Internet

Melissa Blades & Sarah Vermynen, Note, *Virtual Ethics for a New Age: The Internet and the Ethical Lawyer*, 17 GEO. J. LEGAL ETHICS 637 (2004) (describing what internet services are considered the practice of law and evaluating the applicable legal rules).

Allen W. Chiu, Note, *The Ethical Limits of ELawyering: Resolving the Multijurisdictional Dilemma of Internet Practice Through Strict Enforcement*, 2004 UCLA J. L. & TECH. NOTES 1 (considering whether offering legal advice over the internet constitutes the unauthorized practice of law, the ethical rules regarding the multijurisdictional aspect of the practice, and possible tort malpractice remedies).

---

Peter Bovingdon, *Training Offered in Family Law HotDocs: MLSA Sets up Web Site to Show Lawyers, Paralegals Proper Forms*, 31 MONT. LAW. 21 (May 2006) (Montana).

Jason Krause, *The E-Law Experience: Some, But Not All, Find Virtual Success Unbundling Legal Services on the Web*, 92 A.B.A. J. 57 (Sep. 2006).

John Levin, *The Virtual Law Office*, 20 CBA REC. 65 (Nov. 2006) (North Carolina).

Margaret Hensler Nicholls, *A Quagmire of Internet Ethics Law and the ABA Guidelines for Legal Website Providers*, 18 GEO. J. LEGAL ETHICS 1021 (2005).

366 *Journal of the American Academy of Matrimonial Lawyers*

Douglas K. Schnell, Note, *Don't Just Hit Send: Unsolicited E-Mail and the Attorney-Client Relationship*, 17 HARV. J.L. & TECH. 533 (2004).

### Technology

Jason Krause, *The Top Ten in Tech: From Practical Systems to Glitzy Gadgets, These Things May Serve—or Save—Your Practice*, 91 A.B.A. J. 38 (Dec. 2005) (covering data destroyers, e-filing software, scanners, internet phones, protected e-mail and data security).

*Legal Timekeeping and Billing*, 24 LAW. PC 31 (Nov. 15, 2006) (providing a list and description of computer hardware and software for billing).

Brock R. Wood, *Law Office Software 101: An Overview of Software Solutions for Law Firms*, 35 COLO. LAW. 89 (Mar. 2006) (covering types of software available for: case management, document management, billing, litigation support, and trial presentation).

---

American Bar Association, Legal Technology Resource Center, <http://www.abanet.org/tech/ltrc/> (last visited July 18, 2007).

Allan A. Cease, *Technology for the Solo/Small Office Law Firm*, 2 ANN. 2005 ATLA-CLE 1759 (2005).

Melody Finnemore, *Beyond Paperless: Trends in Legal Technology*, 67 OR. ST. B. BULL. 17 (Jan. 2007).

Katrina Grider, *Goodbye Flip Charts, Hello Plasma Screens*, 68 TEX. B.J. 567 (July 2005).

Daniel E. Harmon, *Law Tech Blogs: What Are Legal Professionals Doing With "Blawgs"? Lots!*, 22 LAW. PC 1 (Apr. 15, 2005).

H. Lee Murphy, *Lawyers and Their Toys: Playing with the Latest Gadgets Can Be a Boon for Your Firm*, 24 LEGAL MGMT. 43 (Jan./Feb. 2005).

Lee S. Rosen, *Top Ten Tips for Maximizing Your Technology Investment*, 27 FAM. ADVOC. 52 (Spring 2005).



Irma S. Russell, *Introduction, 21st Century Law, Technology, and Ethics: The Lawyer's Role as a Public Citizen*, 35 U. MEM. L. REV. 619 (2005).

### **Marriage and Its Alternatives**

Daniel I. Weiner, *The Uncertain Future of Marriage and the Alternatives*, 16 UCLA WOMEN'S L.J. 97 (2007) (considering alternatives to traditional marriage, from domestic partnerships to covenant marriage and what the different forms mean for the social order).

Robin Fretwell Wilson, *Evaluating Marriage: Does Marriage Matter to the Nurturing of Children?*, 42 SAN DIEGO L. REV. 847 (2005) (critiquing traditional studies of family structure and arguing that given the studies' limitations, they should not be used to promote an agenda against same-sex marriage).

Edward A. Zelinsky, *Deregulating Marriage: The Pro-Marriage Case for Abolishing Civil Marriage*, 27 CARDOZO L. REV. 1161 (2006) (arguing that since marriage as an institution is principally religiously-driven, it should be abolished and replaced with a contract-based regime of property allocation).

---

Michèle Alexandre, *Big Love: Is Feminist Polygamy an Oxymoron or a True Possibility?*, 18 HASTINGS WOMEN'S L.J. 3 (2007).

Charlotte K. Goldberg, *The Schemes of Adventuresses: The Abolition and Revival of Common Law Marriage*, 13 WM. & MARY J. WOMEN & L. 483 (2007).

Nicole Licata, *Should Premarital Counseling Be Mandatory as a Requisite To Obtaining a Marriage License?*, 40 FAM. CT. REV. 518 (2002).

Allen M. Parkman, *The Contractual Alternative to Marriage*, 32 N. KY. L. REV. 125 (2005).

#### Covenant Marriage

Nathan Bracken, Note, *Foundational Marriage: A Counteroffer to Covenant Marriage in Utah*, 7 J. L. & FAM. STUD. 427 (2005) (discussing proposed "foundational marriage" legislation in Utah

368 *Journal of the American Academy of Matrimonial Lawyers*

that would reduce state income tax obligations and subsidize marital counseling instead of making it more difficult for parties to divorce).

Katherine Shaw Spaht, *Covenant Marriage Seven Years Later: Its as Yet Unfulfilled Promise*, 65 LA. L. REV. 605 (2005) (drawing on sociologist Steve Nock's research and examining the state of covenant marriage primarily in Louisiana).

Cynthia M. VanSickle, *A Return to the Ant-Feminist Past of Divorce Law: The Implications of the Covenant Marriage Laws as Applied to Women*, 6 J.L. SOC'Y 154 (2005) (noting that although covenant marriage laws have been proposed in 27 states, only Louisiana, Arkansas and Arizona have adopted them, and examining the ways in which these fault-based divorce systems harm women and denigrate non-covenant marriages).

Kristina E. Zurcher, Note, *"I Do" or "I Don't"? Covenant Marriage After Six Years*, 18 NOTRE DAME J.L. ETHICS & PUB. POL'Y 273 (2004) (comparing, in lieu of covenant marriages, community marriage policies available in approximately 190 communities in 40 states, which offer church involvement and model mentor couples).

---

Cynthia DeSimone, Comment, *Covenant Marriage Legislation: How the Absence of Interfaith Religious Discourse Has Stifled the Effort to Strengthen Marriage*, 52 CATH. U. L. REV. 391 (2003).

Peter Hay, *The American "Covenant Marriage" in the Conflict of Laws*, 64 LA. L. REV. 43 (2003).

Daniel W. Olivas, Comment, *Tennessee Considers Adopting the Louisiana Covenant Marriage Act: A Law Waiting to Be Ignored*, 71 TENN. L. REV. 769 (2004) (Tennessee).

Katherine Shaw Spaht, *Covenant Marriage: An Achievable Legal Response to the Inherent Nature of Marriage and Its Various Goods*, 4 AVE MARIA L. REV. 467 (2006).

Domestic Partnerships and Civil Unions (See also Families—Changing Rights and Responsibilities—Domestic Partner Rights and Benefits)

Jennifer A. Drobak & Antony Page, *A Uniform Domestic Partnership Act: Marrying Business Partnership and Family Law*, 41 GA. L. REV. 349 (2007) (proposing a Uniform Domestic Partnership Act for families modeled after business partnership law and distinguishing among enduring, provisional, filial and caregiving partnerships).

Nancy K. Kubasek et al., *Civil Union Statutes: A Shortcut to Legal Equality for Same-Sex Partners in a Landscape Littered with Defense of Marriage Acts*, 15 U. FLA. J.L. & PUB. POL'Y 229 (2004) (suggesting that incremental steps toward parity by obtaining marital rights for same-sex couples through civil unions makes sense).

---

M.V. Lee Badgett & R. Bradley Sears, *Putting a Price on Equality? The Impact of Same-Sex Marriage on California's Budget*, 16 STAN. L. & POL'Y REV. 197 (2005) (California).

Grace Ganz Blumberg, *Legal Recognition of Same-Sex Conjugal Relationships: The 2003 California Domestic Partner Rights and Responsibilities Act in Comparative Civil Rights and Family Law Perspective*, 51 UCLA L. REV. 1555 (2004).

David W. Howenstine, Comment, *Beyond Rational Relations: The Constitutional Infirmities of Ant-Gay Partnership Laws Under the Equal Protection Clause*, 81 WASH. L. REV. 417 (2006).

Same-Sex Marriage

American Bar Association Section of Family Law, *A White Paper: An Analysis of the Law Regarding Same-Sex Marriage, Civil Unions, and Domestic Partnerships*, 38 FAM. L.Q. 339 (2004) (surveying comprehensively the state of the law regarding same-sex unions, including judicial decisions and pending cases, a catalogue of state statutory protections for same-sex partners, and a listing of public and private employment benefits available to same-sex couples).

Cece Cox, *To Have and To Hold—or Not: The Influence of the Christian Right on Gay Marriage Laws in the Netherlands, Ca-*

370 *Journal of the American Academy of Matrimonial Lawyers*

*nada and the United States*, 14 *LAW & SEXUALITY* 1 (2005) (tracing the more progressive attitudes exhibited by other countries toward same-sex marriage).

Developments in the Law, *Inching Down the Aisle: Differing Paths Toward the Legalization of Same-Sex Marriage in the United States and Europe*, 116 *HARV. L. REV.* 2004 (2003) (examining the sweeping trend in Northern and Western Europe toward recognition of same-sex relationships as registered partnerships and ultimately marital unions).

Mark Strasser, *State Marriage Amendments and Overreaching: On Plain Meaning, Good Public Policy and Constitutional Limitations*, 25 *LAW & INEQ.* 59 (2007) (evaluating state constitutional amendments precluding recognition of same-sex marriage and discussing possible constitutional challenges to them).

---

Hema Chatlani, *In Defense of Marriage: Why Same Sex Marriage Will Not Lead Us Down a Slippery Slope Toward the Legalization of Polygamy*, 6 *APPALACHIAN J. L.* 101 (2006).

George W. Dent, Jr., "How Does Same-Sex Marriage Threaten You?", 59 *RUTGERS L. REV.* 233 (2007) (New Jersey).

Ariel Y. Graff, *Free Exercise and Hybrid Rights: An Alternative Perspective on the Constitutionality of Same-Sex Marriage Bans*, 29 *U. HAW. L. REV.* 23 (2006).

Andrew Koppelman, *The Difference the Mini-DOMAs Make*, 38 *LOY. U. CHI. L.J.* 265 (2007).

Elizabeth Larcano, Note, *A "Pink" Herring: The Prospect of Polygamy Following the Legalization of Same-Sex Marriage*, 38 *CONN. L. REV.* 1065 (2006).

Toni Lester, *Adam and Steve vs. Adam and Eve: Will the New Supreme Court Grant Gays the Right to Marry?*, 14 *AM. U. J. GENDER SOC. POL'Y & L.* 253 (2006).

Nancy C. Marcus, *Beyond Romer and Lawrence: The Right to Privacy Comes Out of the Closet*, 15 *COLUM. J. GENDER & L.* 355 (2006).

Nancy Catherine Marcus, *The Freedom of Intimate Association in the Twenty-first Century*, 16 GEO. MASON U. CIV. RTS. L.J. 269 (2006).

Marc R. Poirier, *Piecemeal and Wholesale Approaches Towards Marriage Equality in New Jersey: Is Lewis v. Harris a Dead End or Just a Detour?*, 59 RUTGERS L. REV. 291 (2007) (New Jersey).

Diana Sclar, *New Jersey Same-Sex Relationships and the Conflict of Laws*, 59 RUTGERS L. REV. 351 (2007) (New Jersey).

Gary J. Simson, *Beyond Interstate Recognition in the Same-Sex Marriage Debate*, 40 U.C. DAVIS L. REV. 313 (2006).

Justin T. Wilson, Note, *Preservationism, or the Elephant in the Room: How Opponents of Same-Sex Marriage Deceive Us Into Establishing Religion*, 14 DUKE J. GENDER L. & POL'Y 561 (2007).

## **Nonjudicial Resolution (See also Collaborative Lawyering)**

Alternative Dispute Resolution (ADR) (See also Child Custody, Child Support, and Visitation—Parenting Coordinators; Nonjudicial Resolution—Mediation)

Gregory Firestone & Janet Weinstein, *In the Best Interests of Children: A Proposal to Transform the Adversarial System*, 42 FAM. CT. REV. 203 (2004) (proposing a Dispute Resolution Coordination system, using ADR, experts, domestic violence screens, parent empowerment, and ongoing evaluation, to approach issues of families in transition).

Eileen Pruett & Cynthia Savage, *Statewide Initiatives to Encourage Alternative Dispute Resolution and Enhance Collaborative Approaches to Resolving Family Issues*, 42 FAM. CT. REV. 232 (2004) (cataloguing the variety of ADR mechanisms that are evolving in the family law area, including statewide agencies and offices of dispute resolution, statewide mediation associations, professional associations' collaborative efforts, law school programs, and task forces, commissions and other advisory groups that draw from law and mental health disciplines).

372 *Journal of the American Academy of Matrimonial Lawyers*

Maureen A. Weston, *Confidentiality's Constitutionality: The Incursion on Judicial Powers to Regulate Party Conduct in Court-Connected Mediation*, 8 HARV. NEGOT. L. REV. 29 (2003) (urging courts to use their reservoir of judicial authority to sanction misconduct in court-connected ADR programs, even in situations of statutes prohibiting mediation disclosures).

---

Kelly Browe Olson, *The Importance of Using Alternative Dispute Resolution Techniques and Processes in the Ethical and Informed Representation of Children*, 6 NEV. L.J. 1333 (2006).

Peter Salem, *ADR in Family Law Disputes: It's Not Just Mediation Anymore*, WIS. L.J. (2004), <http://www.wislawjournal.com/special/adr2004/family.html>

Frank E. A. Sander & Lukasz Rozdeiczer, *Matching Cases and Dispute Resolution Procedures: Detailed Analysis Leading to a Mediation-Centered Approach*, 11 HARV. NEGOT. L. REV. 1 (2006).

### Mediation

Ben Barlow, *Divorce Child Custody Mediation: In Order to Form a More Perfect Disunion?*, 52 CLEV. ST. L. REV. 499 (2005) (reviewing statistical evidence of success rates in divorce child custody mediation, canvassing varying state approaches, and identifying cases in which such mediation is inappropriate).

Desmond Ellis & Noreen Stuckless, *Domestic Violence, DOVE, and Divorce Mediation*, 44 FAM. CT. REV. 658 (2006) (explaining a domestic violence screening instrument (the self-reporting form is included) used to assess risks of physical violence, which can indicate whether divorce mediation is appropriate).

Robert E. Emery et al., *Divorce Mediation: Research and Reflections*, 43 FAM. CT. REV. 22 (2005) (comparing dispute outcomes—in terms of time, cost, compliance and participant satisfaction—for mediation and adversarial proceedings).

National Conference of Commissioners on Uniform State Laws, *Uniform Mediation Act*, 2003 J. DISP. RESOL. 1 (providing the Act, an introduction to it, and explanatory notes).

---

Connie J. A. Beck & Lynda E. Frost, *Defining a Threshold for Client Competence to Participate in Divorce Mediation*, 12 PSYCHOL. PUB. POL'Y & L. 1 (2006).

Lydia Belzer, *Domestic Abuse and Divorce Mediation: Suggestions for a Safer Process*, 5 LOY. J. PUB. INT. L. 37 (2003).

Avi Braz, Note, *Out of Joint: Replacing Joint Representation with Lawyer-Mediation in Friendly Divorces*, 78 S. CAL. L. REV. 323 (2004).

Richard M. Calkins, *Caucus Mediation—Putting Conciliation Back Into the Process: The Peacemaking Approach to Resolution, Peace, and Healing*, 54 DRAKE L. REV. 259 (2006).

James R. Coben & Peter N. Thompson, *Disputing Irony: A Systematic Look at Litigation About Mediation*, 11 HARV. NEGOT. L. REV. 43 (2006).

Sara Rudolph Cole, *Protecting Confidentiality in Mediation: A Promise Unfulfilled*, 54 U. KAN. L. REV. 1419 (2006).

Alana Dunnigan, Comment, *Restoring Power to the Powerless: The Need to Reform California's Mandatory Mediation for Victims of Domestic Violence*, 37 U.S.F. L. REV. 1031 (2003) (California).

Mark J. Hanson, *Moving Forward Together: The LGBT Community and the Family Mediation Field*, 6 PEPP. DISP. RESOL. L.J. 295 (2006).

Alicia M. Hehr, Note, *A Child Shall Lead Them: Developing and Utilizing Child Protection Mediation to Better Serve the Interests of the Child*, 22 OHIO ST. J. ON DISP. RESOL. 443 (2007).

Carol L. Izumi & Homer C. La Rue, *Prohibiting "Good Faith" Reports Under the Uniform Mediation Act: Keeping the Adjudication Camel Out of the Mediation Tent*, 2003 J. DISP. RESOL. 67.

Rikk Larsen & Crystal Thorpe, *Elder Mediation: Optimizing Major Family Transitions*, 7 MARQ. ELDER'S ADVISOR 293 (Spring 2006).

374 *Journal of the American Academy of Matrimonial Lawyers*

Jane C. Murphy & Robert Rubinson, *Domestic Violence and Mediation: Responding to the Challenges of Crafting Effective Screens*, 39 FAM. L.Q. 53 (2005).

Kelly Browe Olson, *Lessons Learned from a Child Protection Mediation Program: If at First You Succeed and Then You Don't . . .*, 41 FAM. CT. REV. 480 (2003).

Louise Otis & Eric H. Reiter, *Mediation by Judges: A New Phenomenon in the Transformation of Justice*, 6 PEPP. DISP. RESOL. L.J. 351 (2006) (Quebec model).

Peter Robinson, *Centuries of Contract Common Law Can't Be All Wrong: Why the UMA's Exception to Mediation Confidentiality in Enforcement Proceedings Should Be Embraced and Broadened*, 2003 J. DISP. RESOL. 135.

Ernest A. Sanchez & Sherrie Kibler-Sanchez, *Empowering Children in Mediation: An Intervention Model*, 42 FAM. CT. REV. 554 (2004).

Eileen A. Scallen, *Relational and Informational Privileges and the Case of the Mysterious Mediation Privilege*, 38 LOY. L.A. L. REV. 537 (2004).

Melissa J. Schoffer, Note, *Bringing Children to the Mediation Table: Defining a Child's Best Interest in Divorce Mediation*, 43 FAM. CT. REV. 323 (2005).

L. Wayne Scott, *The Law of Mediation in Texas*, 37 ST. MARY'S L.J. 325 (2006) (Texas).

Alison G. Turoff, *The Misuse of Mediation in Joint Parenting Agreements*, 94 ILL. B.J. 546 (Oct. 2006) (Illinois).

Nancy Ver Steegh, *Yes, No, and Maybe: Informed Decision Making About Divorce Mediation in the Presence of Domestic Violence*, 9 WM. & MARY J. WOMEN & L. 145 (2003).

Betsy J. Walter, *Lesbian Mediation: Resolving Custody and Visitation Disputes When Couples End Their Relationships*, 41 FAM. CT. REV. 104 (2003).



### Online Dispute Resolution

Sarah Rudolph Cole & Kristen M. Blankley, *Online Mediation: Where We Have Been, Where We Are Now, and Where We Should Be*, 38 U. TOL. L. REV. 193 (2006) (describing the benefits, limitations, efficacy, and confidentiality problems posed by online mediation).

Joseph W. Goodman, *The Pros and Cons of Online Dispute Resolution: An Assessment of Cyber-Mediation Websites*, 2003 DUKE L. & TECH. REV. 4 (reviewing various web sites, such as Cyber-settle and SettlementOnline).

Arno R. Lodder & John Zeleznikow, *Developing an Online Dispute Resolution Environment: Dialogue Tools and Negotiation Support Systems in a Three-Step Model*, 10 HARV. NEGOT. L. REV. 287 (2005) (discussing current models of artificial intelligence tools as online dispute resolution systems, such as Square-Trade, which handles disputes among eBay traders).

---

Robert Ambrogi, *Virtual Justice: Resolving Disputes Online*, 48 RES GESTAE 41 (2005).

Association for Conflict Resolution, <http://www.acrnet.org/sections/index.htm> (Online Dispute Resolution news) (last visited Apr. 1, 2007).

Andrea M. Braeutigam, *Fusses That Fit Online: Online Mediation in Noncommercial Contexts*, 5 APPALACHIAN J. L. 275 (2006).

Ethan Katsh & Leah Wing, *Ten Years of Online Dispute Resolution (ODR): Looking at the Past and Constructing the Future*, 38 U. TOL. L. REV. 19 (2006).

David Allen Larson, *Technology Mediated Dispute Resolution (TMDR): A New Paradigm for ADR*, 21 OHIO ST. J. ON DISP. RESOL. 629 (2006).

Mediation Information and Resource Center, <http://www.mediate.com> (last visited Apr. 1, 2007).

National Center for Technology and Dispute Resolution, <http://www.eeo.odr.info> (last visited June 9, 2007).

376 *Journal of the American Academy of Matrimonial Lawyers*

Orna Rabinovich-Einy, *Technology's Impact: The Quest for a New Paradigm for Accountability in Mediation*, 11 HARV. NEGOT. L. REV. 253 (2006) (SquareTrade).

Suzanne J. Schmitz, *Telephone Mediations: Tips for Doing Them Well*, 9 DISP. RESOL. MAG. 32 (Summer 2003).

Aashit Shah, *Using ADR to Resolve Online Disputes*, 10 RICH. J.L. & TECH. 25 (2004).

Louise Ellen Teitz, *Providing Legal Services for the Middle Class in Cyberspace: The Promise and Challenge of On-line Dispute Resolution*, 70 FORDHAM L. REV. 985 (2001).

Richard Michael Victorio, *Internet Dispute Resolution (IDR): Bringing ADR into the 21st Century*, 1 PEPP. DISP. RESOL. L.J. 279 (2001).

## **Pensions**

Dorothy A. Brown, *Pensions, Risk and Race*, 61 WASH. & LEE L. REV. 1501 (2004) (collecting empirical data on disparities in pension plan participation among races).

Jerry Reiss, *Dividing Pension Property: Underrated Malpractice Concerns*, 16 DIVORCE LITIG. 116 (July 2004) (covering methods for dividing retirement and disability benefits and explaining how to calculate marital portions).

---

Albert Feuer, *When Are Releases of Claims for ERISA Plan Benefits Effective?*, 38 J. MARSHALL L. REV. 773 (2005).

Charles J. Ford et al., *Weaknesses in Defined Benefit Pension Funding Rules: A Look at the Largest Plans, 1995-2002*, 44 BRANDEIS L.J. 351 (2006).

Jeffrey M. Gorris, Comment, *Waivers of ERISA Plan Benefits: Preventing Judicial Interpretations of a Complex Statute from Frustrating the Statute's Simple Purpose*, 155 U. PA. L. REV. 717 (2007).

Allison C. McGrath, *Pension Law: Cash Balance Pension Plans Are Not Inherently Age Discriminatory: Cooper v. IBM Personal*

Vol. 21, 2008

An Annotated Bibliography

377

Pension Plan *Defies a Strong History of Support for the Cash Balance Design*, 57 OKLA. L. REV. 429 (2004) (S.D. Illinois).

### QDROs

---

David Clayton Carrad, *An Expert Witness on QDROs: Look for a Lawyer*, 29 FAM. ADVOC. 34 (Spring 2007).

Margaret R. Cooper, *A Family Practitioner's Guide to Overcoming QDRO Phobia*, 8 DEL. L. REV. 213 (2006).

Bruce E. Friedman, *Division of Retirement Benefits (Including QDROs and EDROs)*, 24465 NBI-CLE 1 (2005).

Helen W. Gunnarsson, *The ABCs of QDROs*, 93 ILL. B.J. 18 (Jan. 2005).

Aaron Klein, Note, *Divorce, Death, and Posthumous QDROs: When Is It Too Late for a Divorcee to Claim Pension Benefits Under ERISA?*, 26 CARDOZO L. REV. 1651 (2005)

Leslie A. Kulick, *What Are the Limitations on QDROs?*, 61 J. MO. B. 89 (Mar.-Apr. 2005).

Timothy C. Voit, *QDROs—A Powerful Tool for Child Support Enforcement*, 79 FLA. B.J. 38 (Jan. 2005).

### **Pets or Companion Animals<sup>4</sup>**

---

Robert E. Blizard et al., *Helping Clients Provide for Pets in Their Estate Plans*, 16 EXPERIENCE 20 (Summer 2006).

Ann Hartwell Britton, *Bones of Contention: Custody of Family Pets*, 20 J. AM. ACAD. MATRIM. L. 1 (2006).

Emily Gardner, *An Ode to Roxy Russell: A Look at Hawaii's New Pet Trust Law*, 11 HAW. B.J. 30 (Apr. 2007) (Hawaii).

---

<sup>4</sup> See also Levit, *supra* note 3, at 204-06.

378 *Journal of the American Academy of Matrimonial Lawyers*

Neil E. Hendershot, *Personal and Estate Planning for Pennsylvanians Owning Pets*, 77 PA. B.A. Q. 107 (July 2006) (Pennsylvania).

Rebecca J. Huss, *No Pets Allowed: Housing Issues and Companion Animals*, 11 ANIMAL L. 69 (2005).

Rebecca J. Huss, *Separation, Custody, and Estate Planning Issues Relating to Companion Animals*, 74 U. COLO. L. REV. 181 (2003).

Safia Gray Hussain, Comment, *Attacking the Dog-Bite Epidemic: Why Breed-Specific Legislation Won't Solve the Dangerous-Dog Dilemma*, 74 FORDHAM L. REV. 2847 (2006).

Margit Livingston, *The Calculus of Animal Valuation: Crafting a Viable Remedy*, 82 NEB. L. REV. 783 (2004).

Darin I. Zenov & Barbara Ruiz-Gonzalez, *Trusts for Pets*, 79 FLA. B.J. 22 (Dec. 2005).

### **Religion and Family Law (See also Marriage and Its Alternatives—Covenant Marriage)**

Ann Laquer Estin, *Embracing Tradition: Pluralism in American Family Law*, 63 MD. L. REV. 540 (2004) (reviewing cases in which secular courts have addressed religious practices in marriage or at divorce).

Kent Greenawalt, *Child Custody, Religious Practices, and Conscience*, 76 U. COLO. L. REV. 965 (2005) (addressing the extent to which courts can take religious practices into account in custody disputes, the relevance of prior agreements about children's religious education, the potential harms of exposure to more than one religion, and concluding that if parental religious practices threaten serious harm, a court should intercede).

Michael Loatman, *Protecting the Best Interests of the Child and the Free Exercise Rights of the Family*, 13 VA. J. SOC. POL'Y & L. 89 (2005) (considering judicial review of religious provisions in custody agreements and arguing that the ALI Principles are overly restrictive in constraining courts from examining whether parents' post-divorce religious practices are good for children).

and that the ALI standard for considering a child's religious preferences violates the child's free exercise rights).

Joel A. Nichols, *Multi-Tiered Marriage: Ideas and Influences from New York to Louisiana to the International Community*, 40 VAND. J. TRANSNAT'L L. 135 (2007) (proposing that state authority over marriage should be ceded to religious communities).

Caryn Litt Wolfe, Note, *Faith-Based Arbitration: Friend or Foe? An Evaluation of Religious Arbitration Systems and Their Interaction With Secular Courts*, 75 FORDHAM L. REV. 427 (2006) (covering arbitration bodies and procedures for Judaism, Christianity, and Islam, secular court review of faith-based arbitration, and noting points at which faith-based procedures are inadequate to protect vulnerable parties).

---

Lydia M. Belzer, *Toward True Shalom Bayit: Acknowledging Domestic Abuse in the Jewish Community and What to Do About It*, 11 CARDOZO WOMEN'S L.J. 241 (2005).

Jenna Blackwell, *The Role of Religion in Child Custody Disputes*, 5 APPALACHIAN J. L. 17 (2006) (Virginia).

Lindsey E. Blenkhorn, Note, *Islamic Marriage Contracts in American Courts: Interpreting Mahr Agreements as Prenuptials and Their Effect on Muslim Women*, 76 S. CAL. L. REV. 189 (2002).

Ginnine Fried, Comment, *The Collision of Church and State: A Primer to Beth Din Arbitration and the New York Secular Courts*, 31 FORDHAM URB. L.J. 633 (2004) (New York).

Jeremy Glicksman, *Almost, But Not Quite: The Failure of New York's Get Statute*, 44 FAM. CT. REV. 300 (2006) (New York).

Jared A Goldstein, *Is There a "Religious Question" Doctrine? Judicial Authority to Examine Religious Practices and Beliefs*, 54 CATH. U. L. REV. 497 (2005).

Michael C. Grossman, Note, *Is This Arbitration?: Religious Tribunals, Judicial Review, and Due Process*, 107 COLUM. L. REV. 169 (2007).

380 *Journal of the American Academy of Matrimonial Lawyers*

Daniel Pollack et al., *Classical Religious Perspectives of Adoption Law*, 79 NOTRE DAME L. REV. 693 (2004).

Javaid Rehman, *The Sharia, Islamic Family Laws and International Human Rights Law: Examining the Theory and Practice of Polygamy and Talaq*, 21 INT'L J.L. & POL'Y & FAM. 108 (2007).

Jeffrey Shulman, *Spiritual Custody: Relational Rights and Constitutional Commitments*, 7 J. L. & FAM. STUD. 317 (2005).

## **Reproductive Technology**

### Assisted Reproductive Technologies (ART)

David Adamson, *Regulation of Assisted Reproductive Technologies in the United States*, 39 FAM. L.Q. 727 (2005) (describing the mosaic of federal, state and institutional regulations of ART).

Centers for Disease Control & Prevention, Assisted Reproductive Technology: Home, <http://www.cdc.gov/ART/index.htm> (last visited May 26, 2007) (containing articles on ART success rates, fertility clinic success rates, and risks associated with ART, as well as links to associated web sites).

*Changing Realities of Parenthood: The Law's Response to the Evolving American Family and Emerging Reproductive Technologies*, 116 HARV. L. REV. 2052 (2003) (describing the ways advances in reproductive technologies have led to recognition of parental rights in nonparents).

Howard Fink & June Carbone, *Between Private Ordering and Public Fiat: A New Paradigm for Family Law Decision-Making*, 5 J.L. & FAM. STUD. 1 (2003) (covering comprehensively disputes regarding ART and proposing procedural devices of contract, administrative or court review, and counseling and mediation to prevent or resolve disputes).

Lars Noah, *Assisted Reproductive Technologies and the Pitfalls of Unregulated Biomedical Innovation*, 55 FLA. L. REV. 603 (2003) (revealing the absence of regulation of fertility clinics and the dangers of unrestrained fertility enhancement, multiple pregnancies, embryo reduction, and possible instances of malpractice).

Society for Assisted Reproductive Technology, <http://www.sart.org> (last visited May 26, 2007) (providing articles on the various processes of ART and contact information for local fertility clinics).

---

Susan Frelich Appleton, *Adoption in the Age of Reproductive Technology*, 2004 U. CHI. LEGAL F. 393.

Susannah Baruch et al., Genetics & Pub. Policy Ctr., Preimplantation Genetic Diagnosis (2004), available at <http://www.dnapolicy.org/images/reportpdfs/PGDDiscussion>

ChallengesConcerns.pdf. (last visited July 18, 2007).

Gaia Bernstein, *The Socio-legal Acceptance of New Technologies: A Close Look at Artificial Insemination*, 77 WASH. L. REV. 1035 (2002).

Judith F. Daar, *ART and the Search for Perfectionism: On Selecting Gender, Genes, and Gametes*, 9 J. GENDER RACE & JUST. 241 (2005).

Michael K. Elliot, *Tales of Parenthood from the Crypt: The Predicament of the Posthumously Conceived Child*, 39 REAL PROP. PROB & TR. J. 47 (2004).

Julie E. Goodwin, *Not All Children Are Created Equal: A Proposal to Address Equal Protection Inheritance Rights of Posthumously Conceived Children*, 4 CONN. PUB. INT. L.J. 234 (2005).

Suzanne Griffiths & Logan Martin, *Assisted Reproduction and Colorado Law: Unanswered Questions and Future Challenges*, 35 COLO. LAW. 39 (Nov. 2006) (Colorado).

Kira Horstmeyer, Note, *Putting Your Eggs in Someone Else's Basket: Inserting Uniformity into the Uniform Parentage Act's Treatment of Assisted Reproduction*, 64 WASH. & LEE L. REV. 671 (2007).

Katheryn D. Katz, *Parenthood from the Grave: Protocols for Retrieving and Utilizing Gametes from the Dead or Dying*, 2006 U. CHI. LEGAL F. 289.

382 *Journal of the American Academy of Matrimonial Lawyers*

Charles P. Kindregan, Jr. & Maureen McBrien, *Posthumous Reproduction*, 39 *FAM. L.Q.* 579 (2005).

Laura S. Langley & Joseph W. Blackston, *Sperm, Egg, and a Petri Dish: Unveiling the Underlying Property Issues Surrounding Cryopreserved Embryos*, 27 *J. LEGAL MED.* 167 (2006).

Elizabeth A. Pendo, *The Politics of Infertility: Recognizing Coverage Exclusions as Discrimination*, 11 *CONN. INS. L.J.* 293 (2005).

John A. Robertson, *Gay and Lesbian Access to Assisted Reproductive Technology*, 55 *CASE W. RES. L. REV.* 323 (2004).

Tim R. Schlesinger, *Assisted Human Reproduction: Unsolved Issues in Parentage, Child Custody and Support*, 61 *J. MO. B.* 22 (Feb. 2005) (Missouri).

Alison J. Stone, Comment, *"Sisters Are Doin' It for Themselves!" Why the Parental Rights of Registered Domestic Partners Must Trump the Parental Rights of Their Known Sperm Donors in California*, 41 *U.S.F. L. REV.* 505 (2007) (California).

#### Embryo Disputes and Preconception Agreements<sup>5</sup>

Kimberly Berg, Note, *Special Respect: For Embryos and Progenitors*, 74 *GEO. WASH. L. REV.* 506 (2006) (urging an "absolute veto" approach to resolve disputes over frozen embryos).

Susan L. Crockin, *The "Embryo" Wars: At the Epicenter of Science, Law, Religion, and Politics*, 39 *FAM. L.Q.* 599 (2005) (explaining scientific definitions of embryos at various different stages and addressing state statutes, disputes over frozen embryos, and the enforceability of embryo donation contracts).

Ann Marie Noonan, Note, *The Uncertainty of Embryo Disposition Law: How Alterations to Roe Could Change Everything*, 40 *SUFFOLK U. L. REV.* 485 (2007) (canvassing state rulings regarding the disposition of embryos).

---

<sup>5</sup> For articles developing theories of reproductive material as property, see Nancy Levit, *Unique Property, A Supplemental Annotated Bibliography*, 20 *J. AM. ACAD. MATRIM. LAW.* 183, 208-10 (2006).



Meghan Anderson, Comment, *K.M. v. E.G.: Blurring the Lines of Parentage in the Modern Courts*, 75 U. CIN. L. REV. 275 (2006) (California).

Susan B. Apel, *Cryopreserved Embryos: A Response to "Forced Parenthood" and the Role of Intent*, 39 FAM. L.Q. 663 (2005).

Vanessa S. Browne-Barbour, *Bartering for Babies: Are Preconception Agreements in the Best Interests of Children?*, 26 WHITTIER L. REV. 429 (2004).

L. Lynn Hogue, *Avoiding Parentlessness by Assisted Reproductive Technology (ART): A Proposal for Enforcing Contracts and Avoiding the Public Policy Doctrine in Interstate Cases*, 4 WHITTIER J. CHILD & FAM. ADVOC. 269 (2005).

Robyn L. Ikehara, Note, *Is Adoption the "New" Solution for Couples in Dispute Over Their Frozen Embryos?*, 15 S. CAL. REV. L. & SOC. JUST. 301 (2006).

Ann A. Kiessling, *What Is an Embryo?*, 36 CONN. L. REV. 1051 (2004).

Micah Nilsson, *You Can't Force Her to Be a Second Mom: K.M. v. E.G.*, 10 U.C. DAVIS J. JUV. L. & POL'Y 479 (2006) (California).

Tracey S. Pachman, *Disputes Over Frozen Preembryos and the "Right Not to Be a Parent,"* 12 COLUM. J. GENDER & L. 128 (2003).

Sara D. Peterson, Comment, *Dealing with Cryopreserved Embryos upon Divorce: A Contractual Approach Aimed at Preserving Party Expectations*, 50 UCLA L. REV. 1065 (2003).

Angela K. Upchurch, *The Deep Freeze: A Critical Examination of the Resolution of Frozen Embryo Disputes Through the Adversarial Process*, 33 FLA. ST. U. L. REV. 395 (2005).

Sanja Zgonjanin, *What Does it Take to Be a (Lesbian) Parent? On Intent and Genetics*, 16 HASTINGS WOMEN'S L.J. 251 (2005) (California).

384 *Journal of the American Academy of Matrimonial Lawyers*

### Surrogacy

Steven H. Snyder & Mary Patricia Byrn, *The Use of Prebirth Parentage Orders in Surrogacy Proceedings*, 39 *FAM. L.Q.* 633 (2005) (canvassing varying state approaches to traditional and gestational surrogacy).

Richard F. Storrow, *Parenthood by Pure Intention: Assisted Reproduction and the Functional Approach to Parentage*, 53 *HASTINGS L.J.* 597 (2002) (critiquing the severance of parenthood into genetic, gestational and intentional strands, and arguing that intentional parenthood (based on who had the concept and arranged implementation), including procreative choices made outside of marriage, should be recognized).

Molly J. Walker Wilson, *Precommitment in Free-Market Procreation: Surrogacy, Commissioned Adoption, and Limits on Human Decision-Making Capacity*, 31 *J. LEGIS.* 329 (2005) (using principles of behavioral psychology—several cognitive biases showing that people do not accurately predict their future affective states—to argue against enforcement of surrogacy contracts).

---

Flavia Berys, Comment, *Interpreting a Rent-a-Womb Contract: How California Courts Should Proceed When Gestational Surrogacy Arrangements Go Sour*, 42 *CAL. W. L. REV.* 321 (2006) (California).

Nancy Ford, *The New Illinois Gestational Surrogacy Act*, 93 *ILL. B.J.* 240 (May 2005) (Illinois).

Lauren Andrew Hudgeons, Comment, *Gestational Agreements in Texas: A Brave New World*, 57 *BAYLOR L. REV.* 863 (2005) (Texas).

Jeremy J. Richey, Comment, *A Troublesome Good Idea: An Analysis of the Illinois Gestational Surrogacy Act*, 30 *S. ILL. U. L.J.* 169 (2005) (Illinois).

Carol Sanger, *Developing Markets in Baby-Making: In the Matter of Baby M.*, 30 *HARV. J. L. & GENDER* 67 (2007).

Marjorie M. Schulz, *Taking Account of ARTs in Determining Parenthood: A Troubling Dispute in California*, 19 WASH. U. J.L. & POL'Y 77 (2005) (California).

Krista Sirola, Comment, *Are You My Mother? Defending the Rights of Intended Parents in Gestational Surrogacy Arrangements in Pennsylvania*, 14 AM. U.J. GENDER SOC. POL'Y & L. 131 (2006) (Pennsylvania).

### **Social Security (*See also* Elder Law—Medicaid)**

Stephen F. Befort, *The Perfect Storm of Retirement Insecurity: Fixing the Three-Legged Stool of Social Security, Pensions, and Personal Savings*, 91 MINN. L. REV. 938 (2007) (explaining carefully the anticipated Social Security benefits gap, the shift from defined benefit to defined contribution pension plans, and patterns of personal savings).

---

Frank S. Bloch et al., *The Social Security Administration's New Disability Adjudication Rules: A Significant and Promising Reform*, 92 CORNELL L. REV. 235 (2007).

Eric L. Buchanan, *Coordination of Benefits for Social Security Disability Clients: ERISA and Long-Term Disability*, 2 ANN. 2006 ATLA-CLE 1767 (2006).

Eric L. Buchanan, *Obtaining Fees for Representing a Claimant Before the Social Security Administration*, 2 ANN. 2005 ATLA-CLE 2159 (2005).

John J. Campbell, *Basic Strategies for SSI Planning*, 1 NAELA J. 311 (2005).

Harold W. Conick, *Social Security Disability and Family Law*, 18 DCBA BRIEF 10 (Mar. 2006).

Disability Secrets, *Social Security Disability SSI Benefits*, <http://www.disabilitysecrets.com> (last visited June 2, 2007).

Christopher D. Latham, *The Interplay Between Social Security Disability Insurance Benefits and Workers' Compensation*, 2 ANN. 2006 ATLA-CLE 1807 (2006).

386 *Journal of the American Academy of Matrimonial Lawyers*

Samuel Saks, Comment, *Representative Payment Under the Social Security Protection Act of 2004*, 51 WAYNE L. REV. 1569 (2005).

Social Security Administration, Information About Your Social Security Statement, <http://www.ssa.gov/mystatement/index.htm> (last visited July 18, 2007).

Social Security Administration, Benefits for People With Disabilities, <http://www.ssa.gov/disability> (last visited July 18, 2007).

Jason D. Vendel, Note, *General Bias and Administrative Law Judges: Is There a Remedy for Social Security Disability Claimants?*, 90 CORNELL L. REV. 769 (2005).

## **Taxes**

Joseph N. DuCanto, *Tax Aspects of Divorce*, 24290 NBI-CLE 7 (2005) (discussing maintenance, child support and property transfers between spouses, the sale of the marital residence, the use of business assets in a divorce, and estate and gift tax issues).

Melvyn B. Frumkes et al., *A Potpourri of Seldom-Discussed Tax Issues in Divorce*, 15 DIVORCE LITIG. 173 (Oct. 2003) (covering innocent spouse liability, taxation of spousal support and property divisions, retirement and survivor benefits, and the divisibility of tax carryovers).

Ann M. Funge, *Tax Aspects of Divorce*, 32153 NBI-CLE 74 (2006) (detailing the rules regarding spousal and child support deductibility, the dependency exemption and child-related credits, transfer of a personal residence and attorneys' fees).

Warren Fوسفeld & Kathryn Larkin, *The Pension Promise*, 27 FAM. ADVOC. 34 (Winter 2005) (describing the tax consequences of distributions from qualified and nonqualified plans and IRAs).

Henry P. Lee, *What Could Be More Certain Than Death and Taxes? The Answer Is Change*, 83 MICH. B.J. 22 (Nov. 2004) (discussing the phase out of estate taxes).

Robert A. Rombro, *Federal Tax Issues Impact Divorce & Separation*, 39 MD. B.J. 5 (Dec. 2006) (addressing child support, dependency exemptions, alimony, property transfers, and legal and medical expenses).

Yvonne England Zuber, *Tax Matters and Ramifications in Divorce*, 36428 NBI-CLE 121 (2007) (discussing maintenance and recapture issues, making divorce settlements tax effective, and estimated tax payments and refunds, and offering some website resources).

---

Tracey A. Bateman, Annotation, *Divorce and Separation: Consideration of Tax Consequences in Distribution of Marital Property*, 9 A.L.R. 5TH 568 (1993 & Supp. 2007).

Stephen P. Comeau, *An Overview of the Federal Income Tax Provisions Related to Alimony*, 38 FAM. L.Q. 111 (2004).

Joseph W. Cunningham, *The Marital Residence: Who Benefits from the Sale and Deductions*, 27 FAM. ADVOC. 18 (Winter 2005).

John R. Dorocak, *Same-Sex Couples and the Tax Law: Tax Filing Status for Lesbians and Others*, 33 OHIO N.U. L. REV. 19 (2007).

Melvyn B. Frumkes, *Avoiding Alimony Tax Pitfalls: The Use of Alimony Trusts*, 23 MATRIM. STRATEGIST 1 (Mar. 2005).

Melvyn B. Frumkes, *The Joint Return: Required or Not?*, 24 MATRIM. STRATEGIST 3 (July 2006).

Melvyn B. Frumkes, *Unallocated Alimony and Child Support Can All Be Taxable/Deductible Alimony*, 80 FLA. B.J. 72 (June 2006).

David M. Guess, *Disregarding the Mona Lisa's Disappearing Mustache: An Analysis into the Increased Scrutiny of the Tax Treatment of Family Limited Partnership Interests*, 32 W. ST. U. L. REV. 177 (2005).

Daniel A. Jaffe & Lorna A. Riff, *The Tax Traps of Alimony*, 25 FAM. ADVOC. 24 (Spring 2003).

Ronald H. Jensen, *The Magic of Disappearing Wealth Revisited: Using Family Limited Partnerships to Reduce Estate and Gift Taxes*, 1 PITT. TAX. REV. 155 (2004).

Steven R. Lifson, *Practical Planning Ideas for Distributions from IRAs and Qualified Plans*, 37 J. MARSHALL L. REV. 807 (2004).

388 *Journal of the American Academy of Matrimonial Lawyers*

David Pratt et al., *Family Limited Partnerships: Are They Still Alive and Kicking?*, 81 FLA. B.J. 28 (Jan. 2007).

Robert L. Sommers, *The Tax Prophet*, <http://www.taxprophet.com> (last visited June 1, 2007).

Christopher A. Tiso, *Are Attorneys' Fees Deductible? Not So Fast!*, 27 FAM. ADVOC. 40 (Winter 2005).

Jacob L. Todres, *Tax Malpractice—Areas in Which It Occurs and the Measure of Damages—An Update*, 78 ST. JOHN'S L. REV. 1011 (2004).

Thomas R. White, III, *Undifferentiated Support Orders: Can They Be Taxable Alimony?*, 21 MATRIM. STRATEGIST 1 (Jan. 2004).

Ron Youde, Note, *A Call for IRS Guidance in Drafting Tax Liability Divorce Clauses in Anticipation of Innocent Spouse Litigation*, 52 DRAKE L. REV. 363 (2004).

Richard I. Zuber, *Revisiting the Tax Perils of Temporary Unallocation Family Support*, 34 COLO. LAW. 65 (May 2005).