



# **NATIONAL PARALEGAL COLLEGE**

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## **Domestic Relations**

### **PLG-107-1703**

#### **Syllabus and Course Guide**

The NPC Domestic Relations course meets 15 times over the course of the 9-week term in the NPC Interactive classroom. Each session consists of 60 minutes of online lecture by the course instructor. After the lecture, students may ask questions and make comments on the material being studied.

Classes for this course occur on Mondays and Wednesdays in accordance with the lecture scheduled on this syllabus. The first class is on Monday, March 6, 2017. Unless otherwise noted, all classes will take place at 8:00 PM Eastern Time.

All class sessions are recorded and may be viewed by students at any time.

This course will be assessed by the submission of:

- 5 written assignments
- 3 examinations

Unless an extension has been taken pursuant to the NPC Extensions Policy (see the end of this syllabus), all assignments and exams must be submitted by the course deadline which appears later in this syllabus. No extensions may be taken or granted unless the student has submitted one or more assignments or exams in advance of the original deadline. In addition, extensions are subject to grade penalties and are limited to no more than 30 days from the date of the original deadline.

Please note that students are strongly encouraged to do their work as the course progresses rather than waiting for the days or weeks before the deadline to do all of their work. It is also critically important that students realize that:

1. A grade of "Incomplete" is the same as an "F" and is a failing grade.
2. A grade of "Incomplete" will result in a reduction in the student's grade point average.

3. Student may have to pay to re-take or replace a course for which a grade of Incomplete is assigned.
4. Two consecutive Incompletes may subject the student to dismissal from the college under NPC's chronic incomplete policy.
5. Students with a GPA of under 2.0 are not eligible to receive federal financial aid and cannot graduate until their GPA is at or above 2.0.

If a student is having trouble completing the course, the student is strongly encouraged to contact his or her student mentor or teacher as early as possible.

Please note also that:

- A student who receives an incomplete on his or her first course may be dismissed from NPC.
- A student who fails to complete at least one weekly interaction during the first 14 days of the course will automatically be withdrawn from the course per NPC policy. The student may re-join the class by prompt notification to NPC and by prompt completion of an interaction shortly thereafter.

## **INSTRUCTORS:**

### **Lecturer:**

- Dedee Sandler [dede@nationalparalegal.edu](mailto:dede@nationalparalegal.edu)

### **Grader:**

- Shannon Southard [shannon@nationalparalegal.edu](mailto:shannon@nationalparalegal.edu)

## **COURSE DESCRIPTION:**

This course surveys various issues pertaining to family law, including the marital relationship, divorce, alimony and other forms of support that can result from divorces, equitable distribution of property, and child custody. We will also focus on recent decisions and legislation that have had profound impact on relatively modern issues and trends, such as legitimacy and status, "palimony," the rights of unmarried parents, "surrogate" parents, and no-fault divorce.

## **COURSE OBJECTIVES:**

At the completion of this course, the student should be able to:

- Analyze a pre-nuptial agreement with standard clauses.
- Describe the basis upon which pre-nuptial agreements can be challenged.
- Describe the requirements for marriage in most states.
- Determine whether a valid marriage exists in a particular hypothetical scenario.
- Describe the rules of the commencement and dissolution of parental rights.
- Describe and apply the rules of custody of biological children, adoption and the termination of parental rights.
- Apply the all-important "best interest of the child" standard.
- Describe the prevalent grounds for divorce under the law of most jurisdictions, both in terms of "fault" and "no-fault" grounds.
- Apply the rules of marital property upon divorce and the rules regarding child support.

### **READING ASSIGNMENTS:**

All reading assignments refer to the NPC courseware, including the interactions attached to each subchapter. Cases and/or statutes that are specifically mentioned in the syllabus are optional reading. The texts of these cases and/or statutes may be accessed directly from the courseware. In addition to the assigned courseware and cases, students should familiarize themselves with the various legal documents listed for each lecture. These documents can be found on the "Slides and Documents" page on the NPC student website. Some, but not all, of these documents will be discussed in class. Reading assignments for each class should be completed prior to the class.

**In addition to the courseware's electronic form, you may also order a book version of the courseware that includes:**

- 1) The courseware
- 2) All lectures slides

**You may order this book at:** <http://www.freewebstore.org/npc-courseware-books/>

### **School Virtual Library**

All NPC students are encouraged to take advantage of the NPC virtual library, which can be accessed from the “course materials” page on the student menu or directly through this link: <http://nationalparalegal.edu/Students/VirtualLibrary.aspx>.

The NPC virtual library gives students access to Lexis Advance, which is one of the premier online legal databases in the world. It is expected that most legal research can and should be done through Lexis Advance. Online tutorials in the use of Lexis Advance are available on the lower right portion of the default login screen for Lexis Advance.

NPC also subscribes to the Library Information Resources Network (LIRN), which allows our students access to scores of databases containing hundreds of thousands of academic articles and publications. For research that is not legal in nature (for example, for business and general education courses), it is anticipated that students will use LIRN to access reliable academic sources for research papers. Online training in the use of LIRN resources is available here: <http://www.lirn.net/training/>.

NPC students also have access to Computer Assisted Legal Instruction (CALI) lessons. Unless assigned in the course syllabus, these are optional, but can be very helpful.

## **WRITTEN ASSIGNMENTS:**

At the outset of the course, five assignments will be posted on the “assignments and exams” page. The five assignments will cumulatively count for 40% of the student’s grade for the course. Information will be posted to the message board that indicates when the material for each assignment is discussed in class.

Please compose your answers to assignments on your own computer, remembering to save your work frequently. Once your assignment is complete, please submit by uploading it pursuant to the directions on the “Assignments and Exams” page within the NPC student site. Assignments may be submitted as PDF files, Microsoft Word documents, Open Office documents or PowerPoint presentations.

Each submitted assignment will be graded on the following scale:

4 - Excellent

3 - Good

2 – Satisfactory

1 – Poor

0 – Not acceptable (must resubmit)

(Half-points may also be awarded in assignment grading.)

Please see the “Assignment Grading Rubric” (the next page of this syllabus) for more detailed information as to how assignments are graded and the key elements of assignments that instructors look for when grading assignments.

In addition to a grade, students will receive written feedback from the instructor on their assignments, where appropriate.

***To the extent possible, it is recommended that students complete the assignments as the course proceeds rather than waiting until after the course ends.***

## Assignment Grading Rubric

Factor	4 (Excellent)	3(Good)	2(Satisfactory)	1 (Poor)	0 (no credit)
<b>Thoroughness</b>	Answers all questions in the exercise completely and in the appropriate order.	Answers all questions in the exercise but not completely and/or not in the appropriate order.	Answers most of the questions in the exercise but not completely and/or not in the appropriate order.	Does not answer many of the questions in the exercise but does make some reasonable effort to do so.	Makes little or no reasonable effort to answer the questions posed in the assignment.
<b>Demonstrates Understanding of the Assignment and has come to an appropriate conclusion</b>	Response demonstrates a thorough understanding of the exercise and the student has justified and enunciated an appropriate conclusion.	Response demonstrates an understanding of the exercise and comes to a conclusion.	Response demonstrates some understanding of the exercise. The conclusion that the student comes to may not be appropriately justified by the rest of the essay.	Response demonstrates some understanding of the exercise but shows a high level of confusion on the part of the student. The student's conclusion, if any, is not supported by the rest of the essay.	Response demonstrates a very poor understanding of the subject matter presented by the assignment.
<b>Documentation/ Legal research (note: For assignments, sources should be those obtained through legal research; for exam essays, legal principles learned in class or the courseware is sufficient.)</b>	Student has cited at least two excellent sources and has applied them appropriately. Appropriate sources are documented and well cited and well integrated.	Student has cited one excellent source or two or more good sources but has missed at least one excellent source. Sources are integrated well in the assignment.	Student has cited appropriate sources but has missed the best available OR student has cited good sources but has done a poor job of integrating them.	Student has cited poor or inappropriate authorities or has failed to establish the relevance of the sources that he or she has cited.	Student has not cited any legal authorities or has cited authorities that are irrelevant.
<b>Organization</b>	Essay is organized very well; the reader can clearly understand where the essay is going at all points and a cohesive easy-to-follow argument is made in the essay. Separate paragraphs are used for separate ideas.	Essay is well organized. The essay is coherent, though may not flow freely. Different components of the essay are broken up appropriately.	Essay shows some level of organization, but is difficult to follow. The essay is not as focused as it should be. Essay may go back and forth between points without using new paragraphs.	Essay is poorly organized and is very difficult to follow. The student did not appropriately separate thoughts and did not properly organize the essay.	Student's essay is in chaos. There is no reasonable attempt to organize the essay coherently.
<b>Critical Thinking and Analysis</b>	Shows excellent critical thinking and analysis. The student is able to apply the cited law to the facts of the given case in a clear and convincing manner.	Shows good critical thinking and analysis. The student's points are well argued and well supported.	Shows adequate critical thinking and analysis. The student's points are supported by logic, but are not exceptionally convincing.	Shows minimal critical thinking and analysis. The student's arguments are weak and unconvincing.	Shows no effort at critical thinking or analysis. The student's points make no sense.

Credit may also be taken off for poor spelling or grammar.

## EXAMINATIONS:

Examinations will be posted on the NPC website when indicated on the syllabus of the course. The examinations consist entirely of “short essay” questions. The 3 examinations will cumulatively count for 60% of the student’s course grade.

Examinations are non-cumulative; they cover only the material that has been covered since the previous examination. The instructor will provide specific information regarding the content of each examination as the examination time approaches.

All examinations are timed. A student may begin the examination any time after it is posted to the NPC website. Once begun, the examination must be completed within 4 hours.

Examinations will be graded on a conventional 0-100 scale. The number of points each question is worth is equal to 100 divided by the number of questions on the examination.

For each examination question, full credit will be awarded if the student:

- 1) Correctly identifies the legal issue(s) presented by the question
- 2) Applies the correct law to the legal issue(s) presented (note: full credit may also be awarded if the student’s answer comes to an “incorrect” conclusion if the student bases his or her analysis on correct law and supports his or her position in a convincing manner)
- 3) Presents his or her answer in a clear and understandable manner

The amount of partial credit to be awarded, if any, for an answer that is not complete and correct is at the discretion of the instructor. Instructors are instructed to award partial credit that is proportional to the level of knowledge and legal skill displayed by the student in answering the question.

***Please note that, even if not directly stated in the question, you must give reasons for your answers to open ended questions. One word answers such as “yes” or “no” or answers that merely restate the question without explaining the answer given will not be credited.***

The following factors are generally NOT taken into account in grading examinations:

Legal research; Although research is a key component of assignments, examinations are graded on the student’s knowledge of the legal concepts taught and do not require independent research.

Grammar and spelling (unless they impact the ability of the graded to understand the student’s answer); Although these are essential skills for a paralegal, examinations test legal knowledge and ability to apply the skills learned, not necessarily the ability to write professional legal memoranda (assignments test this skill). In addition, because exams are taken under time constraints, we would

rather see the students spend their time spotting legal issues and applying applicable law than on proofreading answers for typos and grammar mistakes.

For more information on assignments and examinations, please see the *NPC Student Handbook*.

***To the extent possible, it is recommended that students complete the exams as the course proceeds rather than waiting until after the course ends.***

### **Early Assignment Submission Incentive Policy**

NPC encourages students to submit their assignments as early as possible. In order to facilitate early submissions, students are advised that in exchange for submitting assignments in the first six weeks of the course, they will be awarded the opportunity to re-do or fix up an assignment after it is graded in order to increase the grade.

The following limitations apply:

1. When resubmitting an assignment, a student will only be able to increase his or her grade to a maximum of 3 or by one full point, whichever is greater. For example, if a student submits an assignment within the first six weeks of the course and receives a 1.5 or a 2.0, the student may make corrections suggested by the instructor and can potentially raise the grade to a maximum of 3. A student who initially receives a grade of 2.5 may raise the grade as high as 3.5 with a resubmission.
2. A student may exercise this option up to two (2) times per course.
3. Students are not guaranteed the maximum increase if their corrections do not merit such a change. The grader has the discretion to award a smaller or no increase if the student does not follow the grader's feedback.

To resubmit an assignment under this policy, please contact the course grader.



## **NPC PLAGIARISM POLICY**

All work done by NPC students on assignments, examinations and research projects is expected to be their own work. Quoting other sources as part of analyzing a subject is desirable and necessary in many cases. However, when other sources are quoted or used, they must be properly attributed to the original sources. This applies to direct quotes of sources and to paraphrasing other sources or using ideas obtained from other sources even if the exact text is not used.

Plagiarism means using the materials of others without appropriately citing the source and is an academic offence.

Under the NPC plagiarism policy, a student may not, as part of any assignment or exam submission:

- 1) Quote any text from any other source without:
  - a) putting quotation marks around the quoted material;
  - AND
  - b) appropriately citing the source of the quote.
- 2) Pass off the work of another as his or her own, even if the student does not directly quote from the other source.

Please note that the NPC plagiarism policy does not mean that you cannot quote language from the courseware, textbook or slides as part of an answer to a question on an exam. These are resources that are meant to be used on an exam when applied in an appropriate manner. However, quoting other sources without attribution or quoting the text, slides or courseware without attribution in an assignment is plagiarism.

For more information regarding the NPC Plagiarism Policy, penalties and due process rights where plagiarism is alleged, please see the NPC Plagiarism Policy at:

<http://nationalparalegal.edu/pages/PlagiarismPolicy.pdf>

## **NPC STUDENT MENTOR**

Each NPC student is assigned a student mentor upon enrollment. Your student mentor is a resource that can and should be drawn on if you need academic assistance. This includes advice on studying, help with assignments, general academic questions, etc. You should have received an email from your student mentor upon enrollment. If you have not received such an email or do not know who your student mentor is, please contact Connie Erpelding at [connie@nationalparalegal.edu](mailto:connie@nationalparalegal.edu) or 800-371-6105 x 115.

## WEEKLY INTERACTION REQUIREMENT

To ensure that all students are involved and participating in the course as the course moves forward, each student enrolled in this course must, at least once during each week, either:

- 1) Attend a live lecture and take and pass a short quiz given during class (where applicable)  
OR
- 2) Submit at least one assignment  
OR
- 3) Take at least one examination  
OR
- 4) Answer a weekly “interaction” question or questions that will be posted on the “Assignments and Exams” page.

The weekly “interaction” question(s) will be straightforward and will cover material covered in class each week. Answers to these questions should be short (typically 1-3 sentences) and to the point.

The student’s response (which is necessary only if the student does not attend a live lecture or take an exam or submit an assignment in the given week) will be graded on a pass/fail basis. The interaction questions will be posted no later than Monday of each week and must be answered on or before the following Sunday.

Any student who does not fulfill this requirement during a given week will receive a reduction in his or her over-all grade of 2 percentage points (10 raw points).

Please also note that a student who does not fulfill an interaction during the first two weeks of a course will be automatically withdrawn from that course, as it will be assumed that the student who does not interact during the first two weeks has no intention of attending the course. The student may re-join the class by prompt notification to NPC and by prompt completion of an interaction shortly thereafter.

If an emergency prevents attendance in this period, please email Susan Israel ([susan@nationalparalegal.edu](mailto:susan@nationalparalegal.edu)) or Stephen Haas ([shaas@nationalparalegal.edu](mailto:shaas@nationalparalegal.edu)) as soon as possible.

***Fulfilling the weekly interaction requirement is particularly important for students receiving financial aid. Federal regulations require the school to withdraw students from financial aid who go 14 consecutive days without fulfilling an interaction requirement and to return any outstanding financial aid money to the government unless the student interacts with the school prior to the time that the withdrawal is completed. If you are unable to fulfill a weekly interaction requirement, it is critical that you stay in contact with the school so that other arrangements can be made.***

## COURSE GRADES

The following formula will be used to calculate final grades

$$\text{Cumulative exam scores} + (\text{assignment points} \times 10) = \text{raw score}$$

Because exams are worth up to 100 points and assignments up to 4 points each, the maximum raw score is 500. 10 raw points (2% of the raw point total) are deducted for each missed weekly interaction. Extra credit may be available for certain in class activities as may be announced by the instructor.

The following conversion chart is then applied based on the total raw points you have earned:

>474	=	A+
445-474	=	A
420-444	=	A-
395-419	=	B+
365-394	=	B
340-364	=	B-
315-339	=	C+
285-314	=	C
260-284	=	C-
230-259	=	D
<230	=	F

## OPTIONAL STUDY SESSIONS

In addition to the 15 classes listed below, instructors and/or graders will run 1 or 2 additional study sessions to discuss assignments and/or the course materials. Attendance and participation in at these sessions is optional and they will be recorded for those who cannot make it to the live sessions.

Please keep an eye on the course message boards to details as to when these will be held.

**All examinations and assignments are due no later than Sunday, June 4, 2017 at 11:59 PM EASTERN TIME. That means 8:59 PM Pacific time, 9:59 PM Mountain time, 10:59 PM Central time, etc.**

**Please see the end of this syllabus for a note on NPC course extensions policy!**

## **Lecture and reading assignments schedule**

### **CLASS ONE**

**Monday, March 6, 2017**

This class begins with a brief historical overview of the area of domestic relations law. Included in this discussion is review of the sources of family law and the intersection of family law with the U.S. Constitution and women's historical status in the family. In addition, we will begin discussing the institution of marriage, with an emphasis on the Constitutional and statutory limitations that exist regarding states' power to regulate marriage.

#### **Courseware Reading:**

Chapter 1: Introduction to Domestic Relations Law

- A. Brief History of Domestic Relations Law
- B. Development of the Rights of Women
- C. Government Regulation of Marriage

#### **Cases and Statutes:**

##### Loving v. Virginia

In this case, the Supreme Court struck down a Virginia ban on interracial marriages. Although this is more an equal protection case than a family law case, per se, this case does demonstrate how the power of the state and federal governments to control domestic relations is also subject to the civil rights guaranteed by the Constitution.

##### Orr v. Orr

This was a landmark Supreme Court case in which the Court reversed the Alabama alimony statute because it authorized courts only to order that husbands pay alimony and not to order that wives do so. The Court rules that this violated the "equal protection" clause of the U.S. Constitution as it treated the genders differently without sufficient justification.

## **CLASS TWO**

**Wednesday, March 8, 2017**

This class will focus on the types of contracts available to parties contemplating marriage, including the requirements needed for enforcement of premarital agreements and ante-nuptial contracts. We will focus on the reasons why pre-nuptial agreements are necessary and the considerations that go into drafting a prenuptial agreement. We will also look at a sample pre-nuptial agreement and discuss the considerations that go into drafting its various provisions.

### **Courseware Reading:**

Chapter 2: Contracts Related to Marriage

- A. Contracts Preventing or Promoting Marriage
- B. Premarital Agreements/ Antenuptial Contracts

### **Documents for Review:**

- Sample Pre-nuptial Agreement

**Assignment 1 can be completed at this point.**

**CLASS THREE:****Monday, March 13, 2017**

This class will consist of a Lexis tutorial/ assignment walkthrough. The instructor will use a research assignment from a past or current course to demonstrate the manner in which an assignment should be researched and composed.

The instructor will walk the students through the various Lexis databases and explain to students how to most efficiently use the Lexis system to complete research assignments. Various general aspects of navigating Lexis, including Shepardizing, seeking and finding appropriate search databases, getting a document by citation, etc., may be explored.

The Instructor will also discuss how to most effectively plan, outline, organize and draft research assignments. Model answers and/or past student submissions may be used to illustrate what a “4” assignment looks like and how to compose one.

## **CLASS FOUR**

**Wednesday, March 15, 2017**

In this class, we will look at agreements involving relationship other than marriage, including cohabitation. We will discuss the circumstances under which such agreements are enforceable and the extent to which the courts will enforce an unspoken “agreement” between parties who are not married. We will look at the modern concept of “palimony” in this connection. We will also focus on contracts or promises to marry (including the statute of frauds issues that apply) and remedies for breach of such promises.

### **Courseware Reading:**

Chapter 2: Contracts Related to Marriage

C. Suits for Breach of Promise to Marry

D. Cohabitation Agreements

### **Documents for Review:**

- Temporary Orders

## **CLASS FIVE**

**Monday, March 20, 2017**

This class will focus on the formalities of marriage, specifically what it takes to achieve a valid marriage. Next, we will analyze the legal effects of an invalid marriage, including the steps needed to correct the problem. These rules become more complicated when more than one state's laws are involved; therefore, we briefly discuss how to resolve these conflicts of law.

### **Courseware Reading:**

Chapter 3: Marriage

A. Formal Marriage

### **Cases and Statutes**

#### Restatement of the Law, Second, Conflict of Laws, § 283

This restatement section deals with the circumstances under which states should be forced to recognize marriages performed in other states and the deference states should give to other states' determinations regarding marriage.

#### In Re May's Estate

This case deals with the important and ever so timely issue: the recognition by one state of marriages that are valid in the state in which they occur, but would be invalid in the first state. This case deals with the question of whether it was a violation of New York public policy to recognize a marriage that was valid in Rhode Island, but would have been invalid in New York.



Tonight, we will continue our discussion of marriage. For those parties who do not wish to formalize their union officially, we will discuss common law marriage, including where it is recognized and what steps are needed to make it effective. We will also look at the controversial issue of same sex marriage. As this is an ever changing area, we will look at the current state of the law in this area.

**Courseware Reading:**

Chapter 3: Marriage

B. Common Law Marriage

C. Same Sex Marriage

**Cases and Statutes:**

Ex parte Threeth

In states that do recognize “common law” marriages, it is important to analyze what constitutes such a union. This case analyzes what factors should be taken into account when making this determination, and thus is an important read in this area.

Lawrence v. Texas

In this landmark case, the US Supreme Court overruled an earlier decision, Bowers v. Hardwick, and ruled that the Constitutional right to “privacy” prevents states from outlawing consensual homosexual sexual activity. When looking at this case, consider how and if the Court’s opinion would apply to the questions of same sex marriage.

**Assignment 2 can be completed at this point.**

**Examination # 1 will be posted at this point.**

## **CLASS SEVEN**

**Monday, March 27, 2017**

This class will focus on various issues involved in parenthood. First, we start with a discussion of how to establish paternity, touching on the topics of legitimacy, constitutional protections, presumptions and what role DNA testing plays in the process. Next, we turn to how assisted reproduction can help infertile couples achieve their goals to become parents. The various methods, such as in vitro fertilization, artificial insemination and surrogacy are explored, including discussion as to the legal ramifications of each decision.

### **Courseware Reading:**

Chapter 4: Parenthood

A. Establishing Paternity

B. Assisted Reproduction

### **Cases and Statutes:**

#### Uniform Parentage Act of 2000

This is a very long Act, so don't try to read the whole thing. But browsing this Act can give you an excellent idea as to the state of the law in many areas, from establishing paternity to the termination of parental rights.

#### In the Matter of Baby M

In this case, the New Jersey Supreme Court dealt with the controversial issue of surrogate parenting. The Court needed to decide whether public policy should allow a woman to "rent out her uterus" for a couple who cannot conceive by themselves, and whether a contract to do so should be enforceable by law.

#### Zepeda v. Zepeda

In this case, the Supreme Court tackled the issue of the "wrongful birth lawsuit, i.e., whether there exists a cause of action on the part of an illegitimate child against his or her parents by virtue of the stigma they caused him by conceiving him in the manner that they did.

## CLASS EIGHT

Wednesday, March 29, 2017

In this class, we will start with unmarried fathers' rights: specifically, how their rights have evolved over the years via numerous court challenges. As an alternative to the other methods discussed, the area of adoption will also be explored, including the various types of adoption and the steps needed to complete the process. We will finish up the issue of parenthood by discussing the steps necessary for a parenthood status to be terminated. We will focus on the due process rights available to parents before this relationship is terminated and the various standards that apply in making the determination to terminate a parent-child relationship, from a legal point of view.

### Courseware Reading:

Chapter 4: Parenthood

- C. Unmarried Father's Rights
- D. Adoption
- E. Termination of Parental Rights

### Cases and Statutes:

#### Stanley v. Illinois

This landmark Supreme Court case balanced the state's interest in caring for children against an unmarried father's equal protection and due process rights. Although, historically, mothers were given preference for custody issues, the Supreme Court held here that depriving a father of parenting rights in a manner that would not be applied to the mother is an unconstitutional equal protection violation. Also, the Court held that due process requires a hearing before parental rights can be terminated. Also, the interests of a "fit" parent in maintaining child custody are superior to the general interests of the state in regulating the care of children.

#### Lassiter v. Dept. of Social Services of Durham County

In this case, the Supreme Court took on the issue of whether an indigent mother is entitled to an attorney at the state's expense in a hearing that contemplates terminating the mother's parental rights. The Court had to consider whether having one's child taken away is as serious as a felony charge, at which the state must provide attorneys for indigent defendants.

#### Documents for Review:

- Application to Seal Financial Forms
- Request to View or Obtain Copy of Sealed Family Law Documents

**Assignment 3 can be completed at this point.**

## **CLASS NINE**

**Monday, April 3, 2017**

Tonight, we will discuss how family law intersects with tort law; specifically, intra-family immunity; when parents can be liable for torts committed by their children; and, in general, to what extent minors are liable for their own torts. In this connection, we will also look at the liability of parents for their children and inherent tort defenses that parents have with regard to their children, such as the privilege of reasonable discipline.

### **Courseware reading:**

#### Chapter 5: Family Relationships

A. Intra-Family Immunities in Tort Actions

B. Torts of Minors

### **Cases and Statutes:**

#### Baker v. Alt

In this case, the Michigan Supreme Court discussed the standards that minors are held to in tort actions. In this case, a six year old child riding a bicycle had been injured by a motorist who claimed that the child was guilty of contributory negligence. The Court refused to rule that children can never be considered liable, even at that age, and instead announced the case-by-case rules that is generally applied today.

## CLASS TEN

Wednesday, April 5, 2017

This class will start by continuing with familial relationships. We will discuss special rules that govern minors, their rights and their roles in court proceeding and the steps that the legal system takes to protect their interests. We will also focus on contract law as it relates to minors, including the times that minors are responsible for their own contracts and promises, even in spite of the general rule that minors are incompetent to contract for themselves.

### Courseware Reading:

Chapter 5: Family Relationships

C. Contracts of Minors

D. Special Rules Governing Minors

### Cases and Statutes:

#### Shields v. Gross

It is generally assumed that minors are not liable for contracts that they make, save for certain exceptions. What about when a parent of a famous child actress signs contracts with talent agencies? Are those contracts binding on the minor? That is the question that faced the New York Court of Appeals in this case.

#### Wisconsin v. Yoder

In this case, the Supreme Court had to deal with the tricky balancing test of balancing freedom of religion against the state's interest in the well-being of a minor. Amish parents had requested an exemption from the general requirement that children stay in school until age 16. When the state balked, the parents sued, claiming that the state rule violated their religious beliefs, and the case ended up in the Supreme Court.

#### Wisconsin v. J.R.

May a parent commit a child to a mental health facility without the child's consent? Yes, the court rules, but not without certain procedural safeguards to make sure there's sufficient need to override the child's freedom interest.

**SPRING BREAK: April 10 – April 17!**

Tonight, we will begin our discussion of marriage dissolution. We will start with a discussion of dissolving a marriage by the process of annulment of the marriage, and also discuss the process of divorce. We will start with a preliminary step to a final divorce decree—separation agreements. We will also discuss some general rules regarding divorce and some of the key background laws that relate thereto.

**Courseware Reading:**

## Chapter 6: Dissolution of the Marriage

- A. Annulment
- B. Nature of Divorce
- C. Separation Agreements

**Cases and Statutes:**Walker v. Walker

What happens when a couple wants to divorce, but it turns out they were never validly married to begin with? How do you divide the assets and on what legal grounds can you do so? The Supreme Court of Michigan tackled these questions in this somewhat bizarre case.

Levine v. Levine

It is generally unethical for an attorney to represent both sides in a divorce proceeding, as it is a conflict of interest. So, what happens if an attorney does represent both sides in a divorce proceeding? The attorney can be disciplined, but what about the divorce itself? Should it be nullified because of the attorney misconduct? That is the issue in this case. When looking at this case, we will discuss the important reasons for making sure that divorce proceedings proceed in the fairest of manners and what impact those concerns have on this case.

**Documents for Review:**

- Certificate of Dissolution of Marriage

**Examination # 2 will be posted at this point.**

## **CLASS TWELVE**

**Monday, April 24, 2017**

In this class, we will continue to discuss the process of divorce. We tackle the steps needed to obtain a divorce, namely jurisdictional issues, such as residency requirements and what happens if the other party is not involved in the proceeding. After that, we will discuss the various grounds for divorce, including the historical requirement of “fault” on the part of one of the parties for a divorce to be granted, as contrasted with the modern trend of allowing “no fault” divorces.

### **Courseware Reading:**

Chapter 6: Dissolution of the Marriage

D. Divorce Jurisdiction

E. Fault vs. No-Fault Divorce

### **Cases and Statutes:**

#### Liccini v. Liccini

“Constructive desertion”: Despite the unwieldy title, this is a divorce ground upon which many were forced to rely before the days of no-fault divorces. It is clear that a party can, through conduct, “desert” his or her spouse while living in the same house. What factors and events can lead to such a conclusion? This case discusses an interesting (though sad, to be sure) fact pattern to which “constructive desertion” applied.

### **Documents for Review:**

- Divorce Action Case Information Statement
- Divorce Complaint
- Affidavit of Service
- Order to Show Cause Application
- Form Interrogatories – Family Law
- Judgment of Divorce

**Assignment 4 can be completed at this point.**

In this class, we look at the financial aspects of divorce, mainly, how courts divide the property acquired by both parties, both before and during the marriage. We will discuss alimony and the potential responsibility to support a divorced spouse after the dissolution of the marriage. We will also look at financial assistance that can be awarded even in the case of unmarried couples.

**Courseware Reading:**

Chapter 7: Dissolution of the Marriage- Financial Aspects

- A. Property Division
- B. Historical Background of Alimony
- C. Types of Alimony/ Spousal Support

**Cases and Statutes:**In re Elam

In determining what each spouse gets after a divorce, a court must determine what constitutes “marital” property and what constitutes “separate” property. In this case, a house was brought into the marriage by the husband, but was improved and increased in value during the marriage. Reading this case will give you an insight into how courts deal with the problems that often come up in determining what constitutes a fair distribution.

Harper v. Harper

This case deals with a similar issue as the above case. Here, the issue is whether the fact that marital property is in the name of one spouse is determinative as to whether that property should be divided or remain with the spouse in whose name it is. Predictably, the court held that whose name the property is in makes little difference if both spouses contributed toward it. Note that the court emphasizes that fairness should be the determining factor in determining whether property is marital or non-marital.

**Documents for Review:**

- Statement of Net Worth
- Notice of Settlement



## **CLASS FOURTEEN**

**Monday, May 1, 2017**

We will start this class by discussing modifications of spousal support after the divorce; how one may apply for such modification and when it is appropriate. We will also look into some tax considerations that affect the payment and receipt of alimony and other spousal distributions. While on the subject of financial support after a divorce, we will discuss child support and how it is awarded.

### **Courseware Reading:**

Chapter 7: Dissolution of the Marriage- Financial Aspects

D. Modifications or Termination of Alimony

E. Tax Considerations

Chapter 8: Dissolution of the Marriage- Child Custody and Support

C. Child Support

### **Cases and Statutes:**

NONE

### **Documents for Review:**

- Response to Petition for Child Support
- Petition for Governing Child Support Judgment
- Child Support Worksheet

**Assignment 5 can be completed at this point.**

## **CLASS FIFTEEN**

**Wednesday, May 3, 2017**

The final class will continue our discussion of dissolution of the marriage, but instead focusing on child custody issues. We start with a discussion of the standards courts use to make custody decisions, touching on joint custody and how to modify an agreement once it has been issued. Jurisdictional issues can get complicated if the parties are residents of different states. Accordingly, we discuss which jurisdiction is the proper forum to hear and decide custody issues. Next, we look at visitation, including the various federal statutes available to thwart one parent's desires to keep the other parent away from the children.

### **Courseware Reading:**

Chapter 8: Dissolution of the Marriage- Child Custody and Support

- A. Child Custody
- B. Visitation

### **Cases and Statutes**

#### Parental Kidnapping Prevention Act

The federal passage of this rule was a very important step because it converted some of the responsibility in child custody cases to the ambit of federal law. Historically, family law issues were and are governed by the states. But, because of the ease in which people can be transported long distances in short periods of time, the federal government felt that certain aspects of contentious custody battles must be handled on a nationwide level. This act is one such example.

#### Ex parte Devine

This case is one example of a custody preference rule that was struck down as an equal protection violation. Thus, although historically the mother was given preference in child custody cases, this preference is probably unconstitutional. Can you think of any case in which there should be a preference for one gender or the other that may override the equal protection clause in some circumstances?

### **Documents for Review:**

- Motion for Temporary Custody under Immediate Danger
- Request for Child Abduction Prevention Orders
- Child Custody and Visitation Application
- Petition for Custody in Non-Married Case
- Declaration under UCCJEA
- Motion to Enforce Custody Plan
- Affidavit with Motion to Enforce Custody
- Supervised Visitation Order

**Examination # 3 will be posted at this point.**

**All examinations and assignments are due no later than June 4, 2017 at 11:59 PM EASTERN TIME. That means 8:59 PM Pacific time, 9:59 PM Mountain time, 10:59 PM Central time, etc.**

### **NPC EXTENSIONS POLICY**

**1) Extensions that conform to the rules below may be requested from the “Assignments and Exams” page on the NPC student website.**

**2) No extensions are possible unless the student has first submitted at least one assignment or examination by the course deadline.**

**3) The maximum possible extension allowed under the NPC system are as follows:**

- **A student who has submitted one assignment or exam may take an extension of up to seven (7) days.**
- **A student who has submitted two assignments or exams (or any combination) may take an extension of up to seven (7) additional days (14 days total).**
- **A student who has submitted three assignments or exams (or any combination) may take an extension of up to seven (7) additional days (21 days total).**
- **A student who has submitted four assignments or exams (or any combination) may take an extension of up to seven (7) additional days (28 days total).**
- **A student who has submitted five assignments or exams (or any combination) may take an extension of up to two (2) additional days (30 days total).**
- **No extensions of more than thirty (30) days beyond the deadline are possible for any reason at all.**

**4) Requested extensions are granted automatically. It is not necessary to give any reason for the request. However, for each day of extension you request, you will be penalized 3 raw points (of 500 that determine your final grade). This accounts for 0.6% of your course grade, per day of extension. This is necessary to compensate for the advantage that students who take more time to do their work enjoy over those who complete their work on time. This also means that a short extension (e.g., a day or two) is unlikely to affect your grade, but a long extension (e.g., two weeks) is guaranteed to affect your grade.**

**5) The penalty referenced in Paragraph 4 may be waived by the dean in extreme cases only. Extreme cases include circumstances beyond the control of the student that caused the student to be unable to complete work for *a significant period of time*. Circumstances such as being busy at work or at home, vacations, family occasions or power or internet outages lasting a few days, are foreseeable life circumstances. Extensions may be taken for these reasons (or, for that matter, for any reason at all), but the grade penalty will not be waived for anything short of a true, unforeseeable emergency. However, please note that the course deadline cannot be extended more than 30 days for any reason at all.**