

SUMMER 2014 VOL. 20 NO. 1

# TPJ

## *Texas Paralegal Journal*





# We give you a lot of credit

## When you participate in CLE Online

Online courses and events are the convenient way to stay current in your practice area. The **Paralegal Division of the State Bar of Texas** online CLE program is the best place to find them. Courses cover a wide variety of subject matter and include live webcasts, Podcasts, and on-demand webinars.

<http://txpd.inreachce.com>



# PRESIDENT'S *Message*

Misti Janes, TBLS-BCP, 2013–2014 President, Paralegal Division, Amarillo, TX

**M**y reigning year as President has quickly come to an end. People have asked me if I am ready for this year to be over and I can honestly say no. I have had a wonderful Board of Directors and team of volunteers that have made my term as President run so smoothly that the time has flown by.

This year has really made me step out of my comfort zone. I am not a leader by nature. I have always said that I like to be the Indian not the Chief. I consider myself a worker bee. But I am very pleased that I was “encouraged” to throw my hat in ring to run for President. If someone had told me two years ago that I would be in this



position, I would have told them that they were crazy. I have grown so much in this last year as President, not only as leader but as a person as a whole. The confidence that I have gained through my work with the Paralegal Division has also given me the strength to grow as an individual and as a paralegal.

A few months before my Presidency began I attended a speech given by Rudy Guiliani on leadership. He made a statement that really stuck with me. He said that a good leader uses the talent around them. I have tried to use that not only in my volunteer work with the Paralegal Division, but also in my daily life. I may not have a certain gift, but

within my arsenal of volunteers there is someone with that gift that would better serve the Division.

My final thought to leave with you as my Presidency comes to an end is to get out of your comfort zone and put on that leadership hat. Start with baby steps. Volunteers as a sub-chair, volunteer at your local Paralegal Division CLE, volunteer at TAPS. It will not take you long to realize that the reward from volunteering far out weights the work.

Lastly, I want to give a big thanks to Norma Hackler and Clara Buckland for all their help this past year. I would not have been able to do this without their help. Their professional and personal support has been invaluable.

I hope that you are able to attend Annual Meeting, *The Paralegal Express: Your Train to Success*” in Ft. Worth, Texas this year. The 2014–2014 Board of Directors will be sworn in along with President Clara Buckland and President-Elect Erica Anderson. I know that there are many great things to come under their leadership.

**The Paralegal Division of the State Bar of Texas**  
Texas Advanced Paralegal Seminar (Three-day multi track CLE)



**THE BEAT GOES ON TAPS 2014**

**SAVE THE DATE**

**October 1-3 2014**  
DoubleTree Austin (North)  
Austin, Texas

Don't miss  
**The Bar & Grill Singers**

For more information and scholarship applications, visit [www.txpd.org/taps](http://www.txpd.org/taps).  
Like us on Facebook | Follow us on Twitter @txpd



# TPIJ

## Texas Paralegal Journal

### Focus on...

#### Legislative Update: Family Law

A summary of family law-related legislation passed by the Texas State Legislature during the 2013 legislative session

7

### Hot Cites

How Women Are Different From Men,  
Financially Speaking

13

Top Five Things Clients do To Hurt Their  
Case

15

Texas and the Nation Re-Evaluating  
Marriage and Same Sex Rights

16

Think Before You Tweet—Privacy,  
Technology & Divorce

18



Conservatorship and Possession of  
Children

19

Grandparents' Rights in Texas

23

Signs You Should Speak With a Divorce  
Lawyer

24

But He Loves Me

26

### Columns

President's Message

1

Editor's Note

3

Scruples: Ethics of "Bring Your Own  
Device" Workplaces

28

### Et Al.

In Memoriam...Pamela Matthews  
Taylor

27

Notice of 2014 District Director Election  
Results

27

The Heart of Old Europe—2014

29

# EDITOR'S *Note*

By Heidi Beginski, Board Certified Paralegal, Personal Injury Trial Law, Texas Board of Legal Specialization

In many jurisdictions in the United States, the family courts see the most crowded dockets. Litigants in the system represent all social and economic classes. Family law and domestic relations cover marriages, civil unions, domestic partnerships, adoption and surrogacy, child abuse and child abduction, juvenile adjudication, paternity testing and fraud, and the termination of relationships and ancillary matters, including divorce, annulment, property settlements, alimony, child custody, visitation, and child support.

The number of people served annually by the family law/domestic relations courts is staggering. For example, the number of Americans getting divorced rose for the third year in a row to about 2.4 million in 2012. But statistics only tell part of the story. Most of us know someone who has gotten married, divorced, or adopted a child. Some of us even know someone who is the victim of abuse, who may or may not seek assistance through the legal system.

This is an area of law that is constantly evolving, and requires vast knowledge and dedication. We are fortunate to have the contributions of various family law attorneys from throughout the state in this issue, to update us on the recent changes in the law, as well as the practical approaches required in the handling of these cases.

I think you will find that this issue will be handy to share with people you know that are seeking information on family law/domestic relation topics.

As more of us use our own electronic devices for work, Ellen Lockwood, ACP, RP provides a primer on the ethics of this practice. This issue contains the 50th column contribution by Ellen, which caused me to reflect on one of the first times I met Ellen, probably at a TAPA meeting. As I recall, CAPA-ritas were involved – at least on my part.

## CORRECTION:

In the Spring 2014 issue, in the table of Board Certified Paralegals by Area, By Year that accompanied the 20th Anniversary of Voluntary Paralegal Specialty Certification in Texas article, the designation EP was mislabeled in the key as Employment, when it should have read Estate Planning. Our apologies for this error.

---

*Texas Paralegal Journal* (ISSN# 1 089-1633) is published four times a year in Summer, Fall, Winter, and Spring for \$15 set aside from membership dues for a 1-year subscription by the Paralegal Division of the State Bar of Texas, 3505 Black Mesa Hollow, Austin, Texas 78739. Periodical Postage Paid at Austin, TX. POSTMASTER: Send address changes to the Texas Paralegal Journal, P.O. Box 13 75, Manchaca, Texas 78652

Circulation Spring 2014: Total Printed: 1,800; Paid or Requested: 1,751; Mail Subscriptions: 1,751; Total Paid and/or requested circulation: 1,751; Free Distribution: 45; Total Distribution: 1,796; Office Use or Leftover: 4

SUMMER 2014

Publications:  
Heidi Beginski, TBLS-BCP, Editor  
Misti Janes, TBLS-BCP, President  
Norma Hackler, CMP, Coordinator  
Mona Hart Tucker, ACP, Board Advisor

## Art Direction

David Timmons Design. 4703 Placid Place, Austin, Texas 78731. Phone 512-451-4845, Fax 512-451-1087. E-mail: dtimmonso@gmail.com

The *Texas Paralegal Journal* is published four times a year as a service to the paralegal profession. A copy of each issue is furnished to the members of the Paralegal Division as part of their dues.

## Paralegal Division

President Misti Janes, TBLS-BCP  
President Elect Clara Buckland, CP  
Parliamentarian Deirdre Trotter, ACP  
Treasurer Erica Anderson, ACP  
Secretary Linda Gonzales, CP

## BOARD OF DIRECTORS

Misti Janes, TBLS-BCP, President, Amarillo; Clara Buckland, CP, President Elect, El Paso; Christine R. Cook, Houston, District 1 Director; Mariela Cawthon, TBLS-BCP, CP, Dallas, District 2 Director; Megan Goor, TBLS – BCP, Fort Worth, District 3 Director; Kristina Kennedy, TBLS-BCP, Austin, District 4 Director; Allison C. Seifert, San Antonio, District 5 Director; Deirdre Trotter, ACP, MSIS, District 6 Director and Parliamentarian (Lubbock); Erica Anderson, ACP, Amarillo, Treasurer and District 7 Director; Sharon Wornick, CP, Silsbee, District 10 Director; Lydia P. McBrayer, CP, Midland, District 11 Director; Pamela Snaveley, CP, Denton, District 12 Director; Mona Hart-Tucker, ACP, Daingerfield, District 14 Director; Martha Ramirez, TBLS-BCP, McAllen, District 15 Director; and Linda Gonzales, CP, El Paso, Secretary and District 16 Director.

## PUBLICATIONS COMMITTEE MEMBERS

Heidi Beginski, TBLS-BCP, Chair, El Paso; Mona Hart Tucker, ACP, Board Advisor, Daingerfield; Kimberly A. McDonald, Nancy V. Cortez, Houston; Kimberly Gorny, Dallas; Katrina Lea, Roanoke; Dora Hudgins, CP, Round Rock; Georgia Seeley, Lubbock; Bonnie Kennedy, San Angelo; and Gail Lungaro, Houston.

DEADLINE FOR FALL 2014 IS AUGUST 11, 2014

Texas Paralegal Journal © 2006 by the Paralegal Division, State Bar of Texas. Published quarterly in Texas by the Publications Committee of the Paralegal Division, P.O. Box 12487, Austin, Texas 78711. The Texas Paralegal Journal is a magazine published to provide information specifically for the members of the Paralegal Division of the State Bar of Texas, as well as for members of the paralegal community in general, both in Texas and nationwide. Opinions expressed herein are solely those of the writer and not the Board of Directors or of the Division. Publication of any advertisement herein does not imply endorsement in any manner. None of the information contained herein is intended nor should it be construed as legal advice. Inclusion and editing of material submitted is at the discretion of the editor and the editorial subcommittee.



State Bar of Texas

# Paralegal Division

[www.txpd.org](http://www.txpd.org)

We provide... leadership • professionalism • public service

## Join PD and reap the benefits!

**Below is a highlight of a few of the benefits that can make your membership invaluable.**

- » **E-Group Forum:** Join the members-only forum with hot topics, forms, ethics, and general questions posted and answered by paralegals. The eGroup is a way for members to share information and to obtain input to help address questions. Say you have a question and think the group would be a good resource; you could send your question to the eGroup. In a matter of minutes, you can have an answer to your question, a fresh idea about the matter, or a lead in the right direction. The amount of time that you can save with the eGroup is worth the cost of membership alone.
- » **CLE:** The Paralegal Division provides many opportunities to obtain CLE. Every year the Paralegal Division sponsors the Texas Advanced Paralegal Seminar (TAPS), a 3-day CLE seminar where you can obtain up to 14 hours of CLE for one low great price. A majority of the topics are TBLS approved for those board certified paralegals. If you are not able to attend TAPS, the Paralegal Division provides other opportunities by providing at least 3 hours of CLE in your district and online CLE. The Paralegal Division has over 60 different CLE topics available online for those paralegals that are not able to attend CLE outside of the office. You can obtain your CLE hours while at your computer.
- » **Mentor Program:** The mentor program is available to all members of the Paralegal Division. The purpose of this program is to provide support on topics such as ethics, career advancement, professionalism, and the Division. Mentors will provide support, guidance, and direction to new paralegals that will strengthen their links to the paralegal community, and contribute to their success as a paralegal. Protégés also have access to valuable networking opportunities with other paralegals and the legal community through their mentor, as well as at state-wide and district Paralegal Division events.

Membership criteria and additional member benefits can be found at [www.txpd.org](http://www.txpd.org) under “Membership” tab. All applications are accepted and processed online at [www.txpd.org/apply](http://www.txpd.org/apply). Dues payment accepted by check, money order or credit card (\$5 convenience fee is charged for all credit card payments). Questions regarding membership in the Paralegal Division can be forwarded to [pd@txpd.org](mailto:pd@txpd.org) or [memberchair@txpd.org](mailto:memberchair@txpd.org).

***A Division with Vision... Empowering Paralegals!***

# When You Have to Find the Right Experts



Ron Luke, JD, PhD — Economic analysis of medical and vocational damages; reasonableness of medical charges



Mary L. Hoane, CPA/CFF, MBA — Analysis of lost earnings capacity and economic damages



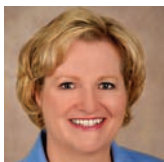
Brian Buck, MD — Independent medical examinations and life care planning



J. William Wellborn, MD — Independent medical examinations and life care planning



Kacy Turner, MS, CRC, CVE, CLCP — Vocational evaluation and life care planning



Donna Finkbeiner, BSN, RN, CLCP, MSCC — Medicare set aside reports and life care planning

Research & Planning Consultants can provide a complete team of experts to analyze economic damages in personal injury cases.

RPC's experts have served plaintiff and defense attorneys since 1982, and have been accepted in state and federal courts.



**Contact RPC,  
at 512-371-8000  
about your case.**



Research & Planning Consultants, L.P.  
[www.rpcconsulting.com](http://www.rpcconsulting.com)

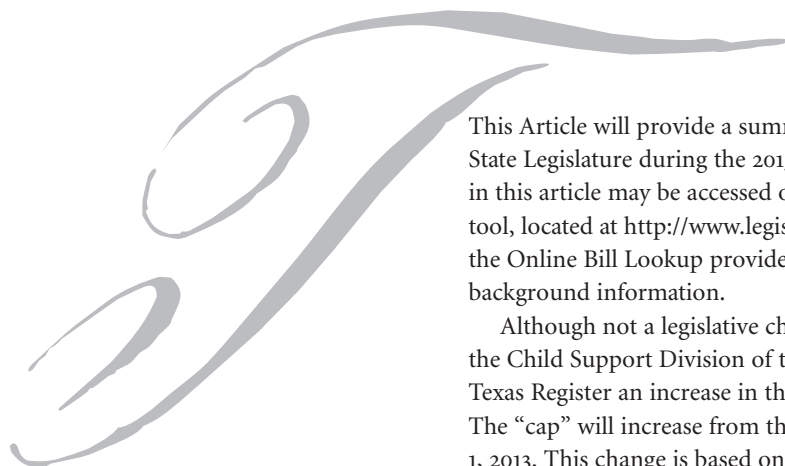






# Legislative Update: Family Law

By Brian L. Webb and Brant M. Webb



This Article will provide a summary of family law-related legislation passed by the Texas State Legislature during the 2013 legislative session. The full text of the bills discussed in this article may be accessed online using the Texas Legislature Online Bill Lookup tool, located at <http://www.legis.state.tx.us/BillLookup/BillNumber.aspx>. Additionally, the Online Bill Lookup provides a comprehensive analysis of each bill, complete with background information.

Although not a legislative change, the Family Law Section was recently notified by the Child Support Division of the Attorney General that they will soon publish in the Texas Register an increase in the “cap” on net resources for purposes of child support. The “cap” will increase from the current \$7500 to \$8550 and will be effective September 1, 2013. This change is based on authority granted by Section 154.125 of the Texas Family Code.

## I. FAMILY LAW LEGISLATION PASSED DURING THE 2013 SESSION

### A. Title 1: The Marriage Relationship

#### 1. *HB 389: Spousal Maintenance*

Amends Chapters 8 and 9 of the Texas Family Code. This bill seeks to provide for the uniform enforcement of court-ordered, agreed, and contractual alimony and maintenance and to provide for the enforcement of certain property division agreements, regardless of whether the agreement is included in the decree or in a separate document. Further, HB 389 amends current law relating to the enforcement of spousal maintenance agreements and property distribution agreements incident to divorce or annulment. This bill amends Section 8.059 of the Texas Family Code to include language establishing a maximum amount of agreed spousal maintenance that may be enforced by contempt (not to exceed the “amount of periodic support the court could have ordered”). Effective: 9/1/13

#### 2. *HB 869: Marriage License for Absent Applicant*

Amends Sections 2.006 and 2.007 of the Texas Family Code and adds Section 2.0071. Marriage by proxy allows for an individual to stand in for another person while applying for a marriage license. This bill seeks to address concerns regarding this process while preserving the full benefits of marriage by proxy for certain members of the United States military. HB 869 still allows a clerk to issue a marriage license to a person on behalf of both absent applicants if one or both absent applicants are members of the military “stationed in another country in support of combat



or another military operation.”

However, if neither absent applicants are members of the military, then at least one of the people getting married has to appear before the clerk with an absent applicant affidavit for the other in hand to acquire the marriage license. Effective: 9/1/13

#### **B. Title 2: Child in Relation to the Family**

1. *SB 717: Consent by Minor to Care*

*Provided Through Transitional Living Program*

Amends Chapter 32 of the Texas Family Code by adding Section 32.203. SB 717 authorizes minors 16 years of age or older to contract with transitional living programs for housing or services under certain conditions. This bill seeks to provide homeless and runaway youths, including those with children, with a means to life skills training and planning assistance to help them transition to independent living. Effective: 9/1/13

#### **C. Title 4: Protective Orders and Family Violence**

1. *SB 129: Venue for a Protective Order Application*

Amends Section 82.003 of the Texas Family Code. Protective orders against family violence can currently only be filed in the county in which the victim resides or the county in which the alleged offender resides. SB 129 expands the venue for filing an application for a protective order against family violence to include “any county in which the family violence is alleged to have occurred.” Effective: 9/1/13

2. *SB 130: Conflicts of Interest*

Amends Section 81.0075 of the Texas Family Code. A prosecutor who represents a party in a proceeding for a family violence protective order is currently allowed to represent the Department of Family and Protective

Services (“DFPS”) in a subsequent action that involves the party without such representation constituting a conflict of interest. SB 130 clarifies that there is also no conflict of interest when a prosecutor representing DFPS in an action involving a party also assists that party with obtaining a family violence protective order. A prosecuting attorney is not precluded from representing a party in a family violence protective order proceeding and the DFPS in another action involving the party, regardless of whether the family violence protective order proceeding occurs before, concurrently with, or after the other action involving the party. Effective: 9/1/13

3. *SB 355: Powers & Duties of the Attorney General Regarding Child Support and Applications for a Protective Order*

Amends provisions of the Texas Family Code relating to marriage licenses, child support, and protective orders, clarifies the duties and responsibilities of the office of the attorney general, and provides for notification regarding the issuance of protective orders and the imposition of fines on employers who fail to comply with certain withholding requirements. Among other things, SB 355 requires an application for a protective order against family violence to state whether an applicant is receiving services from the office of the attorney general in connection with a child support case and, if known, the agency case number for each open case. Further, The bill requires the clerk of the court issuing an original or modified protective order against family violence to send a copy of the order, along with certain pertinent information regarding the order, to the office of the attorney general if a protective order application indicates the applicant is receiving such services. Effective: 9/1/13

4. *SB 555: Protective Orders & Pets or Companion Animals*

Amends Chapter 85 of the Texas Family Code and Chapter 25 of the Texas Penal Code. SB 55 expands the scope of protective orders applicable to a person who committed family violence. This bill allows for pets, companion animals, or assistance animals in the “actual or constructive care” of a person protected by an order. Additionally, SB 55 amends the Texas Penal Code to specify, for purposes of statutory provisions establishing the conduct that constitutes an offense relating to the violation of certain court orders or conditions of bond in a family violence case, that possession of a pet, companion animal, or assistance animal by a person means actual care, custody, control, or management of a pet, companion animal, or assistance animal by the person or constructive possession of a pet, companion animal, or assistance animal owned by the person or for which the person has been the primary caregiver. Effective: 9/1/13

#### **D. Title 5: The Parent-Child Relationship & the Suit Affecting the Parent-Child Relationship**

1. *HB 154: Mistaken Paternity and Termination of the Parent-Child Relationship*

Amends Sections 161.005(e) and (i) of the Texas Family Code. This bill allows for a termination suit to be filed not later than the second anniversary, rather than the first anniversary, of the date on which the petitioner becomes aware of the facts alleged in the petition indicating that the petitioner is not the child’s genetic father. Further, HB 154 ends the petitioner’s obligation to pay interest that accrues after the date an order is rendered on the basis of a child support arrearage or money judgment for a child support arrearage existing on that date. Effective: 9/1/13

# Focus on...

2. *HB 843: Child Entitled to Notice of a Permanency Hearing*

Amends Section 236.301 of the Texas Family Code. This bill entitles certain persons to at least 10 days' notice of a permanency hearing and to present evidence and be heard at the hearing, including the child if the child is 10 years of age or older or the court determines it is appropriate for the child to receive notice. Effective: 9/1/13

3. *HB 845: Standard Possession Order*

Amends Sections 153.316 and 153.317 of the Texas Family Code. Additionally, HB 845 repeals Section 153.3162 related to additional periods of possession or access after conclusion of military deployment. This bill expands the definition of written notice under Section 153.316 to include notice provided by e-mail or fax. Further, HB 845 allows for greater options for the beginning and ending times of certain periods of possession or access. Effective: 9/1/13

4. *HB 847: Enforcement of a Child Support Order by Contempt*

Amends Section 157.162 of the Texas Family Code and repeals Sections 157.162(d) and (e), removing the "get out of jail free" card of a last minute payment. This bill allows a court to award a petitioner court costs or reasonable attorney's fees even if there is no finding of contempt. Effective: 9/1/13

5. *HB 1185: Retention of Certain Records in a SAPCR by Child's Attorney Ad Litem, Guardian Ad Litem, or Amicus Attorney*

Repeals Section 107.00(f) of the Texas Family Code. Records relating to a child the subject of a SAPCR obtained from a custodian by the child's court-appointed representatives are no longer required to be destroyed on termination of appointment. This bill seeks to address the unfortunate circumstances in which a child returns to the court system. In such cases, the child's court-

appointed representatives must again seek out these essential records in order to help the child. HB 1185 allows a representative to retain such records and better serve a child returning to the system from the first day of appointment. Effective: 9/1/13

6. *HB 1205: Failure to Report Abuse or Neglect of a Child*

Amends Section 261.109 of the Texas Family Code. HB 1205 seeks to address circumstances in which a professional has cause to believe that abuse or neglect of a child has occurred (or may occur) but fails to report it by strengthening and clarifying the law relating to reporting child abuse or neglect. A professional required to make a report who knowingly fails to do so faces a Class A misdemeanor. If shown at trial that the professional intended to conceal the abuse or neglect, the professional faces a state jail felony. Effective: 9/1/13

7. *HB 1228: History of Domestic Violence or Sexual Abuse*

Amends Sections 153.004 and 161.007 of the Texas Family Code. A man who fathers a child through sexual assault may have the same custody and visitation privileges to that child as any other father. H.B. 1228 seeks to address this inequity by providing women who become pregnant as the result of sexual assault with more legal rights. This bill amends current law relating to consideration by the court of sexual abuse and conduct that constitutes sexual assault.

The court shall now consider evidence of sexual abuse in determining conservatorship and/or any limitation thereof. Section 161.007 orders the court, except as provided in subsection (b), to terminate a parent-child relationship if it is found by clear and convincing evidence that: (1) the parent has engaged in conduct that constitutes

certain sexual or assaultive offenses; (2) as a direct result, the victim of the conduct became pregnant with the parent's child; and (3) termination is in the best interest of the child. Effective: 9/1/13

8. *HB 1366: Interlocutory Appeals/De Novo Hearings in Family Law Proceedings*

Amends Section 6.4035, Section 6.708, and Chapter 201 of the Texas Family Code. Additionally, HB 1366 amends Section 51.014 of the Civil Practice and Remedies Code. This bill adds clarifying language to Section 6.4305(c) regarding a waiver of service in a divorce and adds Section 6.708(c), the famous *Tedder* amendment, regarding the court's award of reasonable attorney's fees and expenses.

Under Chapter 201, a party may now request a de novo hearing by filing a written request not later than the third working day, rather than the seventh, after the date the party receives notice of the substance of the associate judge's report. Under Section 51.014 of the Civil Practice and Remedies Code, HB 1366 adds language to preclude an interlocutory appeals in a suit brought under the Family Code. Effective: 9/1/13

9. *HB 1846: Suspension/Denial of Issuance or Renewal of Driver's License for Failure to Pay Child Support*

Amends Sections 232.008 and 232.0135 of the Texas Family Code. The attorney general or a court can stay or halt an order suspending a driver's license under certain circumstances. One of those conditions is that the individual comply with a child support repayment schedule. H.B. 1846 adds Section 232.008(b-1), which prohibits stay of an order unless the individual makes an immediate partial payment in an amount (not less than \$200) as specified by the court or Title IV-D agency. Additionally, the bill adds language to Section 232.0135(b) that



prohibits a licensing authority from accepting an application for a license or license renewal unless the person owing child support has made the required payment (not less than \$200) and is in compliance with the remainder of the payment schedule. Effective: 9/1/13

10. *HB 3017: VA Disability Benefits and Net Resources*

Amends Chapter 154 of the Texas Family Code. Currently, the application of child support guidelines presumptively includes a disabled veteran's compensation and pension as a net resource pursuant to Section 154.062 (Net Resources). Although sections of the Texas Family Code provide guidance for treatment of a disabled obligor's net resources when the obligor is receiving Social Security benefits, the Code is silent as to how to appropriately calculate and allocate a disabled veteran's United States Department of Veterans Affairs ("VA") compensation and pension benefits. H.B. 3017 addresses the inconsistency of the law as it treats disabled parents who struggle with contributing to the economic well being of their children. The bill amends provisions related to the determination of the amount of certain child support obligations. HB 3017 adds VA disability benefits "other than non-service-connected disability pension benefits, as defined by 38 U.S.C. Section 101(17)" to the definition of "resources" and clarifies the treatment of disability payments from the VA in determining child support. Effective: 9/1/13

11. *SB 44: Child Abuse or Neglect*

Amends Chapter 261 of the Texas Family Code and certain provisions of the Texas Government Code. SB 44 amends the Family Code to define "severe emotional disturbance," for purposes of provisions relating to the investigation of reports of child abuse

or neglect, as a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment that substantially interferes with or limits a person's role or ability to function in family, school, or community activities. The bill requires the Department of Family and Protective Services ("DFPS") to report the number of children who suffer from a severe emotional disturbance and for whom DFPS is appointed managing conservator because a person voluntarily relinquished custody of the child solely to obtain mental health services for the child in DFPS's required annual report on DFPS's child protection activities. SB 44 requires DFPS, before a person relinquishes custody of a child who suffers from a severe emotional disturbance in order to obtain mental health services for the child, to discuss with the person relinquishing custody the option of seeking a court order for joint managing conservatorship of the child with DFPS, if it is in the child's best interest. Effective: 9/1/13

12. *SB 245: Eligibility of Children's Advocacy Centers for Contracts to Provide Services*

Amends Section 264.411 of the Texas Family Code. Children's Advocacy Centers of Texas, Inc. is the membership organization for all of the local children's advocacy centers across the state. Over the past few years, the organization has worked with stakeholders to update and elevate the statewide standards that govern the type of services provided by each local center and, as a result of this work, has compiled a set of evidence-based standards reflective of best practices in the field for the delivery of center services. While many centers are already implementing these practices, SB 245 codifies these new standards. Effective: 9/1/13

13. *SB 330: Access to Investigative Records by*

*Social Study Evaluators*

Amends Chapter 107 of the Texas Family Code by adding Section 107.05145. SB 330 clarifies the Department of Family and Protective Services' ("DFPS") authority to provide unredacted records to certain individuals conducting social studies and entitles a social study evaluator to obtain from DFPS a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the social study. The bill establishes that such records are confidential and are not subject to disclosure under state public information law or disclosure in response to a subpoena or a discovery request. Additionally the bill authorizes a social study evaluator to disclose such information in the social study report only to the extent the evaluator determines that the information is relevant to the social study or a recommendation made in relation to a social study. Effective: 9/1/13

14. *SB 502: Placement of Children with Relative or Other Designated Caregiver*

Amends Chapter 264 of the Texas Family Code by adding Section 264.7541. SB 502 requires the Department of Family and Protective Services ("DFPS"), before placing a child with a relative or other designated caregiver, to arrange a visit between the child and the proposed caregiver and to provide the proposed caregiver with a form, which may be the same form DFPS provides to nonrelative caregivers, containing information, to the extent it is available, about the child that would enhance continuity of care for the child, including the child's school information and educational needs; the child's medical, dental, and mental health care information; the child's social and family information; and any other information about the child DFPS determines will assist





the proposed caregiver in meeting the child's needs. However, the bill authorizes DFPS to waive that requirement if the relative or other designated caregiver has a long-standing or significant relationship with the child and has provided care for the child at any time during the 12 months preceding the date of the proposed placement. Additionally, the bill specifies that the one-time cash payment provided to a caregiver under a caregiver assistance agreement on the initial placement of a child or a sibling group is capped at \$1,000 per child. Effective: 9/1/13

15. *SB 534: Review of Placement of Children Under Care of DFPS*

Amends Chapter 263 of the Texas Family Code and adds Section 263.009. SB 534 requires the Department of Family and Protective Services ("DFPS") to hold permanency planning meetings for each child for whom DFPS is appointed temporary managing conservator and sets out additional provisions. The bill requires at least two separate meetings to be held: (1) the first not later than the 45<sup>th</sup> day after the date DFPS is named temporary managing conservator of the child; and (2) the second not later than five (5) months after the date DFPS is named temporary managing conservator of the child. Effective: 9/1/13

16. *SB 1759: Additional Duties of Attorney Ad Litem for Child*

Amends Section 107.004 of the Texas Family Code. SB 1759 requires an attorney ad litem appointed for a child in a proceeding under provisions relating to the protection of a child in a suit affecting the parent-child relationship, rather than only in a proceeding in a suit filed by a governmental entity to protect the health and safety of the child or in a review of the placement of a child in

the care of the Department of Family and Protective Services ("DFPS"), to complete certain continuing legal education and clarifies that the continuing legal education must relate to representing a child in a child protection case, rather than relate to child advocacy. Effective: 9/1/13

## II. OTHER LEGISLATION PASSED DURING THE 2013 SESSION

1. *HB 1711: Barratry*

Amends Chapter 82 of the Texas Government Code and Chapter 38 of the Texas Penal Code. The bill allows for recovery of a \$10,000 penalty by a client who prevails in a barratry action from any person who committed such offense. HB 1711 specifies that any contract for legal services is voidable by the client if it is procured as a result of conduct violating Section 38.12(a) or (b) of the Texas Penal Code or Rule 7.03 of the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. Effective: 9/1/13

2. *HB 1875: Transfer of Cases Between District Courts*

Amends Section 24.003 of the Texas Government Code. Under current law relating to the transfer of cases from one district court to another district court within the same county, the consent of the judge of the court to which a case is transferred is not required. HB 1875 adds Subsection (b-1), which provides that, notwithstanding the local rules, a district judge may not transfer any civil or criminal case or proceeding to the docket of another district court without the consent of the judge of the court to which it is transferred. Effective: 9/1/13

3. *HB 3357: Administration of and Benefits Payable By the Teacher Retirement System of Texas*

Amends and repeals certain provisions of the Texas Government Code and

repeals certain provisions of the Texas Insurance Code. The Teacher Retirement System of Texas ("TRS") delivers retirement and related benefits as authorized by law for TRS members and their beneficiaries. Interested parties asserted that to comply with fiduciary standards, funds held in the TRS trust must be used exclusively for the benefit of members. H.B. 3357 amends current law relating to the administration of and benefits payable by the Teacher Retirement System of Texas, ensuring that TRS can provide for the efficient delivery of benefits. Effective: 9/1/13

4. *SB 60: Credit Security Freeze on Protected Consumers Under 16 Years of Age*

Amends certain provisions of Chapter 20 of the Texas Business & Commerce Code and adds Subchapter E. Currently, credit consumers may place freezes on their credit file to prevent identity thieves from opening lines of credit in their name. Because most children have not established a credit file, they are particularly susceptible to tarnished credit histories if their identity is stolen. S.B. 60 amends current law relating to authorizing the placement of a security freeze on the consumer file or other record created or maintained by a consumer reporting agency regarding a person under 16 years of age. Effective: 1/1/14

5. *SB 462: Re-designation of Family Drug Court Program*

Amends certain provisions of the Texas Government Code. SB 462 transfers provisions relating to family drug court programs, drug court programs, veterans court programs, and mental health court programs from the Family Code and the Health and Safety Code to the Government Code in order to consolidate statutory provisions relating to specialty courts. Additionally, the bill removes provisions relating to program



oversight that apply to each type of program individually and instead sets out oversight provisions applicable to all of those specialty courts. Effective: 1/1/14

### III. CONCLUSION

This brief summary of family law-related legislation passed during the 2013 legislative session was designed to be concise but informative. For more information, the full text and a comprehensive analysis of each bill discussed today is accessible online using the Texas Legislature Online Bill Lookup tool, located at <http://www.legis.state.tx.us/BillLookup/BillNumber.aspx>.



*BRIAN L. WEBB, of The Webb Family Law Firm, P.C. in Dallas, focuses his practice exclusively on family law matters such as divorce, child support, and child custody and visitation.*



*BRANT M. WEBB is an attorney in The Webb Family Law Firm, P.C. in Dallas. His practice focuses exclusively on family law matters such as divorce, child support, and child custody and visitation.*



## ACCREDITED

### **Certified Paralegal Program Receives Accreditation from the National Commission for Certifying Agencies (NCCA)**

On April 30, 2014, The National Commission for Certifying Agencies (NCCA) granted accreditation to the NALA Certified Paralegal program for demonstrating compliance with the NCCA Standards for the Accreditation of Certification Programs.

NCCA is the accrediting body of the Institute for Credentialing Excellence. The NCCA Standards were created to ensure certification programs adhere to modern standards of practice for the certification industry.

The NALA Certified Paralegal program joins an elite group of more than 120 organizations representing over 270 certification programs that have received and maintained NCCA accreditation.

More information on the NCCA is available online at [www.credentialingexcellence.org/NCCA](http://www.credentialingexcellence.org/NCCA).

Information describing the Certified Paralegal program is available at [www.nala.org/certification.aspx](http://www.nala.org/certification.aspx).



**THE ASSOCIATION OF  
LEGAL ASSISTANTS • PARALEGALS**

# How Women Are Different from Men, Financially Speaking

Craig Hackler

Branch Manager / Financial Advisor

Raymond James Financial Services, Inc., Member FINRA/SIPC

**W**e all know men and women are different in some fundamental ways. But is this true when it comes to financial planning? In a word, yes. In the financial world, women often find themselves in very different circumstances than their male counterparts.

Everyone wants financial security. Yet women often face financial headwinds that can affect their ability to achieve it. The good news is that women today have never been in a better position to achieve financial security for themselves and their families.

More women than ever are successful professionals, business owners, entrepreneurs, and knowledgeable investors. Their economic clout is growing, and women's impact on the traditional workplace is still unfolding positively as women earn college and graduate degrees in record numbers and seek to successfully integrate their work and home lives to provide for their families. So what financial course will *you* chart?

## SOME KEY DIFFERENCES

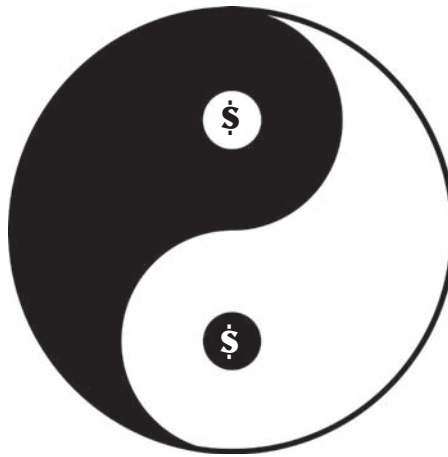
On the path to financial security, it's important for women to understand what they might be up against, financially speaking:

**Women have longer life expectancies.** Women live an average of 4.8 years longer than men.<sup>1</sup> A longer life expectancy presents several financial challenges for women:

- Women will need to stretch their retirement dollars further
- Women are more likely to need some type of long-term care, and may have to face some of their health-care needs alone
- Married women are likely to outlive their husbands, which means they

could have ultimate responsibility for disposition of the marital estate

**Women generally earn less and have fewer savings.** According to the Bureau of Labor Statistics, within most occupational categories, women who work full-time, year-round, earn only 82% (on average)



of what men earn.<sup>2</sup> This wage gap can significantly impact women's overall savings, Social Security retirement benefits, and pensions.

The dilemma is that while women generally earn less than men, they need those dollars to last longer due to a longer life expectancy. With smaller financial cushions, women are more vulnerable to unexpected economic obstacles, such as a job loss, divorce, or single parenthood. And according to U.S. Census Bureau statistics, women are more likely than men to be living in poverty throughout their lives.<sup>3</sup>

**Women are more likely to take career breaks for caregiving.** Women are much more likely than men to take time out of their careers to raise children and/or care for aging parents.<sup>4</sup> Sometimes this is by choice. But by moving in and out of the

workforce, women face several significant financial implications:

- Lost income, employer-provided health insurance, retirement benefits, and other employee benefits
- Less savings
- A potentially lower Social Security retirement benefit
- Possibly a tougher time finding a job, or a comparable job (in terms of pay and benefits), when reentering the workforce
- Increased vulnerability in the event of divorce or death of a spouse

In addition to stepping out of the workforce more frequently to care for others, women are more likely to try to balance work and family by working part-time, which results in less income, and by requesting flexible work schedules, which can impact their career advancement (and thus the bottom line) if an employer unfairly assumes that women's caregiving responsibilities will come at the expense of dedication to their jobs.

**Women are more likely to be living on their own.** Whether through choice, divorce, or death of a spouse, more women are living on-their-own. This means they'll need to take sole responsibility for protecting their income and making financial decisions.

**Women sometimes are more conservative investors.** Whether they're saving for a home, college, retirement, or a trip around the world, women need their money to work hard for them. Sometimes, though, women tend to be more conservative investors than men,<sup>5</sup> which means their savings might not be on track to meet their financial goals.

**Women need to protect their assets.** As women continue to earn money, become the main breadwinners for their families, and run their own businesses, it's vital that they take steps to protect their assets, both personal and business. Without an asset protection plan, a woman's wealth is vulnerable to taxes, lawsuits, accidents, and other financial risks that are part of everyday life. But women may be too busy handling their day-to-day responsibilities to take the time to implement an appropriate plan.

## STEPS WOMEN CAN TAKE

In the past, women may have taken a less active role in household financial decision making. But, for many, those days are over. Today, women have more financial responsibility for themselves and their families. So it's critical that women know how to save, invest, and plan for the future. Here are some things women can do:

**Take control of your money.** Create a budget, manage debt and credit wisely, set and prioritize financial goals, and implement a savings and investment strategy to meet those goals.

**Become a knowledgeable investor.** Learn basic investing concepts, such as asset classes, risk tolerance, time horizon, diversification, inflation, the role of various financial vehicles like 401(k)s and IRAs, and the role of income, growth, and safety investments in a portfolio. Look for investing opportunities in the purchasing decisions you make every day. Have patience, be willing to ask questions, admit mistakes, and seek help when necessary.

**Plan for retirement.** Save as much as you can for retirement. Estimate how much money you'll need in retirement, and how much you can expect from your savings, Social Security, and/or an employer pension. Understand how your Social Security benefit amount will change depending on the age you retire, and also how years spent out of the workforce might affect the amount you receive. At retirement, make sure you understand your retirement plan distribution options, and review your portfolio regularly. Also, factor the cost of health care (including long-term care) into your retirement planning, and understand the basic rules of Medicare.

**Advocate for yourself in the workplace.** Have confidence in your work ability and advocate for your worth in the workplace by researching salary ranges, negotiating your starting salary, seeking highly visible job assignments, networking, and asking for raises and promotions. In addition, keep an eye out for new career opportunities, entrepreneurial ventures, and/or ways to grow your business.

**Seek help to balance work and family.** If you have children and work outside the

## Save as much as you can for retirement. Estimate how much money you'll need in retirement, and how much you can expect from your savings, Social Security, and/or an employer pension.

home, investigate and negotiate flexible work arrangements that may allow you to keep working, and make sure your spouse is equally invested in household and child-related responsibilities. If you stay at home to care for children, keep your skills up-to-date to the extent possible in case you return to the workforce, and stay involved in household financial decision making. If you're caring for aging parents, ask adult siblings or family members for help, and seek outside services and support groups that can offer you a respite and help you cope with stress.

**Protect your assets.** Identify potential risk exposure and implement strategies to reduce that exposure. For example, life and disability insurance is vital to protect your ability to earn an income and/or care for your family in the event of disability or death. In some cases, more sophisticated strategies, such as other legal entities or trusts, may be needed.

**Create an estate plan.** To ensure that your personal and financial wishes will be carried out in the event of your incapacity or death, consider executing basic estate planning documents, such as a will, trust, durable power of attorney, and health-care proxy.

### A FINANCIAL PROFESSIONAL CAN HELP

Women are the key to their own financial futures—it's critical that women educate themselves about finances and be able to make financial decisions. Yet the world of financial planning isn't always easy or convenient. In many cases, women can benefit greatly from working with a financial professional who can help them understand their options and implement plans designed to provide women and their families with financially secure lives.

*Content prepared by Forefield, Inc.*

*This information, developed by an independent third party, has been obtained from sources considered to be reliable, but Raymond James Financial Services, Inc. does not guarantee that the foregoing material is accurate or complete. Raymond James Financial Services, Inc. does not provide advice on tax, legal or mortgage issues. These matters should be discussed with the appropriate professional.*



Craig Hackler holds the Series 7, Series 9, Series 10, and Series 63 Securities licenses, as well as the Group I Insurance License (life,

health, annuities). Through Raymond James Financial Services, he offers complete financial planning and investment products tailored to the individual needs of his clients. He will gladly answer any of your questions. Call him at 512.391.0919 or 1-800-650-9517 or email at [craig.hackler@raymondjames.com](mailto:craig.hackler@raymondjames.com). Raymond James Financial Services, Inc., 3345 Bee Caves Road, Suite 208, Austin, TX 78746

### Sources

1. The National Vital Statistics Reports, Volume 61, Number 4, May 8, 2013
2. U.S. Department of Labor, Bureau of Labor Statistics, Women in the Labor Force: A Databook, December 2012
3. U.S. Census Bureau, Current Population Reports, P60-245, 2013
4. U.S. Department of Labor, "Women and Retirement Savings," October 2011
5. U.S. Department of Labor, "Women and Retirement Savings," October 2011



# Top Five Things Clients Do to Hurt Their Case

By Judith Bryant

**P**arties to a divorce action are often at their worst. They are stressed, hurt, scared and angry, and those feelings can cloud their better judgment. While the feelings may be unavoidable, the mistakes people make as a result of those feelings are avoidable. Here are our top five mistakes clients make that can hurt their case:

## 1. Offering Too Much Too Early.

Although many divorce cases are settled on the kitchen table, people often make the mistake of thinking they can do this within the first week of filing for divorce. Anxious to "get it done" in 60 days, and thinking that their idea of "fair" will carry the day, many people immediately sit their spouse down and say, "here's what we're going to do." This is a mistake, because what you are willing to do that first week may be very different from what you are willing to do when you have more facts, or when you have had a chance to calm down and be more reflective about your marriage and how you ended up in a divorce proceeding. Unfortunately, telling your spouse "I'm willing to do X and give you Y" becomes the *starting point* for negotiations, not the end result. Good rule of thumb: do more listening than talking, and promise nothing.

## 2. Relying on Anything Other Than Legal Advice.

Just as you can set your spouse's expectations too high by promising too much too soon, you can set your own expectations too high by relying on the wrong sources for advice. "My friend got \$\_\_\_\_\_ in child support—I can get twice that because my husband makes twice as much," "it's in my name so it's mine," "everything has to be divided 50-50, right?" or "he commingled his inheritance so now it's community property, right?" are

common misconceptions that people cling to before they ever see a real lawyer. When they inevitably learn otherwise, it can be a bitter disappointment. It's hard to reach a good settlement when one party has completely unrealistic expectations. If a case has to go to trial so that a judge can finally set you straight, you've spent more money on legal fees than you would have if you'd had reasonable expectations at the outset. So, talk to a lawyer and get all the facts before you reach any conclusions. Only then can you have a realistic expectation of what your post-divorce future will look like.

## 3. Waiving the Attorney-Client Privilege.

Although most clients count on the privacy afforded to them in their communications with their lawyer, it is surprisingly common for clients to nonetheless share those private communications with others, thereby waiving the privileged nature of those communications. In a divorce, this often occurs when one client sends their estranged spouse an email from his/her own lawyer, with a comment such as, "see, even my lawyer thinks you're a jerk," or "my lawyer says your lawyer doesn't know what he's talking about," etc. In addition to waiving the privacy of that communication, forwarding such information can hurt the ability to settle a case. While the client may want the estranged spouse to see one part of the communication, there may be other information in the communication that discloses a weakness in the client's case. Bottom line: it is *never* helpful to share a privileged communication with the other side, so be careful not to hit "forward" in the heat of an argument.

Some clients repeat everything they hear from their lawyer to their best friend or a family member. Sharing

this information waives the privileged nature of the lawyer's advice. If the best friend or family member were to end up on the witness stand, everything the client has told them can be elicited, including the lawyer's advice and counsel. Again, just don't do it. Talk to your lawyer about the case, and do not share details of her advice with others.

4. **Illegal Tracking and Hacking.** It is a crime in Texas to place a tracking device on a car without the driver's consent. Nevertheless, many people who suspect that their spouse is not where they are supposed to be feel perfectly justified in placing a tracking device on a vehicle or phone without their spouse's knowledge. While it is perfectly legal to hire a private investigator to follow a spouse and record his/her whereabouts, electronic tracking without a person's consent is not legal. As tempting as it may be "just to find out what's going on," don't do it. Not only can the tracking spouse be prosecuted and fined, but whatever is learned from the illegal tracking device will be inadmissible in court.

It is also very common for marital misconduct to be discovered by one spouse snooping through the other's phone or emails. Unfortunately, under certain circumstances, such snooping may also be illegal, rendering the fruits of that crime inadmissible in court. Such communications are fair game to be subpoenaed through normal discovery channels, so don't play detective—let your lawyer send interrogatories and requests for production of documents for the information you need.

5. **Posting Foolish Things on Facebook or Other Social Media.** If you are going through a divorce, posting on Facebook, Twitter or Instagram can be risky. No matter how secure you think your information is, you lose control of photos and comments when you put them on the internet. Contrary to your worst, anger-fueled instincts, it does not help your case to post negative comments about your spouse, and it rarely helps in the war of public opinion either. Most people cringe to see Facebook statuses or tweets that

say something like, "it's so sad to see children who have been abandoned by a father who is too busy spending time with his girlfriend," or "what kind of mother would leave her child with a babysitter every night while she parties, instead of letting him stay with his own father?" You will (or should) later regret inviting everyone to share in the sordid details of your divorce, and such public disclosure of unfortunate facts can only destroy any cooperation you might have received from your estranged spouse. If the two of you are going to be co-parenting for any length of time, hold your fire. You will need to work together.

Of course, it never helps to have compromising photos of yourself posted by you or others. This is especially true if you have children and custody is in dispute. If your spouse thinks you have a drinking problem, getting tagged in pictures at parties and bars is not

going to help your case. Likewise, pictures of you on a date can only lead to trouble. Even if your spouse knows you are dating, being confronted with pictures of it (which someone will invariably send to your spouse) can only make your dealings with your spouse more difficult. "Checking in" at a restaurant in your hometown when you've told your lawyer or the court you are unavailable for a hearing because of a business trip can come back to haunt you as well. A good rule of thumb: assume that every comment and photo is going to be showed to your spouse and the judge. If that would be uncomfortable for you, don't post it.

Divorce is usually a difficult process, no matter how amicable and reasonable the parties believe they will be. However difficult it could be, however, it will be worse if clients don't steer clear of these common mistakes.



*Judith Bryant is a partner at Noelke, English, Maples, St. Leger, Blair LLP in Austin and has expertise in child custody and parenting plans, litigated divorce and complicated estates.*

## Texas and the Nation Re-Evaluating Marriage and Same Sex Rights

By Audrey Blair

**A**fter the long-awaited rulings from the United States Supreme Court in the *Windsor* and *Hollingsworth v. Perry* cases, lawyers are now analyzing how the rulings will affect same-sex families, employers, and the government in Texas. While the State of Texas currently does not recognize same-sex marriages, the rulings will undoubtedly impact families in our state.

### The *Windsor* Case

In *Windsor*, the State of New York recognized the marriage of two women, Edith Windsor and Thea Spyer, who wed in Canada. Upon Spyer's death, Windsor inherited the entirety of Spyer's estate. Windsor sought to claim the federal estate tax exemption for surviving spouses, which would have saved Windsor



over \$300,000 in estate taxes. Windsor paid the taxes and then requested a tax refund. Section 3 of the federal Defense of Marriage Act ("DOMA") defines "marriage" and "spouse" as excluding same-sex partners, and so the IRS denied her request for a refund. She then sued and contended that Section 3 of DOMA violated the principles of equal protection incorporated in the Fifth Amendment. When enacted, DOMA amended the federal Dictionary Act, which is the law that provides interpretation for over 1000 federal laws and many federal regulations. DOMA has two operative sections; section 2 allows States to refuse to recognize same-sex marriages performed in other States. Section 2 was not challenged in the *Windsor* case.

The Supreme Court held that Section 3 of DOMA is unconstitutional as a deprivation of the equal liberty of persons that is protected by the Fifth Amendment.

### The *Hollingsworth v. Perry* Case

In 2008, the California Supreme Court held that not allowing same-sex couples to marry in the same manner as opposite-sex couples violated the

equal protection clause of the California Constitution. Shortly thereafter, the voters of California passed a referendum, known as "Proposition 8," which amended the California constitution to provide that the only valid marriages in California are between a man and a woman. The *Hollingsworth* case addressed the constitutionality of Proposition 8. Two same-sex couples sued the governor of California and various other state officials responsible for enforcing the State's laws. The state officials refused to defend the law, and the district court allowed the official proponents of the constitutional amendment to intervene in the lawsuit to defend Proposition 8. After a trial, the trial court ruled that Proposition 8 was unconstitutional.

The U.S. Supreme Court held that the defenders of Proposition 8 lacked standing, effectively allowing the trial court's ruling declaring Proposition 8 unconstitutional to stand.

#### Same-Sex Marriage in Texas—Maybe Sooner Than We Thought

Texas law currently stands squarely against same-sex marriage. The Texas Family Code states that a marriage license may not be issued for the marriage of persons of the same sex. The Family Code also defines "spouse" as a husband and a wife, and it specifically excludes a person who entered into a civil union in another state.

#### The *Naylor* Case

Since the *Windsor* case did not address Section 2 of DOMA, federal law still potentially allows Texas courts to disregard same-sex marriages from other states. This means that a couple marrying in Massachusetts may be barred from coming to Texas to seek a divorce. However, the Texas Supreme Court will hear oral arguments this fall in the *Naylor* case in which a Texas district court granted a divorce and divided property upon the agreement of a same-sex couple that married in Massachusetts but reside in Texas. After the parties agreed to the divorce and the court rendered judgment, the Attorney General of Texas attempted to intervene in the suit, presumably to prevent the

## The Texas Supreme Court's ruling in the *Naylor* case may open the door to more rights for same-sex couples in Texas.

couple's marriage from being acknowledged. The 3rd Court of Appeals in Austin affirmed the trial court's ruling that the intervention was not timely and rejected the State's other arguments that it should be allowed to intervene.

So, where does this leave Texas? The Texas Supreme Court's ruling in the *Naylor* case may open the door to more rights for same-sex couples in Texas. The Texas Supreme Court has asked the parties in *Naylor* to file supplemental briefs addressing the *Hollingsworth* and *Windsor* cases, so all eyes will be upon the Texas Supreme Court this fall.

#### New Rights

Although the question remains whether marriages from other states will be uniformly recognized throughout Texas, the decisions in *Windsor* and *Hollingsworth* will affect same-sex couples living here. The breadth of the impact of these rulings cannot fully be assessed yet, but here are some of the areas that will likely be impacted:

- **Health Insurance.** Prior to the *Windsor* case, health insurance benefits voluntarily provided by an employer to the non-employee spouse were taxed to the employee spouse as income. Same-sex couples will likely see a tax benefit associated with health insurance costs, as the health insurance benefits may no longer be taxed as income. There will also likely be greater flexibility for a spouse to be enrolled in a health insurance plan upon marriage in a state allowing same-sex marriage.
- **Benefits for Federal Employees.** Federal employees will most likely be able to enroll their same-sex spouse in federal health insurance plans and other ben-

efits.

- **COBRA.** Non-employee spouses and children should be able to access health insurance pursuant to COBRA upon the occurrence of a qualifying event, such as after a divorce or a layoff of the employee spouse.
- **Waiver of Rights in Certain Retirement Benefit Plans.** Under federal law, a spouse is entitled receive death benefits from certain types of retirement plans. The receipt of these benefits can only be waived in writing by the surviving spouse. After the ruling in the *Windsor* case, the surviving spouse may be entitled to the death benefits provided they were legally married.
- **Social Security Benefits.** Prior to the *Windsor* ruling, certain Social Security survivor benefits were only available to opposite-sex married couples. The ruling will likely expand these benefits to treat same-sex couples equally.

It will take some time for the federal government to fully implement the *Windsor* decision, but it will undoubtedly provide more benefits to same-sex couples in Texas.



Audrey Blair is a partner with the firm Noelke English Maples St. Leger Blair, LLP in Austin and is board certified in Family Law by the Texas Board of Legal Specialization.

# Think Before You Tweet— Privacy, Technology & Divorce

By Audrey Blair

**I**n the world of Twitter, Facebook, texts, and emails, electronic evidence can be a treasure trove of information in a lawsuit. Many clients have had very little counsel on privacy (or lack thereof) in a divorce, and their Tweets, emails, and texts can easily come back to haunt them during their divorce or custody suit. By the time a client walks into a lawyer's office, it may be too late to undo all of the damage, but this article can provide some useful tips for attorneys and clients in their use of technology during a divorce.

## Understanding the Technology

Our computers and other forms of technology will store information long after we hit the "Delete" button and clear the history of our favorite internet browser. Computers are continually writing a history of the places we have been on the internet, the pictures we have downloaded, and the emails we have written. If a client going through a divorce sets up a Match.com profile to start dating, for example, and then "deletes" all of the emails they have received, those emails may still be stored in the depths of the computer. Computer forensic expert C.M. "Mike" Adams of Prime Focus Forensics, LLC in Hutto, TX explains this as follows: "If one uses Microsoft Outlook or other email clients that reside on one's computer, then a certified and trained forensics examiner using forensic software can find them without much trouble. If one is using "GMail" or other cloud based email services, the forensics examiner can usually recover bits and pieces and sometimes the entire email. Also, if the case warrants a subpoena, then given enough time the entire email can usually be recovered from the electronic mail service provider."

As for internet history, Mr. Adams goes on to explain that "without a doubt, internet browsing history will still be on

your computer, whether you 'cleared' the browsing history or not. Most users do not understand that the browser history they can see is just one record that the computer generates when one browses the Internet. There are at least two others that forensic examiners can easily recover. Further, trained forensic examiners can usually recover an image of almost every page one has visited while browsing."

## Do's and Don'ts For Lawyers— Spoliation, Illegally Obtained Material, and Protecting Your Client

Once a client hears that their electronic communication may surface in their divorce, many will have the inclination to remove or destroy the data. There are software programs and other methods available for truly clearing a hard drive. It is incumbent upon the attorney to advise the client *not* to destroy or delete any information. This includes emails, posts, data on Facebook, and all other forms of electronic data. If a Court finds that there was a duty to preserve evidence that has since been destroyed, the Court can impose severe penalties and sanctions, such as the exclusion of testimony or other evidence at trial.

One spouse also may also illegally obtain electronic information in violation of state and federal law. Mr. Adams explains that "if a spouse is attempting to spy on a computer or a phone, there is commercially available software that is relatively inexpensive. The victim of this software will never know it is there or what it is doing. For all practical purposes if a computer is infected by this type of software, then everything that one does on one's own computer is an open book to whomever is doing the spying. If an email is sent from the infected computer then the spy gets a copy at the same time. The same is true for received emails, Internet chats, or any

other communications passing through the infected computer. Some software will even include a report that highlights arbitrary keywords. For example, should the spy believe that one's spouse is having an affair with someone named "David" or "Diane" those two names can be setup as keywords to monitor on the target computer. Similarly, this technology is available for certain brands of Smart Phones. The spy can monitor texts, voice-mail, email received on the phone, and can physically locate the owner of the phone. The spy can actually turn your phone into a listening device while you are meeting with your lawyer and remotely listen to everything that is going on. Visit our website at <http://www.pfforensics.com/Cell-Phone-Spyware.html> for videos that will demonstrate the full nefarious nature of cell phone spyware.

The Stored Communications Act, the Electronic Communications Privacy Act, and Texas state law all address various manners of illegally accessing electronic communication. These laws address not only traditional "eavesdropping" on telephone calls but also various forms of accessing email and other stored communications without the consent of the owner of the email account. It is not a defense that your client is the spouse of the person whose telephone call or email has been intercepted. And, perhaps most importantly, an hour of legal research will quickly show that *lawyers get criminally prosecuted for using illegally obtained evidence*.

Here are some helpful tips for the lawyer:

- **DO:** Advise your clients that they cannot delete, destroy, remove, or otherwise edit electronic data.
- **DON'T:** Take possession of illegally obtained material. If you have it in your possession, read it or listen to it, you may be committing a crime by using it in the preparation of your case.
- **DO:** Advise your clients on the law of intercepting email and other forms of communication. The best policy is to advise your clients NOT to access their spouse's email accounts at all, even if they think they have consent to do so.
- **DON'T:** Represent a person who has



illegally obtained electronic material. Period. It is not worth the risk.

- DO: Read the *Honza* and *Weekly Homes* cases that pertain to electronic discovery. Opposing counsel cannot simply say: Let me copy your client's phone. This is akin to saying: Let me look in your client's file cabinet. This request is overly broad and lacking in specificity.
- DON'T: Turn over your client's cell phone or computer for copying without a written agreement in place as to how it will be searched. There may be privileged or non-discoverable data on these devices that does not need to be produced.
- DO: Advise your clients to change all of their passwords. And if you suspect that spyware has been installed, have the computer or phone inspected by an expert.
- DON'T: If you have illegally obtained discovery in your possession, don't produce it in discovery without the advice

of a criminal defense attorney.

#### Expectation of Privacy in Divorce

There is very little information that is not arguably relevant during a divorce. In most divorces, there is at least limited disclosure of credit card statements, bank statements, and other information that shows the property and debt in marital estate. Even in a situation where the parties have been separated for a significant amount of time, the Court will still likely force the parties to exchange financial information. A spouse should not have the expectation that transferring money to their brother in the middle of a divorce or spending money at Victoria's Secret will be kept private during a divorce. The same can be said about emails or other communication between the wife and her new boyfriend. In an already emotional process, this type of information can lead to further delay and cost in resolving a divorce.

In sum . . . think before you Tweet! When a person is going through a divorce, it's always best to pretend that anything

being written will be read in front of a judge someday.



Audrey Blair is a partner with the firm Noelke English Maples St. Leger Blair, LLP in Austin and is board certified in Family Law by the Texas Board of Legal Specialization.

## Conservatorship and Possession of Children:

### A Practical Application for the Nonspecialist

By Lea C. Noelke

Custody and possession of children are the most important issues in a divorce with children. If handled carefully and skillfully, children can be protected from the trauma of divorce. The *Texas Family Code* defines the various types of conservatorship in Sections 153.001-153.258. The visitation schedule for children in a Suit Affecting the Parent Child Relationship "SAPCR" follows in Sections 153.311-153.317. This section is known affectionately as the "Standard Possession Order." It probably comes as no surprise that many families do not fit the rigid guidelines outlined in the Family Code. In addition, there are at least fifteen judges in Travis County who hear family law cases. Each of

these judges has different definitions and impressions of what is in the best interest of the child. Consequently, many families end up setting up their own rules and visitation schedules. Many of the parents are left alone at 6:00 on Friday evening without access to attorneys and are required to make important decisions concerning their children. The following comments will assist the practitioner in anticipating the issues and finding creative solutions to the practical problems presented by these rigid definitions.

1. **Holley Factors.** The *Texas Family Code* does not define or otherwise set out the relevant factors to be considered when determining whether

modification is in the best interest of a child. In other contexts involving a "best interest" analysis, Texas courts have applied what are commonly referred to as the "*Holley* factors"—a nonexhaustive list of considerations for determining a minor's best interest. See *Holley v. Adams*, 544 S.W.2d 367, 371-72 (Tex. 1976) (enumerating \*434 list of factors to ascertain best interest of child in parental termination context); *In re Marriage of Bertram*, 981 S.W.2d 820, 822-23 (Tex. App.—Texarkana 1998, no pet.) (applying *Holley* factors for best interest determination in conservatorship proceeding). Included are the desires of the child; the emotional and physical needs of the child now and in the future; the emotional and physical danger to the child now and in the future; the parental abilities of the individuals seeking custody; the programs available to assist these individuals to promote the best interest of the child; the plans for

the child by these individuals or by the agency seeking custody; the stability of the home or proposed placement; the acts or omissions of the parent which may indicate that the existing parentchild relationship is not a proper one; and any excuse for the acts or omissions of the parent.

2. **Status Quo Influences All Situations.** The first area of inquiry in any divorce or modification involving children is to determine the existing visitation and child support arrangement. It is axiomatic that children do not thrive if their living environment changes too often. In all but the extreme situation, stability for children is the most important factor considered by the Court in determining placement, visitation and conservatorship. As a corollary, possession determines child support. The parent who is awarded primary possession usually receives child support. Consequently, the rhythm and pattern of possession of the children can have dramatic consequences for both short term and long term child related orders. The Courts are slow to order a change in visitation if the children are doing reasonably well.

Besides being an outline for future orders, status quo can also be used to quash the parent who wants to come in and malign the other parent. Suppose, for example, the children have been living primarily with the mother for the preceding twelve months and have been seeing the father occasionally on weekends and holidays. Suppose further that the father now wants to actively pursue the divorce and wants to seek primary possession of the children. He wants to do this claiming that the mother "does drugs and has been sleeping around for the past nine months." The father in such a situation has a much more difficult burden since he has acquiesced and allowed status quo to develop. The most difficult question he has to an-



swer on cross examination is: 'If the situation is so horrible, why didn't you act sooner?'

**Practice Tip.** In a contested custody or visitation matter, do not delay in seeking temporary orders. Treat temporary orders very seriously and prepare fully for any hearings. Don't fall for the negotiating ploy, "These are just temporary orders." Temporary orders become the backbone for final orders in the vast majority of cases. Possession of the marital residence influences who is awarded primary possession of the children.

3. **The Order Must Be Specific.** To be enforceable by contempt, all orders concerning conservatorship and visitation are to be specific to a fault. In drafting such orders, avoid vagueness and generalities at all costs. The language of the Texas Family Law Practice Manual on conservatorship and Standard Possession Order has been endorsed by our local judiciary and passes all requirements of specificity. If your situation actually requires original drafting, beware of any arrangements which do not specify the hour and date of the periods. Be sure to include the specific location of the exchanges. (For example, the McDonald's located at the intersection of San Antonio and Guadalupe Streets, Austin, Texas. If possible, use

the street address.)

**Practice Tip.** At first reading, the Standard Possession Order is harsh and cold. It clearly micro manages a family and the time they spend together. Remind your client that the Standard Possession Order allows for creativity and flexibility since it begins with allowing visitation at reasonable times agreed upon by the parties. This allows for the trading of weekends for special events. Unfortunately, this clause cannot be enforced by contempt if a parent disallows a visit. An order which sets visitation 'whenever he/she wants them' is not permissible because it can never be enforced by contempt.

#### 4. The Standard Possession Order Works Best for Children between the Ages of Three and Twelve.

Children between the ages of three and twelve typically adapt best to the first, third, and fifth weekends outlined in the Standard Possession Order. In addition, this age group, developmentally-speaking, is not so influenced by their peer group and still enjoy spending time with each parent. (See section 10 below for a discussion of nonstandard visitation schedules.)

5. **Possession for Children Under the Age of Three Years.** The Standard Possession Order set forth in the *Texas Family Code* specifically does not address the visitation schedule for children under the age of three. The Travis County courts have not set forth specific local rules concerning possession for children under the age of three. However, the general rule of thumb is that judges favor frequency of visits over length of visits. In addition, judges favor regularly scheduled visits. For example, most judges would prefer a visitation schedule which provides for visitation on Monday and Wednesday evenings from 6:00 until 8:00 and Saturdays from 10:00 a.m. until 5:00 p.m. every week, as opposed to an every other weekend schedule. Of course, these schedules are much more sensitive to the bonding between the parents.

At this stage, courts are careful to look at how active both parents are in the raising of the children. It cannot be overemphasized that courts look towards regularly scheduled visits.

**Practice Tip.** The Capital Area Psychological Association has developed suggestions for this age group of children. Exhibit A is a summary of the specific emotional needs of a child based upon age. It was developed by Ms. Peggy Farley, C.S.W., L.C.P.

6. **Possession for Children Twelve Years of Age and Over.** The Standard Possession Order set forth in the *Texas Family Code* applies to children twelve years of age and over. Typically, children of this age are much more independent and much more active in scheduling visitation. Some experts believe that the actual visitation discussed above under the age of three does well for adolescents also. This is the stage of life when children's peer groups gain importance and children are simply not that interested in spending as much time with their parents. Some parents agree to allow visitation at reasonable times agreed upon by the parents and the children. In other words, the children are placed in this loop. However, be careful of this type of arrangement, as it is ripe for a manipulative parent or child to abuse.

**Practice Tip.** Consider referring your client to a counselor *before drafting the possession order*. Many mental health experts suggest going back to the same pattern of visitation as the age three and under group. *See box*, "Developmental Tasks and Needs," etc.

7. **ExtraCurricular Activities versus Scheduled Possession.** Many times, a soccer game, family reunion, rodeo, or trip to the lake will interfere with visitation for the noncustodial parent. Travis County courts have been fairly consistent in insisting that the possession time for the noncustodial parent take priority over any and all extracurricular activities. A common solution to such a problem, however, is for the noncustodial parent to transport the child to the soccer

game, rodeo, or the like. The situation changes as the children grow older and the children are able to negotiate with the noncustodial parent.

In these particular situations, the parties must rely upon the part of the Standard Possession Order which allows visitation at a reasonable time agreed upon by the parties. Another common solution is for the parents to simply trade weekends. The parties must be reminded that the visitation order starts with *"...at times mutually agreed to in advance by the parties."*

8. **Cost of Travel.** One of the greatest fears of any parent going through a divorce is that the custodial parent will move away with the children. Section 153.316(3)(b) of the *Texas Family Code* provides that if the managing conservator moves from the county of the children's residence and the possessory conservator remains in the county, the managing conservator is required to deliver the children and pick up the children at the possessory conservator's home. What happens if the possessory conservator moves? Courts have been fairly creative in accommodating the cost of travel in each family's budget. The Family Code allows a judge to reduce child support for cost of travel. Some courts have been willing to reduce the child support by one-half of the cost of travel. One solution to this problem is a court order which orders the possessory conservator to set aside a lump sum at the beginning of each year. This account is drawn upon for travel. The child support is reduced by this amount of money. If all of this account is not used by the end of the year, the balance of this account goes to the managing conservator. Consequently, the possessory conservator cannot enjoy the reduction of the child support and not use this extra money for travel to exercise his or her visitation.

If the parents live so far apart that airline travel is required, be prepared for a myriad of issues. If the parents are extremely reasonable and independently wealthy, airline travel poses few challenges. Unfortunately, few

people will fit either description. The Family Law Practice Manual promulgated by the State Bar of Texas has excellent forms which anticipate most, if not all, of the issues confronted by parents attempting to send children on commercial airlines. The Texas Family Law Practice Manual contains excellent language to cover every conceivable situation which could arise with airline travel, children and angry parents.

**Practice Tip.** Section 153.316(3)(b) applies only to managing and possessory conservators. With the presumption of joint managing conservatorship, there are fewer and fewer managing and possessory conservators.

9. **Domicile of the Children.** Joint Managing Conservatorship is now presumed to be in the best interest of the children. *Texas Family Code* Section 153.134 mandates three options for the child's domicile: 1) the child's residence is the county in which the father lives; 2) the child's residence is the county in which the mother lives; or 3) the child's residence is a specific county and/or its contiguous counties. The most common compromise in this situation in Travis County is an order which names Travis County and all surrounding counties as the residence of the children. Before a parent can move with the children outside of this area, that parent must obtain approval of the court or agreement of the former spouse and/or partner.

**Practice Tip #1** The presumption of joint managing conservatorship has shifted the conflict in SAPCRS to domicile of the children. The traditional arguments of primary caretaker vs. nonprimary caretaker rule these matters. If your client wants to make this decision, prepare as if your client was seeking sole managing conservatorship. Conversely, if your client is seeking to have Travis County named as the domicile of the children, prepare as if your client wants to make the decision of domicile and prepare a sole managing conservatorship argument.

**Practice Tip #2.** Discourage protracted litigation of these cases. If the

parties cannot agree on designating primary residence, do the work necessary to determine which of the parties provides the most positive home. Many parents spend their savings opposing the issue of primary residence only to find there is no money left to provide for the needs of the child and you may very well destroy the chance of a healthy, co-parenting environment for the child.

10. **Split Custody.** As a general rule, Travis County courts frown upon dividing children at the time of divorce or at the time of modification of an order. Special circumstances do exist and the courts will approve such an arrangement if it can be shown that it is in the best interest of the children. However, there must be compelling reasons to split custody of the children. Visitation in such an arrangement can be addressed in many different ways. Depending upon the relationship between the siblings, one parent can have possession of the children on the first, third and fifth weekend, while the other parent sees the children on the second and fourth weekends. In this particular arrangement, the siblings are allowed to spend every weekend together.

11. **Irregular Work Schedules.** There are many people in our community who do not work a fiveday week. The possession schedules for such a situation can be as creative as the parties involved. Once again, it is very important that whatever schedule is negotiated be specific. Logic can prevail in such situations and the parties, many times, end up negotiating the same amount of days allowed by the Standard Possession Order.

**Practice Tip.** Nonstandard possession orders require patience and extreme attention to detail. Keep in mind at all times that the order must be specific. Include exact times for pick up and delivery of the children. Make sure that any notice provisions are specific and designate whether telephonic or written notice is required and whether communication by electronic means is an acceptable form of notice. Review the language with an

eye for the absurd and anticipate the problem.

12. **Fifty-Fifty Visitation Schedules.** Many parents have the impression that joint managing conservatorship means that the visitation schedule for the children must be split equally. This is quite simply not the case. Many joint managing conservatorship agreements now include the Standard Possession Order set forth above. The fifty-fifty schedule is a very difficult one to negotiate. At some point, the children begin to feel like ping pong balls. The most successful fifty-fifty arrangements tend to be ones which use time periods of at least two weeks to a month. In other words, the child stays with one parent for two weeks and the other parent for two weeks. The most creative way of handling this situation is to allow the children to stay in the home and the parents to move every two weeks or month. In my experience, fifty-fifty arrangements do not survive for school age children. Every family is different and no fifty-fifty arrangement should be discouraged if the parties appear capable of handling it.

**Practice Tip.** Courts are slow to order a fiftyfifty schedule *unless the parents have already agreed to it*. As with most family law questions regarding children, *status quo* is extremely important. In fiftyfifty possession schedules, it is even more so.

13. **Control Issues.** The dynamics between parents do not stop at separation or divorce. The patterns of communication continue and, if there have been issues of control between the parties during the marriage, these issues of control will continue to be raised with the children. In my experience, judges in Travis County have been impatient with these types of issues. The control issues usually occur when one or the other parent attempts to restrict the activities of the other parent. For example, a parent may attempt to obtain an order to restrict the child's exposure to a new boyfriend or girlfriend, Rated movies, nonvegetarian diets, certain babysitters, and medications. A parent

may attempt to enforce or control the bedtimes, bath times, hygiene, homework, or extracurricular activities. Control issues can also show up in parental leadership situations. For example, the mother may decide that now is the time for her to lead the choir or girl scouts. Girl Scout meetings could be, unfortunately, set out on the Wednesday evenings on which the father is entitled visitation. Another example is that the father may choose to coach soccer or lead boy scouts on weekends during which he is not entitled to visitation. Of course, many of these parental leadership roles are admirable and should be encouraged. On the other hand, the attorney should be aware that the parents could be attempting to control or manipulate a situation through these types of arrangements.

**Practice Tip.** If you are unable to convince your client and you are forced to trial, be brief. Accentuate the positives your client offers the children.

14. **Problems at Exchanges.** Many times parents will report that the other parent is rude or noncommunicative at exchanges. Courts are slow to get involved in these particular situations and the parties should be encouraged to work the situations out without court intervention. Judges are not usually willing to make orders restricting or controlling this particular behavior. However, if the problems are serious enough, the most common solution is to arrange for the exchange of the children in a public place, such as a McDonald's.

**Practice Tip.** If yours is a case where supervised periods of possession are a consideration, the Travis County Domestic Relations Office (DRO) has created a list of individuals who provide services for supervised possession. The list is available at the website:  
[http://www.co.travis.tx.us/dro/kids\\_exchange.asp](http://www.co.travis.tx.us/dro/kids_exchange.asp).

15. **The Sharing of Rights Between Joint Managing Conservators.** As discussed above, the *Texas Family Code* sets out the particular rights which the manag-



ing conservator enjoys exclusively. Theoretically, joint managing conservators will share each of the rights set forth in Section 153.132 for the sole managing conservator. Once again, theory fails and logic prevails. Many parents do not care to be involved in all of the decisions concerning the children. For example, one parent may be willing to allow the other parent to make all decisions concerning the psychological or psychiatric care of the child. One parent may have no interest at all in whether or not he or she can consent to early marriage of the child. In other words, courts will enforce agreements in which the parties waive certain rights allowed them by the *Texas Family Code*.

What happens when joint managing conservators cannot agree on a specific educational or medical decision? Many orders require mediation. What happens if the mediation is unsuccessful? Courts are generally reluctant to substitute their judgment for the parents. In other words, a judge usually will not order a course of medical treatment or decide whether the children should go to private school or be home schooled. In such situations, the Court is more likely to rule that the order is unworkable and let one parent or the other make sole decisions.

**Practice Tip.** Hybrid arrangements for the division of rights, duties, and responsibilities can sometimes get a difficult case settled. Consider apportioning the education and psychiatric to one parent and the nonemergency medical and dental to the other parent. There are exceptions to this general trend. A Travis County Judge recently ordered a child to be enrolled in public school if the parents could not agree on education.

16. **Interview of Child in Chambers.** Section 153.009 of the *Texas Family Code*, enacted in 2009, provides that the court *shall* interview a child in chambers if that child is 12 years of age or older. The interview shall occur during a non-jury trial or at a hearing, or on the application of a party, the amicus attorney, or the attorney ad litem for the child.

This Section of the Code allows a judge to meet with the child in a non-threatening environment to determine the child's wishes as to conservatorship or as to the person who shall have the exclusive right to determine the child's primary residence.

Section 153.009(b) through (f) provides for instances in which a Court may, on its own motion, interview a child in chambers. It is imperative for the family law practitioner to familiarize himself or herself with

the applicable provisions related to interviewing minors.

**Practice Tip.** Never bring the child to court at docket call. The courthouse is a not a good environment for a child to wait. In addition, our judges strongly encourage leaving the children in school and having them come to the courthouse after school. Finally, most judges report that the most common requests of children at these meetings is for the fighting to stop because they love both parents.

17. **Conclusion.** Conservatorship and possession of children are the most important issues in a SAPCR. Research continually supports the proposition that a child's recovery from a divorce is directly proportional to the amount of conflict between the parents. The goal of this paper is two-fold. First, it is intended to help the nonfamily law specialist of the questions to ask and the types of problems that many divorced families with children face. Second, it is intended to give practical solutions to these problems.

*Lea C. Noelke is a partner at Noelke, English, Maples & St. Leger Blair, LLP in Austin and has been Board Certified in Family Law by the Texas Board of Legal Specialization since 1995.*

## Grandparents' Rights in Texas

By Sam D. Colletti

*In Texas, can grandparents gain court-ordered custody of or access to their grandchildren?*

**T**he short answer is yes, it is possible—but the legal standard will be difficult to meet except in rare situations. A grandparent who petitions the court for custody or visitation must meet two consecutive legal burdens in order to prevail: first, the grandparent must establish standing; second, the grandparent must prove that the relief sought is in the child's

best interest.

*In what situations will a grandparent have standing to file suit?*

The Texas Family Code provides three separate avenues to standing for grandparents:

- (1) "General Standing" statute: The general standing rule of Texas Family Code 6102.003 provides a laundry list of narrowly-defined circumstances in which an individual may file an original suit

affecting the parent-child relationship. Most notable and often most useful for grandparent cases is subsection (a)(9), which allows a suit for conservatorship (custody) to be filed by any person who "has had actual care, control, and possession of the child for at least six months ending not more than 90 days preceding the date of the filing of the petition." This is most often used in cases where a grandparent has had possession of child and has primarily raised a child.

- (2) "Significant Impairment" statute: If a grandparent does not have standing under one of the general standing circumstances then a grandparent or other blood-relative is allowed to file a

custody suit under Texas Family Code 6102.004 if it can be proven to the court that "the child's present circumstances would significantly impair the child's physical health or emotional development." In other words, the grandparent's burden is to show that the child's parents are unfit.

- (3) "Possession and Access" statute: In contrast to the above statutes that allow standing to file a custody suit, Texas Family Code 6153.433 applies only to a suit for possession or access. For a grandparent to prevail under this rule and gain court-ordered visitation with the grandchild, the grandparent must prove, among other things, that "denial [to grandparent] of possession of or

access to the child would significantly impair the child's physical health or emotional well-being." This is a very difficult standard to meet.

#### *Why are the laws so restrictive on grandparents? Is this just a Texas thing?*

Twelve years ago, the United States Supreme Court's ruling in the *Troxel* case reaffirmed the principle that parents have a fundamental constitutional right to raise their children as they please, and that the state must not interfere except in extraordinary situations. Following that ruling, many states, including Texas, were forced to amend their grandparent visitation laws, or at least tailor their application to comply with *Troxel*. A major point of

the *Troxel* decision was that parents have the right to decide with whom their child will have contact—in other words, it is up to the parents to decide whether and how they will allow the grandparents to see the child. A parent's decision to exclude the grandparents from the child's life is unlikely, by itself, to result in a finding of "significant impairment." Additional unique circumstances or serious signs of unfit parenting are usually necessary to bolster a grandparent's case.

*Sam D. Colletti is an Associate Attorney at Noelke English Maples St. Leger Blair LLP in Austin and has been Board Certified in Family Law by the Texas Board of Legal Specialization since 2013.*

## Signs You Should Speak With a Divorce Lawyer

(Because Chances Are Your Spouse Already Has)

By Hillery Kaplan

**W**e all know that divorce is common, but we never think it will happen to us. Through this article, we will provide you with some warning signs that a divorce may be imminent in your future.

#### *Financial Clues*

One of the most significant concerns during life, and upon divorce is money. If you are paying attention to your finances, there may be tell-tale signals that your spouse has met with a divorce attorney. These warning signs may present themselves in one of the following ways:

1. Your spouse becomes unwilling to share financial information, or puts up roadblocks that prohibit you from accessing information that you could previously access. For example, you log onto your shared bank account and all of a sudden, you have trouble accessing

an account online that you were able to access the last time you tried.

2. You see multiple or larger than usual cash withdrawals. While one of these withdrawals may not be noticeable or alarming, when you add them all together, it is clear that something unusual is going on. Your spouse may be stashing away money to hire a lawyer, save up to move into a new house or apartment, or he or she may be buying gifts for a paramour.
3. You receive a bank or financial statement in the mail from a bank or financial institution where you were not aware either of you had an account.
4. There may be unusual credit card charges, or charges for things that are inconsistent with a commitment to the marriage. For example, you may see a Victoria's Secret credit card charge and realize that you had not received any gifts from Victoria's Secret. You may see

a charge for a hotel for your spouse's "business trip" that is not typical of the type of hotel one stays at for a business trip, and there is no reimbursement by your spouse's employer for that stay.

5. Your spouse, who does not typically pay the bills and maintain the family budget, suddenly shows an interest in the family's finances, including how much things cost, how much equity is in the house, how much the car payments are, how much income each of you makes, and so on. If he or she has spoken with a divorce attorney, the attorney has most likely told your spouse to get a handle on the family's finances.
6. Your spouse is unwilling to commit to anything that involves long term financial planning. He or she may not be willing to purchase a new house or new car, or make any new investments, knowing full well that the two of you will not be together long term.

All of these atypical behaviors relating to your finances are indicators that your spouse is planning to exit the marriage, has already met with a divorce attorney, and is "divorce planning."

#### *Clues Relating to the Children*

If you have kids, you may see some changes in the way that your spouse interacts with the children and the way that he

or she tries to change the public's perception of his or her involvement in the child's life. The following are some clues:

1. Your spouse suddenly becomes more involved at your child's school. He or she may show up for lunches for the first time or may attend school events or more school events than usual. He or she may initiate face time with the teacher for the first time, when you have been the parent who primarily contacted your child's teacher.
2. Your spouse volunteers to take your child to the doctor, even though you are the one who has historically taken your child to the doctor.
3. Your spouse starts attending all of your child's extracurricular activities instead of working late, or volunteers to take your child to the activity, when you have historically been the parent to attend and drive your child to activities.
4. Your spouse initiates special one on one time with your child, suggesting that he or she spend a Saturday or Sunday together with your child, just the two of them.
5. Your spouse takes on a duty that he or she has not typically done. For example, your spouse begins cooking dinners for the family, or offering to go the grocery store or drive the children to school every morning.

While any one of these things may be welcomed by you, and truly beneficial to your child, there may be an ulterior motive behind these "good deeds" by your spouse. He or she may be trying to present an image to the public that he or she is an involved parent who can handle all aspects of caretaking for your child. These sudden changes are often an indicator that your spouse has spoken with an attorney and been advised as to the importance of being an involved parent prior to and at the time of divorce.

#### *My Spouse is Having an Affair!*

Everyone has read an article or two in



Cosmo or GQ about the typical signs of a cheating spouse. Here are some of the lesser known, and less obvious signs that you may miss unless you are paying attention.

1. *Your spouse's cell phone habits change.*
  - Your spouse no longer leaves the phone on the kitchen counter or lying around the house. Instead, he or she takes the phone to bed and to the bathroom.
  - Your spouse changes his or her cell phone password.
  - There is a significant increase in the data usage plan on the phone bill, as the number of texts have increased from the previous bill.
  - You no longer have access to the detailed information on the family phone bill.
2. *More and more time passes without physical intimacy*
  - It's easy to chalk up a lack of physical intimacy to hectic schedules and busy lives. However, if the frequency of physical intimacy becomes less and less, it may be an indicator that your spouse is fulfilling that need with someone else.
3. *Your spouse's physical appearance changes.*
  - Your spouse may start a new workout regime. He or she may start to dress differently, wear a different perfume or cologne, or start using a hair product or doing his or her hair differently. While we would all like to think that

our spouses are constantly trying to make improvements for us, if the behavior seems sudden, it may be an indicator that there is someone else he or she is trying to please.

#### 4. *Your spouse begins spending more time on the computer*

- With all of the existing social media, it has become significantly easier to either befriend an old flame, or find a new one. What may start out as "friending" an old boyfriend or girlfriend, can quickly transform into rekindling an old flame. Under the guise of "I'm working," your spouse may be spending more and more time instant messaging or emailing a potential or existing paramour.

#### 5. *Your spouse is unwilling to make long-term vacation plans*

- Much like unwillingness to make long term financial commitments, your spouse may also be unwilling to make any long term vacation plans. He or she may resist talking about summer vacation plans, or plans for next Christmas, as he or she is well aware that the two of you will not be together long term. While this lack of commitment may be easy to mask, with one partner saying he or she is too busy to even think long term, it may be an indicator that your spouse is planning an exit from the marriage.

The path of divorce is not an easy one under most circumstances. However, being prepared can make the process easier and less frightening. If you see any indications that your spouse has been having an affair or divorce planning, it is important for you to speak with an attorney so that you can learn about the legal and everyday implications a divorce may have on you.

*Hillery Kaplan is an Associate Attorney at Noelke, English, Maples & St. Leger Blair, LLP in Austin and has expertise in litigated divorce, resolution of property, custody, and child support issues.*

# But He Loves Me . . .

by John Browning

For "Susan"\* it is a relationship that could superficially be reduced to stark numbers: seven—the number of months she and her boyfriend "Rick" have been together; four—the number of visits she's made to emergency rooms following beatings at the hands of this same young man; three—the number of broken ribs she suffered the last time he went after her, a sudden, savage episode initiated when Rick accused Susan of flirting excessively with an ex-boyfriend at a party. To her mother, Susan offers increasingly improbable tales of accidents. To concerned girlfriends, she offers excuses for Rick's brutality—"It's my fault," she says, feebly protesting that "he loves me" despite the ugly, violent flare-ups that have characterized their relationship.

What Susan didn't know was that there was a whole host of other numbers that could be applied to her situation. The Texas Health and Human Services Commission estimates that in 2006, nearly one million women were battered. According to the Texas Department of Public Safety, that same year there were nearly 200,000 incidents of documented family violence statewide. In a 2007 survey of 15,000 adolescents conducted by the Center for Disease Control and Prevention, ten percent reported physical abuse, such as a being struck or slapped by a dating partner. Roughly eight percent of the teenagers responding to the survey reported being forced into sex against their will. According to a 2007 study by the National Center for Victims of Crime, 16- to 24-year-old women are the most likely to become victims of domestic violence. While a truly definitive national study on abuse in teenage relationships has yet to be done, the research that has been done to date points toward alarming findings. Victims of dating abuse are more likely than their peers to engage in binge drinking, get into fights, and attempt suicide. In addition, the rates of drug abuse are more than twice as high in abused young women as they are in

girls their same age who have not been abused. Sadly, like domestic violence in general, incidents of teen dating abuse are gravely underreported, and consequently these figures—alarming as they are—only scratch the surface of a much more deeply-rooted problem.

These numbers have human faces, faces like Heather Norris of Indianapolis. Heather was 17 when she and her boyfriend started dating. By the time she turned 20, she had tried to get out of the relationship on numerous occasions, as her boyfriend's obsessive, controlling behavior erupted into increasingly frequent bouts of physical abuse. Ultimately, in 2007, Heather was stabbed to death by her boyfriend before her body was dismembered and discarded in trash bags. Her mother Deborah Norris helped deal with the loss by creating *heathersvoice.net*, a website designed to help girls spot the warning signs of dangerous dating behavior and to recognize boyfriend conduct that is unhealthy or unacceptable, such as extreme jealousy, frequently calling or texting in an effort to check up on her, demanding to know where she has been or who she's been with, losing his temper, or putting her down in front of others.

In 2008, Texas enacted a law requiring school districts to adopt and implement a dating violence policy, including efforts to raise awareness as well as to educate students and their parents. It's a statute that had its tragic genesis in the 2003 stabbing death of 15-year-old Ortralla Morley in the hallway of her Austin high school, as well as in the 2005 Austin shooting of 18-year-old Jennifer Ann Crecente. Both killings came at the hands of ex-boyfriends.

Tanya Pankz can sadly relate. On December 27, 2002, her daughter Jennifer (a 2001 graduate of Rockwall High School) was killed by a young man she had been dating at the University of North Texas. The boyfriend, Stephen Chartier, grabbed her in a headlock, broke her neck and stabbed her in the throat when she tried to break up with him and leave Chartier's

apartment. Chartier pleaded guilty, received a 45-year prison sentence for murder, and will be eligible for parole after 22-½ years. Tanya Pankz copes with the grief by speaking out on dating violence dangers, whether she's cautioning high school students on the warning signs of a violent relationship, or whether she's raising the awareness of community leaders and parents who might naively believe—as she once did—that stable, middle class families are "where this type of violence was not supposed to happen." For the former bank-manager-turned-family-violence-volunteer, time has not healed all wounds but Pankz takes comfort in the hope that by sharing her daughter's story, others may avoid Jennifer's untimely fate.

Texas has made great strides during the past year in combating domestic violence, including offering victims of stalking or abuse a confidential post office box through the Address Confidentiality Program. The program, which has counterparts in 22 other states, enables domestic abuse survivors to remain invisible to their batterers by obtaining a substitute address which they can use for such things as government records (driver's licenses, voter registration forms, etc.) that might otherwise be accessible to their abusers. However, much more remains to be done, and the most potent weapon against domestic violence in general and teen dating violence in particular, may very well be raising public awareness. To learn more, go to [www.loveisrespect.org](http://www.loveisrespect.org). If you or someone you know is being abused, call either the National Teen Dating Abuse Hotline at 1-866-331-9474, or the National Domestic Violence Hotline at 1-800-799-7233.

Awareness may prevent more Susans from insisting "but he loves me" through swollen, bloodied lips.



*John Browning is a partner at Lewis Brisbois Bisgaard Smith, LLP in Dallas.*





### **In Memoriam—Pamela Matthews Taylor, LBSW, CP**

**P**amela Matthews Taylor, LBSW, CP, passed away unexpectedly on March 17, 2014, just two days before her birthday. She graduated from East Texas Baptist University in Marshall, with a B.A.S. Legal Assistant Studies degree, a political science degree, and a sociology degree. She was a long-time member of the Paralegal Division and of the Northeast Texas Association of Paralegals. She served multiple terms on the Division's Membership Committee.

Pam's employer, Michael C. Smith, of Siebman, Burg, Phillips, and Smith LLP, noted that we all should "take a moment to look around and see how very, very lucky you are to be able to work with people that you care about doing something that you care about." Pam cared very much.

She was an optimist and loved helping dogs find homes. She will be sorely missed.

---



---

## **PARALEGAL DIVISION**

### **Notice of 2014 District Director Election Results**

The Paralegal Division's DIRECTOR ELECTIONS for District Directors in even-numbered districts (Districts 2, 4, 6, 8, 10, 12, 14, and 16), as well as a Special Election in District 7, have been completed.

The following candidates have been elected by their District to serve as their District's 2014-2016 Director:

#### **2014–2016 District Directors:**

District 2: Jay M. Williams, TBLS-BCP  
District 4: Stephanie Sterling  
District 6: Deidre Trotter, ACP, MSIS  
District 8: VACANT

District 10: Sharon Wornick, CP

District 12: Michelle M. Beecher

District 14: Mona Hart Tucker

District 16: Olga L. Burkett

#### **2014–2015 District Director:**

District 7: Marsha-Smith Shankle, CP, TS•

The Paralegal Division would like to congratulate the newly elected District Directors. Thank you for taking time from your busy schedules to lead your districts.

# Scruples

## Ethics of “Bring Your Own Device” Workplaces

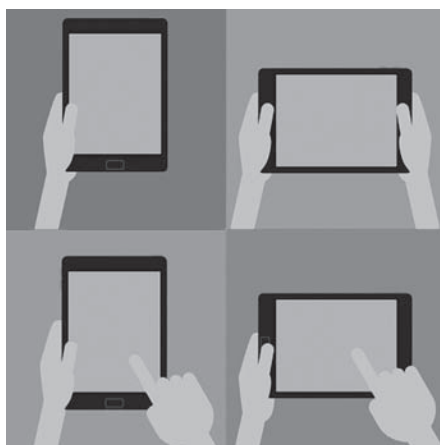
Ellen Lockwood, ACP, RP

**I**ncreasingly, companies and firms are permitting their employees to use their own smartphones, tablets, and other devices, rather than issuing company-owned devices. This practice is known as “bring your own device” or BYOD.

Allowing personnel to BYOD can have many benefits including making employees more comfortable using the devices for work since they can use the devices they choose, and increased productivity as employees are more eager to work on familiar devices, even when outside the office and during non-work hours. Personnel who use their own devices usually find it easier and more convenient to perform their duties.

There are also many companies that report a substantial cost savings with BYOD policies, although some companies report that these policies have increased their costs. The companies that have incurred an increase in expenses appear to have needed to expand their IT departments to provide support for a broad range of devices.

As with most policies, with benefits come some risks and in the case of BYOD policies, these risks may be significant. Employees who use their personal devices for work may download apps without realizing some apps may pose security risks. Personnel may also upload documents or data to file transfer services, whether inadvertently or intentionally. Some firms are disabling public file transfer programs in favor of a program that is controlled by



the company. Having personal and business email accounts on one device also permits personnel to more easily forward to and respond emails from their personal accounts, causing some employers to prohibit such actions.

It is difficult to control data on an employee's personal device. In order to investigate potential problems, employers should reserve the right to monitor and inspect employees' devices. BYOD policies should include requirements and procedures for when an employee leaves the company. Some employers require employees to submit their devices for cleanup when they leave the company. Other firms install software on employee devices that permit remote wiping of all company data from an employee's device, which may be particularly useful if a device is lost or stolen.

BYOD policies may also complicate e-discovery collection. If a company's BYOD policy claims ownership of all com-

pany data and information on an employee's device, the device will likely need to be mined for responsive data. This not only increases the time, expense, and effort to collect responsive data, it also inconveniences the employee. Further, accessing an employee's personal device runs the risk of violating the employee's privacy.

Companies and firms that permit BYOD should thoroughly research the legal, logistic, IT, and financial issues affected by allowing employees to use their own devices, and carefully develop BYOD policies that address these issues as well as each party's rights and responsibilities. The employer will also need to make a significant effort to educate its personnel regarding its BYOD policies. Implementation of BYOD policies should also include detailed processes and procedures for maintaining security and auditing compliance.



*Ellen Lockwood, ACP, RP, is the Chair of the Professional Ethics Committee of the Paralegal Division and a past president of the Division. She*

*is a frequent speaker on paralegal ethics and intellectual property and the lead author of the Division's Paralegal Ethics Handbook published by West Legalworks. You may follow her at [www.twitter.com/paralegaethics](http://www.twitter.com/paralegaethics). She may be contacted at [ethics@txpd.org](mailto:ethics@txpd.org).*

# The Heart of Old Europe—2014

By Clara Luna Buckland, CP, 2013–2014 President Elect



The PD traveled to Vienna, Austria and then on to Prague, Czech Republic, leaving the states on Friday, April 18. We arrived in Vienna in the early afternoon on Saturday where we stayed at the lovely Vienna—Hilton Hotel. Later that evening we attended a welcome reception and dinner where old friends reunited and new friends were made.

Early on Sunday, we took the tram to The Hofburg Imperial Palace Square with its cobbled walkways, larger than life equestrian statue, and impressive Hercules statues guarding the entrance to the square leading to the Hofburg Chapel. Cel Wiginton expressed, “It was an amazing blessing to attend Easter Sunday service in the Hofburg Chapel and hear the heavenly symphony [play Mozart] and the Vienna Boys Choir perform!” Thereafter we went to the amazing Spanish Riding School and watched the Lipizzan stallions perform—it was a real treat. After a group Easter lunch, we were accompanied by a local guide Ziggy, who took us on a tour of the beautiful Schönbrunn Palace, and enjoyed a bus tour of the city and its magnificent architecture, followed by a walking tour of Vienna. We visited, among other places, the meticulously maintained Gardens at Schönbrunn.

On Monday we journeyed to the beautiful Austrian countryside where we toured the cellar of the Spaetrot Gebeshuber winery in Gumpoldskirchen, Austria, followed by wine tasting. It was on to Baden, Austria where we enjoyed scrumptious local fare at the Bructberger Beim Brunney tavern with live accordion music and celebrated birthdays for Mariah Janes and Karen West.

We traveled by bus on Tuesday, leaving the rolling hills of the Austrian countryside to the small town of Brno, Czech Republic, where we enjoyed a stroll of the town before proceeding to Prague. In







Prague we stayed at the Eurostar's Thalia Hotel correctly described by Judy Pool as "... a quaint hotel located in a splendid location for shopping and sightseeing on foot." Plus it was close to the famous Charles Bridge and the Vltava River, the longest river in the Czech Republic.

On Wednesday, we enjoyed a sightseeing tour with a local guide Pavla (Paul), which included the Prague Castle, one of the largest castles in the world located in the Hradcany royal complex. We also toured the St. Vitus Cathedral where we were awed by its beauty, from the countless statues, its statuesque vaulted ceilings and artful stained glass windows. We learned that Prague is known as The City of a Thousand Spires. Seeing it for yourself makes you understand its nickname as you can see spire, upon spire, upon spire reaching up towards the heavens! The architecture which is a combination of gothic, art nouveau, and baroque simply leaves you breathless! We also walked the Charles Bridge and enjoyed the many statues, some of which claim to pass along good luck if you touch them and there is another statue which according to legend if you touch it will seal your fate back to Prague. While in Prague we also went to

the Manto Gallery, a beautiful glass gallery in the heart of the Old Town, and our talents were put to the test as we created our own glass art piece to bring home. Also in Old Town is the Prague Astronomical Clock, the oldest working clock in the world.



We traveled to the town of Pilsen on Thursday for a guided tour of the Plzeňský Prazdroj brewery which ended after we enjoyed a complementary glass of brew straight from one of the many gigantic barrels in one of the cellars. Thereafter, we toured the beautiful ornate library of the Strahov Monastery which is the second oldest church library and houses approximately 250,000 books! The carved cabinetry and the painted ceilings are amazing, and like nothing I had ever seen before. Upon return to Prague, some travelers broke away to visit The World of Tim Burton exhibit at the House of the Stone Bell in Prague's magnificent Old Town Square. Others enjoyed dinner and a ballet, or attended a puppet show at the National Marionette Theatre in Old Town.

Friday was a free day for the travelers. Some travelers attended a two hour CLE at the DLA Piper law firm on the Legal System of the Czech Republic and then

toured the magnificent Parliament building, while some toured the Old Jewish Cemetery and the Pinkasova Synagogue. Others went shopping and sightseeing. Bobby Tafolla expressed that his favorite part of the trip was when he took the funicular (inclined railway) to the top of the hill then walked over to the Petřín Lookout Tower, which is Prague's replica of the Eiffel tower. Where, to his surprise, he took the elevator to the top and discovered that he had a 360° spectacular view of Prague and took many pictures. That evening we enjoyed a five course exquisite farewell dinner at the rooftop Zlatá Praha restaurant, and had a birds-eye view as Prague's night life came to light!

When asked what the best part of the trip was, many of the repeat PD travelers voiced the opportunity to revisit the friendships that they have formed through their travels over the years. Other favorites were Easter Mass, the Vienna Boys Choir, the gorgeous, sparkling chandeliers, the Easter Markets, and Margo Ely's favorite, "The tour of the beautiful Schönbrunn Palace and learning about the everyday life of the Habsburg Family." Other notable favorites were Vienna sausage, the scenic ride through the beautiful countryside to the winery and beer garden lunch, enjoying a lemonade with friends in the town square, and the famous 14th Century Charles Bridge and its history—and of course, the library of the Strahov Monastery.

On a personal note, while I thoroughly enjoyed the entire trip—the beauty of these amazing places, and making new friends, my favorite part of the trip was learning the rich history of the Czech Republic and all it has endured. I learned that while it was under communist rule, the country suffered and went into disrepair, and while I can imagine how difficult this must have been for its people, in my opinion, the silver lining lies in that communism did not allow for much modernization, hence the old world has been maintained and now the people of the Czech Republic are restoring their country to its original splendor!

**Join us in 2015—Trip to Provence, France (registration open—details at [www.txpd.org](http://www.txpd.org) under NEWS)!**





# KEEP CALM AND FILE ON

**Texas Courts Are Mandating e-Filing, Are You Ready?**

Visit us online to get the facts, rollout schedule and support information you need to ensure a smooth transition for your law firm.

**File & Serve***Xpress*<sup>™</sup>

[www.fileandservexpress.com/txmandate](http://www.fileandservexpress.com/txmandate)



## Who's Minding Your Career?

The National Federation of Paralegal Associations is committed to partnering with you to be the leader of your profession.

Sampling of NFPA Membership Benefits:

- Subscription to the National Paralegal Reporter®
- NFPA Educational Opportunities including discounts on webinars
- NFPA Paralegal Advanced Competency Exam (PACE®)
- NFPA Paralegal Core Competency Exam (PCCE™)
- Networking and Resources

To join NFPA, or to learn more about the opportunities available as a member of the National Federation of Paralegal Associations, visit [www.paralegals.org](http://www.paralegals.org), contact your nearest local association, or contact NFPA at 425.967.0045, or [info@paralegals.org](mailto:info@paralegals.org).

**NATIONAL FEDERATION OF PARALEGAL ASSOCIATIONS, INC.**  
*NFPA- The Leader of the Paralegal Profession®*



THE NATIONAL ACADEMY OF  
DISTINGUISHED NEUTRALS

## ATTENTION LITIGATION STAFF



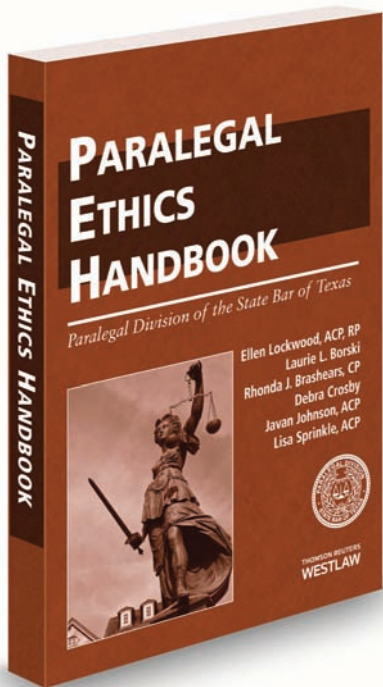
OVER 50 OF TEXAS' PREMIER CIVIL-TRIAL  
MEDIATORS & ARBITRATORS  
PUBLISH THEIR AVAILABLE DATES ONLINE

Save HOURS of scheduling time directly at

**[www.TexasNeutrals.org](http://www.TexasNeutrals.org)**

\* This online calendar service is entirely free, funded by the attorneys of the NADN's Texas Chapter.

To view the National Academy's free roster of over 800 top-tier mediators & arbitrators, visit [www.NADN.org/directory](http://www.NADN.org/directory)



# PARALEGAL ETHICS HANDBOOK

**By: Ellen Lockwood, Et Al**

This handbook is an essential resource for experienced paralegals, those new to the profession, and attorneys working with them.

Paralegal Ethics Handbook discusses topics such as defining ethics and ethical obligations and remaining ethical, and addresses ethical considerations for in-house, corporate, freelance, administrative, governmental, and regulatory law paralegals as well as paralegals working in the area of alternative dispute resolution. It also covers specific ethical considerations in 17 practice areas and provides resources for state information and paralegal association ethics canons and related information.

~~\$72.00 USD~~  
**\$57.60 USD**

## HOW TO ORDER AND SAVE 20%

Order online at [legalsolutions.com](http://legalsolutions.com) and at checkout, enter promo code 666686 and discount will be applied.

Or order by phone at 1-800-344-5009.







# Go Ahead. Pay More.



Compare us to the other leading national providers of Corporate, Registered Agent and UCC services.

Capitol Services' knowledgeable staff can meet your deadlines without breaking your budget. Let us provide a detailed proposal, outlining costs and response times for your next project.

Still not convinced? **Go Ahead. Pay More.**

★ **Corporate Document Filing & Retrieval**

★ **Registered Agent Services**

★ **UCC Searches & Filings**

★ **Nationwide**



**CAPITOL  
SERVICES**

800-345-4647  
[www.capitolservices.com](http://www.capitolservices.com)