

## **Family Law Clinic**

Fall 2009

Tuesdays 5:00 to 8:00pm

Professor Susan C. Haddad

DePaul University College of Law

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Office Hours: As individually arranged

You each will be responsible for a divorce case and a domestic violence case. Clients are referred to the Family Law Clinic by the Legal Aid Bureau of Chicago (LAB).

You will interview your clients, prepare all pleadings, meet with your clients regarding the pleadings you have prepared, and revise the pleadings as appropriate. You are responsible for taking whatever actions are required to file the divorce case, to serve your client's spouse, and to get the case on the trial call as and when necessary. You must keep your clients informed about what is happening in their cases and otherwise remain in contact with them. You will communicate with any opposing counsel. You must prepare all court documents for your cases, including a judgment of dissolution of marriage. You are responsible for preparing your clients for court hearings and will go to court any time one of your client's cases is on the court call. You will prepare all notices and court orders associated with your cases.

After you have been assigned a client, you will be asked to update the class on your representation of your client each week. These discussions will be brainstorming sessions, and they must be kept confidential, with only members of the class and myself being privy to the content. Obviously, you must respect your clients'—and your classmates' clients'—attorney/client privileges at all times.

In addition to the readings, casework, class work, and writing assignments, you are expected to meet once per week with me.

Student groups will go to the domestic violence court. You should try to observe what goes on in this court prior to meeting your domestic violence client who will be assigned to you, following a conflict check by the LAB staff and the DePaul legal clinic staff. You will interview the person assigned to you and determine whether that individual should attempt to get an emergency order of protection; if you judge such an order is in that person's best interest, you will prepare the petition for emergency order of protection and appear in court on that person's behalf that day. If you succeed in getting an emergency order of protection, you will be responsible for preparing the emergency order of protection and the summons; you also will be responsible for the continuing representation of your client, including preparing your client for future court hearings and appearing on your client's behalf at all court hearings, which will be scheduled at times convenient for you.

You are asked to keep time sheets indicating the date and amount of time you spent doing work on each of your clients' cases; you must also describe what work you did for the client during that time. I strongly suggest that you update your time sheets whenever you do anything in one of your client's cases; reconstructing time records after the fact is exceedingly difficult. Your time sheets should be given to Kathy Browder each week; she will condense the time sheets and forward them as appropriate at the end of the semester.

You are also asked to make copies of every note you take and make copies of all documents in your case; you will organize the originals in files you open and maintain in the clinic for each of your clients. Your careful record keeping is necessary not only for the class, but also necessary should your case not be completed by the end of the semester, as well as for many other reasons. Keeping track of your time and taking good notes should help get you in the habit of doing what will be required of you when you practice law. You want to be very careful to keep your client communications, notes and records confidential, so it is strongly advised that you work on your clients' cases as much as possible in the clinic during the office hours you set for yourself at the beginning of the semester.

During the semester, you are being asked to read the following statutes: Illinois Marriage and Dissolution of Marriage Act, Uniform Child-Custody Jurisdiction and Enforcement Act, Illinois Parentage Act of 1984, Illinois Domestic Violence Act of 1986, and Illinois Uniform Premarital Agreement Act. In addition, you will study relevant portions of the Illinois Pension Code, the Rules of the Circuit Court of Cook County, the Rules of the Illinois Supreme Court, the Illinois Code of Civil Procedure, the Illinois Mental Health and Developmental Disabilities Confidentiality Act, and the federal Parental Kidnapping Prevention Act of 1980.

It is hoped that your own cases, the class discussions, the assignments related to your cases, the readings, and the other work in this clinic will not only give you a good overview of Illinois family law, but also of its practice. Additionally, you should gain an appreciation of how the actions, communications, and judgment of a person handling a family law matter affect the well-being of each member of a client's family, not only during the course of representation, but for years to come. And, at the same time, you should gain an appreciation of how race, gender, and class affect outcomes.

I am providing each of you with a compact copy of the Illinois family law statutes. Plan to bring your statutes book to every class, to your client interviews, to our weekly meetings, and to court. The Family Law Clinic course pack—available at the bookstore--contains copies of this syllabus, readings for class, and other materials for the clinic; please bring the course pack to each class and also bring all other materials assigned for a class to that class.

Note that although the materials in the course pack are for the most part organized by weekly assignments, you should each week check the syllabus to see what, if anything, beyond the materials following the week's assignment divider have been assigned for that

week. For example: One week you are asked to bring some documents from the IRS; for another class you are asked to bring documents from the Clerk of Circuit Court of Cook County website; you are asked to write a short paper for one class, and, then, for a later class, to revise that paper; you are asked to read certain Rules of the Illinois Supreme Court for a few classes; you are asked to prepare a response to your client's petition for dissolution of marriage one week; you are asked to read portions of a statute for *many* classes.

The first part of the course pack contains portions of the Rules of Illinois Supreme Court, Illinois Code of Civil Procedure, and Rules of the Circuit Court of Cook County. It also contains various clinic forms and clinic information.

I have prepared a packet for each of you that is available now for you to pick up in the clinic. The packet contains the Illinois Family Law statutes book, some LAB materials regarding domestic violence, some LAB forms that need to be completed when you go to the domestic violence court, a few clinic forms which you will need to copy and regularly fill out &/or update during the semester, & some other information which you need to know &/or, hopefully, will find helpful. The packet also contains a Certificate of Dissolution which is not available online; you will need to complete this form for your divorce client & file it with the petition for dissolution.

The 4 volume Illinois Family Law Series is on reserve in the library. This series contains examples of documents used in domestic relations matters & much helpful information.

Your academic performance will be evaluated on the basis of the quality of your effort in representing your clients, your contributions to class discussions, and your written work.

The DePaul University College of Law requires regular and punctual class attendance. In the event you find you must miss—or be late for—a class, your weekly conference with me, a client meeting, or a court appearance, you should advise me by email as soon as feasible so that we can together determine what to do, e.g., meet to discuss the classroom material you missed, attempt to reschedule the court date, telephone the client.

Out of respect for everyone in the class, and in order to have meaningful class discussions, during class, please do not use computers, and please keep your telephones turned off.

**Week One, August 25. Clinic Orientation (Syllabus; General Information; Clinic Forms {Time Sheets; Client Information Sheet; Student Schedule & Contact Information; Notice & Consent Form/Appeal of Pleadings/Orders/Forms/Notices}). Document Checklist. Contacting Clients. Initial Interviews. Application & Affidavit to Sue as an Indigent Person/Order. Setting Up Your Client Files. Copies for Files & to Clients. Constant Update of Client Information Sheet. Clerk's Website, including Forms. Starting a Divorce. Petition for Dissolution of Marriage.**

Review: Syllabus; General Information; Clinic Forms (Client Information Sheet, Time Sheets, Student Schedule & Contact Information—please complete this prior to class--Notice & Consent); Document Checklist  
Illinois Marriage & Dissolution of Marriage Act (Marriage Act) 750 ILCS 5/102-105, 107, 301, 302(a), 303, 305, 401, 403(a, b, d-f), 405, 411(a), 413(a, c-d), 452, 501-501.1(a)  
McCartney v. McCartney—Portion of Approved Judgment of 3/17/08  
2009 HHS Poverty Guidelines  
Legal Aid Bureau information sheet from 4/29/09  
Rules of Circuit Court of Cook County--Portion of Part 13. Domestic Relations Proceedings (in first part of course pack)  
Find Clerk of Circuit Court Cook County Illinois website: Print & bring to class: Domestic Relations Division Court Forms Search page listing the court forms  
Become familiar with the following: Notice and Consent; Application & Affidavit to Sue or Defend as an Indigent Person & Order Pursuant to Supreme Court Rule 298—you will need to give me the signed original of the Application & 2 copies of the signed Application, & 4 copies of the Order; Disclosure Statement Pursuant to Rule 13.3.1(b); Domestic Relations Cover Sheet; Certificate of Dissolution (All of these documents except for Notice and Consent & Certificate of Dissolution can be found on the clerk's website. Note that not all the forms you will need to complete for the clinic are on the Domestic Relations Division Court Forms Search page, but are on other court forms sections. Application & Affidavit to Sue or Defend as an Indigent Person & Order Pursuant to Supreme Court Rule 298 are found elsewhere on the clerk's website. You will have to prepare the Notice and Consent for your divorce client from scratch. The Certificate of Dissolution form is in the packet you are picking up at the clinic.) *(The Application & Affidavit to Sue or Defend as an Indigent Person should be completed and signed by your divorce client in the initial interview, so be sure to tell your client to bring the information needed to complete this form to your first meeting.)*

**Week Two, September 1. Interacting with Clients. Starting Your Case. Listening/Communicating/Taking Notes. Filing Your Case. Service (Basic Documents & Information for Process Server). Summons. Motion for Special Process Server. Affidavit of Special Process Server. What, Where & How to File (File Stamped Copies). Rule 137.**

Review previously assigned & emphasized sections of Marriage Act in Parts I, IV, & V  
750 ILCS 5/502-504(a-d), 505 (through 3rd paragraph of (6)(b)(2)(B)(3), 505.1(a), 505.2, 506(a), (b), 507(a-c), 508(a & b, c through 1<sup>st</sup> paragraph of (4), d, & f), 509 - 510 through (a)(1), (a-5), (b)-(f)), 511 through (c), 512-513, 601(a-d), 602-605, 606(e), 607(a & c), 609, 610(a-c), 611, 701  
Illinois Supreme Court Rule 137 (1<sup>st</sup> 2 paragraphs)  
Review Basic Documents & Information for Process Server  
Print and bring to class: Summons for Domestic Relations Division, Motion for Special Process Server/Order Appointing Special Process Server, Affidavit

of Special Process Server

**Week Three, September 8. Pleadings (Petitions/Responses—Denials). Counter Petitions. Motions. Notice. Injunctions.**

Review previously assigned & emphasized sections of Marriage Act in Parts I & IV  
Illinois Supreme Court Rules: 11(a-b), 12, 13, 101(a & e), 102 (a-d), 104(a-b), 105, 106, 131, 134, 136, 181(a), 182-184

Illinois Code of Civil Procedure: 5/1-109, 5/2-201(a), 202(a), 203(a & b), 203.1, 206(a), 207-209(a-d), 5/2-301(a & a-5), 5/2-603-604 (1<sup>st</sup> paragraph), 605(a), 606, 608, 610(a-c), 612, 613(a & b), 615, 616(c), 619 (a- a(5)), 5/11-101, 102, 103

Materials from Ehrenreich, Nickel and Dined

Prepare Petition for Dissolution of Marriage for your divorce client & prepare all the other papers for filing & service of the respondent

**Week Four, September 15. Domestic Violence. Petitions for, & Orders of, Protection. Court Appearances. LAB Forms for Clients to Sign. Sheriff's Information Sheet. DePaul Conflict Check Form (DePaul Legal Clinic Intake Form). Domestic Violence Court & Documents.**

Illinois Domestic Violence Act of 1986: 750 ILCS 60/102-201, 202(a (1 & 2), (b-d), 203-205(a), 206, 208-209(a), 210, 211-212, 214-215, 217(a-b), 219-220(a & b(1)(i-ii) & e), 221-222, 222.5 (a-c), 222.10, 223.1, 224, 226, 303(a), 304, 401

Portion of Lawyer Malpractice & Domestic Violence: Are We Revictimizing Our Clients? 39 Family Law Quarterly 5 (2005)

Become familiar with pamphlets from Legal Aid Bureau (in packet)

Become familiar with 3 LAB client intake forms—which LAB needs your domestic violence client to complete & sign, & for you to sign 2 of the 3 forms--& Sheriff's Information Sheet

Become familiar with DePaul Legal Clinic Intake Form—which the clinic needs you to complete for your domestic violence client

Print & bring to class from the clerk's website: (a) Domestic Violence Order of Protection Packet; (b) Emergency Order of Protection; (c) Interim/Plenary Order of Protection

Prepare Response to Petition for Dissolution of Marriage & prepare Appearance as if you were respondent's attorney in your client's divorce case

Review Domestic Violence Court & Documents

**Week Five, September 22. Analyzing the Situation. Mediation. Collaborative Law. Prenuptial/Antenuptial Agreements. Court Documents ("filing" vs. "entered", keeping copies). Domestic Violence Court Agreed Order Forms. DSMIV. Mental Health Statute. HIPAA. Hague Convention.**

Review previously assigned & emphasized sections of Part V of Marriage Act

Illinois Uniform Premarital Agreement Act: 750 ILCS 10/1-11

Materials from Marquardt, The Inner Lives of Children of Divorce: Between Two

Worlds

Portion of Collaborative Law: A Useful Tool for the Family Law Practitioner to Promote Better Outcomes. 33 Wm. Mitchell L. Rev. 971 (2006-2007)

Murphy v. Murphy, 359 Ill.App.3d 289

Portions of Mental Health & Developmental Disabilities Confidentiality Act (740 ILCS 110/)

Peters-Farrell v. Peters-Farrell, 345 Ill.App.3d 603

Van de Sande v. Van de Sande, 431 F. 3d 567

Prepare Response to Emergency Petition for Order of Protection (allegations of paragraph J only) filed by your client & Appearance as if you represent the respondent  
Become familiar with domestic violence court agreed orders

**Week Six, September 29. Child Issues (Part I): UCCJEA. Parentage. Abduction/Kidnapping. Custody Evaluations. Full Faith & Credit to Child Custody/Support Orders. Child Representative-GAL-Attorney for Child. Recommendations of Expert/Child Representative.**

Review previously assigned & emphasized sections of Part VI of Marriage Act  
Uniform Child Custody Jurisdiction & Enforcement Act: 750 ILCS 36/102-106, 110(a), 112-210, 308, 311(a, b & f), 313

Illinois Parentage Act of 1984: 750 ILCS 45/1.1, 2, 3-4, 5-6(a—1<sup>st</sup> paragraph, b-d), 7-8 (a(1)-(3)), 11(a), 13.1(1<sup>st</sup> paragraph), 13.5, 14(a-b,d-f), 15.2, 16-17

Child Abduction: 720 ILCS 5/10-5(a)-(b)(1-9), (c)(1-3)

28 U.S.C. sec 1738A & B (Full Faith & Credit Given to Custody Determinations & Child Support Orders from federal Parental Kidnapping Prevention Act of 1980)

The Role of Mental Health Experts in Custody Decisions: Science, Psychological Tests, and Clinical Judgment, 36 Family Law Quarterly 135 (2002)

Gambla v. Woodson, 367 Ill.App.3d 441

Horgan v. Romans 366 Ill.App.3d 180

**Week Seven, October 6. Child Issues (Part II): Parental Alienation, Custody, Visitation, Joint Custody, Schedules, Removal.**

Review previously assigned & emphasized sections of Part VI of Marriage Act  
Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child, 38 Family Law Quarterly 757 (2005)

Collingbourne v. Collingbourne, 204 Ill.2d 498

Matchen v. Matchen, 372 Ill.App.3d 937

Kramer v. Kramer, 211 Ill.App. 3d 401

Jines v. Jurich, 335 Ill.App.3d 1156

Bates v. Bates, 212 Ill.2d 489

**Week Eight, October 13. Financial Matters (Part I): COBRA/SHIRA. ICHIP. Health Insurance. Medicare. Property. Dissipation. Documents Needed for Proves.**

Review previously assigned & emphasized portions of Part V of Marriage Act  
Materials from U.S. Department of Labor Employee Benefits Security Administration  
FAQs about COBRA Continuation Health Coverage

O'Neill v. O'Neill, 138 Ill.2d 494

Reynard v. Reynard, 378 Ill.App.3d 997

Samardzija v. Samardzija, 365 Ill.App. 3d 702

Materials from Newman & Chen, The Missing Class: Portraits of the Near Poor  
in America

Prepare for your divorce client, even if not needed: Judgment of Dissolution of Marriage;  
Affidavit as to Military Service; Certificate & Motion for Default/Order of Default  
Assignment; Stipulation to Hear Uncontested Cause/Certification & Agreement by  
Counsel; Notice of Filing; Notice of Motion for Entry of Judgment; Notice of Entry of  
Judgment; Affidavit & Waiver of Two-Year Waiting Period; Motion Slip; Affidavit for  
Service by Publication

**Week Nine, October 20. Financial Matters (Part II): Pensions. QDROs/QILDROs**  
**(40 ILCS 5/1-119). Social Security.**

Review previously assigned & emphasized portions of Part V of Marriage Act  
Portions of U.S. Department of Labor, Division of Pensions Through Qualified  
Domestic Relations Orders

O'Brien v. O'Brien, 235 Ill.App.3d 520

Hubbs v. Hubbs, 363 Ill.App.3d 696

Richardson v. Richardson 884 N.E.2d 1246

Crook v. Crook, 211 Ill.2d 437

Wojcik v. Wojcik, 362 Ill.App.3d 144

Become familiar with Illinois (National Electronic Child Support Resource System)  
website & the links of this site, including delinquent parent information &  
suggestions for collecting overdue child support

AARP Public Policy Institute, Social Security: Basic Data

AARP Public Policy Institute, Sources of Income for Women Age 65 & Older

AARP Public Policy Institute, Hispanics Age 65 & Older: Sources of Retirement Income  
In 2005

AARP Public Policy Institute, African Americans Age 65 & Older: Their Sources of  
Retirement Income in 2005

Social Security Handbook, Section 311

Pension Benefit Guaranty Corporation, Pension Guarantees Fact Sheet

**Week Ten, October 27. Discovery. Notice to Produce. Matrimonial**  
**Interrogatories. Subpoenas (Documents, Trial, Deposition) Notices of Deposition.**  
**Tax Returns. Tax Matters. 13.3.1 Forms. Unallocated Maintenance.**

Illinois Supreme Court Rules 201(a-f, i-k, m-o), 202-204, 206(a, c-f), 207,  
208(a), 212(a-c), 213(a-k, Matrimonial Interrogatories), 214, 215(a-d(1-5)), 216(a-c),  
218(a-c), 219(a, c-e)

Write a short paper (600 to 800 words) describing what you have come to believe is

good lawyering in a family law matter

Bring the following to class: blank federal income tax return forms: 1040, Schedules A & B, C, D, E, SE. Also, bring blank W-2 form, IRS 8332 form, 1040ES form, and a blank 13.3.1(b) form

Meyer v. Meyer, 140 Ill.App.3d 1031

Rogers v. Rogers, 820 N.E.2d 386

Elenewski v. Elenewski, 357 Ill.App.3d 504

Materials from 2009 U.S. Master Tax Guide

**Week Eleven, November 3. Financial Matters III. Petitions for Rule. Negotiations. Prove-Ups. Modifications. Review of Judgments. College Expenses. Child Support. Maintenance Termination.**

Blissett v. Blissett, 123 Ill.2d 161

Golden v. Golden, 358 Ill.App.3d 464

Susan v. Susan, 367 Ill.App.3d 926

Blum v. Koster, 377 Ill. App. 3d 509

Charous v. Charous, 305 Ill.Dec. 437

Deike v. Deike, 381 Ill.App.3d 620

Bratcher v. Bratcher, 383 Ill.App.3d 388

**Week Twelve, November 10. Bankruptcy. Settlement. Communications with Client, Opposing Counsel, Other Side. Debt Responsibility. Managing Your Case/Client. Fees. Notices. Transcripts.**

Selinger v. Selinger, 351 Ill.App.3d 611

Hopwood v. Hopwood, 378 Ill.App.3d 746

Awan v. Parveen, 388 Ill. App. 3d 204

In Re Greco, 397 B.R. 102 (Bkrcty N.D.Ill. 2008)

Beeler v. Beeler

Prepare Uniform Order of Support & Notice to Withhold Income for Support for your divorce client as if she/he is to be paid \$100/mo. maintenance & \$50/mo. child support & has 2 children, Donald (dob 5/15/00) & Martha (dob 10/31/07)

**Week Thirteen, November 17. Depositions. Hearings. Pretrials. Trials. Managing a Practice. Client Matters. Ending a Case. Closing a File. Reference Tools (Master Tax Guide, Chicago Daily Law Bulletin, Bar Association Materials, Illinois Family Law Series, Illinois Family Law Reporter).**

Illinois Supreme Court Rules 237-238

Illinois Code of Civil Procedure 5/2-1001(a)(1-2), 1009(a), 1101-1102, 1110, 1203, 1301(a)(d)(e), 1302(a), 1303, 1401(a)-(c)

Rules of Circuit Court of Cook County: Portions of Part 1. Appearances & Default; Part 2. Hearing of Motions; Part 3. Proceedings before Trial

Bring a blank Pretrial Memorandum form to class

Prepare order for your client T following a 3-day hearing held over 19 days

in connection with: J's Petition for Rule to Show Cause in which she alleged T owed her \$.50 for his one half of the \$1.00 she paid for aspirin; J's Petition for Child Support Increase in which she asked for \$5.00/mo. increase in child support; & Petition for Attorneys' Fees & Costs in which J's attorneys ask for \$96,000 from T as his contribution to their fees & costs in connection with the petition for rule & the petition for increase.

**Week Fourteen, November 24. Review. Questions.**

Update your paper on what you believe is good lawyering in a family law matter  
Compassionate Checklist, ABA Journal, November 2006  
Good Office Security Should Be a Real Concern for All Lawyers, Chicago Daily Law  
Bulletin, 1/3/07