

Family Law Clinic

Spring 2008

Tuesdays 5:15 to 8:00pm

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Office Hours: As individually arranged

Each student will be responsible for a divorce case and a domestic violence case. In addition, this semester family law clinic students together might also represent JF who is a client of another DePaul legal clinic. Except for JF, students will be representing clients referred to the clinic by the Legal Aid Bureau.

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

After students have been assigned their clients, they will be asked to update the class on their representation of their clients 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, students must respect their clients'—and their classmates' clients'—attorney/client privileges at all times.

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

We will be going to the domestic violence court together twice. The first time is to allow you to observe what goes on in this court. The second time will be for you to meet with a potential client. Following a conflict check by the Legal Aid Bureau 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 in your judgment you believe 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 a separate log of your time for each client, indicating what you did in each of your clients' cases. I strongly suggest that you update your time logs each time you do anything in one of your client's cases; reconstructing time records after the fact is exceedingly difficult. Your time logs should be given to Kathy Browder each week; she will condense the time logs and forward them as necessary 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 these in files which 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. If you are not able to complete a client's case by the end of the semester, you will have to write a transition memo in which you document everything you have done for the client, as well as what needs to be done. 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, Rules of the Circuit Court of Cook County, Rules of the Illinois Supreme Court, Illinois Code of Civil Procedure, and the federal Parental Kidnapping Prevention Act of 1980.

It is hoped that your own cases, 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 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 this to every class, to your client interviews and to court. The 4 volume Illinois Family Law Series is on reserve in the library. Note that some of the assigned materials have already been copied for you; you can pick up your packet of the copied materials and the statutes at the clinic. Please let me know if you are unable to find any of the other assigned materials.

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 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.

Week One, January 15. Clinic Orientation. Practice Overview. Initial Interviews.

Assignment: Illinois Marriage & Dissolution of Marriage Act (Marriage Act) 750 ILCS 5/102-105, 107, 302(a), 305, 401, 403(a, b, & f), 405, 411-413, 452, 501, 501.1

Practical & Ethical Considerations, in Volume I of Illinois Family Law Series (in packet)
Rules of Circuit Court of Cook County 13.3(a), 13.3.1(a-e), 13.3.2, 13.4(a-e, f(iii)(Ill-lv), g(A), h(i-iv), k), 13.6(a, c), 13.7, 13.9(a-d)

Legal Aid Bureau 2007 Financial Eligibility Guidelines (in packet)

Week Two, January 22. Interacting with Clients. Starting a Case. Clerk Website, Including Forms. Listening/Communicating/Notetaking. Court Documents (Orders, Pleadings). Notice & Consent Form.

Assignment: Review previously assigned & emphasized sections of Marriage Act in Parts I, IV, & V

750 ILCS 5/502-504(a-d), 505-505.2, 506-507, 508-513, 5/601-607(a&c), 607.1, 609, 610-611, 5/701

Illinois Supreme Court Rule 137

Illinois Code of Civil Procedure 5/8-911

Find Clerk of Circuit Court Cook County Illinois website: Print & bring the following to class: (a) Domestic Relations Division court forms page listing the court forms, (b) form CCG N689, (c) form CCG N689 (Example), & (d) form CCG N689C

Week Three, January 29. Pleadings/Motions. Possible Initial Interview with JF.

Assignment: 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, 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), 206(a), 207-209(a-d), 5/2-301(a & a-5), 5/2-603-604, 605(a), 606, 608, 610(a-c), 612, 613(a, b, & d), 615, 616(c), 619 (a- a(5)), 5/11-101, 102, 103

Materials from Ehrenreich, Nickel and Dimed (in packet)

Week Four, February 5. Orders of Protection. Court Appearances. LAB Forms.

Assignment: Illinois Domestic Violence Act of 1986: 750 ILCS 60/101-201, 202(a)-(a-2), (b-d), 203-209(a), 210-212, 214-215, 217(a-b), 218-220(a & b, d & e) 221-224, 226, 303(a), 304, 401

Materials from Legal Aid Bureau (to be distributed in class)

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

Week Five, February 12. Analyzing the Situation. Mediation. Collaborative Law. Prenuptial/Antenuptial Agreements. Service. Notice.

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

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

The Psychology of Divorce: A Lawyer's Primer (The Effects of Divorce on Adults, part 1), American Journal of Family Law 20.2 (Summer 2006)

Materials from Marquardt, The Inner Lives of Children of Divorce: Between Two Worlds (in packet)

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

Week Six, February 19. Child Issues (Part I)

Assignment: Review previously assigned & emphasized sections of Part VI of Marriage Act

Uniform Child Custody Jurisdiction & Enforcement Act: 750 ILCS 36/101-110, 112-313, 315

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

Child Abduction: 720 ILCS 5/10-5(a-f)

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

Mental Health and Developmental Disabilities Confidentiality Act: 740 ILCS 110/1-5, 10(a)(1)&(4)

United States Department of Health & Human Services Summary of the HIPAA Privacy Rule (google)

APA Guidelines for Child Custody Evaluations in Divorce Proceedings (google)

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

Week Seven, February 26. Child Issues (Part II)

Assignment: 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)
Post-Divorce Visitation for Infants and Young Children—The Myths and the Psychological Unknowns, 36 Family Law Quarterly 195 (2002)
Custody Doctrine and Custody Practice: A Divorce Practitioner’s View, 36 Family Law Quarterly 79 (2002)
Collingbourne v. Collingbourne, 204 Ill. 2d 498
Matchen v. Matchen, 372 Ill.App.3d 937
Kramer v. Kramer, 211 Ill. App. 3d 401
Charous v. Charous, 855 N.E.2d 953
Samardzija v. Samardzija, 365 Ill. App. 3d 702

Week Eight, March 4. Financial Matters (Part I)

Assignment: Review previously assigned & emphasized portions of Part V of Marriage Act
U.S. Department of Labor Employee Benefits Security Administration Faqs about COBRA Continuation Health Coverage (google)
U.S. Department of Health & Human Services Medicare Eligibility Tool, General Enrollment (google)
Social Security Handbook, Section 311 (google)
Illinois Comprehensive Health Insurance Plan: Eligibility Requirements, Description of Benefit Plans and Summary of Coverage (google)
Illinois Insurance Facts: Health Insurance Continuation Rights—Illinois Law (google)
State of Illinois All Kids: Health Care for All Kids (google)
Crook v. Crook, 211 Ill.2d 437
O’Neill v. O’Neill, 138 Ill.2d 494

Week Nine, March 11. Financial Matters (Part II)

Assignment: Review previously assigned & emphasized portions of Part V of Marriage Act
EBSA of U.S. Department of Labor booklet on QDROs (qdronet) (google)
Illinois Pension Code: 40 ILCS 5/1-119
O’Brien v. O’Brien, 235 Ill.App.3d 520
Hubbs v. Hubbs, 363 Ill.App.3d 696
National Medical Support Notice (google)
Illinois Child Support Enforcement, Frequently Asked Questions Tax Refund (google)
Illinois Child Support Enforcement, Illinois Delinquent Parent Information (google)
Illinois State Disbursement Unit, Welcome (google)

Week Ten, March 25. Discovery

Assignment: Illinois Supreme Court Rules 201(a-f, i-k, m-n), 202-204, 206(a, c-f), 207, 208(a), 212(a-c), 213(a-k, Matrimonial Interrogatories), 214-216, 219

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. Also, 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

Week Eleven, April 1. Financial Matters III. Petitions for Rule. Negotiations. Prove-Ups. Modifications. Review of Judgments.

Assignment: Blissett v. Blissett, 123 Ill.2d 161

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

Susan v. Susan, 856 N.E. 2d 1167

Joynt v. Joynt, 874 N.E. 2d 916

Steven Blum v. Judy Koster Ill. App. 2 Dist. (2007)

Week Twelve, April 8. Bankruptcy. Settlement. Communications with Client, Opposing Counsel, Other Side.

Assignment: Minorities and Social Security: An Analysis of Racial and Ethnic Differences in the Current Program, Social Security Bulletin, Vol. 62, No. 2, 1999 (google)

Winners & Losers in Bankruptcy Reform: Do Women & Children Really Come Out on Top? 41 Family Law Quarterly 219 (2007)

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

Week Thirteen, April 15. Depositions. Hearings. Pretrials. Trials.

Assignment: Justice for Interests of the Poor: The Problem of Navigating the System Without Counsel, 70 Fordham Law Review 1573 (2002)

Illinois Supreme Court Rules 237, 238, & 271

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

Rules of Circuit Court of Cook County: Part 1.1, 1.4, 2.1(a-c(i)), 2.2, 2.3

Bring a blank Pretrial Memorandum form to class

Week Fourteen, April 22. Managing a Practice. Client Matters. Ending a Case. Closing a File. Notice of Entry of Judgment. Transcripts. Fees.

Assignment: Update your paper on what you believe is good lawyering in a family law matter

Transition memo, if required

Compassionate Checklist, ABA Journal, November 2006 (in packet)

States Letting Lawyers Provide “a la carte” Menu of Services, Chicago Daily Law Bulletin, 12/29/06 (in packet)

Good Office Security Should Be a Real Concern for All Lawyers, Chicago Daily Law Bulletin, 1/3/07 (in packet)

Beeler v. Beeler (in packet)