



TABLE OF CONTENTS

Articles »

The Limits of Electronic Discovery in Family Cases

By Dolly Hernandez

Discovery requests should include ESI, which presents a predicament for practitioners who consult with clients or their spouses who utilize social media websites.

Gender and Custody: Is the Weekend Dad Still the Norm?

By Coleen M. Penacho

In 2008, 13.7 million parents had custody of 22 million children with the other parent living elsewhere. Mothers accounted for 82.6 percent of these custodial parents.

Book Review: Collaborative Divorce Handbook

By Margaret R. Kerouac Esq.

The handbook is a valuable resource for new and intermediate practitioners of collaborative law as well as those who are considering involvement in the collaborative process.

Litigation Issues and Tips for New Family-Law Practitioners

By Andrew Z. Soschnick

Despite the lax nature of some family-law courts, the prepared lawyer should treat family-law cases as if they were the same as any other form of civil litigation.

News & Developments »

Modern Parents Likely to Shun Divorce, Keep Family Strong

In this economic and emotional climate, clients considering divorce are more often asking for alternatives to scorched-earth litigation.

Canada to End Collection of Divorce Statistics

Due to budget costs, Canada will no longer be tracking information on divorce rates.

Obama Gives Support to Anti-DOMA Legislation

The Obama Administration is taking another step to finalize its separation from the federal Defense of Marriage Act (DOMA).

D.C. Court Finds in Favor of Divorce Lawyer

Divorce lawyer Rita Bank was cleared in a legal malpractice suit brought by former client Joseph Stiglitz.

Message from the Chairs »

Trial Evidence Committee Issues Special Diversity Newsletter

The Trial Evidence Committee is pleased to present a special issue of its digital newsletter—our first ever to focus solely on diversity in the courtroom.

ARTICLES

The Limits of Electronic Discovery in Family Cases

By Dolly Hernandez – July 28, 2011

Modern technology has brought a new wave of evidence to marital and family-law proceedings as parties are utilizing electronically stored information (ESI) found on social media websites such as Facebook, MySpace, Twitter, and LinkedIn, along with information stored on computers and cell phones to prove aspects of their case. The technology that makes our lives easier also creates evidence. For instance, our cell phones are used to create text messages. Our computers contain our Internet search history, cookies, and items downloaded from the Internet. As a result of litigants' increased dependence on technology, practitioners must become familiar with the type of information one can garner through the Internet, a computer, or a cell phone and determine how this information, in the form of photos, tweets, wall posts, emails, and blog postings, to name a few, can be obtained and eventually become evidence—or the smoking gun—in a family-law proceeding.

Limitations on Electronic Communications

Typically, family-law practitioners are advised by clients that answers to issues in their case will be unveiled with the production of their spouse's email communications. It then becomes a question of how these email communications can be obtained. One option is to send a discovery request to the opposing party that requests ESI. The discovery request should specifically delineate the spouse's email account for which the records are sought and a specific time frame, and it should delineate with specificity which email communications are sought and which are germane to legal issues in the proceeding. Alternatively, a party may want to subpoena a spouse's email communications. However, such a disclosure pursuant to a subpoena, absent a release from the subscriber, can constitute a violation of the Electronic Communications Privacy Act (ECPA), which encompasses the Wiretap Act 18 U.S.C. § 2510 *et seq.* and the Stored Communications Act, 18 U.S.C. § 2701 *et seq.*

The ECPA was enacted to protect the privacy of subscribers by prohibiting an “electronic communication service” or a “remote computing service” from divulging the contents of a communication. 18 U.S.C. § 2702(a) (3); *Crispin v. Christian Audigier, Inc.*, 717 F. Supp. 2d 965, 971 (C.D. Cal. 2010) (“Congress passed the Stored Communications Act in 1986 as part of the Electronic Communications Privacy Act. ‘The SCA was enacted because the advent of the Internet presented a host of potential privacy breaches that the *Fourth Amendment* does not address.’”) (internal citations and quotation marks omitted)). The exceptions for the disclosure of communications are specifically enumerated in 18 U.S.C. § 2702(b) (1)–(8), and exceptions for the disclosure of customer records are specifically enumerated in 18 U.S.C. § 2702(c) (1)–(6).

The following are exceptions for the disclosure of communications:

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A provider described in subsection (a) may divulge the contents of a communication—

- (1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;
- (2) as otherwise authorized in section 2517, 2511(2)(a), or 2703 of this title [18 USCS § 2517, 2511(2)(a), or 2703];
- (3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;
- (4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;
- (5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;
- (6) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 2258A [18 USCS § 2258A];
- (7) to a law enforcement agency—

(A) if the contents—

- (i) were inadvertently obtained by the service provider; and
- (ii) appear to pertain to the commission of a crime; or

(B) [Deleted];

- (8) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.

The following are exceptions for the disclosure of customer records:

A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))—

- (1) as otherwise authorized in section 2703 [18 USCS § 2703];
- (2) with the lawful consent of the customer or subscriber;
- (3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;
- (4) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency;
- (5) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 2258A [18 USCS § 2258A]; or
- (6) to any person other than a governmental entity.

While these exceptions exist, an exception does not exist to the prohibition for discovery subpoenas in civil cases. *O'Grady v. Superior Court of Santa Clara County*, 139 Cal. App. 4th 1423, 1427 (6th Dist. 2006); *Viacom International, Inc. v. Youtube, Inc.*, 253 F.R.D. 256, 264 (S.D. N.Y. 2008) (motion to compel denied by the court regarding the disclosure of the content of private videos on YouTube because an exception for disclosure does not exist under 18 U.S.C. § 2702); *J.T. Shannon Lumber Co., Inc. v. Gilco Lumber, Inc.*, No. 2:07-CV-119, 2008 U.S. Dist. LEXIS 104966, *7 (N. D. Miss. August 14, 2008) (motion to quash subpoenas duces tecum granted that were served on Microsoft Corp.; Google, Inc.; and Yahoo!, Inc.); *In re Subpoena Duces Tecum to AOL, LLC*, 550 F. Supp. 2d 606, 609 (E.D. Va. 2008) (quashing of a subpoena to AOL upheld because a civil discovery subpoena does not fall within one of the exceptions to the ECPA, allowing for disclosure by an Internet service provider).

Therefore, a party's subpoena to an electronic communication service seeking their spouse's email communications shall most likely be met with a motion to quash subpoena duces tecum and, alternatively, a motion for protective order as the disclosure of communications, pursuant to the subpoena, absent an exception or a release from the subscriber, would be a violation of the ECPA.

Not until late 2010 did a court rule upon the act's application to social media websites. In *Crispin*, subpoenas were served by defendants upon a number of social media websites, including Black Market Art Company; Facebook; Media Temple, Inc.; and MySpace, Inc., in an action that stemmed from the plaintiff's granting of an oral license to the defendants for the use of certain plaintiff's work in a limited manner in the manufacture of garments. *Crispin*, 717 F. Supp. 2d at 968–69. Three of the subpoenas sought the plaintiff's basic subscriber information coupled with all of the plaintiff's communications with a tattoo artist. *Id.* at 969. The plaintiff filed an ex parte motion to quash subpoenas, citing three arguments in support of the position, including the prohibition against such disclosure from an Internet service provider pursuant to the Stored Communications Act. Met with the issue of whether to quash the subpoenas to the social network sites, the court in *Crispin* was left to determine the ultimate question of whether the Stored Communications Act applied to social networking sites such as Facebook and MySpace. *Id.* at 977 (citing *Quon v. Arch Wireless Operating Company, Inc.*, 529 F.3d 892 (9th Cir. 2008) (the court determined that a provider of text-messaging services was an electronic communication service or a remote communication service, thus falling within the ambit of the act)).

As to the first prong of this analysis, the court concluded that all three sites provide private messaging or email, which rendered them an electronic communication service. *Id.* at 980; *Theofel v. Farey-Jones*, 359 F.3d 1066, 1075 (9th Cir.2003) (“Several courts have held that subsection (A) covers e-mail messages stored on an ISP's server pending delivery to the recipient.”) (internal citations omitted). Also, messages remaining on a server after delivery fall squarely within the meaning of electronic communication service under subsection (B). *Id.* at 1075.

After the court's determination that the three entities were electronic communication service providers, the court then addressed the second prong of the analysis and determined whether the messages sought "constitute electronic storage within the meaning of the statute." *Crispin*, 717 F. Supp. 2d at 982. The statute provides two definitions of electronic storage that can be found at 18 U.S.C. § 2510(17) (A) ("any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof") and 18 U.S.C. § 2510 (17) (B) ("any storage of such communication by an electronic communication service for purposes of backup protection of such communication").

After analyzing the pertinent privacy issues, the court opined that webmail and private messaging are forms of communications media that are private and, thus, stored messages are not accessible to the public. *Id.* at 991. Thus, the court did not permit the disclosure of private messaging with respect to the Media Temple subpoena as well as the Facebook and MySpace subpoenas. As to wall postings on Facebook and comments on MySpace, the court advised that the trial court record presented was insufficient for the court to make a determination and remanded the case to the lower court for further development of the evidentiary record.

Family practitioners should keep in mind that a civil discovery subpoena, which requires disclosure of ECPA-protected matter, is facially invalid and unenforceable and shall be quashed by the court upon motion. The act's "zone of privacy . . . protects internet subscribers from having their personal information wrongfully used and disclosed by unauthorized private parties." *J.T. Shannon Lumber*, 2008 U.S. Dist. LEXIS 104966, at *5. Family practitioners need to keep in mind that unless an exception exists to the act, the court will most likely cloak private communications. However, the question still remains as to whether messages that may be deemed public, such as wall postings and comments on social networking sites, will be protected by the act.

Production of Computer Hard Drives and Cell Phone SIM Cards

The production of computer hard drives and cell phone SIM cards was addressed in a wrongful-death action styled *Holland v. Barfield*, 35 So. 3d 953, 954 (Fla. 5th DCA 2010), where a petitioner sought a writ of certiorari to quash an order entered by the trial court, compelling the petitioner to produce all computer hard drives and cell phone SIM cards in her possession to the respondent. The respondent sought to obtain evidence of communications such as text messages, and messages on Facebook and MySpace between the defendants. *Id.* at 954. The trial court, while granting the respondent's motion to compel, provided for specific measures that would prevent the dissemination of information by requiring the respondent to agree to a protective order and confidentiality agreement.

In its analysis, the court provided a three-prong test to determine when a search might be approved so long as the following elements are met by the requesting party: "(1) evidence of any destruction of evidence or thwarting of discovery; (2) a likelihood the information exists on the devices; and (3) no less intrusive means exists of obtaining the information." *Id.* at 955 (citing *Strasser v. Yalamanchi*, 669 So. 2d 1142 (Fla. 4th DCA 1996)). When determining whether a



less intrusive means exists, the court further espoused that a party could acquire documentation involved by accessing the computer in front of a representative of the opposing party after an agreed-upon procedure was established for the search. The court held that the order's scope, without limit or time frame, of all the information on the petitioner's computer and mobile phone SIM card violated the petitioner's right of privacy and the right against self-incrimination or privileges. *Id.* at 956.

As a preventative measure, when a discovery request includes ESI, attorneys for the parties should confer and agree to a protocol for the exchange of ESI. The protocol should include, at a minimum, a procedure for review by the producing party to preserve privileged or confidential documents, a procedure for the production of relevant documents including but not limited to agreed-upon search terms, and the format for production of ESI.

Conclusion

Discovery requests in family proceedings should include ESI. ESI presents an interesting predicament for practitioners who consult with clients who utilize social media websites or whose spouses utilize social media websites. Practitioners should therefore err on the side of caution, as no one wants to calculate damages for a spoliation of evidence claim for tampering with evidence.

Keywords: litigation, family law, electronically stored information, social media

[Dolly Hernandez](#) recently opened her own practice in Miami, Florida.

Gender and Custody: Is the Weekend Dad Still the Norm?

By Coleen M. Penacho – July 28, 2011

When I met my husband in 1994, his teenage daughter was living with him. When he and his ex-wife divorced, they agreed that their daughter, who was 14 at the time, could decide whether to live with her mother or father. The court determined that she was mature enough to make that choice, and she chose to live with her father. As my husband's ex-wife moved back to her home state, this meant that his daughter was a four-hour drive away from her mother and, therefore, saw her mother infrequently—less than every other weekend.

I was not a lawyer at the time, and I was surprised that a child, especially a girl, was living with her father rather than her mother. The norm among the divorced couples I knew was that the children lived with their mother and saw their father every other weekend.

Seventeen years later, one would expect that norm to have altered. Anecdotal evidence from family-law attorneys throughout the country support the idea that this paradigm is shifting. From Washington and California to Massachusetts, North Carolina, and Florida, attorneys report that



many fathers are no longer satisfied with being an every-other-weekend father. They want, and are getting, increased parenting time and physical custody of their children in more cases. A lawyer in Washington reports that the trend there is definitely toward more fathers having physical custody of their children. According to a family-law attorney in Missouri, the new pattern there is for children to spend Monday and Tuesday with one parent, Wednesday and Thursday with the other parent, and weekends alternating between the two parents.

Putting anecdotal evidence aside, however, the actual statistics tell a different story. According to the U.S. Census Bureau, in 2008, approximately 13.7 million parents had custody of almost 22 million children with the other parent living elsewhere. Mothers accounted for 82.6 percent of these custodial parents and fathers only 17.4 percent. *See* Timothy S. Grall, *Custodial Mothers and Fathers and Their Child Support: 2007*, Current Population Reports, U.S. Census Bureau, (November 2009). Further, these proportions are statistically the same as they were in 1994. *Id.* My husband was in the minority in 1994 and would still be in the minority today.

What is the explanation for this? Fathers' rights groups blame the matriarchal bias of the legal system and of judges in particular. Fathers' rights groups also blame feminist groups, such as the National Organization for Women, which the fathers' groups claim lobby to prevent fathers from ever gaining custody of their children. *See [Gender Bias Still Exists](#)*, Separated Parenting Access and Resource Center (SPARC); *See also [About CPF—The Fatherhood Coalition](#)*, CPF—The Fatherhood Coalition (“We work to promote shared parenting and to end the discrimination and persecution faced by divorced and unwed fathers.”).

Courts and legislatures, however, have made great efforts to promote shared parenting. Although child-custody laws vary among states, laws in all states require that gender not be considered in child-custody decisions and give each parent an equal right to the custody of the parties' children when they divorce. *[Child Custody](#)*, Legal Information Institute, Cornell University Law School, (August 19, 2010).

Further, many states now have laws that promote joint physical custody. A proposed bill in Minnesota, H.F. No. 69, goes so far as to amend the state's custody laws to create a rebuttable presumption of joint legal and physical custody. The bill changes the definition of “joint physical custody” so that it means “the parents shall share time with the child as equally as possible.” The bill encourages the divorcing parties to agree on a parenting plan that fits their specific needs and circumstances. Where the parents cannot agree, the bill states that it is the intent of Minnesota law “that parents have a rebuttable presumption of equal time with their children.” Further, in contested custody proceedings, the judiciary is instructed that it should “demonstrate consistent application of the presumption in favor of joint custody.”

Many states encourage, if not require, divorcing parties to attempt to mediate the terms of their divorce, including a plan for parenting their children, before engaging in litigation. Such mediation should be free of any alleged judicial bias in favor of the mother and, therefore, would be expected to result in more fathers having physical custody of their children. Further, one



would expect the combination of these factors to result in a change in the proportion of fathers acting as custodial parents. Despite these legislative and judicial efforts, however, the proportions have not changed.

Why have these efforts been ineffective? In determining custody and visitation, courts must look to the “best interests” of the child. Under this standard, the court is to consider the wishes of the child’s parents; the wishes of the child; the child’s relationship with each of the parents; siblings; other persons who may substantially impact the child’s best interests; the child’s comfort in his or her home, school, and community; and the mental and physical health of the involved individuals. *See id.*

In reviewing these factors, the child’s relationship with the parents is especially important, and courts often award custody to the parent who has acted as the child’s primary caregiver during the marriage. As it is most often mothers who act as their children’s primary caregivers in our society, mothers are more likely to be awarded physical custody. The large percentage of women acting as custodial parents, therefore, appears to be based on the structure of our society, not in the adoption and implementation of our child-custody laws.

There are multiple reasons that mothers act as their child’s primary caregivers. First, in families where only one parent works outside the home, that parent is likely to be the father. In 2009, there were 5.1 million stay-at-home moms compared with 158,000 stay-at-home dads. *See* Katherine Reynolds Lewis, “Why Do Dads Lie on Surveys About Fatherhood?”, *Slate*, June 17, 2010. In the mid-1990s, the growth of the number of women working outside the home, which had been growing for four decades, began to slow and, in some years, even declined, exacerbating this imbalance. *See* Eduardo Porter, “Women in Workplace—Trend is Reversing,” *New York Times* (March 2, 2006). The number of women in the workforce reached its peak in 2000, when 77 percent of women between the ages of 25 and 54 were employed outside the home. *See id.* This slowdown continued in the early 2000s. Catherine Rampell, “As Layoffs Surge, Women May Pass Men in Job Force,” *New York Times* (February 5, 2009). Not surprisingly, as fewer women enter the workforce, they are more likely to act as primary caregivers for children.

Even when both parents work, mothers are often still responsible for the majority of child care. Child care has historically been a woman’s role, and that has been fairly resistant to change, according to Heidi Hartmann, president and chief economist at the Institute for Women’s Policy Research. *See id.*

Several recent studies on time use found that mothers spend significantly more time on child care than do fathers. According to a 2004 survey conducted by the Department of Labor, the average working woman spends roughly twice as much time caring for children and performing household chores than the average working man. *Financial Express* (September 22, 2004). The American Time Use Survey, as analyzed by Alan B. Krueger and Andreas Mueller, found similar results. *See* Rampell, *supra*; *See also* Lewis, *supra* (citing Census Bureau time-use



surveys finding that married men spend about 1.2 hours per weekday caring for children under age 6, while married women spend 2.6 hours on the same activity).

One reason that women are responsible for the majority of child care is a practical one: They have more time for child care because they have jobs that provide that time. Women are more likely to be employed in education and health care, which are fields that allow for more time to care for children. *See Rampell, supra*. They are also more likely than men to have part-time jobs and to work fewer hours outside the home. *See Porter, supra*. In fact, when women become parents, they seek out part-time schedules and/or flexible work arrangements. *See Lewis, supra*. It is likely that women seek out these arrangements because of the societal view that child care is a women's responsibility.

Fathers, on the other hand, do not seek such arrangements because they are not expected to do so, and many feel that their employers will not understand if they do. *See id*. One bank manager in Virginia whose wife also works related that his colleagues "can't conceptualize" that he would take responsibility for handling some of the child-care emergencies that he and his wife inevitably face. His conclusion is that "the workplace doesn't really accept the modern-day father." *Id*.

Unless these societal norms change, it is unlikely that custodial norms will change. If the current economic recession continues, however, these norms could be affected. Men have borne the brunt of job losses during this recession, at one point accounting for 82 percent of all jobs lost. If this continues, women could surpass men in the workforce for the first time in American history. *See Rampell, supra*. Although women are still currently responsible for child care even where they are acting as the family's sole breadwinner, a prolonged recession could change that, thereby challenging gender, and custody, roles.

Keywords: litigation, family law, gender, custody

Coleen M. Penacho is a litigator admitted to practice in the state and federal courts of New Hampshire and in the First Circuit Court of Appeals.

Book Review: *Collaborative Divorce Handbook*

By Margaret R. Kerouac Esq. – July 28, 2011

The *Collaborative Divorce Handbook: Helping Families Without Going to Court*, published by Jossey-Bass in 2009, is an excellent and convenient resource for those seeking an in-depth introduction to collaborative practice or as a guide or refresher for those with some experience practicing collaborative law.

The author, Forrest "Woody" S. Mosten, is a family-law attorney who successfully converted his litigation practice to an exclusively alternative dispute resolution (ADR) practice. As he characterizes it, his practice focuses on "peacemaking." He is also a member of the faculty at the

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University of California, Los Angeles (UCLA) School of Law. In addition to his own expertise, Mosten also acknowledges a long list of resources, contributors, and authorities and provides a link to a website where the additional materials mentioned in the handbook, including sample letters, protocols, and dispute-resolution strategies, can be found.

The handbook explores topics well beyond the contrast between collaborative law and the other methodologies used to resolve family-law disputes. Some of the topics reviewed in the handbook include communication and negotiation strategies, dealing with impasse, continuing momentum, and marketing a collaborative practice. In addition, the handbook discusses the benefits of utilizing a collaborative team, reviews good client-service tips and client education, and more.

The book is a wealth of information and is easy to use, including well-organized charts, summary practice tips, key terms for fee agreements, and the applicable ABA and state ethics opinions. Better yet, the handbook is concise and organized, and will be helpful for the new or intermediate practitioner seeking to refresh his or her skills before a meeting. Unfortunately, the handbook does not include a table of contents, and the chapter titles do not convey the depth of information included in each chapter.

The handbook is a valuable resource for new and intermediate practitioners of collaborative law as well as those who are considering involvement in the collaborative process, including nonlawyers. The handbook will enhance skills and provides in-depth and practical consideration of issues presented by the collaborative process. It is a worthwhile acquisition for your library.

Keywords: litigation, family law, collaborative divorce, collaborative law

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Litigation Issues and Tips for New Family-Law Practitioners

By Andrew Z. Soschnick – July 28, 2011

“Family law is different.” This common misstatement permeates family courts throughout the United States. In reality, family law is a variety of civil litigation subject to general civil procedural and evidentiary rules, along with special family-law rules in some instances, and should not be viewed through a different prism. Despite the lax nature of some family-law courts, the prepared family lawyer should treat family-law cases as if they were the same as any other form of civil litigation. Do not assume that rules of evidence will be relaxed or that normal civil procedural principles will not be applied. The careful family litigator remembers certain cardinal rules, including those listed here.

It is imperative to understand your jurisdiction’s rules of evidence. Although some family courts may permit hearsay under the umbrella that it will be given the appropriate “weight,” more and



more family courts are carefully scrutinizing whether or not certain evidence is admissible under general evidentiary principles. Understanding the hearsay rule and recognizing bona fide exceptions is important. Do not assume “everything comes in.” Know the foundational elements for your evidence.

Frequently, comments are made that family courts are courts of equity. If so, then general and equitable principles should be known to family-law practitioners. For example, is it “equity” to be able to allocate federal income tax dependency exemptions by compelling signatures on IRS Form 8332 or other means? Here is a concise list of equitable maxims (*see, e.g.*, 30A C.J.S. *Equity* §§ 93–127 (1992)):

- Equity suffers no right to be without a remedy.
- Equity regards substance rather than form.
- Equity regards that as done that ought to be done.
- Equity imputes an intention to fulfill an obligation.
- Equality is equity.
- Where there are equal equities, the first equity will prevail.
- Equity follows the law.
- Equity acts in personam, not in rem.
- Equity aids the vigilant, not those who sleep on their rights.
- He who seeks equity must do equity.
- He who comes into equity must come with clean hands.
- Where laws must be borne by one of two innocent persons, equity will impose the loss on that party without whose act first could have prevented the loss.
- Equity prevents mischief.
- Equity prefers amicable adjustments.
- A court of equity seeks to do justice.
- A court of equity delights in doing justice completely and not by halves.
- Equity construes statutes in a way that will advance the sense and meaning of fairly deducible results.

Consider filing a pretrial memorandum. It can simply be a short summary of trial requests with supporting rationale. Make the pretrial memorandum readable for the court—providing section headings such as property division, child custody and parenting time, child support, and alimony is helpful.

Have your witnesses prepared to testify at court well in advance of when the trial commences. If you are going to keep witnesses away from the courtroom, make sure they are available via a short phone call or email.

Make sure you bring the appropriate number of exhibits to court. An original and at least three copies is a minimum.



Summer 2011, Vol. 7 No. 1

Create witness and exhibit lists regardless of whether there is a pretrial order requirement.

Prepare a trial notebook. Knowing your quantum of proof and the steps necessary to make that proof part of the record is essential.

Bring to court copies of the appropriate statutes, rules of evidence, and rules of procedure.

Do not waive opening statements and closing arguments. After the monotony of testimony, having the court reminded of your key points may be critical.

Prepare in advance. Have the key points in writing in front of you, and, if you are more comfortable, include specific, important questions so that you can ensure that the record reflects this information.

Be punctual. Always arrive at the courthouse at least 30 minutes before the proceedings begin and have your materials ready to go. Never be late.

State objections clearly, concisely, and in a recognized form. “Objection, lack of foundation,” is far better than “Your honor, that testimony is unfair.”

Do not mischaracterize the record.

Lead your witnesses as little as possible.

Prepare your examinations in some kind of order. Whether it be chronological, by event, or otherwise, a cogent presentation is essential for the court to understand your case. Remember that the court typically has very little, if any, background about the dispute. You are asking the court to make a determination on important matters after just a few hours of information. That is a difficult task, even for a seasoned jurist. You can simplify that task by bringing information forward in an orderly fashion.

Be polite to each person, even if he or she is not polite to you.

Assume that every word you speak is heard. Many courtrooms have new technology that allows the court to hear you even in chambers.

Adhering to these simple rules will make your trial presentations more orderly, compelling, and effective. It will also help you present as a “major-league” civil litigator. That accomplishment, in and of itself, will help to elevate family-law cases to the stature and dignity they deserve in American jurisprudence.

Keywords: litigation, family law, young lawyers

[Andrew Z. Soschnick](#) is chairman of Baker & Daniels, LLP’s family-law group in Indianapolis, Indiana.



NEWS & DEVELOPMENTS

Modern Parents Likely to Shun Divorce, Keep Family Strong

In this economic and emotional climate, [clients considering divorce are more often asking for alternatives to scorched-earth litigation](#) for a variety of reasons, some of which you may not have even considered. Are you prepared to offer collaborative law or mediation as an alternative to the litigated divorce?

Keywords: litigation, family law, collaborative law, mediation

— [Charla Bizios Stevens Esq.](#), *McLane, Graf, Raulerson & Middleton*

Canada to End Collection of Divorce Statistics

Just a heads-up for our friends in Canada who like to keep track of divorce statistics: Due to budget costs, [Canada will no longer be tracking information on divorce rates](#).

Keywords: litigation, family law, Canada, divorce rates

— *David L. Gresen, Klein Liebman & Gresen, LLC*

Obama Gives Support to Anti-DOMA Legislation

The Obama Administration is taking another step to finalize its [separation from the federal Defense of Marriage Act \(DOMA\)](#), which denies federal recognition and benefits to same-sex married couples, announcing that it will back legislation to repeal the act.

Keywords: litigation, family law, Defense of Marriage Act

— *David L. Gresen, Klein Liebman & Gresen, LLC*

D.C. Court Finds in Favor of Divorce Lawyer

Divorce lawyer Rita Bank was [cleared in a legal malpractice suit](#) brought by former client Joseph Stiglitz.

Keywords: litigation, family law, malpractice

— *David L. Gresen, Klein Liebman & Gresen, LLC*



Family Law Litigation

FROM THE SECTION OF LITIGATION FAMILY LAW LITIGATION COMMITTEE

Summer 2011, Vol. 7 No. 1

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