When Apples Don't Equal Apples: Divorce, Division of Marital Assets, and Tax Consequences

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WHEN APPLES DON'T EQUAL APPLES: DIVORCE, DIVISION OF MARITAL ASSETS, AND TAX CONSEQUENCES

By Andrew N. Speer and Michelle May O'Neil

The Tax Cuts and Jobs Act (TCJA) changed how attorneys and accountants must approach dividing assets in divorces. Some traditional items, such as 401k's, IRA's, and pensions have not seen any significant modifications. Other items such as spousal support, child tax deductions, mortgage interest deductions, property tax deductions, and classifications of business entities are subject to new provisions of the TCJA, and require those advising litigants to reevaluate the tax implications their clients face today and in the future.

1. Standard Retirement Account and Pension Issues

Retirement accounts are often the most valuable items a party owns, and one spouse has typically built the asset over a lifetime. If equipped with the wrong advice, a party may inadvertently agree to a division they believe is equal, but after withholdings, taxes, and penalties, the split may result in a disproportionate division. For instance, when an IRA is divided between two spouses, and one party intends to liquidate their half prior to reaching the age of fifty-nine and one-half years, the liquidating party would be required to pay a 10% penalty[1] and income taxes on all withdrawals, as if the asset were normal income instead of a division of marital assets.[2] [3] These penalties and taxes significantly devalue IRA's, and parties should

[1] 26 IRC 4974
[2] 26 IRC 72(t)

[3] This does not account for special exceptions on principal contributions in Roth IRAs.

request offsets and credits when being awarded these accounts when they do not intend to roll them over into qualified accounts. Instead of splitting an account 50/50, a spouse may hold the position that it be split 55/45.

Qualified defined contribution plans, like 401k's, are not immune from value deteriorating pitfalls either. In addition to income taxes and 10% penalties,[4] these accounts are subject to a mandatory withholding of 20% of the amount cashed out for federal income taxes.[5] [6] [7] Parties need to be cautioned that when receiving a qualified account in a marital division, they must intend for it to remain qualified to maximize the benefit of the award.

Compared to 401k's and IRA's, defined benefit plans like pensions require parties to make the most difficult calculations when dividing qualified assets. Pensions are not bulletproof, an employee could be disqualified from benefits, or a company may go bankrupt, making the pension worth pennies on the dollar. Due to these risks, spouses of pension holders must consider taking a cash payment/division from other assets in lieu of receiving a portion of a spouse's pension. One alternative to receiving part of a pension is to award a bank account to the non-employee spouse, in an amount that would generate the same or similar amount of income as the spouse's portion of the pension would by the time the pension starts making payments. The calculation of this amount is a frequent source of contention between

[4] https://www.irs.gov/taxtopics/tc558
[5] http://www.finra.org/investors/401k-rollovers

[6] https://www.irs.gov/retirement-plans/plan-participant-employee/401k-resource-guide-plan-participants-general-distribution-rules

[7] 26 IRC 3405(c)

parties, but once all the smoke clears, it can be done in a straight-forward manner. For example, if a pension were to pay out $1,119.93 per month ten years from now, and at that time the life expectancy of the pensioner is 20 years, that pension has a specific present-day cash value determined by applying a formula to the monthly payout, anticipated growth, time until the pay start date, and the life expectancy of the pensioner. If this pension would pay out $1,119.93 per month for a total of 20 years, it would have a value of $268,783.28. Assuming that any funds taken as cash in lieu of half of the pension were invested, and the investment grew at 3% per year (per a formula and compounding returns) for that total ten-year period, a party would need to invest $200,000.00 at the date of divorce to yield the same income generation as the pension would produce in 10 years when payments begin. However, that does not mean a spouse should receive $200,000.00 instead of part of the pension, instead they should receive half of that, as they are only entitled to one-half of the pension, or $100,000.00. When given this option, the spouse must decide what they would rather have: $559.96 ten years from now, or $100,000.00 today. When making this decision, the spouse must also remember that the $559.96 they receive each month will be taxed as income, reducing its value further, and increasing the desirability of the cash or asset transfer.

2. Mortgage Interest, Property Taxes, and HELOC's

While IRA's, 401k's and pensions face the same problems after the TCJA as they did before, other assets have not. Specifically, assets that relate to real-property have fared much worse. One such item is the reduction in the home mortgage interest

deduction. For all loans entered into from December 16, 2017 through December 31, 2025, interest payments on home mortgages can only be deducted on the amount of interest paid on the first $750,000.00 on the loan.[8] This number used to be $1,000,000.00, so high net worth clients with highly valued real property should take note. When deciding whether to sell a house and split the proceeds, or refinance the loan and transfer it in full to one party, the party keeping the house through a refinance may end up with a higher tax burden than in years past if the refinance doesn't meet certain requirements. Refinancing is subject to stringent regulation under the new code. To maintain the $1,000,000.00 mortgage interest deduction when refinancing, the amount of the principal indebtedness resulting from the refinancing cannot exceed the original indebtedness, as all amounts in excess of the original indebtedness will be subject to the $750,000.00 limit, and be non-deductible. Additionally, refinancing parties lose the $1,000,000.00 mortgage interest deduction if the refinanced term exceeds the term of the original indebtedness, unless the principal on the original indebtedness was not amortized over the original term, and if there are multiple refinancings, the $1,000,000.00 mortgage interest deduction does not apply to any indebtedness refinanced after the expiration of the original term of the first refinancing, or 30 years after the date of the first refinancing, whichever is earlier.[9] If one party is adamant on keeping the house, refinancing should be avoided if it cannot be done in a manner that maintains the duration and amount of

[8] 26 IRC 163 (b)(6)

[9] 26 IRC 163(h)(3)(F)(iii)(I) and (II)

the original loan. From a divorce standpoint, refinancing should only be done to change names, ownership, and liability on the property, not the amount or duration of any loans. As an alternative to refinancing, parties should consider utilizing deeds of trust to secure assumption. These allow the debt to remain, and upon the failure of a party to make a mortgage payment, allows the party not in possession to foreclose to satisfy the debt. When going the deed of trust to secure assumption route, the monetary value on the taxes saved by avoiding refinancing should be considered in such a division.

In addition to the loss of the mortgage interest payment deduction, divorcing parties face new property tax hardships under the TCJA. All state taxes, including state income and property taxes, can only be deducted for a total of $10,000.00.[10] Due to this, the property taxes paid on high value estates will be higher than they were in prior years. In most instances, it may be beneficial simply to sell the house outright and split the taxes. While such a sale would split the tax burden equally, it would eliminate the opportunity for parties to take out home equity lines of credit to pay divorce related debts. These loans, known as HELOC's, were widely used prior to the TCJA by separating parties to help bridge income and resource gaps, and the HELOC interest was deductible. Unfortunately for the parties, this option has been severely limited under the TCJA. Interest on HELOC's can no longer be deducted for their traditional uses in divorces: legal fees, support, equitable distributions, or to pay for a child's college expenses.[11] This limits the parties' ability to generate large sums of

[10] 26 IRC 164(b)(6)
[11] 26 IRC 163 (h)(3)(C), (F).

cash for payouts or judgments with HELOC's, cash that could have been used to avoid dividing pensions. When the parties agree to use a HELOC to pay one spouse off, they should also incorporate an offset for the amount of interest owed on the HELOC.

3. Business Structures

Many divorces involve companies that may pay the owner in dividends or long-term capital gains. The long arm of the TCJA has also reached the divorcing small business owner, as long-term gains are no longer based on marginal tax rates, but are now based on defined dollar amounts of the income received.[12] If the distribution is between $39,376 - $434,550,[13] which many small business owners fall within, it will be taxed at 15%.[14] Any long-term capital gains below this range are taxed at 0%, and any above are taxed at 20%. Parties no longer need to consider what income tax bracket they are in when awarding such assets, but instead need to focus on the numerical value of the long-term capital gains and qualified dividends produced by the company. This has resulted in an equalization of the value of a small business to litigating parties, or at the very least removed the ability to award or keep a business for tax bracket purposes.

While it is true that there has been an equalization in tax value, parties should not forget about the Net Investment Income Tax (NIIT), which is at 3.8%.[15] When long term capital gains or qualified dividends produce over $200,000.00 for an

[12] 26 IRC 1 (j)(5)(B)
[13] These amounts were $38,600 and $425,400 for 2018, and annually adjusted. In the code they appear as these numbers in this note.
[14] https://www.irs.gov/taxtopics/tc409 and 26 IRC 1(j)
[15] 26 IRC 1411

unmarried taxpayer, the NIIT applies, so this increases the 15% tax to $18.8% in most cases. While inopportune, the NIIT is evenly applied to spouses, in that it is applied blindly to whichever party is awarded the asset regardless of income, and income tax bracket jumping is no longer offers the same incentive it used to.

Given the new $10,000.00 limitation on state and local tax deductions of all types, not just real estate, parties may want to seek the advice of a business law attorney about changing their business entity structures from pass-throughs to C-corporations, whose tax rate has been reduced to 21%.[16] Owners of pass-throughs, such as LLP's and S-corporations[17] are now capped in the local and state taxes they can deduct. Those who own C-corporations have unlimited local and state tax deductions, so depending on the state and local tax amounts, it may benefit a small business owner with a pass-through entity to change to a C-Corporation. In performing the necessary calculations, the parties must take into account the Qualified Business Income Deduction (QBI). This allows owners of certain pass-throughs to deduct 20% of their income.[18]

While this might appear lucrative, and makes pass-through entities appear more attractive under the TCJA, some of the most common types of pass-through entities, law and accounting firms, do not qualified for the QBI once an income threshold is reached.[19] [20] If a non-qualified business generates less than the $157,500

[16] 26 IRC 11 (b)
[17] 26 IRC 1 (h)(10)
[18] 26 IRC 199A
[19] 26 IRC 199A(d)
[20] 26 IRC 199A (e)(2)(A)

threshold amount per year for the tax payer, the 20% QBI deduction applies, if it generates between $157,500 and $207,500, a reduced QBI rate applies, and if the non-qualified business produces more than $207,500 per year for the taxpayer, the QBI does not apply.[21] If a party can claim the QBI, and the QBI results in an amount that will negate the implications of the $10,000 ceiling on local and state taxes, a C-Corporation may not be favorable, but if the calculation shows that the QBI isn't applicable, and even if it is, the tax consequences outweigh its benefit, C-Corporations have may be the more desirable choice.

Why does the business structure matter when dividing a marital estate? If a business entity's current business structure has a tax classification that currently prevents it from maximizing its profitability, it may reduce its value on the divorce asset ledger, requiring other assets to be allocated to a spouse in addition to the business. Parties may keep an entity in an unfavorable structure for the duration of a divorce, to make it worth less on paper, and change it to the more profitable structure after the decree is entered.

4. Spousal Support

Not only are taxes and net resources important to keep in mind when calculating spousal support, the TCJA has also shifted the individual tax burdens related to spousal support. Previously, the party receiving spousal support bore the tax burden for those payments, and the paying party could deduct the spousal support

[21] 26 IRC (b)(3)(B) and 26 IRC (e)(2)(A)

payments from their taxes. Under the new tax plan, the paying party is not allowed to deduct spousal support payments from their tax return if the support was ordered after December 31, 2018, and the receiving party has no tax obligation on the funds received after that date.[22] [23] This change prevents the paying party from tax bracket shifting by agreeing to pay support, so that they can claim the deduction and fall into a lower tax bracket. In relation to support obligations, paying parties need to remember that income tax brackets sunset in 2025, and that if they agree to a spousal support amount for any long duration, their take-home income may be significantly reduced when their income tax rates revert to higher levels after the expiration of the lower rates.

When looking to the future, parties who entered into spousal support agreements face additional challenges. If the receiving party attempts to modify spousal support, the paying party needs to carefully read the proposed order, and verify that they do not agree to the application of the new tax provisions of the TCJA for spousal support. All pre-2019 orders and decrees are grandfathered in, and if a party agrees to apply current tax laws, the paying party waives the tax deduction, and the receiving party has gained income by reducing transferring the tax burden to the paying party. It benefits the receiving party to try and include language saying that the parties agree for the new tax code to apply. While it is clear that the payor bears the lion's share of the negative implications under the TRJA, the payee also

[22] 131 Stat 2089-90 http://uscode.house.gov/statviewer.htm?volume=131&page=2090 http://uscode.house.gov/statviewer.htm?volume=131&page=2090#

[23] 26 IRC 61(a)

faces new detriments, primarily the fact that spousal support payments no longer qualify as earned income. While this seems trivial, it does apply in some cases, particularly those intending to use spousal support payments to make contributions to qualified retirement accounts, like IRAs.

Given these downfalls, parties may want to consider alternative arrangements to paying spousal support, such as the paying party covering the receiving party's mortgage instead of paying spousal support. This would allow the paying party to claim the tax deduction on the house while living in a rented property for the duration of the spousal support obligation. This may offer a paying party the opportunity to bracket jump with interest deductions if the home mortgage is under $750,000.00.

5. Children and Taxes

Not only did the tax implications of payments between spouses change in significant ways under the TCJA, the way taxes are applied in relation to the children has also been modified. Unlike spousal support, mortgage interest rates, local and state taxes, and HELOCs, which have shifted in a way that ultimately detriments one party, the changes in the TCJA in relation to children are mostly positive. For instance, educational accounts such as 529's can now be applied to more than just colleges and universities, and can now be applied towards primary and secondary school tuitions.[24] In fact, up to $10,000.00 per child per year can be applied towards

[24] 26 IRC 529(c)(7)

tuition, from 529's.[25] This is particularly beneficial to parents whose children attend private schools.

While this broadening of the applicability of educational accounts is beneficial to children, parties in a divorce must be very wary, because if not specifically precluded from doing so in a decree, the party who is to manage the educational account could withdraw and spend the funds for personal uses, incurring penalties. In doing so, this withdrawal creates an unintended disproportionate division of the marital estate. Normally the educational account would not count as an asset awarded to either party, but to the child with one parent managing it. However, if it is not stated in a decree, the managing party could use such funds for their personal benefit, shifting the amount of assets actually received in a division.

In addition to the expansion of specific education savings accounts, the child tax deduction has also increased. Previously worth $1,000.00 in non-refundable tax credits, this has been doubled to $2,000.00, and broadened, allowing $1,400.00 of that to be refundable.[26] To low income earners, this $1,400.00 is important, and can be used as a negotiating tool. For other clients earning below $200,000.00 per year, the $2,000.00 may yield greater benefits, and the $600.00 difference between the maximum amount permitted to be claimed and the refundable portion may be a valuable negotiating tool if tax brackets are a concern. This $200,000.00 amount is the modified adjusted gross income threshold amount where the value of the child

[25] 26 IRC 529(e)(3)(iii)
[26] 26 IRC 24

tax deduction begins to be reduced.[27] At $212,000.00, the $600.00 benefit is all but eliminated.[28] In addition to the increases in the child tax credit amount and threshold, if a child qualifies as a party's dependent under 26 IRC 152, that party can then file as a head of household.[29] Under the TCJA, filing as head of household permits a deduction of $18,000.00, $6,000.00 higher than a single filer, and double the pre-TCJA head of household benefit over single filing. If done correctly, a party who can claim a child as a dependent, receive the child tax credit, and file as a head of household can compound the tax benefits related to children under the TCJA.

On top of the increased tax deduction related to claiming a child and filing as head of household, parents are entitled to one more benefit, the Child and Dependent Care Credit (CDCC).[30] The CDCC is a non-refundable tax credit that the custodial parent can claim towards 20-35% of the child's daycare expenses, further reducing the tax impact on parents.[31] Parties should keep this in mind if they agree to pay for daycare. The cost incurred by the custodial parent is lower than the cost incurred by the non-custodial parent. This may be useful as a bargaining chip in mediation or in court and may entitle one party to offset the division of such expense. For instance, if the parties are ordered to split child care expenses, a 50/50 split may not be appropriate, and the custodial parent should be ordered to pay a higher amount equal to the tax benefit they receive from claiming the CDCC.

[27] 26 IRC 24(h)(3). This amount was $75,000.00 before the TCJA.
[28] 26 IRC 24(b)(1). For every $1,000.00 over the threshold, the deduction is reduced by $50.00.
[29] 26 IRC 2 (b)(1)(A)(i)
[30] 26 IRC 21
[31] 26 IRC 21 (a)(2)

6. Conclusion

When providing guidance or counsel to a divorcing party, attorneys and accountants need to pay special attention to the assets the parties own and how they are to be divided. If one simply ignores the changes contained in the TCJA, they may be ignoring their client's best interest. Those advising must ensure that parties do not make common mistakes regarding the division of retirement accounts and pensions, particularly those involving penalties and taxes. A party should always be advised of the risks of receiving a portion of a pension and be informed of their option to take a cash settlement instead.

These cash settlements can come from home equity lines of credit, but if this occurs, payments made on the interest can no longer be deducted, much like how any interest on any new loans over $750,000.00, and spousal support payments cannot be deducted. State and local taxes over $10,000.00 have also been curtailed and limited, both as to personal and property taxes, and taxes for all pass-through entities. This change in the tax code requires those advising on financial matters to provide their clients the necessary information to determine whether their business should be re-organized given the tax implications of the TCJA. Doing so doesn't come without risks, as any modification of support in the future will expose the party to higher support amounts resulting from the money saved reorganizing their source of income. Regarding modifications, parties with pre-2018 decrees and orders must be diligent and ensure that they do not unintentionally waive their right to retain the pre-2018

tax deductions for support obligations. Diligence is key under the TCJA, regardless of whether the order was entered before or after it.

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Being the son of a Croatian immigrant and a Tennessean, Andrew understands that no matter one's background, with hard work and perseverance, there is a solution to every problem. When approaching cases, he believes that attention to detail is crucial. Andrew practices both family and probate law, including asset tracing, enforcing and resolving child support issues, litigating divorces, addressing child custody disputes, drafting and probating wills, and resolving estate administration issues.

Andrew is a graduate of the University of California, San Diego and Southern Methodist University Dedman School of Law. While at UC San Diego he received a Bachelor of Arts in Political Science and was President of Sigma Alpha Mu Fraternity. After completing his undergraduate studies, he moved from San Diego to Dallas to attend SMU Law as a Dean's Scholarship recipient.

Having worked his way through law school, Andrew managed a student center, served as a student clerk at the Appellate Judges Education Institute, externed for a Texas Appellate Court Justice, interned at the United States Department of Labor, and clerked at Holmes, Diggs & Sadler prior to receiving his Juris Doctorate and being licensed as an attorney in Texas. While in law school, Andrew was elected President of the Student Bar Association, SMU Law's student government, studied abroad at Oxford University, and was inducted into the prestigious Pro Bono Honor Roll.

Bar Membership

State Bar of Texas, 2015

Education

Southern Methodist University
Dedman School of Law, 2015
- Doctor of Jurisprudence

University of California, San Diego, 2010
- Bachelor of Arts, Political Science

Publications, Presentations, and Media

Strafford Webinars
- *Cryptocurrency as an Asset in Divorce: Valuation, Division and Location of Currency (February 13, 2019)*

Currin Events Podcast
- *Episode 3: Hiding/Parking Money with the VENMO App. (September 27, 2018)*

Dallas Divorce Law Blog
- *Cryptocurrency and Family Law: The Basics (Part 1) (August 28, 2018)*
- *Using Venmo as a Vehicle for Hidden Assets and Fraud in Divorce (April 24, 2018)*

Professional Affiliations

State Bar of Texas
- Family Law Section
- Real Estate, Probate, and Trust Law Section

Dallas Bar Association
- Family Law Section
- Probate, Trusts, and Estates Section

Dallas Association of Young Lawyers
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- CLE Committee Co-Chair (2019)
- Leadership Class Steering Committee Co-Chair (2018 - 2019)
- Leadership Class Graduate (2018)

Collin County Bar Association
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Years of Experience

Michelle May O'Neil has 26 years' experience representing small business owners, professionals, and individuals in litigation related to family law matters such as divorce, child custody, and complex property division. Described by one lawyer as "a lethal combination of sweet-and-salty", Ms. O'Neil exudes genuine compassion for her client's difficulties, yet she can be relentless when in pursuit of a client's goals. One judge said of Ms. O'Neil, "She cannot be out-gunned, out-briefed, or out-lawyered!"

Family Law Specialist

Ms. O'Neil became a board-certified family law specialist by the Texas Board of Legal Specialization in 1997 and has maintained her certification for 20 years since that time. While representing clients in litigation before the trial court is an important part of her practice, Ms. O'Neil also handles appellate matters in the trial court, courts of appeals and Texas Supreme Court. Lawyers frequently consult with Ms. O'Neil on their litigation cases about specialized legal issues requiring particularized attention both at the trial court and appellate levels. This gives her a unique perspective and depth of perception that benefits both her litigation and appellate clients.

Best Lawyers in America

From 2016-2018, Ms. O'Neil has been given the honor of being included in the list of the Best Lawyers in America, as it appears in *U.S. News and World Report* for family law and appellate law. The firm has also received honors for being among the Best Law Firms in America for 2017 and 2018. Ms. O'Neil has been named to the list of Texas SuperLawyers for seven straight years, 2011-2017, a peer-voted honor given to only about 5% of the lawyers in the state of Texas. Plus, from 2014 to 2017, Ms. O'Neil received the special honor of being named by Texas SuperLawyers as one of the Top 50 Women Lawyers in Texas, Top 100 Lawyers in Texas, and Top 100 Lawyers in DFW. Most recently, she has been named one of the best lawyers in Dallas by *D Magazine* from 2016 and 2017 in family law and appellate law.

Author and Speaker

A noted author, Ms. O'Neil released her third book in September 2017 called *What You Need to Know About Divorce in Texas*, which is available on Amazon. Her prior book *Basics of Texas Divorce Law* was on its third edition, published from 2012-2016, but has recently been discontinued. Ms. O'Neil collaborated with several friends from law school on her first book, *All About Texas Law and Kids*, published in September 2009 by Texas Lawyer Press (now out of print). The State Bar of Texas and other providers of continuing education for attorneys frequently enlist Ms. O'Neil to provide instruction to attorneys on topics of her expertise in the family law arena.

Certification:

Board Certified in Family Law, Texas Board of Legal Specialization 1997, recertified 2002, 2007, 2012, 2017

Bar Admission:

State Bar of Texas, 1992
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Education:

Doctor of Jurisprudence, Baylor University School of Law, 1991
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Mediation Certificate, Texas Women's University, 2003

Memberships:

State Bar of Texas, Family and Appellate Sections
Dallas Bar Association, Family and Appellate Sections
Texas Academy of Family Law Specialists
Collin County Bar Association
Denton County Bar Association
Tarrant County Family Law Bar Association

Publications:

Dallas Texas Divorce Law Blog, DallasTXDivorce.com
Gay and Lesbian Family Law in Texas Blog, LGBTTexasFamilyLaw.com
What You Need to Know About Divorce in Texas, Amazon 2017
All About Kids and the Law in Texas, Texas Lawyer Press, 2009
(out of print).
The Basics of Texas Divorce, LuLu Press, 2010, second edition 2012, third edition 2016.
Commentator, Case Law Update, Section Report of the State Bar of Texas Family Law Section, ongoing

Honors:

Best Lawyers in America, Family Law and Appellate Law, 2016-2019
Texas SuperLawyers, Family Law, 2011-2018.
Texas SuperLawyers Top 50 Women Lawyers in Texas 2014-2018.
Texas SuperLawyers Top 100 Lawyers in Texas, 2014-2018.
Texas SuperLawyers Top 100 Lawyers in Dallas/Fort Worth area, 2014-2018.
DMagazine Best Lawyers in Dallas 2016-2017, Family Law and Appellate Law.
A-V Peer Review Rating, Lexis-Nexis, Martindale Hubbell Legal Directories.
Best Lawyer in Park Cities/North Dallas, Living Magazine, 2013.
Annette Stewart Inn of Court, Barrister, 2003 to 2015
Superb 10 rating, AVVO.com (2011 to present)
Who's Who in America, multiple editions
Who's Who in American Law, multiple editions

Published Articles:

"Advice from a Divorce Lawyer: Whether or Not You Are Thinking About Getting a Divorce", Today's Dallas Woman Magazine, January 2002. "Family Law Appeals Distinguished", Appellate Advocate, Vol. XV, No. 4, Winter 2003. "Ground Rules: Annulment", Texas' Divorce Magazine, Vol. I, No. 1, Fall 2003. "Challenges and Rewards of Solo Practice", Texas Lawyer, October 2003. "Alimony/Maintenance Enforcement By Contempt", Dallas Bar Association Headnotes, April 2004. "Do You Know The New Law On AJ Appeals?", Family Law Section Report, Vol. 2007-4. "Family Law Appeals Distinguished", Family Law Section Report, Vol. 2007-4. "Gay Marriage Advocates Prepare to Present Before the U.S. Supreme Court", April 2015. "Texas Family Code Statutory Update 2015", October 2015. "Getting a Divorce? Secure Your Finances", Plano Profile Magazine, January 2016; "Small Business Issues in Divorce: A Cautionary Tale", Texas Lawyer Magazine, January 2016; "Strategies for Contested Family Law and Divorce Hearings on a Time Budget", Dallas Bar Association Headnotes, September 2016.

Presentations and Papers:

Family Law Topics

"Discovery in Family Law Cases", Family Law Practice Seminar, University of Houston Law Foundation, September 1999. "Enforcement of Court Orders and Decrees", Family Law Practice Seminar, University of Houston Law Foundation, April 2000, June 2001, March 2003. "When Custody Is At Issue", Pro Bono Family Law Seminar, Family Law Section of the State Bar of Texas, October 2001. "Family Violence", Advanced Family Law Drafting Course, State Bar of Texas, December 2001. "Maintenance and Alimony: Why Can't I Get No Satisfaction?", Family Law Practice Seminar, University of Houston Law Foundation, June 2002. "Standards of Review in Family Law Appeals," Family Law Practice Seminar, University of Houston Law Foundation, November 2002. "Court Orders and Decrees", Family Law Boot Camp 2003, State Bar of Texas, August 2003. "Speak Now or Waive It – Preserving Error for Trial Lawyers", Advanced Family Law Course, State Bar of Texas, August 2006. "Enforcement of Court Orders and Decrees", Family Law Practice Seminar, University of Houston Law Foundation, November 2006. "Characterization, Tracing, and Other Property Issues: What Really Is Clear and Convincing Evidence Anyway?", Advanced Family Law Course, State Bar of Texas, August 2007. We Lost Now What: Perfecting the Appeal, Marriage Dissolution Course, State Bar of Texas, April 2008. Helping Your Client Deal with Debt In Divorce, 8th Annual Family Law on the Front Lines Conference, University of Texas, June 2008. "Writing the Perfect Country and Western Song: Successful Preparation and Trial of a Texas Temporary Orders Hearing", Marriage Dissolution Boot Camp, State Bar of Texas, April 2009. "Interesting Appellate Issues", Collin County Bench Bar Conference, May 2009. "Mandamus and More", 9tth Annual Family Law on the Front Lines Conference, University of Texas, June 2009. "Winning Your Case Before You Go To Trial: Pretrial Dispositive Motions and Procedures", Advanced Family Law Conference, State Bar of Texas, August 2009. Presentation materials for TAFLS Trial Institute, Texas Academy of Family Law Specialists, February 2010. "Family Law Update: Same Sex Couple Divorce/Parenting Issues", TexasBar CLE and LGBT Section, June 2010. "Winning Your Case Before You Go To Trial", Collin County Bar Association, September 2010. "Case Law Update", 11th Annual Family Law on the Front Lines, UT Law CLE, June 2011. "Same-Sex Custody Issues", SMU Law School Symposium, February 2012. "Preservation of Error for Trial Lawyers", Texas Lawyers for Lawyers Conference, January 2015. "Preserving Error for Trial Paralegals", Texas Paralegal Division, District 2 webinar, July 2015. "Keep Calm and Contempt On", Texas Lawyers Forward, January 2016. "Small Business Issues in a Texas Divorce", West LegalEd Center, March 2016. "Trial Error Preservation", DAPA/NTPA CLE, August 2016. "How is the practice of law like a marathon?" Lawyer Forward Conference, January 2017. "Wise Women Divorce Better Workshop", 2017 Entrepreneurs Summit, Dallas Women Entrepreneurs, March 4, 2017, Addison, Texas. "What you need to know about Divorce in Texas", Gardere, Wynne, Sewell CLE Luncheon, August 2017.

Civil Litigation Topics:

"Discovery in Mid-Sized Litigation Under the New Rules: Discovery Strategy for Neither Very Large Nor Very Small Cases", Civil Discovery Under the New Rules, University of Houston Law Foundation, February 1999. "Top Ten Rules for an Effective Voir Dire", Litigation and Trial Tactics, University of Houston Law Foundation, December 1999. "Representing the Unsympathetic Party", Litigation and Trial Tactics Seminar, University of Houston Law Foundation, December 2000. "Enforcement of Court Orders and Decrees", General Practice Institute, University of Houston Law Foundation, April 2001. "Protecting Your Client's Case for Appeal (and You From Malpractice)", Advance Civil Litigation Seminar, University of Houston Law Foundation, April 2004. "Anatomy of an Appeal", Collin County Paralegal Association, November 2004. "Preservation of Error When Offering and Excluding Evidence", How to Offer and Exclude Evidence Seminar, University of Houston Law Foundation, January 2005.

LGBT Law Topics:

"Family Law Update: Same Sex Couple Divorce/Parenting Issues", TexasBar CLE and LGBT Section, June 2010. "Same-Sex Custody Issues", SMU Law School Symposium, February 2012. "Divorce, Custody, and Other Emerging Family Law Issues After Obergefell", The Impact of Marriage Equality on Texas Law, TexasBar CLE and LGBT Section, December 2015.

Law Practice Management Topics:

"Practical Overview for Winding Down a Practice", Essentials of Winding Down a Law Practice, TexasBar CLE December 2015.

Appellate Cases Handled:

***In re C.R.G*, ___ S.W.3d __ (Tex. App. – Dallas 2016, pet. pending) (case of first impression)**
In re Bagheri
***Dalton v. Dalton*, __ S.W.3d __, 2017 WL 104639, (Tex. App. – Tyler, 2017) *reversed*, ___ s.W.3d ___ (Tex. 2018). (case of first impression)**
In re Garza
In re Bagheri
In re Jeremiah O'Keeffe
Manor v. Manor
Bartee v. Bartee
In re J.A.C.
Wyde v. Francesconi
In re Collins
In re C.T.H.
In re B.F.
In re B.A.F.
In re S.A.W.
In re C.R.G., 05-16-01490-CV, dismissed w.o.j.
In re C.T.H., 05-16-01398-CV, pending.
In re B.F., 07-16-00282-CV, pending.
Manor v. Manor, 02-16-00067-CV, pending.
In re V.J.A.O., 05-15-01534-CV, pending.
In re C.R.C., 2016 WL 4131778 (Tex. App. – Dallas 2016, no pet.) (dismissed by agreement after briefing)
In re J.A.C., 2016 WL 3854215 (Tex. App. – Dallas 2016, no pet.).
Wyde v. Francesconi, 2016 WL 3007030 (Tex. App. – Dallas 2016) (case dismissed on our motion)
***Assoun v. Gustafson*, 2016 __ S.W.3d __, 2016 WL 2747225 (Tex. App. – Dallas 2016, pet. denied). (case of first impression)**
In re B.L., 2016 WL 1569782 (Tex. App. – Fort Worth 2016, orig. proceeding).
In re B.L., 2016 WL 1072498 (Tex. App. – Fort Worth 2016, orig. proceeding).
In re B.L., 2016 WL 1072496 (Tex. App. – Fort Worth 2016, orig. proceeding).
In re J.F., 2015 WL 6556969 (Tex. App. – Fort Worth 2015, no pet.).
In re Ashmore, 2015 WL 6522955 (Tex. App. –Dallas 2015, orig. proceeding).
Sheriff v. Moosa, 2015 WL 4736564 (Tex. App. – Dallas 2015, no pet.).
In re Assoun, 2015 WL 3508000 (Tex. App. – Dallas 2015, orig. proceeding) (mandamus denied 2015).
In re Busaleh, 2014 WL 4978642 (Tex. App. – Texarkana 2014, orig. proceeding).
Zhang v. Zhang, 2014 WL 4930814 (Tex. App. – Dallas 2014, pet. denied).
In re Neal, 2014 WL 2802907 (Tex. App. – Dallas, orig. proceeding).
In re C.H., 2014 WL 3891636 (Tex. App. – Fort Worth 2014, no pet).
O'Donnell v. Vargo, 2015 WL 4722459 (Tex. App. – Dallas 2015, no pet.).
In re Kinney, 2014 WL 1414280 (Tex. App. – Dallas 2014, orig. proceeding).
In re M.A.M., 2014 WL 1032415 (Tex. App. – Dallas 2014, orig. proceeding) (mandamus denied 2014).
In re M.A.M., 2014 WL 1031047 (Tex. App. – Dallas 2014, pet. denied).
In re O'Donnell, 2014 WL 1018618 (Tex. App. – Dallas 2014, orig. proceeding).
In re Alvarez-Rivas, 2014 WL 775402 (Tex. App. – Fort Worth 2014, orig. proceeding).
Shilling v. Gough, 393 S.W.3d 555 (Tex. App. – Dallas 2013, no pet. h.).
Jablonski v. Jablonski, 2013 WL 2420646 (Tex. App. – Dallas 2013, no pet. h.).
Bivins v. Martinez, 393 S.W.3d 893 (Tex. App. – Waco 2012, pet. denied).
***Moore v. Moore*, 383 S.W.3d 190 (Tex. App. – Dallas 2012, pet. denied). (case of first impression)**
In re B.N.L.B., 375 S.W.3d 557 (Tex. App. – Dallas 2012, no pet. h.).
In re C.F.M., 360 S.W.3d 654 (Tex. App. – Dallas 2012, no pet. h.).
In re J.L.E., 2012 WL 2343901 (Tex. App. – Dallas 2012, no pet. h.).
In re Foreman, 2012 WL 2068964 (Tex. App. – Dallas 2012, orig. proceeding).
In re McCray, 2011 WL 6152191 (Tex. App. – Dallas 2011, orig. proceeding).
In re M.A.M., 346 S.W.3d 10 (Tex. App. – Dallas 2011, pet. denied).
Collins v. Collins, 345 S.W.3d 644 (Tex. App. – Dallas 2011, no pet.).
In re Maasoumi, 339 S.W.3d 787 (Tex. App. Dallas 2011, orig. proceeding).
In re McCray, 324 S.W.3d 685 (Tex. App. – Dallas 2010, orig. proceeding).
In re Pinkard, 2010 WL 4723770 (Tex. App. – Dallas, 2010, pet. denied).
In re McCray, 2010 WL 3193315 (Tex. App. – Dallas 2010, orig. proceeding).
In re P.L.H., 324 S.W.3d 114 (Tex. App – Dallas 2010, pet. denied).
***Kee v. Kee*, 307 S.W.3d 812 (Tex. App. – Dallas 2010, pet. denied). (case of first impression)**
In re D.L.S., 2010 WL 1491860 (Tex. App. – Dallas 2010, no pet.).
In re C.B., 2010 WL 93475 (Tex. App. – Dallas 2010, orig. proceeding) (mandamus denied 2010).
***In re M.K.S.-V.*, 301 S.W.3d 460 (Tex. App. – Dallas 2009, pet. denied). (case of first impression)**
Eberstein v. Hunter, 260 S.W.3d 626 (Tex. App. – Dallas 2008, no pet.).
In re S.C.S., 2008 WL 1973570 (Tex. App. – Dallas 2008, no pet.).
In re Mantooth, 2008 WL 1867935 (Tex. App. – Fort Worth 2008, orig. proceeding).
Kemble v. Kemble, 2008 WL 921471 (Tex. App. – Dallas 2008, no pet.).
In re Barnett, 2008 WL 820201 (Tex. App. – Fort Worth 2008, no pet.).

In re L.M.M., 247 S.W.3d 809 (Tex. App. – Dallas 2008, pet. denied).
In re Dobbins, 247 S.W.3d 394 (Tex. App. – Dallas 2008, orig. proceeding).
Wichman v. Wichman, 2008 WL 425830 (Tex. App.– Fort Worth 2008, no pet.).
Eberstein v. Eberstein, 2007 WL 416491 (Tex. App. – Dallas 2007, no pet.).
In re Rowe, 182 S.W.3d 424 (Tex. App. – Eastland 2005, orig. proceeding).
***Peck v. Peck*, 172 S.W.3d 26 (Tex. App. – Dallas 2005, pet denied). (case of first impression)**
In re Dettmer, 2005 WL 768406 (Tex. App. – Dallas 2005, orig. proceeding).
Harleaux v. Harleaux, 154 S.W.3d 925 (Tex. App. – Dallas 2005, no pet.).
***In Re Dupree*, 118 S.W.3d 911 (Tex. App. – Dallas, 2003, pet. denied)(orig. proceeding). (case of first impression)**
Smith v. Smith, 115 S.W.3d 303 (Tex. App. – Corpus Christi 2003, no pet.).
Valley Forge Insurance Co. v. Austin, 65 S.W.3d 371 (Tex. App. – Dallas 2002), pet. denied, 105 S.W.3d 609 (Tex. 2003).
Kennedy v. Kennedy, 125 S.W.3d 14 (Tex. App. -- Austin 2002, pet. denied). (on PFR only)
Stamerjohn v. Stamerjohn, 02-02-00041-CV (Tex. App. – Fort Worth 2002, pet. denied).
Saenz v. The Insurance Company for the State of Pennsylvania, 66 S.W.3d 444 (Tex.App. – Waco 2001, no pet.).
Gainesville Mem. Hosp. v. Tomlinson, 48 S.W.3d 511 (Tex. App. – Ft. Worth 2001, pet. denied).
In Re Aramark Corp., 38 S.W.3d 291 (Tex. App. – Tyler 2001, orig. proceeding).
Aramark v. Wisdom, 2001 WL 617925 (Tex. App. – Austin 2001, no pet.).
Dickens v. Willis, 957 S.W.2d 657 (Tex. App. – Austin 1997, no writ).
***Lemley v. Miller*, 932 S.W.2d 284 (Tex. App. – Austin 1996, no writ). (case of first impression)**