FAMILY LAW NEWS

spring 2022

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MARK YOUR CALENDARS ...

IT'S TIME FOR THE STATE BAR CONVENTION!

Bigger, *Better* & Bolder

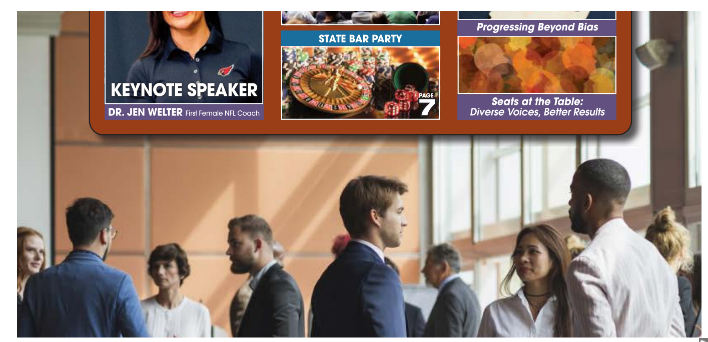
FAMILY LAW 2022

By CO-CHAIRS WILLIAM BISHOP AND JENNIKA MCKUSICK

THIS YEAR'S FAMILY LAW PROGRAM will place take **IN PERSON** on Monday June 27, 2022, STARTING AT 8:45 A.M. and continuing until 5:15 P.M. The State Bar Convention, which is scheduled between June 27th and June 29th this year will once again be held at the Sheraton Grand at Wild Horse Pass in Chandler, Arizona. If you have not yet signed up, please log in to azstatebar.com and reserve your seat.

This year the Executive Council of the Family Law Section is proud to present a fantastic lineup of nationally known speakers as well as top local talent. The morning session will kick off will two out of state speakers Bill Eddy, LCSW, Esq. of High Conflict Institute and Dorothy Haraminac of GreenVets Detective & Private Security Corps.

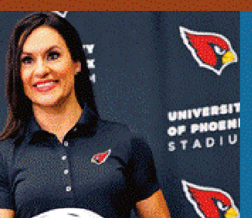
Mr. Eddy, who is also one of the faculty of Strauss Institute for Dispute Resolution at Pepperdine

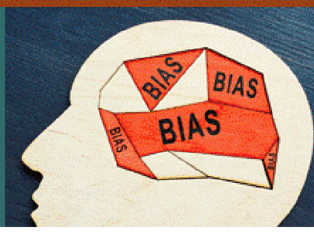


convention 2022

June 27-29, 2022

reconnect, recharge, reimagine





Law School is a renowned lawyer, therapist, and mediator. Mr. Eddy's presentation titled "Managing High Conflict Clients" will provide hot tips to attorneys, mediators, and judges to allow them to better understand and manage high conflict clients who are struggling because of trauma, personality disorders, depression and/or anxiety, as well as tips regarding what not to do when representing or otherwise dealing such persons.

Ms. Haraminac has presented nationwide including during the American Academy of Matrimonial Lawyers conventions, state bar conventions and other programs. Ms. Haraminac's presentation titled "Bitcoin: A Divorce Practitioner's Guide" will address updated cryptocurrency issues, and both basic and advanced information regarding what it is, its uses, how to identify and request cryptocurrency records, and what expert skills are required in cases involving cryptocurrency.

The lunch break will be from 12 p.m. – 2 p.m., so you may want to think about making your plans and reservations now. There are some fabulous restaurants on site, as well as numerous restaurants on both sides of the I-10 freeway between Chandler Blvd. and Ray Road.

The afternoon session will kick off with another renown out-of-state speaker Ben Stevens of Offit Kurman Attorneys at Law. Mr. Steven's presentation is titled "Practice Management Hacks: Integrating Technology into Your Family Law Practice." Mr. Stevens will be addressing technologies in 2022 that will help you solve everyday problems, improve clients service and communications, and make life easier for you and your clients. Such will include email management, time efficiency, smart apps for lawyers, using technology for marketing and other hot topics.

There will be an afternoon break from 3:15 p.m. – 3:30 p.m. during which time the Family Law Section is hosting snacks and a bar during the rest of the program. Attendees will receive a drink ticket, and additional purchases of beverages will be available throughout the remainder of the afternoon.

Directly after the break, Nia Martin-Robinson of For the Culture Consulting, LLC will be joined by local talent Kiilu Davis and Nicole Siquerios for the presentation titled "The Myth and Danger of Blind Justice: A Fireside Chat about Race, Inclusion, and Diversity in Family Law." Ms. Martin-Robinson is a nationally renown and highly regarded activist committed to racial, environmental, and reproductive justice. The group will discuss the importance of understanding race and its relationship with family law, including how race and cultural differences may impact parents and children.

Finally, to cap off the program, a couple of Arizona's top family law appeals attorneys Keith Berkshire and Kristi Reardon will present their intricate and must-see program "Preserving the Record for Appeal." Keith and Kristi's presentation will provide invaluable information regarding properly preserving the record in pretrial statements and during trial, and how to ensure evidence and objections are properly raised and confirmed as part of the record.

The Family Law Section's Executive Council is excited to present this year's program, and for the opportunity to see our family law peers in person after the last two years of virtual programs. FL

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Workers' Compensation

CONSIDERING RETIREMENT -

What's Your Plan?

By
Hon. Alyce Pennington (Ret.)

JANUARY 31, 2022, was my last day as a Judicial Officer after serving Pima County on the Family law, Child Support Enforcement, Juvenile, and Probate/Mental Health benches. I loved being an attorney, and I also loved the bench and found it to be like earning a master's degree with each new assignment. Even though I practiced as a lawyer in all these areas, the learning curve for each bench was stupendous.

After I announced my retirement, everyone had questions and advice for me. Some people think of retiring their whole working career and others can't stand the thought of no longer working. I watched colleagues retire from the bench or practice. Some became bored and even returned to working, others immediately jumped into volunteer work with a fervor and seemed to be working more hours than ever before. If you are considering (or daydreaming) about retirement, here is some of the best advice I received while preparing for this transition.

Start planning early. You can never anticipate all the surprises that may pop up during the transition, but there are a few things that you should contemplate.

First, have a plan for your finances. Budgeting is hard because there are a lot of variables. For example, how much Medicare and health insurance are going to cost, how much you can expect from your pension or retirement plans, and how social security will factor in. It is important to be as realistic as possible about your budget, and a good resource for a lot of your decisions is the State Bar - Senior Lawyer Division website. Even if you are not 65 yet, you can and should log on to this site and check out the Resources page. There, you will find so many helpful checklists and who doesn't love a good checklist? For example, how to wind down a practice and links to other practice management info, links to things like how to estimate social security, retirement saving worksheets, seminars and group chats, and information about Rule 38 - more about this later.

Retirement can be a good time to try out things you always wanted to do. Woodworking? Write that novel? Read more just for fun? Take up art classes or exercise classes? Jump on those house projects? Travel? Community service?

...RULE 38(D)(1) OF THE RULES OF THE SUPREME COURT OF ARIZONA IS A GOOD RULE TO BE AWARE OF. IT PERMITS INACTIVE/RETIRED ATTORNEYS TO HAVE THEIR ANNUAL MEMBERSHIP DUES/FEES WAIVED...

Second, think about how you want to spend your time when you are no longer working. Some folks I've chatted with really felt adrift with retirement. Suddenly your routine is totally different, and the built-in social connections of work are gone. It can be a good time to try out things you always wanted to do. Woodworking? Write that novel? Read more just for fun? Take up art classes or exercise classes? Jump on those house projects? Travel? Community service? Or maybe, just try a slower pace of life and plan some fun with friends? I have way too many hobbies and I'm a

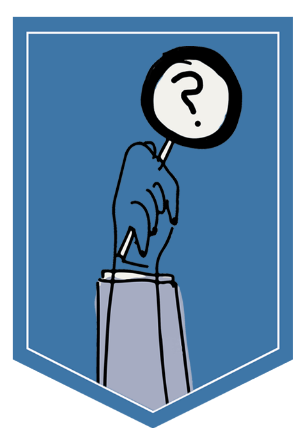
volunteer-aholic, so my next piece of advice in this area is, once you transition, be sure to take your time before committing to a lot. I'm now filling my days with some volunteer work (Step up to Justice and the Pima County Bar Association Writ editorial board); those projects around the house that one never gets to while working; my pottery class; spending time with friends; and working with a trainer to help my dog become a better dog citizen. Oh, and there are those things that no one warned me about - hours on hold with Social Security, Medicare, and other such challenges.

Finally, consider what you want to do with your bar license. Do you keep it, do you stay as "active", or "inactive" or "retired"? Again, the Senior Lawyers website has a chart of the cost for each option – and what you can/can't do in each category; if you want to change your status between these options; and options for pro bono service. I talked to many retirees about this issue. Some had immediately given up their license and regretted it. Others kept their license for a number of years, or still have their license. As you think about this particular decision, Rule 38(d)(1) of the Rules of the Supreme Court of Arizona is a good Rule to be aware of. Briefly, the rule applies to volunteers for approved Legal Service Organizations, and permits Inactive or Retired Arizona attorneys to have their annual membership dues/fees waived if they are certified under the rule, and provide a minimum of 25 hours of pro bono service for that approved legal service organization. To maintain this designation, you must file your annual fee statement on or before February 1 of each year. Here is a link to the State Bar for additional information about this process. The list of the 18 currently approved LSO's (Legal Service Organizations) can be found here. Many LSOs will assist their volunteers in completing the necessary paperwork to qualify under this Rule.

Personally, I kept my license active because I'm not sure that I want to only do legal work for the organizations on the list, and if you want to do volunteer work for others not on the list, staying active is the only way. Also, I wanted to be appointed as a Judge Pro Tempore to do settlement conferences for the family law bench and possibly to act as a Pro Tem when needed (i.e. Judicial Conference). I am happy to report that so far, retirement is great fun! I'm managing to keep just busy enough while exploring what brings me the most joy and fulfillment. I know a lot of the family law section is not yet ready for graduating to the next act, but these are the times of the "Great Resignation," and the experiences of the last two years has led lots of us to seriously consider our options, and *true* options require a plan. FL

HAPPY retirement

RETIRE READY



About the Author - **Alyce Pennington** began her law career in 1982 by opening a solo practice. She served as a staff attorney for the Pima County Public Fiduciary from 1984 to 1986. She was a Certified Specialist in Family Law and was selected by her peers for inclusion in the "Best Lawyers in America - Family Law". Alyce served for many years on the Family Law Advisory Commission and the Executive Council of the Family Law Section. She was often appointed as a Parenting Coordinator or Court Appointed Advisor for high conflict family law matters and as an attorney for children and other people with diminished capacity. Frequently she served as a Judge Pro Tem for settlement conferences, and also was privately retained as a mediator. In addition to her work in Family Law, Alyce represented litigants in Guardianship and Conservatorship matters and estate litigation. In 2012 she was appointed as a Commissioner/Judge Pro Tem of the Pima County Superior Court where she served on the family, juvenile and Probate/mental health benches until her retirement January 31, 2022. She has been involved during her career in advancing equal access to justice, especially to those litigants who are poor or working poor and was awarded the William E. Morris Pro Bono Service Award. Alyce is on the Board of Step Up to Justice (and a founding member). She was honored to receive the Juan Perez-Medrano Excellence in Public Service Award from the Pima County Bar Foundation in 2018.

Divorce & Cryptocurrency

A Basic Guide and Overview - Part 2

by Julie A. LaBenz
an Arizona Lawyer

This is Part Two from our February 2022 Newsletter. This article is a continuation from that newsletter and it includes preparing for trial in cases involving cryptocurrency.

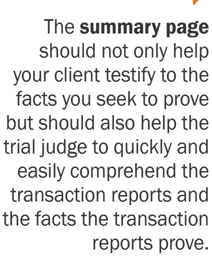
6. PREPARING FOR TRIAL IN CASES INVOLVING CRYPTOCURRENCY

As you compile the case information and documents that prove the type, amount and value of the cryptocurrency at issue, you will begin to consider how to present your case at trial.

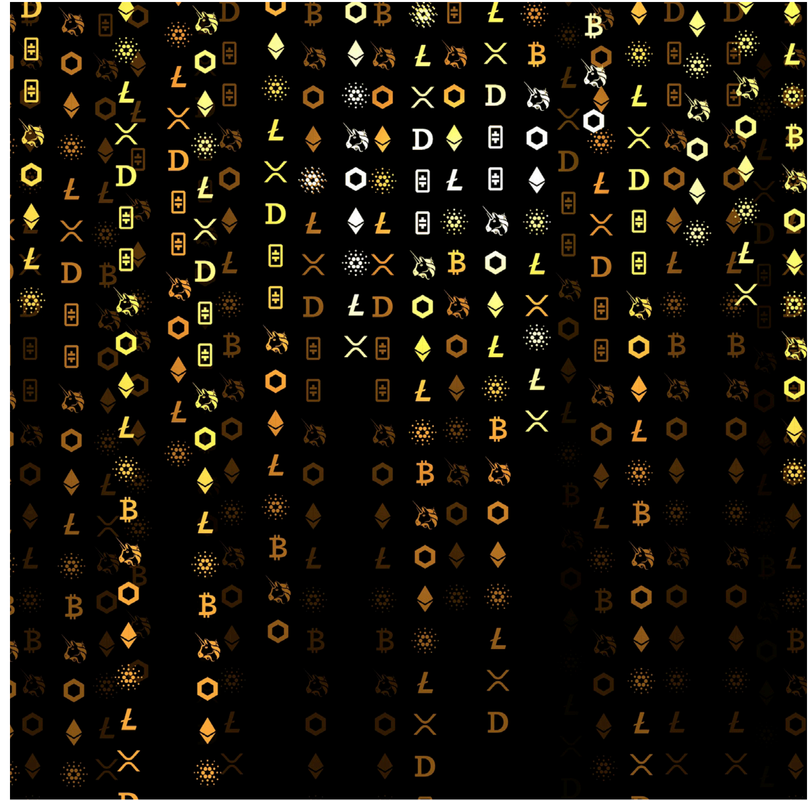
At this point you've learned that the transaction reports from the cryptocurrency exchanges contain information regarding the purchase, transfer and sale of cryptocurrency within a cryptocurrency exchange account. At trial, the cryptocurrency exchange transaction reports can be used in various ways. Use the *purchase* information, for example, to prove a separate or community property ownership claim. Also, purchase information is used to calculate the potential amount of short- or long-term capital gains taxes if the sale of cryptocurrency is being contemplated. Use the *sale* information, for example, to prove a waste claim or a violation of the preliminary injunction claim. Sale information could also be used in a spousal maintenance claim or in a claim for legal fees. Use the *valuation* information to prove arguments related to the equitable division of the cryptocurrency as well as in spousal maintenance and legal fees claims. For each claim to be made regarding the cryptocurrency, your master list of the type, amount, and value of the cryptocurrency at issue in the case will be critical. Thus, incorporate your master list into your inventory of assets and debts, into your pretrial statement, and make it into a trial exhibit. If your client and the opposing party are in agreement regarding the type and amount of cryptocurrency subject to division in the case, then you can include this as a stipulated fact in your pretrial statement and stipulate to the admission of this exhibit.

It likely will be helpful to assume your trial judge is not familiar with cryptocurrency and to take time in your pretrial statement to explain in detail the issues surrounding the cryptocurrency and your client's requested resolution. If you intend to use one or more transaction reports at trial, then create a summary page clearly summarizing exactly what you are trying to prove with each transaction report. The summary page should not only help your client testify to the facts you seek to prove but should also help the trial judge to quickly and easily comprehend the transaction reports and the facts the transaction reports prove.

FOR ***EACH CLAIM TO BE MADE*** REGARDING THE CRYPTOCURRENCY, ***YOUR MASTER LIST*** OF THE TYPE, AMOUNT, AND VALUE ***OF THE CRYPTOCURRENCY*** AT ISSUE IN THE CASE ***WILL BE CRITICAL***.



The **summary page** should not only help your client testify to the facts you seek to prove but should also help the trial judge to quickly and easily comprehend the transaction reports and the facts the transaction reports prove.



...you've learned that the transaction reports from the cryptocurrency exchanges contain information regarding the **purchase**, **transfer** and **sale** of cryptocurrency within a cryptocurrency exchange account

Finally, in your pretrial statement and trial presentation, be very clear with exactly what relief you are requesting. If your judge is not familiar with cryptocurrency and you fail to educate your judge as to the exact terms of your requested relief and why it is important and equitable, then you may end up with a trial ruling that you have to spend additional time and effort seeking to correct. It is critical, therefore, to really think through what your requested relief is, the exact steps that will need to be taken to execute your requested relief, and exactly what decree language is needed to accomplish your client's desired division.

7. POTENTIAL DECREE LANGUAGE FOR THE EQUITABLE DIVISION OF CRYPTOCURRENCY

In exploring what decree language to draft to accomplish the agreed upon or court-ordered equitable division of the cryptocurrency at issue in the case, first, be clear regarding the ***outcome*** as there are several options to achieve an equitable division of cryptocurrency. Consider the following options:

(1) Determine the value of the cryptocurrency and have one spouse pay the other the cash equivalent of 50% of the value. Under this option, because the value of cryptocurrency constantly fluctuates, the parties must agree or the court must order the value to be used in the 50% calculation. Furthermore, a potential argument that could arise is whether taxes should be deducted from the cash amount to be paid as an equalizer. I anticipate that issue will be treated like real

THE SPOUSE IN POSSESSION OF THE ***LOG-IN CREDENTIALS*** SHOULD BE ***ORDERED TO TRANSFER*** THE CRYPTOCURRENCY IN ACCORDANCE WITH THE ***TERMS OF THE DECREE.***

estate in that taxes would only be deducted from the receiving spouse's half if the spouse awarded all of the cryptocurrency plans to sell all or part of it in the near future.

(2) ***Divide the cryptocurrency in kind.*** For this division, identify the type and amount of each cryptocurrency being awarded to each spouse. Clearly list in the decree the exact types and amounts of each cryptocurrency being awarded to each party along with exactly how each party should take possession of their cryptocurrency. In other words, the spouse in possession of the log-in credentials should be ordered to transfer the cryptocurrency in accordance with the terms of the decree. If, however, each party will take possession of their portion of the cryptocurrency via separate hard wallets, then for security purposes, it is prudent that each spouse's portion of the cryptocurrency be transferred to an entirely new hard wallet, rather than one spouse retaining a wallet used by the marital community that the opposing party could have the security keys to.

(3) ***Sell all or part of the cryptocurrency and equitably divide the net sale proceeds between the spouses.*** With this option, keep in mind that short/long term capital gains taxes apply to the sale of cryptocurrency. If community cryptocurrency will be sold, given the volatile nature of cryptocurrency, language regarding the exact steps and timeframe for liquidation will likely be critical.

(4) ***Award the exchange account(s) to one spouse or order that the exchange account(s) be closed.*** Although an exchange account will only be in one spouse's name, in order to clearly terminate the community's interest in the account, it will be important that the decree include language awarding each exchange account at issue to the spouse whose name is on the account. Overall, as you draft the proposed decree language, take time to think through exactly each step required to accomplish the agreed upon or court ordered equitable division

There are additional considerations when it comes to the nuances of cases involving cryptocurrency. You might need to consider the following: **Privacy Coins**, **Staking** and **Tax Consequences**.

of the cryptocurrency along with the language needed to complete each step.

8. ADDITIONAL CONSIDERATIONS

As if what we've covered isn't enough ... there's more. Consider the following nuances:

*(1) **Privacy Coins.*** Certain types of coins, called "privacy" coins were created to be untraceable. Monero is one example of a privacy coin. If you encounter a case involving privacy coins, consider hiring a cryptocurrency expert to evaluate the matter.

*(2) **Tax Consequences.*** Short term capital gains rates apply to the sale of cryptocurrency as well as if one crypto is converted to a different type of cryptocurrency if the cryptocurrency being sold or converted has been owned for less than one year. Long term capital gains rates apply to the sale of cryptocurrency and the conversion of one crypto to another if the cryptocurrency being sold or converted has been owned for one year or longer.

*(3) **Staking.*** Staking is an option for holders of certain cryptocurrencies to "stake" their crypto to the blockchain and thereby earn rewards such as interest or additional cryptocurrency. If the staked crypto is a community asset, then the staked crypto also needs to be equitably divided in the divorce. Depending on the situation, this issue of how to divide very valuable staked crypto could be a highly litigated issue as, in certain situations, staked crypto can produce thousands of dollars of passive income per month.

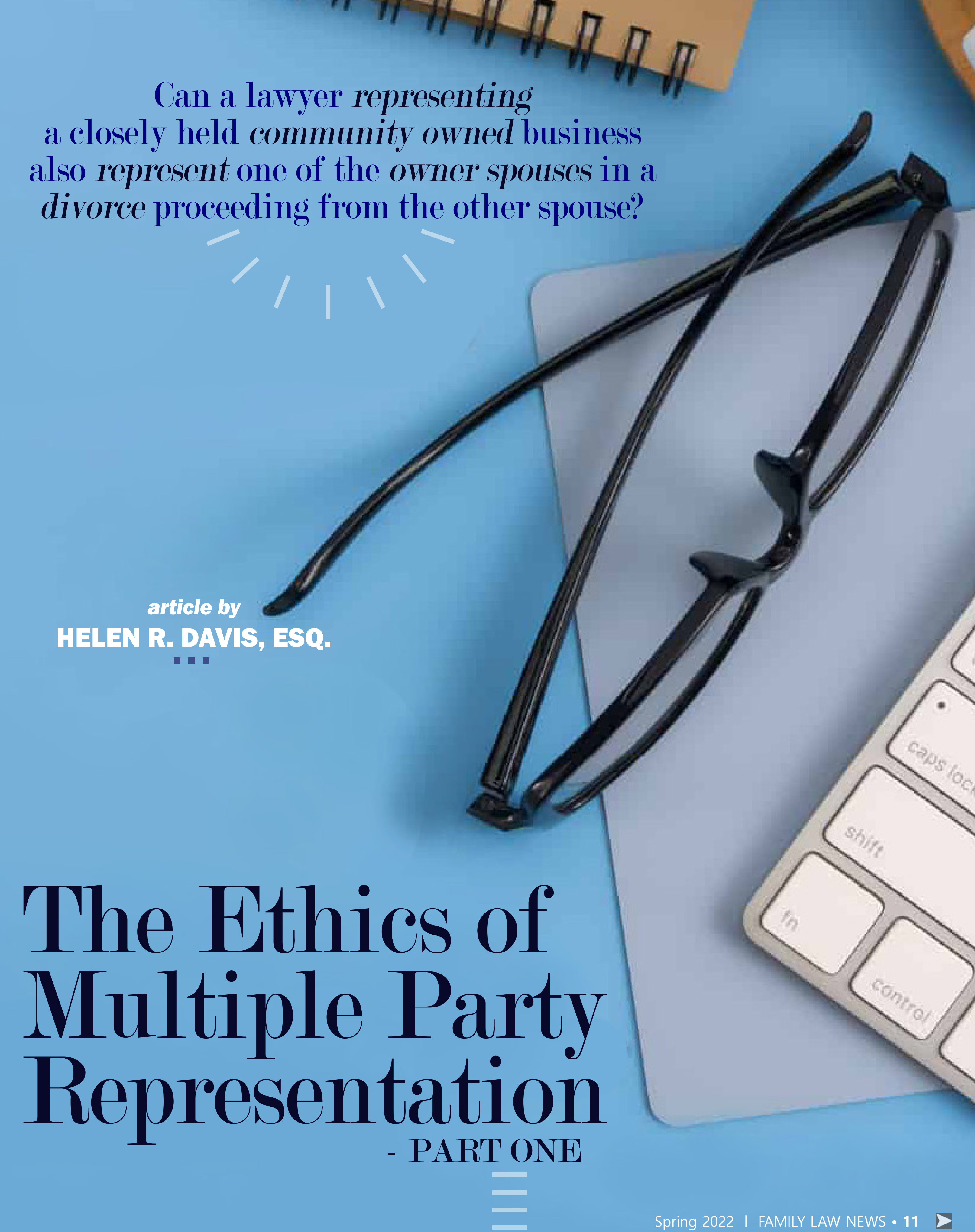
On the other hand, if the staked cryptocurrency is the opposing party's separate property, but the spouse staked their crypto during the marriage, then consider evaluating the situation to determine if an equitable lien claim can persuasively be made. This claim would certainly take some creative lawyering. Yet if, for example, one spouse spent a significant amount of time during the marriage learning how to and then staking separate property cryptocurrency and/or used marital resources for the staking, then consider asserting community and/or equitable lien interest in the benefits received via staking. As usual, the strength of this argument will depend on the facts of each case and prevailing on this argument will likely require an extremely detailed and persuasive presentation of the facts.

CONCLUSION

Cryptocurrency is a new, very unique and different asset. If you do not feel comfortable handling a case involving cryptocurrency, then seek out family law lawyers in your community that are knowledgeable about cryptocurrency to refer these types of cases to.

In closing, if you make that $5 crypto investment as suggested herein and end up striking gold, kindly remember who encouraged you to make the investment. FL

About the Author - **Julie A. LaBenz**, a native of Arizona, graduated from the Arizona State University College of Law in 2005 and has been licensed to practice law in the state of Arizona since 2006. Ms. LaBenz currently lives and works in Sedona, focusing mainly on divorce matters in her practice. She has been a student of cryptocurrency since 2016.



Can a lawyer *representing* a closely held *community owned* business also *represent* one of the *owner spouses* in a *divorce* proceeding from the other spouse?

article by
HELEN R. DAVIS, ESQ.

The Ethics of Multiple Party Representation - PART ONE

HOW MANY TIMES HAVE YOU, in your practice, been faced with a situation where you represent one of the parties to a divorce and the lawyer who appears for the other party or, more likely, that lawyer's firm, also represented the community-owned business? The alternative is the situation where your firm represented the community-owned business.[1] In my experience, this is not a regular occurrence because a general understanding exists that the lawyer who has the dual role has a conflict. That said, other than a developed sense of ethics and standard of practice, what is the law that supports the conflict conclusion? To my knowledge, no Arizona court or ethics decision speaks to this issue directly. However, this article will address Arizona cases and the ethical rules that suggest doing so is improper analogously; along with court decisions from other states that conclude that a conflict does, indeed, exist to preclude dual representation. I have also attached to this article a decision rendered by the Honorable Jay Polk when confronted with this exact situation. The names and case number have been redacted to protect the parties' privacy. *See* Exhibit 1.

" To my knowledge, *no Arizona court* or ethics decision *speaks to this* issue... However, this article *will address* Arizona cases and *the ethical rules* that suggest doing so *is improper* analogously;..."

I. HYPOTHETICAL FACTUAL SCENARIO

To illustrate the question for purposes of this article, let's imagine some facts: Lawyer A represents Wife in a dissolution of marriage case in which the parties own a closely held Community Property Business. Lawyer B notices an appearance for Husband. Lawyer B or Lawyer B's firm represents Community Property Business. Wife files a motion to disqualify Lawyer B, which is opposed. How should the court rule?

II. NO ARIZONA CASE LAW EXISTS THAT EXPRESSLY APPLIES TO ANSWER THE QUESTION

No Arizona cases have been found that address the specific factual scenario at hand. However, the following Arizona cases have been identified, which, while not on point factually, support a decision to disqualify Lawyer B.

In 1980, the Arizona Supreme Court decided *In Re Matter of Nulle,* 127 Ariz. 299, 620 P.2d 214 (1980). In that case, the court addressed the suspension of a lawyer for unethical conduct related to that lawyer's representation of a corporation and its shareholders, of which he was one. *Id.* On appeal, the lawyer argued that at the time of the action at issue, he represented the corporation versus the stockholders. *Id.* at 301-02, 620 P.2d at 216-17. In making this argument, the lawyer relied

... **IS THERE** an ethic dilemma related to dual representation where the business at issue is closely held by the parties.

on *Corporation Comm'n v. Consolidated Stage Co.*, 63 Ariz. 257, 161 P.2d 110 (1945), which held "that a corporation is for most purposes an entity distinct from its individual members or stockholders." This proposition is often referred to as the "entity rule." The Arizona Supreme Court, however, held that "application of such a rule to the case at bar would require blinding ourselves to its realities." *Id.* The court analyzed the rule against the following applicable facts:

> *[F]or about four years before January of 1976 respondent had represented various corporations and business enterprises of Wirth and Nocifera and had represented each of those men in small personal matters. During the early months of 1976 up to May 10, respondent continued to represent Rare Earth Development Corporation, which was principally owned by Wirth and Nocifera. Respondent bargained with Wirth and Nocifera to be allowed to participate in the ownership of UID in exchange for providing legal services to UID without charge.*

Id. The court then looked to the Oregon Supreme Court's decision under similar facts that:

> *Where a small, closely held corporation is involved, and in the absence of a clear understanding with the corporate owners that the attorney represents solely the corporation*

and not their individual interests, it is improper for the attorney thereafter to represent a third party whose interests are adverse to those of the stockholders and which arise out of a transaction which the attorney handled for the corporation. In actuality, the attorney in such a situation represents the corporate owners in their individual capacities as well as the corporation unless other arrangements are clearly made.

Id., citing In re Brownstein, 602 P.2d 655, 657 (Or. 1979).

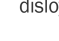
Based on *Nulle*, a court should likely reject an argument that the entity rule should be followed because applying that rule would require the court to blind itself to the realities of the case at hand. That reality is that application of the entity rule is not appropriate in cases involving closely held corporations owned by two spouses.

In *Cottonwood Estates, Inc. v. Paradise Builders, Inc.,* 128 Ariz. 99, 101, 624 P.2d 296, 298 (1981), the Arizona Supreme Court heard a special action regarding whether a lawyer could both testify and try a case. In that case, the lawyer at issue both represented a corporation and was an officer of the company, which resulted in his identification as a witness. *Id.* at 102, 624 P.2d at 299. In considering the case, the court reflected as follows about the lawyer's duties to the corporation he represents:

A lawyer owes his client a duty of loyalty and the duty to exercise independent professional judgment. A lawyer representing a corporation has a duty of loyalty to the corporate entity which may or may not be coexistent with any duty owed the board of directors or officers.

Id. at 106, 624 P.2d at 303. Based on this reference, the *Cottonwood* court acknowledged that a corporate lawyer's duty of loyalty to the corporation may coexist with his duties to officers/shareholders. In the factual scenario at hand, where the corporation is closely held by husband and wife who are divorcing, Lawyer B's representation of Husband adverse to Wife, both of whom are shareholders of Community Property Business, is disloyal.

In the factual scenario where the corporation is closely held by husband and wife who are divorcing, Lawyer B's representation of Husband adverse to Wife, … is disloyal.



III. APPLICABLE ETHICS RULES

The following ethical rules apply to the issues discussed in this article.

A. Ethical Rule ("ER") 1.7 provides as follows:

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will

be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

See ER 1.7, Rule 42, Ariz. R. Sup. Ct. (Ethics Rules). The exception in subparagraph (b) does not apply as it allows the representation despite a conflict if waivers are provided after informed consent.

B. **ER 1.13. Organization as Client**

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act on behalf of the organization as determined by applicable law.

(c) Except as provided in paragraph (d), if

(1) despite the lawyer's efforts in accordance with paragraph (b) the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action or refusal to act, that is clearly a violation of law, and

(2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization, then the lawyer may reveal information relating to the representation whether or not Rule 1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.

(d) Paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law, or to defend the organization or an officer, employee or other constituent associated with the organization against a claim arising out of an alleged violation of law.

(e) A lawyer who reasonably believes that he or she has been discharged because of the lawyer's actions taken pursuant to paragraphs (b) or (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs, shall proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

(f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of ER 1.7. If the organization's

consent to the dual representation is required by ER 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

C. ER 3.7, which provides as follows:

(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

(3) disqualification of the lawyer would work substantial hardship on the client.

As you can see from the attached decision, the Judge relied on ER 1.13 to support a decision to disqualify.

IN PART TWO

(COMING SUMMER 2022 NEWSLETTER)
An analysis of how other states are handling this issue and this author's conclusions.

NOTES:

Helen R. Davis is a Fellow of the American Academy of Matrimonial Lawyers, a Fellow of the International Academy of Family Lawyers, a Certified Specialist in Family Law, an adjunct professor at the Sandra Day O'Connor College of Law at Arizona State University, and writes and lectures frequently on all manner of family law topics.

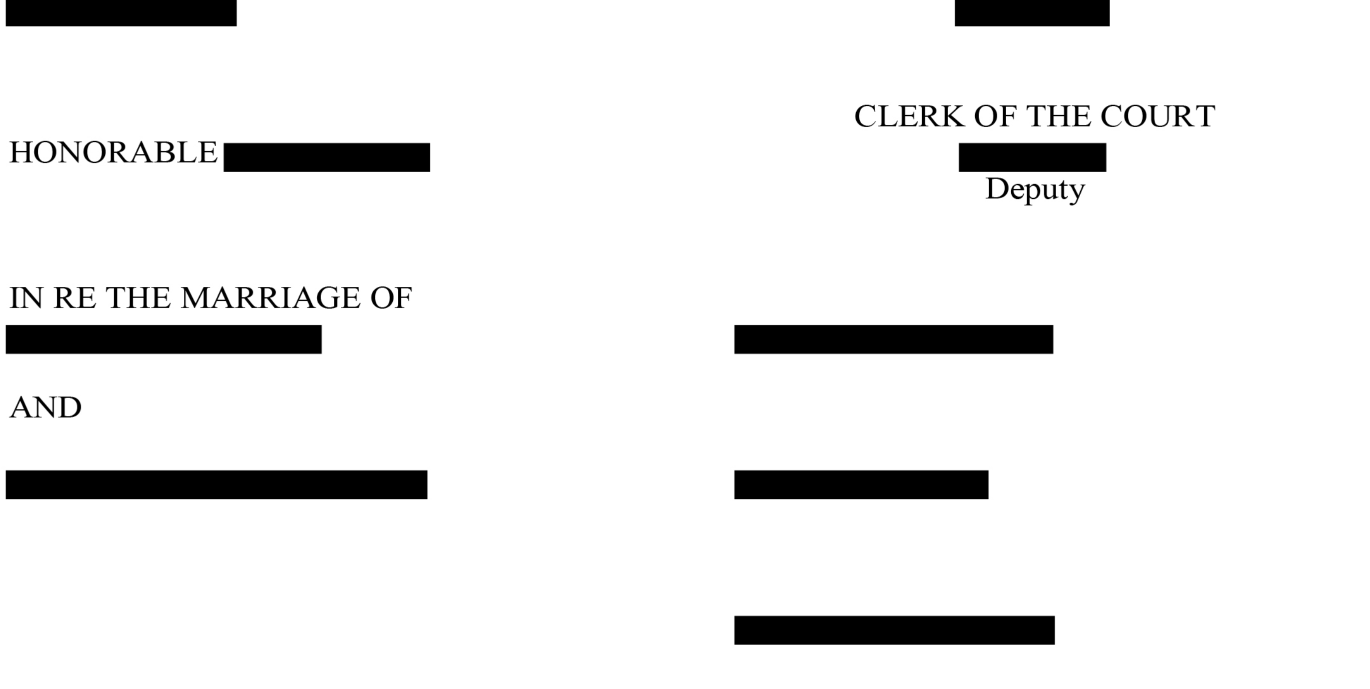
Helen R. Davis, Esq.
The Cavanagh Law Firm, P.A.,
1850 N. Central Avenue
Suite 2400
Phoenix, Arizona 85004
hdavis@cavanaghlaw.com

[1]This article addresses the ethics related to dual representation where the business at issue is closely held by the parties. The analysis would, in the author's opinion, vary significantly if the business was the separate property of the spouse who was represented by the lawyer who also represented her separate property company. Likewise, scenarios whereby ownership is more attenuated, diversified and/or layered are less likely problematic or conflictual.

EXHIBIT 1

Michael K. Jeanes, Clerk of Court
*** Electronically Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY


HONORABLE

CLERK OF THE COURT
Deputy

IN RE THE MARRIAGE OF

AND

MINUTE ENTRY

The Court has considered the *Motion to Disqualify* ██████ *from Representing Petitioner and for Sanctions* (the "Disqualification Motion") that ██████ ("Mother") filed on ██████; the response thereto that ██████ ("Father") filed on ██████; and Mother's reply filed on ██████. In addition, the Court has reviewed the history of this case.

Although ER 1.13(g) arguably might have allowed Mr. ██████ to represent both Father and ██████ ("██████"), such dual representation could only occur if ██████'s "consent to the dual representation [were] given by an appropriate official of [██████] ***other than*** [Father]." Because such condition has not been satisfied,

IT IS ORDERED granting the Disqualification Motion.

IT IS FURTHER ORDERED that ██████ is hereby disqualified from representing Father in this case.

IT IS FURTHER ORDERED awarding Mother her reasonable attorney fees and expenses incurred in connection with the Disqualification Motion. By no later than ██████

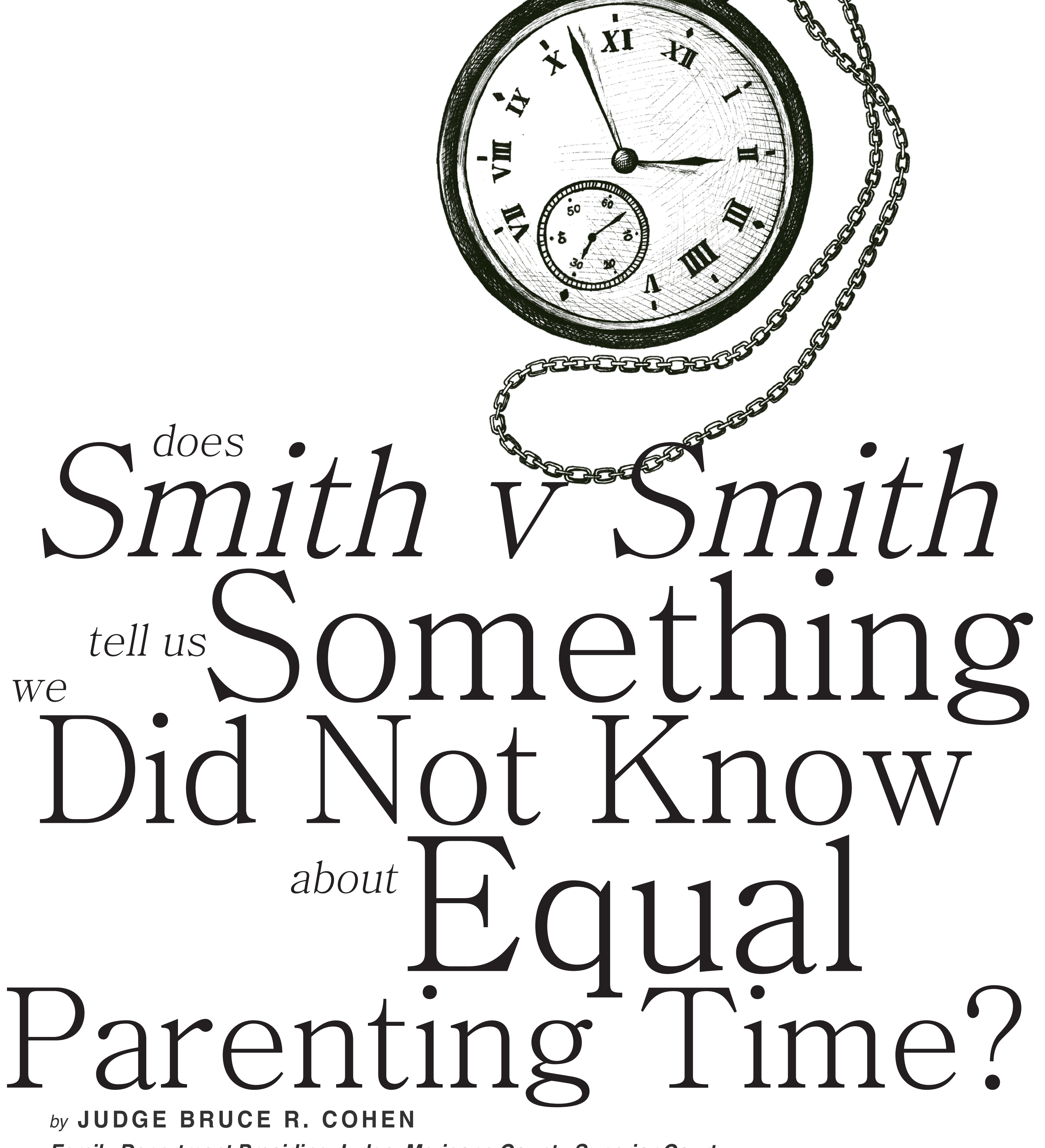
Docket Code 019 Form D000D Page 1

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

█████, Mother's counsel shall file a *China Doll* statement and fee application and lodge a form of order that contains a blank line for the amount of fees and expenses to be awarded. Father may file a response by no later than █████. Mother may file a reply by no later than █████.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter. FL

Docket Code 019 Form D000D Page 2



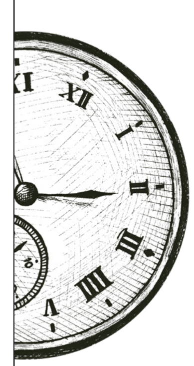
does *Smith v Smith* tell us Something we Did Not Know about Equal Parenting Time?

by **JUDGE BRUCE R. COHEN**

Family Department Presiding Judge, Maricopa County Superior Court

The Arizona Legislature passed ARS Section 25-103(B), ...but at no time did the Court of Appeals make a declaration that there was a "legal presumption." This is a distinction with a difference.

The Arizona Court of Appeals issued a black letter law ruling about equal parenting time presumptions under Arizona law in its recent published opinion in *Smith v Smith*, 1 CA-CV 21-0317 FC (April 5, 2022). In the Opinion delivered by Vice Chief Judge David Gass, the Court of Appeals stated definitively that "Arizona Law Does Not Have a Presumption For Equal Parenting Time." But one may ask why such a definitive statement was needed about a presumption that never existed? And, to answer that, a bit of a history lesson is warranted.

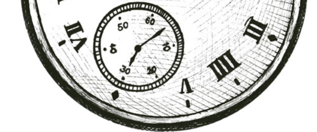


Leading up to and including 2013, there were those who were advocating to the Arizona Legislature for strong legal presumptions in favor of joint legal decision-making and equal parenting time. There were others who were opposed to such legislation. The reasoning behind the opposing positions need not be summarized herein but did go to the core of underlying policy in the State of Arizona. In the end, the Arizona Legislature passed ARS Section 25-103(B). It declares that the public policy in Arizona is that absent evidence to the contrary, it is in a child's best interests to have "substantial, frequent, meaningful and continuing parenting time with both parents." Also relevant to this discussion is ARS Section 25-403.02(B), which provides that "the court shall adopt a parenting plan that ... maximizes [the parents'] respective parenting time."

After the passage of 25-103(B), family law professionals debated whether this new declared public policy would impact in any profound way the determinations of parenting-related issues in the courts. Some believed that it would not, since it was nothing more than a policy declaration; others (such as me) argued that the new statute would represent a sea change, since the policy would be integrated into the deliberative process for judicial officers. Time has proven that the latter was a far more accurate prediction of what was to follow.

Over the years since enactment of 25-103(B), there has been a far greater percentage of orders from around the State determining that joint legal decision-making and equal parenting time was in a child's best interest. For some, this became the default order when neither party proved to any significant degree that something else was appropriate. And then came *Woyton v Ward*, 247 Ariz. 529 (App. 2019).

In *Woyton*, there was a header in the discussion section of the opinion that read "Presumptively Equal Parenting Time" (at 531). In that section of the Opinion, the Court of Appeals held that "As a general rule equal or near-equal parenting time is presumed to be in a child's best interests." Understand that this language did not state that there is a legal presumption in favor of equal parenting time; rather, it provided that equal time is generally viewed to be consistent with a child's best interests, particularly given the stated public policy under Arizona law. But what followed is that many believed that there was a presumption in favor of equal parenting time, and this belief took on a life of its own.



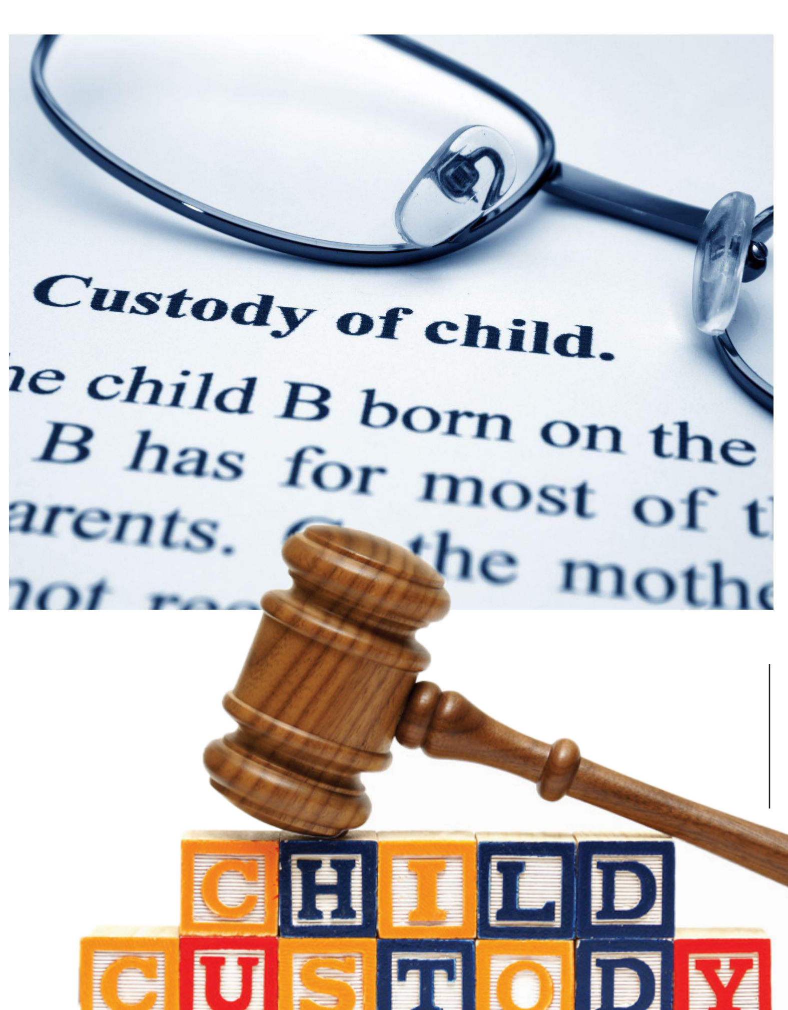
Numerous subsequent memorandum decisions issued by the Court of Appeals cited to the *Woyton* language, further embedding this notion that equal parenting time was presumed to be in a child's best interests. But at no time did the Court of Appeals make a declaration that there was a "legal presumption." This is a distinction with a difference. If there was actually a legal presumption in favor of equal parenting time, the burden of proof would be assigned to the party opposing equal parenting time. In theory, this would allow the parent with whom the presumption aligns not to present any evidence and if the opponent to the presumption failed to overcome it, equal parenting time would be mandated. Further, for some legal presumptions, the burden of proof to overcome the presumption is "clear and convincing evidence."

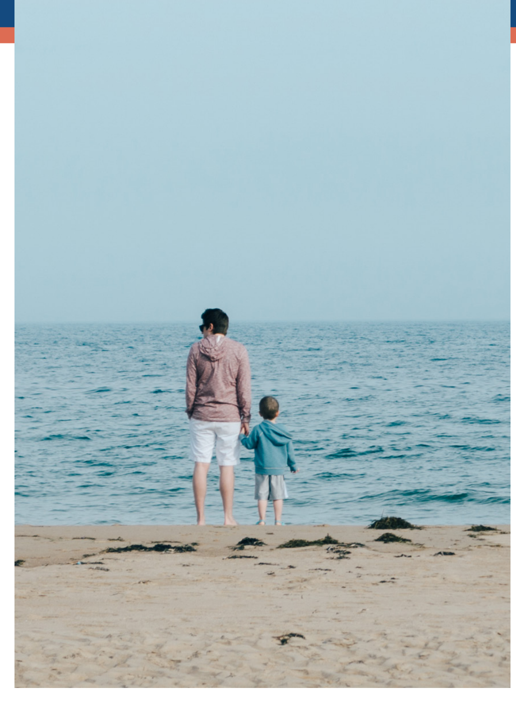
But let's review the context in which the Court of Appeals referred to equal time being presumed to be best for a child. At no time did any of the decisions from the Court of Appeals cite to a legal presumption nor did the Court of Appeals assign the burden of proof. Statements in the decisions to a presumption were actually expressions of the starting point for the analysis. And, frankly, such a starting point should have existed since Arizona abandoned the Tender Years Doctrine in 1973 which had provided that all things being equal, a child of tender years (8 or younger) should live with the child's mother.

Arizona abandoned the ***Tender Years Doctrine*** in 1973 which had provided that ***all things being equal***, a child of tender years, ***8 or younger***, should ***live with*** their ***mother***.

Over the almost 50 years that followed, Arizona has had gender-neutral laws for determining parenting-related issues. Therefore, both before the enactment of 25-103(B) and since, if two parents appear before a judge and each testifies only that one is the mother and the other is the father with nothing else in evidence, the court would be required to order equal parenting time. After all, the law must be applied in a gender-neutral fashion and in the absence of any evidence one way or the other, that gender neutrality would require the court to order equal parenting time.

Numerous subsequent memorandum decisions issued by the Court of Appeals cited to the *Woyton* language, further embedding this notion that equal parenting time was presumed to be in a child's best interests.





Over almost 50 years, ...Arizona has had gender-neutral laws for determining parenting-related issues... if two parents appear before a judge and each testifies only that one is the mother and the other is the father, with nothing else in evidence, the court would be required to order equal parenting time.

...absent a court order, "every parent has the right to co-equal custody of their child." (The use of the term custody in this context is because it comes from a case decided well before Arizona replaced the term.) This notion is part of Arizona's public policy extended into cases where there is to be a court order...

But what the Court of Appeals has been expressing versus how those expressions have been interpreted are two different things. The "Family Law Community" as a whole has taken the "sound bite" that equal parenting time is presumed and turned that into a *de facto* legal presumption. While it is speculation on my part, I believe that this disconnect, at least in part, may have driven the Court of Appeals to address further this very issue.

The first "clarification" appeared in *Gonzales-Gunter v Gunter*, 249 Ariz. 489 (App. 2020). In that case, the father contended that 25-403.02(B) and 25-103(B) mandated equal parenting time "absent parental unfitness or endangerment." The Court of Appeals rejected this claim, noting that there is no such mandate and finding father's reliance on 25-103(B) as support for his position to be "misplaced." The Court of Appeals held that the directive in 25-103(B) "... does not require equal parenting time or remove the requirement that the court adopt a parenting plan consistent with a child's best interests." (at 492). But in issuing this Opinion, the Court of Appeals did not address why father's mistaken belief may exist, other than it being a misinterpretation of Arizona law.

And now comes *Smith v Smith*. In *Smith*, the parties were married in Idaho and, soon after they got married, their child was born. They moved to Arizona with the child. Within one year, the marriage was failing, and Mother decided unilaterally to move with the child back to Idaho where she filed for divorce. It was later determined that Arizona was the "home state" of the child so the parenting-related decisions were to be heard in Arizona. Ultimately, the Arizona court awarded joint legal decision making with Father having final authority in the event of a disagreement. Further, the trial court restricted Mother's parenting time to one week per month with supervision. Mother appealed.

Among her claims on appeal was Mother's assertion that "Arizona law has a presumption for equal parenting time." She cited to the *Woyton* language to support her position. In response, the Court of Appeals

noted that the statement in *Woyton* that equal or near equal parenting time is presumed to be in a child's best interests was merely "a short-hand explanation of a more comprehensive constitutional and statutory analysis." I urge you to read the *Smith* Opinion in its entirety, with a focus on Section II, which is the declaration that there is no presumption for equal parenting time. But I will highlight a few of the well-conceived and clearly written points made.

The analysis begins with the status that, absent a court order, "every parent has the right to co-equal custody of their child." (The use of the term custody in this context is because it comes from a case decided well before Arizona replaced the term.) This notion is also part of Arizona's public policy extended into cases where there is to be a court order. *See* 25-103(B). Despite these principles, no legal presumption has been created.

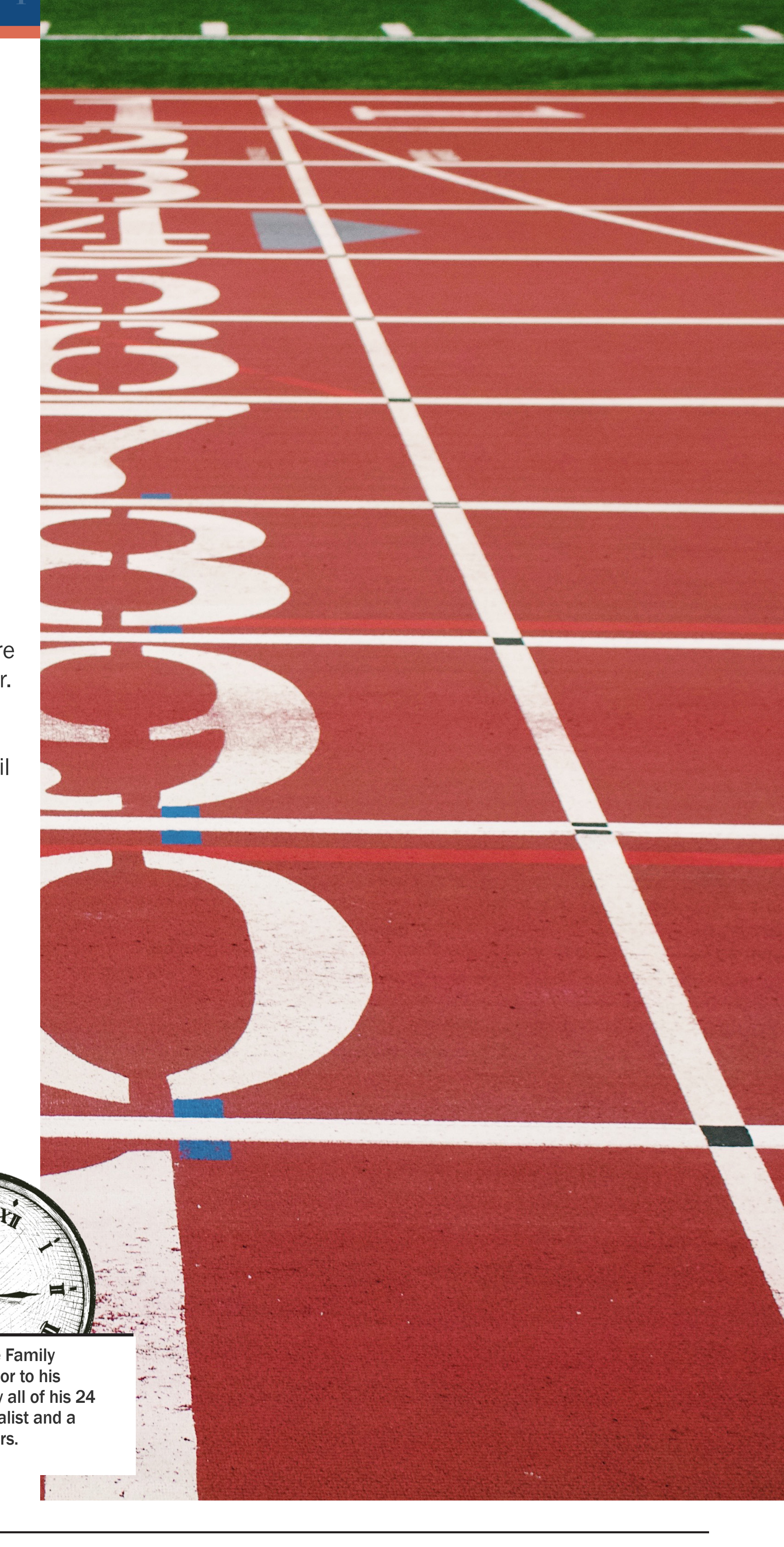
Understanding the import of a legal presumption is critical in the *Smith* analysis. Judge Gass wrote that "Legal presumptions come in various forms and are generally tied to a burden of proof to establish the presumption, identified as rebuttable or not, and determine what is needed to rebut the presumption." He points out that the Arizona Legislature could have but did not create a legal presumption for equal parenting time. And the "plain language contained in 25-103(B) did not do so." Giving effect to the language utilized by the Legislature, particularly when the Legislature created legal presumptions in other family-related statutes (such as 25-403.03(D)), precludes courts from "judicially" imposing a requirement that the Arizona Legislature has chosen not to impose.

Judge Gass points out that the Arizona Legislature could have but did not create a legal presumption for equal parenting time.

Commenting on *Woyton* and subsequent Opinions and Memorandum Decisions, the *Smith* court provided that the reference to presumption language did not place "a specific burden of proof to overcome presumed equal parenting time... Instead, this court recognized equal parenting time as a starting point for the superior court's best interest analysis." Thereafter, the "evidence - not a presumption linked to burden of proof - guides the court in deciding the appropriate parenting-time schedule." From that starting point, the superior court adjusts based upon all relevant factors that bear on a child's best interests.

Returning to the initial question posed - Does *Smith v Smith* tell us something we did not know about equal parenting time? - the answer is clearly "no." At no time has Arizona had a legal presumption in favor of equal parenting time and at no time did the Arizona Court of Appeals create one or suggest that such a legal presumption exists.

The ***"starting line" must be equal*** and for it ***to be equal***, we must assume that ***each*** will be ***entitled to equal parenting time until*** the ***evidence*** otherwise ***dictates...***



Smith serves to clarify for us all that we must have a starting point in determining parenting time and, if Arizona law is to be applied in a gender-neutral fashion, we must begin at the most-neutral point, where neither parent starts off ahead of the other. That "starting line" must be equal and for it to be equal, we must assume that each will be entitled to equal parenting time until the evidence otherwise dictates. And from that point, we begin our analysis of "best interests" on a case-by-case basis. FL

JUDGE BRUCE R. COHEN is the Presiding Judge of the Family Department of the Maricopa County Superior Court. Prior to his appointment to the bench in 2005, he dedicated nearly all of his 24 years in practice to family law. He was a certified specialist and a Fellow in the American Academy of Matrimonial Lawyers.

Putting Maury Povich Out of Business;

THE ECONOMICS, SCIENCE, AND EFFICIENCY OF MATERNAL BLOOD TESTING

There is lore amongst evolutionary biologists that babies look more like their fathers because maternity is clear, **but paternity is in doubt.**

BY **GREGG WOODNICK** AND **ISABEL RANNEY**

Paternity drama has plagued humankind for years. There is lore amongst evolutionary biologists that babies look more like their fathers because maternity is clear, but paternity is in doubt. Perhaps this has no roots in truth, but it is a myth that has become sucked into the vortex of paternity determinations, as the advent of paternity tests have become a source of contention in family and juvenile court proceedings.

Any attorney who has spent time working on Department of Child Safety (DCS) matters will have their own stories of children in the care of the state where the state needs to determine paternity. If the mother tells the state that Michael is father, the state will allege that Michael is the putative father and compel a paternity test. If the DNA is a match, the matter is resolved. There are numerous war stories where the state provides not just one or two paternity tests, but several to all putative fathers. Each test costs State a significant sum of money, but not as much as what private labs charge in paternity establishment matters [1].

It used to be that paternity determination during the pregnancy was rare, expensive, and came with not insignificant risks. Luckily, science has given us a new, cost-effective tool recognized as reliable under Rule 703 that practitioners should add to their repertoire. Gone are the days of waiting until a child is born or risking the dangers of an amniocentesis/chorionic villus sampling test to find out the identity of the child's father. The following is a brief overview of what was available until just recently, and then an explanation of what attorneys should be recommending for their clients early in paternity disputes.

Old School DNA

1. Amniocentesis

FOR THOSE NEEDING TO KNOW the identity of the father before the child was born, an amniocentesis procedure was a viable, though risky, option. This method is performed using amniotic fluid that is removed from the mother's uterus by inserting a needle through the stomach and into the womb. Amniotic fluid is what surrounds the fetus and protects it throughout the pregnancy (the amniotic sac that contains the fluid is the "water" that leaks out when someone's "water breaks") [2]. The cells that are cultivated from the amniotic fluid can be used to glean information about the fetus's genetic makeup, fetal lung maturity, identify fetal infection, and to collect fetal DNA for the purposes of paternity testing. This procedure can be done between weeks 15 and 20 of a pregnancy [3].

While Amniocentesis can provide a significant amount of information about the fetus and help settle paternity issues prior to birth, it also comes with a range of potential risks, both to the mother and the fetus. For example, the needle used for the procedure may injure the fetus and there is a slight increased risk of miscarriage [4]. The earlier in the pregnancy that amniocentesis is performed, the higher risk of complications. The average cost of amniocentesis ranges between $1,000 to $7,200 depending on insurance [5].

2. Chorionic Villus Sampling (CVS)

ANOTHER WAY TO COLLECT FETAL DNA, though with the same risks as amniocentesis, this method is performed by taking placenta from either the mother's cervix or the abdominal wall using a needle or by inserting a catheter [6]. The placenta is an organ that provides blood and nutrients to the fetus throughout the pregnancy and can be used for chromosomal testing, as well as to collect fetal DNA [7]. This procedure can be done between the 10th and 12th weeks of pregnancy [8].

As with any invasive medical procedure, CVS testing has its risks and complications may occur. These include infection, miscarriage, bleeding, preterm labor and, in rare cases, there may be limb defects [9]. The average cost of CVS is between $1,300 and $4,800 including physician fees [10].

New School

3. Maternal Blood Testing

THIS IS THE ONLY NON-INVASIVE METHOD for determining paternity prior to the child being born. The blood of the mother contains cell-free fetal DNA beginning five (5) weeks into the pregnancy [6]. This means that any uncertainty with regards to parentage can be resolved shortly after the mother discovers she is pregnant. This method is undertaken by a simple blood draw.

As a non-invasive procedure, there are no associated risks. The DNA paternity test will return a "greater than 99.9% probability of paternity," which exceeds the minimum required by A.R.S. § 25-814(A) [11]. The costs of this form of testing varies depending on how far along the person is in the pregnancy. This testing can cost as little at $900 or as much as $2,200 [12].

NON-INVASIVE PRENATAL PATERNITY TESTING IS A NO BRAINER. All that is required is for the mother to get their blood drawn from their vein using a small needle and for the putative father to provide a DNA sample (blood or buccal swap).

Not only is this a simple procedure with no risks involved, but the mother can ascertain the identity of the father just weeks into her pregnancy. This means that as early as five (5) weeks into a pregnancy, the momentary discomfort of a blood draw can prevent costly and contentious litigation from ever occurring.

This can come as a huge relief to the mother and to the putative father and may help the parties focus on the next issues and potential resolution before the child is born.

While cost is certainly a factor to consider when determining which prenatal method of paternity testing is preferred, knowing who the father of the child is before it is born is invaluable information. More importantly, ascertaining this knowledge is inexpensive compared to the potential thousands of dollars spend litigating paternity disputes. FL

GREGG WOODNICK has been practicing law in Arizona for over 20 years. He is a former adjunct law professor and has lectured for Yale University, Midwestern College of Osteopathic Medicine, Arizona State University and Northern Arizona University.

ISABEL RANNEY is a law student at the Sandra Day O'Connor College of Law at Arizona State University, Associate Editor for the Law Journal for Social Justice, and clerk at Woodnick Law.

Child Support

Ali v. Ali, No. 1 CA-CV 21-0434 FC, 4/26/2022

FACTS: Father and Mother are married and share one child. Father and Mother divorce in California. During the divorce proceeding, Mother and child move to Arizona. Upon agreement of the parties, Mother is awarded sole legal and physical custody of child and Father has no parenting time. California enters orders relinquish jurisdiction to Arizona over matters of LDM and PT upon entry of orders. Father registered the custody order in Arizona.

Two years later, Father moves to modify LDM, PT, and child support in Arizona. Father alleges that California did not enter a child support order and that Arizona has jurisdiction to establish child support. At the evidentiary hearing, Father confirmed that no child support order existed. The TC modified LDM and PT, and ordered Father to pay $487 per month as and for child support.

Father then moved to amend, asking the TC to vacate the child support order. Father argued that California had entered a child support order at $0 per month and that Arizona did not have jurisdiction to modify such order. Father did not provide a copy of the alleged California child support order. The TC denied Father's motion. Father appealed.

Argument: Father argues the superior court lacked subject matter jurisdiction to enter the child support order. Specifically, he contends that the marital dissolution decree entered in California provided that 'neither party shall pay or receive child support from the other parent[,]' and therefore *Glover* controls."

Holding: The AC affirmed the TC's ruling *because Father never provided a copy of the existing child support order.* Based on the evidence provided to the TC, no child support order existed and Arizona properly established child support.

However, in a footnote to the Conclusion, the AC noted that, under Arizona law, a party never waives challenges to subject matter jurisdiction and that Father could still request relief under Rule 85(b) if he could produce a copy of the child support order.

Parenting Time

Smith v. Smith, No. 1 CA-CV 21-0317 FC, 4/5/2022

FACTS: Mother and Father are in the process of a divorce. Mother relocates to Idaho. After some drama, the parents share parenting time on a schedule of two weeks on, two weeks off. The child, age 2, has special needs. Prior to trial, Father expresses concerns regarding Mother's mental health and an evaluation is performed. The evaluation revealed concerns about Mother's ability to

complete regular adult tasks associated with child rearing, such as filing paperwork, and also recommended that Mother receive counseling to better understand the child. At trial, Father sought sole legal decision-making authority and to limit Mother's parenting time to one weekend per month. Mother requested joint legal decision-making and continued equal parenting time.

THE TC AWARDED THE PARTIES JOINT LEGAL DECISION-MAKING AUTHORITY, but gave Father final say. The TC also found that equal parenting time would endanger the child's well-being and restricted Mother's parenting time to one weekend per month, supervised.

Issue:

1. Did the court violate 25-411(J) by reducing Mother's parenting time from the parenting time she exercised under temporary orders?
2. Is there a presumption of equal parenting time (e.g. *Woyton v Ward*)?
3. Does an award of less than equal parenting time require an endangerment finding?

Holding:

1. No. 25-411 only applies to final orders.
2. There is no legal presumption for equal parenting time. Equal parenting time is simply a starting point. "And from that starting point, the superior court may adjust a parent's parenting time after considering several variables, such as relocation, domestic violence, and the children's best interests."
3. No. Because this case was pre-decree, the court is not required to make an endangerment finding, only a best interests finding. Endangerment findings only apply to permanent parenting time orders.

Does an award of less than equal parenting time require an endangerment finding? No. Because this case was pre-decree, the court is not required to make such a finding,... Endangerment findings only apply to permanent parenting time orders.

Procedural

Blos v. Blos, No. 1 CA-CV 21-0639 FC, 3/31/2022

FACTS: The TC entered post-decree special orders on custody issues. Appellants then moved to alter or amend the special orders under Rule 83, rather than file timely notices of appeal. By the time the Rule 83 motion was denied, the deadline to file a notice of appeal had passed. Appellant appealed after the deadline.

Holding: A post-decree modification cannot result in a judgment; it can only result in a special order. Special orders are not subject to Rule 83 (which can only be used to modify final judgments), so the deadline to appeal was not extended by the Rule 83 motion. The fact that the post-decree "special order" was certified under Rule 78(c) did not convert the special order to a final judgment.

Military Retirement

Chaidez v. Grant, No. 1 CA-CV 21-0037 FC, 2/15/2022

FACTS: The parties were divorced in 2010. Wife was ordered a percentage of Husband's future military retirement benefits and the TC retained jurisdiction. In 2019, Wife filed a petition to enforce, and alleged that Husband had retired, was receiving retired pay, and was not providing Wife with her share. At the hearing, both parties acknowledged that Husband's discharge paperwork reflected that he was retired due to "disability, temporary (enhanced)." Husband's income was identified as concurrent retirement disability pay (CRDP).

WIFE FILED A PROPOSED ORDER REQUESTING HER PERCENTAGE INTEREST, and that said payments continue until Husband's death, including requiring him to make payments to her estate if she predeceased him. The TC signed Wife's proposed form of order.

Holding:

1. A former spouse's portion of military retired pay is not transferrable, including by inheritance. Citing 10 USC 1408(c)(2). As such, the trial court cannot require a service member to continue paying Wife's estate after her death.

2. Only "disposable retired pay" is subject to division. Disposable retired pay specifically excludes disability (as opposed to length-of-service) pay. It specifically excludes amounts the servicemember waived in favor of VA disability pay. For servicemembers who are medically retired, disposable retired pay also excludes the amount of retired pay calculated based on the disability percentage. Upon medical retirement, a service member has the opportunity to elect retired pay based on disability or length-of-service. Even if the servicemember elects length-of-service pay, that amount is excluded from disposable retired pay because it is still related to disability retirement under Chapter 61.

[NOTE: *"AR 635-40, Chap 4" as authority. Army Regulation 635-40 is the Army's implementation of Chapter 61.*] FL

Annie M. Rolfe is the founding member of Rolfe Family Law, PLLC, in Tucson, Arizona. Ms. Rolfe is a certified Specialist in Family Law and a former chair of the State Bar of Arizona's Family Law Executive Council.

HOT TIPS

Checklist to create a Word.docx Child Support Order from the excel child support Calculator using Adobe Pro:

1. Once the child support order is correct in the excel spreadsheet.
2. Select "file"
3. Select "Save as Adobe PDF"
4. In the pop up window Add "ChildSupportOrder" to the "Sheets in PDF" box.
5. Remove any other entries from the "Sheets in PDF" box.
6. Select "Convert to PDF"
7. Select "Yes"
8. Name and Save the PDF to the users desired location.
9. The pdf document will then be open in Adobe.
10. Select "file"
11. Select "Save as"
12. Pull down the menu labeled "Save as type"
13. Highlight and select "Word Document (*.docx)
14. Select "Save"

Courtesy of **Jeff Wohlford, Brown and Wohlford, PLLC**

If you are going to argue about tax stimulus payments being divided, please have some idea what the rules are for the 3 stimulus payments, or even better, what your client actually received.

Courtesy of **Anonymous**

If there are discovery/disclosure issues early in the case and there are problems getting responses and/or agreement from the other party, request a formal disclosure/discovery conference of 15-30 minutes in front of your trial judge where the issues can be discussed in a non-accusatory manner and hopefully head off an adversarial (and expensive) Motion to Compel. If you then have to file a Motion to Compel later, the court will already know the case history and the efforts that have been made by both counsel to resolve them early and amicably.

Courtesy of **Megan C. Hill, The McCarthy Law Firm**

IMPORTANT DATES

June 1, 2022	**E-filing of case-initiating documents begin**
June 1, 2022	**Family Law Firsts Series Part 4 (Live Stream CLE)**
June 27-29, 2022	**The State Bar of Arizona Annual Convention**
June 30, 2022	**CLE Deadline for 2021-2022**
July 13-16, 2022	**The State Bar of Arizona's CLE by the Sea**
August 1, 2022	**Specialist Applications Due**
Sept. 15, 2022	**CLE Affidavit Filing Deadline**
Oct. 1, 2022	**Final Deadline for Specialist Application (with Late Fee)**

Want to contribute to the next issue of Family Law News?

… If so, the deadline for submissions is July 15, 2022

Would you like to…

- Express yourself on family law matters?
- Offer a counterpoint to an article we published?
- Provide a practice tip related to recent case law or statutory changes?

WE WANT TO HEAR FROM YOU!

PLEASE SEND YOUR SUBMISSIONS TO:

ANNIE M. ROLFE, FAMILY LAW ATTORNEY
Rolfe Family Law, PLLC
2500 N. Tucson Blvd., Suite 120
Tucson, Arizona 85716 | (520) 209-2550
arolfe@rolfefamilylaw.com

We invite lawyers and other persons interested in the practice of family law in Arizona to submit material to share in future issues.

Contact Us!

We reserve the right to edit submissions for clarity and length and the right to publish or not publish submissions. Views or opinions expressed in the articles are those of the author. The Council invites those with differing views and opinions to submit articles for the newsletter. Thank you from the Family Law Executive Council and the State Bar of Arizona.