AAML NY CHAPTER BULLETIN

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Volume 2 No.: 5
May 2016

MATRIMONIAL UPDATE

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AGREEMENT –INTERPRETATION – SUPPORT OF DISABLED CHILD

In Matter of Alan P. v. Charlotte E., 2016 Westlaw 1369332 (1st Dept. Apr. 7, 2016), the father appealed from a January 2015 Family Court order, which denied his objections to an October 2014 Support Magistrate order dismissing his petition for termination of child support. On appeal, the First Department affirmed, noting that the parties' incorporated stipulation required the father to pay child support for his disabled child until her care is completely covered by a government entitlement program, the child's marriage, or the child's death, whichever first occurs. The Appellate Division held that "the stipulation unambiguously expresses the parties' agreement that petitioner's child support obligation will continue until the child's death, unless one of the other two events occurs first, without regard to her reaching the age of majority."

CHILD SUPPORT – 2010 AMENDMENTS

In Matter of Thomas v. Fosmire, 2016 Westlaw 1576908 (2d Dept. Apr. 20, 2016), the father appealed from a June 2015 Family Court order, which denied his objections to a May 2015 Support Magistrate order dismissing, after a hearing, his August 2014 petition for upward modification of a July 2011 order, which directed the mother to pay $517 per month in child support. On appeal, the

Second Department affirmed. The Appellate Division noted that the 2010 amendments to FCA §451 permit a court to modify an order of child support, without requiring a party to allege or demonstrate a substantial change in circumstances, where either party's gross income has changed by 15% or more since the order was entered or modified, or where three years or more have passed since the order was entered, last modified, or adjusted. The Second Department found that "the Support Magistrate incorrectly stated in her findings of fact that an increase in the noncustodial parent's income alone was not sufficient to permit the court to consider a modification of a child support obligation. Nevertheless, the Support Magistrate properly placed the burden on the father to provide evidence in support of his petition for an upward modification, including specific evidence of both his and the mother's income at the time the original child support order was issued and at the time he filed his petition (citation omitted), and the father failed to satisfy this burden." The Appellate Division concluded: "although there was evidence that the mother's income had increased, she testified at the hearing that her expenses had also increased. Specifically, the mother's financial disclosure affidavit indicated that her monthly expenses actually exceeded her monthly income. Moreover, the father, who is the custodial parent, did not establish an inability to provide for the needs of the children. Indeed, the father's gross income is approximately $109,000, derived from social security and pension benefits, while the mother's gross income is approximately $35,000."

COUNSEL FEES – AFTER TRIAL - DENIED; SEPARATE PROPERTY – TRANSMUTATION FOUND; MAINTENANCE

In Valitutto v. Valitutto, 137 AD3d 1526 (3d Dept. Mar. 31, 2016), the wife appealed from a December 2014 Supreme Court judgment, which directed equitable distribution and maintenance and denied her request for counsel fees. The parties were married in 1982 and have 2 emancipated children. They separated in July 2009 and the husband commenced the action in April 2012. On appeal, the Third Department affirmed, noting that although the wife's funds from the settlement of an employment discrimination lawsuit "were initially separate property *** they presumptively became marital property once she placed them into a joint account." The Appellate Division found that the joint account was used "for the parties' regular expenses and included those funds used for the purchase of *** jointly titled" property, which was refinanced, and the proceeds were used to purchase another joint property. The Court concluded: "This proof tended to show that the funds placed in the joint account became increasingly untraceable, supporting a reasonable inference that the wife did not intend to place the funds in the joint account solely for convenience. Further, Supreme Court credited the husband's testimony that he had never indicated that the funds would remain separate property, and we decline to disturb that credibility determination. ***. Accordingly, the wife failed to rebut the presumption that the funds became marital property." With regard to maintenance, the Appellate Division found that "Supreme Court did not abuse its discretion by awarding the wife maintenance of $1,500 per month to continue until either the husband's

retirement or, if he did not retire at the age of 66, the wife's death or her remarriage or cohabitation with another person." The Third Department found that the "wife had no current income, she had a Series 7 brokerage license and had previously worked at a major brokerage firm and also had obtained a Master's degree and certification in psychology. The husband appeared in good health at trial and earned approximately $110,000 per year, but he housed and provided financial assistance to the parties' adult daughter, who suffers from disabilities. The husband had voluntarily paid maintenance to the wife for over a year, and he had paid the mortgage and taxes on the marital real property during the pendency of this action. During the same time, he made loan and insurance payments for the vehicle that the wife drove and provided health insurance to the wife and both of their daughters." With regard to counsel fees, the Appellate Division held that "Supreme Court did not abuse its discretion in denying the wife counsel fees" and that "the husband adequately rebutted [the statutory] presumption." The Court noted: "the wife maintained unreasonable stances, veering into personal and irrelevant attacks aimed at the husband and his counsel at times, that unnecessarily prolonged the litigation"; "for what appears to have been a potentially simple legal matter, the wife had already charged $10,000 in legal fees to the husband's credit card, as well as asking for and receiving another $5,000 from him which she alleged that she needed for legal fees"; and "the wife failed to provide documentation that she owed any fees to attorneys."

COUNSEL FEES – AFTER TRIAL-GRANTED; DISCLOSURE – PRECLUSION; EQUITABLE DISTRIBUTION – PROPORTIONS (70%/30%); MAINTENANCE – DURATIONAL-AFFIRMED AND INCREASED IF NO "GET"

In Mizrahi-Srour v. Srour, 2016 Westlaw 1442274 (2d Dept. Apr. 13, 2016), the husband appealed from a December 2012 Supreme Court judgment which, among other things: precluded him from introducing certain evidence of business finances at trial; awarded the wife maintenance of $100 per week for 5 years, to be increased to $200 per week if the husband did not provide a Get to the wife within 60 days; distributed 70% of the marital assets to the wife; and awarded her counsel fees in the sum of $70,000. On appeal, the Second Department affirmed. The parties were married in October 1996 and had 4 children born between 1998 and 2008. In October 2009, the wife commenced the action for divorce upon the ground of cruel and inhuman treatment. The parties each had a 50% interest in a business. Supreme Court, upon the wife's preclusion motion, directed disclosure be completed by a certain date and that the business be appraised at the husband's cost. The husband failed to disclose certain documents, abandoned the business and it was not appraised. The Appellate Division held that Supreme Court "providently exercised its discretion in precluding the defendant from introducing the subject evidence of business finances. The defendant's repeated failures to comply with court orders relating to discovery were willful and contumacious, and justified the sanction imposed." With regard to maintenance, the Second Department found that "Supreme Court properly imputed $72,486 in annual earnings to the defendant, based upon his prior income (citation

omitted), and its determination that the defendant's account of his finances was incredible." The Court concluded that the maintenance increase of $100 per week "to adjust for the adverse economic consequences which would result to her from the defendant's refusal to grant her a Get was proper and was not an impermissible interference with religion." With respect to the proportions of equitable distribution, the Appellate Division, noted: "Considering the economic misconduct of the defendant and his frustration of any attempt to value the family business, which he apparently abandoned, the Supreme Court awarded the plaintiff 70% of the known marital estate, which consisted of the marital residence, two life insurance policies, and retirement funds. The record supports the Supreme Court's finding that the defendant dissipated marital assets by choosing to abandon the business until the litigation concluded." As to counsel fees, the wife sought $84,268, in addition to $5,000 previously awarded. The Second Department upheld the $70,000 award to the wife, based upon the rebuttable presumption in Domestic Relations Law §237[a] and the husband's "obstructive litigation tactics."

CUSTODY - ANGER, CHILD'S ORAL HYGIENE, VULGAR LANGUAGE AS FACTORS

In Matter of Jared CC v. Marcie DD, 2016 Westlaw 1368916 (3d Dept. Apr. 7, 2016), the mother appealed from a July 2014 Supreme Court order, which, following a hearing in a Family Court Article 6 proceeding, granted custody of the parties' child born in 2010 to the father. The parties separated in July 2011 and entered into an informal arrangement under which the mother had primary custody. The parties' relationship began to deteriorate on April 2013, when the father began cohabiting with his then girlfriend, whom he later married. In September 2013, the mother sent the father's wife "a series of threatening, profanity-laced text messages, which were apparently touched off by the wife's refusal to give the child sugary soda, and ultimately resulted in criminal charges being filed against the mother. That same night, and for multiple days thereafter, the father received from the mother a series of equally vitriolic and profane telephone calls and text messages." The father filed a family offense petition against the mother, and obtained a temporary order of protection. The proceeding was transferred to Supreme Court. The father filed for custody in November 2013, and received a temporary order of custody. The mother cross-petitioned for custody. On appeal, the Third Department affirmed, stating that following its "own independent review of the record, we fully agree with the court's comprehensive and well-founded determination that awarding sole custody to the father is in the child's best interests." The Appellate Division found: "Despite the mother's attempt to characterize her violently threatening and vulgar September 2013 communications with the wife and the father as isolated incidents, the record makes clear that the mother has a history of untreated anger issues and has been prone to violent outbursts for much of her life. While the use of foul language, without more, may not warrant the denial of custody (citation omitted), the court noted several examples of how the child's repeated exposure to the

mother's violent temper has negatively impacted the child's emotional and psychological well-being." The Court noted further that "Supreme Court had an ample basis to further conclude that the father should be awarded sole custody due to the mother's gross irresponsibility regarding the child's oral hygiene (citations omitted). While the mother was the child's primary caretaker, she allowed the child to consume excessive amounts of soda, which caused the child to suffer severe tooth decay and abscesses that will require extensive oral surgery. The mother's claims that she rarely gave the child soda and never took the child to a dentist because the father would not pay for it are flatly contradicted by documentary evidence in the record." The Third Department concluded: "Finally, we will not disturb Family Court's decision to limit the mother's contact with the child to supervised visitation, inasmuch as "[the mother's] inability to control [her] anger in the presence of [her] daughter is detrimental to the child's best interests."

CUSTODY - AUTISM SPECTRUM & CAREGIVING; EXCLUSION OF FORENSIC DENIED

In Douglas H. v. C. Louise H., 2016 Westlaw 1421023 (1st Dept. Apr. 12, 2016), the mother appealed from a September 2015 Supreme Court, which denied her motion to exclude the forensic evaluator's report, and from an October 2015 order of the same court, which awarded sole legal custody of the parties' son to the father. On appeal, the First Department affirmed, noting that following an 18-day hearing, Supreme Court found that while both parties have "serious deficiencies as parents," the father "is the one more likely to make decisions that are appropriate for the child," given that "he would send the child, who was diagnosed as being on the autism spectrum, to a therapeutic boarding school," which the mother opposed, and "would use an appropriate educational consultant, in light of the child's need for intensive behavior modification." The Appellate Division held that Supreme Court properly denied the wife's motion to exclude the forensic report and that "Frye v United States (293 F 1013 [DC Cir 1923]) does not require the exclusion of a forensic report solely because it does not cite to the professional literature supporting the evaluator's opinion." The Court concluded: "The forensic report does not rely to a significant extent on hearsay statements; the primary sources of the evaluator's conclusions are his interviews with the parties and his own observations."

CUSTODY - INTERNATIONAL TRAVEL (CHINA)

In Matter of Ye v. Sin, 2016 Westlaw 1576962 (2d Dept. Apr. 20, 2016), the father appealed from a June 2015 Family Court order, which granted the mother's petition seeking permission to travel to China with the subject child "in the summer of 2016," and permitted her to renew the child's passport without the father's consent. On appeal, the Second Department, finding that the order appealed from was "overly broad," modified, on the facts and in the exercise of discretion, and specified that the mother shall "depart for travel to China with the subject child

no sooner than August 1, 2016, and return no later than August 31, 2016, on condition that, on or before July 15, 2016, the mother provides the father with (a) copies of roundtrip airline tickets for the trip for both the child and the mother, (b) a detailed travel itinerary including contact information, transportation information, and lodging information for each day of travel, and (c) a method of communicating with the child on a daily basis (once the mother and child have arrived at their destination or destinations) in a manner that complies with the provisions in the parties' stipulation of settlement regarding daily telephone contact." The parties' incorporated stipulation stated that the mother cannot travel to China with the child without the father's consent, and also provides that the mother can seek a judicial determination if the father unreasonably withholds such consent. The Appellate Division held: "Under the circumstances presented here, the court's findings that the father's withholding of consent for the trip was unreasonable, that it was in the child's best interests to visit her relatives in China, and that the mother did not pose a flight risk have a sound and substantial basis in the record."

CUSTODY – RELOCATION – GRANTED (45 MILES)

In Matter of David B. v. Katherine G., 2016 Westlaw 1313172 (1st Dept. April 5, 2016), the mother appealed from a January 2015 Family Court order, which, after a hearing, granted the father's petition to modify a September 2010 consent order, to the extent of designating the father's NYC home as the primary residence of 2 children (born in 2002 and 2005), awarded visitation to the mother, and denied the mother's cross petition to modify the same order, so as to award her sole custody and permit her to relocate with the children to Katonah, New York. On appeal, the First Department reversed, on the law, denied the father's petition, granted the mother's cross petition, and remitted to Family Court for determination of an appropriate visitation schedule for the father. The parties lived from 2002 to 2009 in an apartment on 32nd Street in a building then owned by the paternal grandfather, and moved in June to an apartment on East 68th Street, also owned by the paternal grandfather. The parties separated in 2010, at which time the mother moved back into the 32nd Street apartment. A September 14, 2010 so-ordered stipulation provided for "joint legal custody of the children with the [m]other's home designated as the[] [c]hildren's primary residence" and required the parties to "discuss diligently and agree upon all matters" affecting the children, "including, but not limited to, choice of schools." In October 2010, the paternal grandfather commenced eviction proceedings against the mother. He sold the building in February 2011, and the new owner evicted the mother in May 2011. In 2012, the mother petitioned the court to allow her to relocate to Colorado with the children, based on: the prior eviction; her inability to afford similar housing in NYC; and the fact that in Colorado, she had family, a house, and an offer of employment. That petition was denied and the mother returned to NY. The mother moved to Katonah, Westchester County, in 2013 and claimed that it would be in the children's best interests to attend school in Westchester, as she was the primary residential parent. The father filed a November 2013

petition to modify the consent order by granting him sole custody. The father alleged that there had been a change of circumstances, in that the mother had relocated to Katonah from Manhattan and refused to comply with the terms of the consent order. The mother filed a cross petition, also seeking sole custody, in which she claimed a change of circumstances, including the eviction and relocation, which caused the children to travel to Manhattan for school. The Appellate Division found that "the mother testified that she had selected Katonah for its superior school system and to permit the father to have relatively easy access to the children. She described the excellent quality of the Katonah public school system and its numerous extracurricular and athletic programs. When the children were with her they rode bikes, built forts, and played lacrosse, field hockey and basketball. They also enjoyed going to the town pool and library. The children's school in Manhattan, the Ella Baker School, lacked similar athletic or after-school programs." As to forensic evidence, the First Department noted that the "court-appointed psychiatrist opined that the mother had a stronger emotional connection with the children, both of whom had never wavered in their desire to live with her on a full-time basis. *** The father lacked a similar strong emotional connection with the children or an awareness of their educational and emotional struggles." The Appellate Division noted that the children "expressed a desire to live with their mother in Katonah." The First Department found that the father "failed to show a change of circumstances warranting awarding him primary physical custody" and "failed to demonstrate that he had the same degree of attention to the children's emotional, academic and social needs as the mother." The Court further stated: "The mother throughout maintained her focus on the children; the father began a new relationship and had a new child, introducing more instability into his children's lives. That relationship has now unraveled, leaving the children with another broken home and a half-sister living in France." In conclusion, the Appellate Division determined that the mother "had sound reasons for relocating to Katonah and did so only after failing to find affordable housing in New York City. Katonah is 45 miles from the City and accessible via MetroNorth. ***There is every reason to believe she will comply with liberal visits for the father, including increased summer and vacation time."

CUSTODY - STANDING – NON-BIOLOGICAL PARENT

In Matter of Kelly S. v. Farah M., 2016 Westlaw 1355552 (2d Dept. Apr. 6, 2016), Farah M. appealed from a March 2015 Family Court order which, without a hearing: (a) denied her motion to dismiss Kelly S.'s petition for visitation with the two children born in March 2007 and April 2009 on the ground of lack of standing or, in the alternative, to schedule a hearing on the issue of Kelly S.'s standing, and to join the subject children's biological father, Anthony S., as an additional necessary party to the proceeding; and (b) sua sponte, dismissed, with prejudice, Farah M.'s petitions to establish the paternity of the subject children. The parties registered as domestic partners in California in 2004, and were legally married in California in 2008. Farah M.

conceived the aforesaid two children through artificial insemination. The parties relocated to New York and later separated. Kelly S. moved to Arizona, while Farah M. remained in New York with the children. The Second Department stated the issue: "On this appeal, we primarily consider whether, as a matter of comity, the Family Court properly recognized Kelly S. as a parent of the children under New York law, thereby conferring standing for her to seek visitation with the children, notwithstanding the parties' failure to comply with California's artificial insemination law. For the reasons that follow, we answer this question in the affirmative."

CUSTODY - VIOLATION – THERAPY – NOT FOUND

In Matter of Palazzolo v. Giresi-Palazzolo, 2016 Westlaw 1442161 (2d Dept. Apr. 13, 2016), the father appealed from a March 2015 Family Court order, which, after a hearing, dismissed his violation petition alleging that the mother failed to comply with a prior order directing her to place the children in therapy. On appeal, the Second Department affirmed, finding: "on the day of the prior court order, she [the mother] scheduled an intake appointment for the children," which the children completed, and she scheduled the children's first therapy session; the children, who were teenagers, "adamantly refused to attend the therapy appointment." The Appellate Division held: "Under the facts of this case, the Family Court properly found that the father failed to establish by clear and convincing evidence that the mother wilfully violated the Family Court order to have the subject children attend therapy."

EQUITABLE DISTRIBUTION - DOUBLE COUNTING – NOT FOUND

In Palydowycz v. Palydowycz, 2016 Westlaw 1442123 (2d Dept. Apr. 13, 2016), the wife appealed from a May 2013 Supreme Court judgment, which upon a December 2012 order, granted the husband's motion to deny her any distributive award for the value of his medical practices and interest in an ambulatory surgical center. On appeal, the Second Department reversed, on the law, denied the husband's motion, vacated the December 2012 order and remitted for further proceedings. The parties were married in 1989, and have 2 children, ages 19 and 17 at the time of trial. The husband is an eye surgeon who owns two medical practices and a 9.7561% interest in an ambulatory surgical center. The wife was the primary caretaker of the children, and did not work outside of the home. During the trial, the parties stipulated to the issues of maintenance and child support, whereunder the husband agreed to pay the wife $14,000 per month for 6 years, denominated as maintenance, but intended to satisfy the husband's child support obligation. In support of his above-mentioned motion, the husband argued that a distributive award for the practices and surgery center "would constitute impermissible double counting of his income because his stipulated support obligation was based upon his full 2010 income of approximately $1,000,000." While the motion was pending,

the trial resumed and the wife presented the testimony of her expert, who used an income approach to value the husband's medical practices and interest in surgical center, and concluded that the combined value of the two medical practices was $1,830,000, and that the value of the interest in the surgical center was $638,000. Supreme Court reasoned that awarding the wife a distributive share of these assets "would constitute double counting because the income stream the plaintiff's expert used to value the defendant's medical practices and interest in the ambulatory surgical center was the same income stream used to determine his maintenance obligation." Supreme Court stated that "its discretion to award the plaintiff a distributive share of these assets in addition to maintenance had been 'permissibly taken away' by the parties' stipulation." The Second Department held: "The rule against double counting applies where the projected earnings used to value an intangible asset, such as a professional license, are also used to calculate a maintenance award" and that "[i]t is only where [t]he asset is totally indistinguishable and has no existence separate from the [income stream] from which it is derived that double counting results." The Appellate Division further stated: "In cases decided by this Court subsequent to the Court of Appeals' decision in Keane, we have repeatedly concluded that distributing a party's business and awarding maintenance based upon the income earned from that business does not constitute impermissible double counting because a business is a tangible, income-producing asset (citations omitted). We also extended this rationale to the distribution of a medical practice in Griggs v Griggs (44 AD3d 710, 713), wherein we stated that the rule against double counting 'does not apply where, as here, the asset to be distributed is a tangible income-producing asset,' rather than an intangible asset, such as a professional license, the value of which can only be determined based on projected earnings." The Court concluded: "Here, the defendant's medical practices, which employ other individuals including several doctors, and his interest in an ambulatory surgical center, are not intangible assets which are 'totally indistinguishable' from the income stream upon which his maintenance obligation was based (Keane v Keane, 8 NY3d at 122), and the valuation method used by the plaintiff's expert to determine the fair market value of these assets does not change their essential nature. *** To the extent that Rodriguez v Rodriguez (70 AD3d 799) is inconsistent with our determination, it should no longer be followed. Since the Supreme Court granted that branch of the defendant's motion which was to deny the plaintiff any distributive award based upon the value of his medical practices and interest in the ambulatory surgical center before the trial was completed, the defendant had no opportunity to present evidence pertaining to the value of these assets. *** We note that the parties agreed to a maintenance award without addressing the equitable distribution of the defendant's medical practices and his interest in the ambulatory surgical center. The better practice would have been for the parties to evaluate those assets and consider their value as tangible assets subject to distribution before agreeing to a permanent amount of maintenance, child support, and other expenses, together with a distributive award. Nevertheless, the Supreme Court retains discretion to consider the value of the defendant's medical practices and his interest in the ambulatory surgical center, together

with the agreed upon maintenance award, in arriving at an equitable distribution of this marital property."

EVIDENCE – RECORDING CONVERSATIONS BETWEEN PARTIES

In Matter of Sanchez v. Rexhepi, 2016 Westlaw 1442153 (2d Dept. Apr. 13, 2016), the mother appealed from an April 2014 Family Court order, which, after a hearing, granted the father's petition for sole legal and physical custody of the parties' son (born July 2011) and denied her petition for the same relief. On appeal, the Second Department affirmed, holding that Family Court's determination was in the best interests of the child. The Appellate Division held that "Family Court did not violate the best evidence rule in admitting into evidence copies of recordings of conversations between the parties. The best evidence rule applies only where a party seeks to prove the contents of a writing, in which case the original must be produced or its absence satisfactorily explained." The Court concluded: "A proper foundation was laid for the admission of the recordings, as the father, a participant in the conversations, testified that he had personally recorded the conversations, and that the recordings were a fair and accurate representation of those conversations and had not been altered."

EVIDENCE – RECORDING CONVERSATIONS OF CHILDREN

In People v. Badalamenti, 2016 Westlaw 1306683 (April 5, 2016), the Court of Appeals held "that the definition of consent, in the context of 'mechanical overhearing of a conversation' pursuant to Penal Law §250.00(2), includes vicarious consent, on behalf of a minor child." The Court applied "a narrowly tailored test for vicarious consent that requires a court to determine (1) that a parent or guardian had a good faith belief that the recording of a conversation to which the child was a party was necessary to serve the best interests of the child and (2) that there was an objectively reasonable basis for this belief."

PATERNITY – EQUITABLE ESTOPPEL

In Matter of John J. v. Kayla I., 137 AD3d 1500 (3d Dept. Mar. 31, 2016), the mother and her husband appealed from a December 2014 Family Court order, which found petitioner to be the father of a child born to the mother in August 2012, during her marriage to her husband. The mother and her husband separated in 2011 when the mother engaged in a sexual relationship with petitioner. The mother and her husband reconciled, and child was placed in foster care 4 days following his birth; the mother and her husband were found to have derivatively neglected him. Petitioner commenced the paternity proceeding when the child was 6 weeks old. The

husband sought dismissal on equitable estoppel grounds. Family Court ordered genetic marker testing, which revealed a 99.99% likelihood that petitioner is the child's father. The proceeding was assigned to another judge, who held a hearing on the issue of equitable estoppel, and rejected the husband's argument. Family Court found that petitioner had established his paternity, and an order of filiation was entered. On appeal, the Third Department affirmed, noting that "Family Court should have held the hearing on the issue of equitable estoppel before ordering genetic marker testing." The Appellate Division found that while the mother and her husband "rely heavily upon the husband's efforts to support the mother during her pregnancy and to prepare for the arrival of the child, and we have said that such efforts are relevant to an equitable estoppel defense," *** "the child's reliance upon a representation of paternity" is the "primary consideration." The Court found that "the child has been in foster care since he was four days old," and despite the evidence that "the husband has provided the child with food, clothing, toys and affection, and that the child has referred to him as 'daddy,' he admitted that the child has never spent the night at his residence and that he only sees the child during daytime supervised visitations, which fluctuate in their frequency and have never totaled more than 10 hours per week." The Third Department concluded that petitioner "promptly commenced this proceeding asserting his own paternity just six weeks after the child was born" and that "the husband and the child were not in a recognized and operative parent-child relationship."

Editor's Note: If you wish to submit an article for consideration for inclusion in the Bulletin, please send it to me in MS Word at wagner@mltw.com by the 15th of each month, for the next succeeding month, with a copy to ekarabatos@soklaw.com.