

TABLE OF CONTENTS

PREFACE	V
TABLE OF CASES	XXIX
Chapter 1. A Brief History of American Family Law.....	1
A. Introduction to Family Law in the United States: History, Definition, and Organization.....	1
1. Background	1
a. What Subjects Are Included in Family Law?	2
b. An Organizational Framework for the Study and Practice of Family Law	2
2. Cases, State Laws, Notes, and Problems.....	3
Moore v. City of East Cleveland	3
State Laws	10
Notes.....	10
Problem	14
3. Multiple Perspectives.....	14
B. The Importance of Family Law	17
1. Background	17
2. Cases, State Laws, Notes, and Problems.....	18
Maynard v. Hill.....	18
State Laws	20
Notes.....	21
Problem	22
3. Multiple Perspectives.....	22
a. Bread-and-Butter Law	22
b. Service	22
c. Pro- and Con- Perspectives	23
C. Federalism in Family Law and the Domestic Relations Exception to Diversity Jurisdiction.....	24
1. Background	24
a. Jurisdiction over Parties in Family Law Litigation	25
1) Introduction.....	25
2. Cases, State Laws, Notes, and Problems.....	27
Ankenbrandt v. Richards	27
State Laws	31
Notes.....	31
Problem	31
3. Multiple Perspectives.....	31
D. Constitutionalization of Family Law and Family Autonomy.....	32
1. Background	32
2. Cases, State Laws, Notes, and Problems.....	33
Meyer v. Nebraska	33

State Laws	37
Notes.....	38
Problem	39
3. Multiple Perspectives.....	40
Chapter 2. Pre-Marriage Issues	41
A. Engagement Rings	41
1. Background	41
2. Cases, State Laws, Notes, and Problems.....	42
McGrath v. Dockendorf.....	42
State Laws	45
Notes.....	45
Problem	46
3. Multiple Perspectives.....	47
B. Fraudulent Inducement to Marry	48
1. Background	48
2. Cases, State Laws, Notes, and Problems.....	48
Montenegro v. Avila	48
State Laws	51
Notes.....	53
Problems.....	54
3. Multiple Perspectives.....	54
C. Prenuptial Agreements.....	55
1. Background	55
2. Cases, State Laws, Notes, and Problems.....	55
Ware v. Ware	55
Elgar v. Elgar.....	64
State Laws	71
Notes.....	72
Problems.....	73
3. Multiple Perspectives.....	73
D. Invalidation of Prenuptial Agreements at the Time of Enforcement	74
1. Background	74
2. Cases, State Laws, Notes, and Problems.....	74
Sailer v. Sailer	74
State Laws	82
Notes.....	82
Problems.....	83
3. Multiple Perspectives.....	83
Chapter 3. Marriage Requirements	85
A. Competence and Consent.....	85
1. Cases, State Laws, Notes, and Problems.....	86
Clark v. Foust-Graham	86
State Laws	91
Notes.....	92
Problems.....	93

2. Multiple Perspectives	94
B. Substantive Requirements for Marriage Entry	95
1. Marriages Involving a Minor	95
2. Cases, State Laws, Notes, and Problems	95
Everetts v. Apfel	95
Notes	99
State Laws	100
Problems	102
3. Multiple Perspectives	102
C. One at a Time	103
1. Cases, State Laws, Notes, and Problems	103
State of South Dakota v. Clements	103
State Laws	106
Notes	107
Problem	107
2. Multiple Perspectives	108
D. Incest Regulations	108
1. Cases, State Laws, Notes, and Problems	108
Mason v. Mason	108
State Laws	110
Notes	110
Problem	111
2. Multiple Perspectives	111
E. Marriage Formalities	111
1. Licensure	111
2. Solemnization	112
Yaghoubinejad v. Haghghi	112
State Laws	114
Notes	114
Problem	115
3. Multiple Perspectives	115
F. The Marriage Continuum	116
1. Common Law Marriage	116
2. Cases, State Laws, Notes, and Problems	117
Etienne v. DKM Enterprises, Inc.	117
State Laws	120
Notes	121
Problem	123
3. Multiple Perspectives	123
G. Covenant Marriage	123
State Laws	124
Notes	126
Problem	126
1. Multiple Perspectives	126
a. Practical Issues re: Covenant Marriage	127

H.	Choice of Law and International and Comparative Marriage	
	Regulation.....	127
	American Airlines, Inc. v. Libardo Abraham Mejia	128
	State Laws	131
	Notes	131
	Problem	132
	1. Multiple Perspectives.....	132
Chapter 4. Marriage and the Constitution		135
A.	Restrictions on the Basis of Race	135
	1. Background	135
	2. Cases, State Laws, Notes, and Problems.....	135
	<i>Loving v. Virginia</i>	135
	State Laws	138
	Notes.....	139
	Problem	139
	3. Multiple Perspectives.....	139
B.	Marriage as a Right Protected Under Substantive Due Process	140
	1. Background	140
	2. Cases, State Laws, Notes, and Problems.....	140
	<i>Zablocki v. Redhail</i>	140
	State Laws	144
	Notes.....	145
	Problem	146
	3. Multiple Perspectives.....	146
C.	Plural Marriages	146
	1. Background	146
	2. Cases, State Laws, Notes, and Problems.....	147
	<i>Brown v. Buhman</i>	147
	Notes.....	154
	Problem	156
	3. Multiple Perspectives.....	156
D.	Same-Sex Marriages	157
	1. Introduction	157
	2. Cases, State Laws, Notes, and Problems.....	157
	<i>Obergefell v. Hodges</i>	157
	<i>Pavan v. Smith</i>	165
	State Laws	167
	Notes.....	168
	Problem	168
	3. Multiple Perspectives.....	168
E.	Marriages Involving Minors	170
	1. Background	170
	2. Cases, State Laws, Notes, and Problems.....	171
	<i>Moe v. Dinkins</i>	171
	State Laws	174
	Notes.....	174

Problem	175
3. Multiple Perspectives.....	175
Chapter 5. Parentage.....	177
A. Parental Rights Arising in Cohabiting Relationships	177
1. Background	177
2. Cases, State Laws, Notes, and Problems.....	178
<i>Lehr v. Robertson</i>	178
State Laws	183
Notes.....	184
Problems.....	185
3. Multiple Perspectives.....	186
B. Nonmarital Children Born into an Existing Marriage.....	187
1. Introduction	187
2. Cases, State Laws, Notes, and Problems.....	187
<i>Michael H. v. Gerald D.</i>	187
State Laws	193
Notes.....	194
Problem	196
3. Multiple Perspectives.....	196
C. Legitimacy	197
1. Background	197
2. Cases, State Laws, Notes, and Problems.....	198
<i>Lalli v. Lalli</i>	198
State Laws	204
Notes.....	206
Problem	207
3. Multiple Perspectives.....	208
D. Parental Responsibility.....	208
1. Background	208
2. Cases, State Laws, Notes, and Problems.....	209
<i>D.W. v. R.W.</i>	209
State Laws	213
Notes.....	216
Problem	217
3. Multiple Perspectives.....	217
Chapter 6. Assisted Reproductive Technologies	219
A. Surrogacy and I.V.F.	220
1. Background	220
2. Cases, State Laws, Notes, and Problems.....	221
<i>Johnson v. Calvert</i>	221
State Laws	229
Notes.....	231
Problem	233
3. Multiple Perspectives.....	233

B.	Dual Parenthood	234
1.	Background	234
2.	Cases, State Laws, Notes, and Problems.....	234
	<i>Elisa B. v. Superior Court</i>	234
	State Laws	239
	Notes.....	239
	Problem	241
3.	Multiple Perspectives.....	241
C.	Disposition of Frozen Embryos.....	242
1.	Background	242
2.	Cases, State Laws, Notes, and Problems.....	243
	<i>Szafranski v. Dunston</i>	243
	State Laws	252
	Notes.....	252
	Problem	253
3.	Multiple Perspectives.....	254
D.	Implications for Afterborn Children	255
1.	Cases, State Laws, Notes, and Problems	256
	<i>Astrue v. Capato ex rel. B.N.C.</i>	256
	State Laws	264
	Notes.....	264
	Problem	264
2.	Multiple Perspectives.....	264
Chapter 7. Adoption		267
A.	Adoption: History, General Requirements, and Termination of Parental Rights	267
1.	Background	267
	a. Voluntary and Involuntary Termination of Parental Rights	267
2.	Cases, State Laws, Notes, and Problems.....	268
	<i>In re I.K.</i>	268
	State Laws	278
	Notes.....	279
3.	Multiple Perspectives.....	284
	a. Classified Ads.....	284
	b. Adoption Expenses vs. Babyselling	284
	c. How Well Does Adoption Work?	284
	d. TPR Questions and Problems	286
	e. Academic Perspectives	286
B.	Placement of Children for Adoption.....	287
1.	Background	287
	a. Adoption Standard and Adoption Placement Policies.....	287
	b. Types of Adoption Placements or Processes	287
2.	Cases, State Laws, Notes, and Problems.....	289
	<i>Scott v. Family Ministries</i>	289
	<i>V.L. v. E.L., Et Al.</i>	294

State Laws	297
Notes.....	298
3. Multiple Perspectives.....	304
a. Race and Multi-Racial Adoptees.....	304
b. Academic Debate over Use of Race in Adoption Placement.....	304
C. Legal Consequences of Adoption	305
1. Background	305
a. Consequences of Adoption in General	305
b. Adoption Finality and Conflicting Policies	305
c. Interstate Recognition of Adoption.....	306
d. Grandparent Visitation.....	306
e. Informal or Equitable Adoption.....	306
f. Access to Information About Biological Relatives	306
2. State Laws, Notes, and Problems.....	307
a. Open Adoption	307
b. Adoption Statistics	307
3. Multiple Perspectives.....	307
a. The Law and Public Trust.....	307
b. Historical and Comparative Perspectives.....	308
c. Diverse Scholarship.....	308
D. International and Interstate Adoptions.....	308
1. Introduction	308
a. Context of International Adoptions	308
b. Interstate Adoption	309
2. Cases, State Laws, Notes, and Problems.....	309
a. The Hague Convention on Intercountry Adoption	309
b. Interstate Compact on the Placement of Children (ICPC) ...	310
Notes.....	311
3. Multiple Perspectives.....	311
a. The Need for International Adoption	311
b. Differing Perspectives of Scholars and Practitioners.....	311
Chapter 8. Preventing Parentage.....	313
A. Preventing Parentage by Contraception.....	313
1. Background	313
2. Cases, State Laws, Notes, and Problems.....	313
Griswold v. Connecticut	313
Eisenstadt v. Baird.....	317
State Laws	320
Notes.....	321
Problem	323
3. Multiple Perspectives.....	323
B. Preventing Parenthood by Abortion.....	325
1. Background	325
2. Cases, State Laws, Notes, and Problems.....	325
Roe v. Wade.....	325

Planned Parenthood v. Casey	329
Gonzales v. Carhart.....	336
Whole Woman's Health v. Hellerstedt	343
State Laws	352
Notes.....	352
Problem	356
3. Multiple Perspectives.....	356
 Chapter 9. Being Married	 359
A. Marital Status	359
Prince George's County v. Greenbelt Homes, Inc.	360
Statutes.....	364
Notes	364
Problems	366
1. Multiple Perspectives.....	367
B. Marital Property Regimes in General.....	369
Kirchberg v. Feenstra	370
State Laws	375
Notes	375
Problem	378
1. Multiple Perspectives.....	378
C. Economic Consequences of Marriage	383
Sharpe Furniture, Inc. v. Buckstaff	384
State Laws	390
Notes	391
Problem	392
1. Multiple Perspectives.....	393
D. Marriage Benefits.....	394
Smith v. Heckler.....	394
Notes	399
1. Multiple Perspectives.....	401
 Chapter 10. Marital Privileges and Heart Balm Damages	 403
A. Medical Decision-Making.....	403
1. Background	403
2. Cases, State Laws, Notes, and Problems.....	404
In re Schmidt	404
State Laws	411
Notes.....	412
Problem	413
3. Multiple Perspectives.....	413
B. Testimonial Privilege	414
1. Background	414
2. Cases, State Laws, Notes, and Problems.....	415
State v. Serrano	415
State Laws	425
Notes.....	425

Problem	427
3. Multiple Perspectives.....	427
C. Heart Balm Causes of Action	428
1. Background	428
2. Cases, State Laws, Notes, and Problems	428
Sharp v. Roskelley	428
State Laws	432
Notes.....	433
Problem	434
3. Multiple Perspectives.....	434
D. The Abolition of Heart Balm Actions and the Implications for Other Causes of Action	435
1. Background	435
2. Cases, State Laws, Notes, and Problems.....	435
DiMichele v. Perrella.....	435
State Laws	444
Notes.....	444
Problem	445
3. Multiple Perspectives.....	445
Chapter 11. Family Violence	447
A. Spousal Abuse.....	447
1. Background	447
2. Cases, State Laws, Notes, and Problems.....	448
State v. Rhodes	448
People v. Liberta	449
State Laws	452
Notes.....	453
Problem	454
3. Multiple Perspectives.....	454
B. Protective Orders: Jurisdiction, Procedures, Modification and Enforcement.....	456
1. Background	456
2. Cases, State Laws, Notes, and Problems.....	456
Mitchell v. Mitchell.....	456
State Laws	461
Notes.....	463
Problem	464
C. Non-Marital and Cohabitation Violence.....	464
1. Background	464
2. Cases, State Laws, Notes, and Problems.....	465
Jane Doe v. State of South Carolina	465
State Laws	472
Notes.....	472
Problem	474
3. Multiple Perspectives.....	474

Chapter 12. Minority Status.....	477
A. Emancipation.....	477
1. Background	477
2. Cases, State Laws, Notes, and Problems.....	478
In re Marriage of George.....	478
In re Marriage of Festers	480
State Laws	482
Notes.....	484
Problem	485
3. Multiple Perspectives.....	485
B. Child Liability.....	486
1. Background	486
2. Cases, State Laws, Notes, and Problems.....	486
Horton v. Hinely	486
State Laws	487
Notes.....	488
Problem	488
3. Multiple Perspectives.....	488
C. Juvenile Courts	488
1. Background	488
2. Cases, State Laws, Notes, and Problems	489
Walker v. State	489
State Laws	492
Notes.....	493
Problem	495
3. Multiple Perspectives.....	495
D. Abuse and Neglect.....	498
1. Background	498
2. Cases, State Laws, Notes, and Problems	499
DeShaney v. Winnebago County DSS	499
State Laws	505
Notes.....	510
Problem	510
3. Multiple Perspectives.....	510
Chapter 13. Noneconomic Parental Relations	513
A. Religion and Education.....	513
1. Background	513
2. Cases, State Laws, Notes, and Problems	513
Pierce v. Society of Sisters	513
Prince v. Massachusetts.....	517
Jonathan L. v. Superior Court.....	520
Shepp v. Shepp	531
State Laws	539
Notes.....	541
Problem	542
3. Multiple Perspectives.....	543

B.	Medical Treatment	545
1.	Background	545
2.	Cases, State Laws, Notes, and Problems	545
State v. McKown	545	
State Laws	553	
Notes	553	
Problem	555	
3.	Multiple Perspectives	555
Chapter 14. Parents' Economic Duties.....		557
A.	Economic Relations—Support of Children	557
1.	Background	557
2.	Cases, State Laws, Notes, and Problems	559
People in the Interest of S.P.B.....	559	
Americana Healthcare Center, a Div. of Manor Healthcare Corp. v. Randall	563	
Weinand v. Weinand	571	
State Laws	577	
Notes	577	
Problem	579	
3.	Multiple Perspectives	580
B.	Parental Liability	580
1.	Background	580
a.	Parental Liability at Common Law for the Acts of the Child	580
2.	Cases, State Laws, Notes, and Problems	580
Ridgell v. McDermott	580	
Knight v. Merhige	583	
State Laws	592	
Notes	592	
Problem	594	
3.	Multiple Perspectives	594
C.	Property Ownership—the Uniform Transfers to Minors Act (UTMA) and the Uniform Gifts to Minors Act (the UGMA).....	594
1.	Background	594
2.	Cases, State Laws, Notes, and Problems	595
Sutliff v. Sutliff	595	
State Laws	598	
Notes	599	
3.	Multiple Perspectives	600
Chapter 15. Quasi-Parental Relations.....		601
A.	Grandparent Rights	601
1.	Background	601
2.	Cases, State Laws, Notes, Problems	602
Troxel v. Granville	602	
State Laws	609	

Notes.....	610
Problem	611
3. Multiple Perspectives.....	611
B. Stepfamilies and Foster Families.....	618
1. Background	618
2. Cases, State Laws, Notes, and Problems.....	619
Smith v. Org. of Foster Families	619
State Laws	625
Notes.....	626
Problem	626
3. Multiple Perspectives.....	627
Chapter 16. Divorce Jurisdiction and Procedures	629
A. Jurisdiction for Divorce.....	629
1. Background	629
2. Cases, State Laws, Notes, and Problems	629
Williams Et Al. v. State of North Carolina (Williams I)	629
Williams Et Al. v. State of North Carolina (Williams II).....	637
Sherrer v. Sherrer	643
Weiss v. Weiss.....	649
State Laws	654
Notes.....	654
Problems.....	657
3. Multiple Perspectives.....	657
B. Divorce Procedure	660
1. Background	660
2. Cases, State Laws, Notes, and Problems	660
Sosna v. Iowa	660
Cloutier v. Cloutier.....	665
Notes.....	668
State Laws	669
1) Procedural and Substantive Prerequisites	669
2) Bifurcated Divorce Proceedings	670
3) Legal Separation and Annulment.....	670
Problem	671
3. Multiple Perspectives.....	671
Chapter 17. Divorce	675
A. Grounds and Defenses for Divorce	675
1. Background	675
2. Cases, State Laws, Notes, and Problems	677
Watts v. Watts	677
Ibrayeva v. Kublan	682
Davis v. Davis	685
Carambat v. Carambat	687
State Laws	691
Notes.....	692

Problem	693
3. Multiple Perspectives.....	693
B. Separation and No-Fault Divorce	694
1. Background	694
2. Cases, State Laws, Notes, and Problems	695
Vandervort v. Vandervort	695
Bchara v. Bchara	700
Sargent v. Sargent.....	704
State Laws	705
Notes.....	706
Problems.....	707
3. Multiple Perspectives.....	707
Chapter 18. Property Division	715
A. Property Division upon Divorce—in General	715
1. Background	715
a. Overview of Marital Property and Equitable Distribution Principles.....	715
2. Cases, State Laws, Notes, and Problems	717
Sewall v. Saritvanich	717
White v. White	721
Thomson v. Thomson.....	724
Alford v. Alford	729
State Laws	733
Notes.....	734
Problem	737
3. Multiple Perspectives.....	737
B. Complex Property Division Issues	738
1. Background	738
a. Complex Property Division Issues in General.....	738
2. Cases, State Laws, Notes, and Problems	739
Martinez v. Martinez.....	739
State Laws	744
Notes.....	746
3. Multiple Perspectives.....	755
C. Tax Consequences of Divorce	756
1. Background	756
a. The Unit of Taxation Is Important to Understand in Evaluating the Tax Consequences of Divorce.....	756
b. Tax Issues in Divorce	756
2. Cases, State Laws, Notes, and Problems	757
Weaver v. Weaver.....	757
State Laws	759
Notes.....	759
Problems.....	760
3. Multiple Perspectives.....	760

Chapter 19. Spousal Support.....	763
A. Introduction	763
1. Background	763
2. Cases, State Laws, and Notes.....	765
Orr v. Orr	765
State Laws	769
Notes.....	771
B. Spousal Support Standards and Factors	773
1. Background	773
2. Cases, State Laws, Notes, and Problems.....	773
Moore v. Moore	773
Hoverson v. Hoverson	783
State Laws	792
Notes.....	796
Problems.....	800
3. Multiple Perspectives.....	801
Chapter 20. Separation Agreements.....	803
A. Separation Agreements.....	803
1. Background	803
2. Cases, State Laws, Notes, and Problems.....	803
Schipper v. Quinn.....	803
Sveen v. Melin.....	807
Bratton v. Bratton.....	810
State Laws	816
Notes.....	816
B. Bankruptcy and Post-Divorce Litigation.....	817
1. Background	817
2. Cases, State Laws, Notes, and Problems.....	818
In re O'Brien	818
State Laws	819
Notes.....	820
C. Termination of Quasi-Spousal Relations.....	821
1. Background	821
2. Cases, State Laws, Notes, and Problems.....	822
Marvin v. Marvin.....	822
Hewitt v. Hewitt	828
Connell v. Francisco	835
State Laws	840
Notes.....	842
Problem	844
D. Alternative Dispute Resolution.....	845
1. Background	845
2. Cases, State Laws, Notes, and Problems.....	846
Schechter v. Schechter	846
State Laws	847
Notes.....	847

Problems.....	848
3. Multiple Perspectives.....	849
Chapter 21. Jurisdiction over Custody, Visitation and Adoption	
Awards.....	851
A. The UCCJEA and Home State Jurisdiction	852
1. Background	852
2. Cases, State Laws, Notes, and Problems.....	852
Castro v. Castro	852
State Laws	856
Notes.....	856
Problem	857
3. Multiple Perspectives.....	857
B. The Hague Convention on the Civil Aspects of International Child Abduction.....	860
1. Background	860
2. Cases, State Laws, Notes, and Problems.....	860
Abbott v. Abbott.....	860
Additional Convention Provisions.....	875
Notes.....	876
Problem	876
3. Multiple Perspectives.....	876
C. The Indian Child Welfare Act	877
1. Background	877
2. Cases, State Laws, Notes, and Problems.....	878
Adoptive Couple v. Baby Girl	878
State Laws	887
Notes.....	887
Problem	888
3. Multiple Perspectives.....	888
Chapter 22. Child Custody 891	
A. Historical Child Custody Approaches	891
1. Background	891
2. Cases and Notes	891
Shelley v. Westbrook	891
Notes.....	893
3. Multiple Perspectives.....	894
B. Contemporary Child Custody and Visitation Standards.....	896
1. Background	896
2. Cases, State Laws, Notes, and Problems.....	898
Palmore v. Sidoti	898
In re Marriage of Gambla & Woodson	902
Fulk v. Fulk	908
In re Marriage of Minix.....	913
In re JNS	921
State Laws	925

Notes.....	926
Problem	929
3. Multiple Perspectives.....	929
 Chapter 23. Enforcement and Modification of Custody	937
A. Introduction to Custody	937
1. Background	937
a. The Initial Custody Decree and Custody Modifications	937
2. Cases, State Laws, Notes, and Problems	938
Ronny M. v. Nanette H.	938
Rohmiller v. Hart.....	947
State Laws	956
Notes.....	956
Problems.....	957
3. Multiple Perspectives.....	958
B. Modification of Custody	958
1. Background	958
a. Grounds for Requesting Modification	958
2. Cases, State Laws, Notes, and Problems	959
Watkins v. Watkins	959
State Laws	964
Notes.....	964
Problem	965
3. Multiple Perspectives.....	965
C. Relocation	966
1. Background	966
2. Cases, State Laws, Notes, and Problems	966
DePrete v. DePrete	966
State Laws	977
Notes.....	979
Problems.....	979
3. Multiple Perspectives.....	980
 Chapter 24. Child Support	981
A. Child Support	981
1. Background	981
2. Cases, State Laws, Notes, and Problems	981
Straub v. B.M.T. by Todd.....	981
State Laws	985
Notes.....	986
Problem	986
Turner v. Rogers.....	986
State Laws	997
Notes.....	998
Problem	998
3. Multiple Perspectives.....	999

B. Child Support Jurisdiction, Procedures, Modification and Enforcement.....	1000
1. Background	1000
2. Cases, State Laws, Notes, and Problems.....	1002
J.R. v. L.R.....	1002
State Laws	1006
Notes.....	1007
Problem	1007
O'Neil v. Wal-Mart	1007
State Laws	1014
Notes.....	1015
Problems.....	1016
Lopez-Ruiz v. Botta	1017
State Laws	1024
Notes.....	1024
3. Multiple Perspectives.....	1025
INDEX.....	1027