

# Foreword

In the mid-summer of 2012 I received a telephone call from a respected colleague, inviting me at nearly the last minute to participate as a faculty member at the American Bar Association's annual Family Law Trial Advocacy Institute. The Institute is presented every summer in partnership with the National Institute for Trial Advocacy in Boulder, Colorado. I was thrilled and terrified—thrilled to receive the invitation to participate as a faculty member for such a valuable course in the field of family law, and terrified I would be asked to help teach a subject to others that I still find challenging after 30 years as a lawyer: trial practice and the substantive law of evidence. Nevertheless, I was game to try.

Upon my arrival that first summer, I was immediately impressed by the soft-spoken lawyer on the faculty who taught evidence and trial advocacy with precision, confidence, and the simple eloquence possessed by true experts. Steven Peskind, a graduate of the Institute and a regular member of its faculty for many years, has long made evidence and trial practice key focuses of his scholarly interests (along with tai chi, yoga, spirituality, the life and writings of Abraham Lincoln, and a diverse variety of other pursuits). He presents complex subject matter in a way that makes it seem perfectly understandable, rational, and logical. I was excited to learn that he had just written a book for the ABA Family Law Section, entitled *The Family Law Trial Evidence Handbook*. His approach was so compelling that I immediately acquired this treatise, which quickly became the most important practical book in my law library. Now, with *One Hundred Days Before Trial*, Steven addresses the *pretrial* phase of family law cases, articulating a disciplined, flexible, and effective approach to the enormous task of trial preparation.

One of my lawyer friends often jokes that, no matter how well prepared, “there is not a trial lawyer alive who doesn't round the corner to the courthouse on the morning of trial, secretly hoping to find it is surrounded by fire engines and has a ‘closed for the day’ sign prominently displayed!” There is a great deal of truth to this remark. Why is this so? I think it is true, at least in part, because of the tremendous responsibility assumed by lawyers who advocate for clients with real-world, day-to-day problems involving that which is most important to every

individual: the future of one's immediate family. This is hard work! The expectations are substantial. Each of us in marital and family law feels this responsibility daily, and it becomes all the more acute as a trial approaches and we attempt to distill mountains of detailed information into a persuasive, thematic package. Our clients are not corporations, institutions, or insurance companies with litigation budgets, general counsel, and sophisticated litigation experience upon which to draw for guidance and assurance. Our clients are individual human beings, most of whom have never stepped into a courthouse, and whose quality of life and family fortunes are on the line. They look to us for guidance and assurance. Developing methods of practice allowing us to effectively carry this burden for the client in a way that we, too, can maintain a healthy life, is a central pursuit for any trial lawyer.

Steven's latest book embraces this challenge. *One Hundred Days Before Trial* focuses on creating a persuasive vision of the case prior to trial, and developing the necessary internal systems ensuring proper and thorough preparation—systems applicable to all cases, which allow us to carry this load of interests and expectations with confidence and skill, and with the assurance that our clients receive our very best and most effective efforts in every case. Steven's book outlines an approach to trial preparation and practice that has worked successfully for the finest family law attorneys in our profession for years.

In a previous book, Steven wrote that “[n]ot every case can be concluded at the conference table. Even in this era of ADR, complete family lawyers still need the skills to resolve their cases in court.” If this is true (and I believe it is), gifted and experienced trial lawyers are harder to find than ever before. That is why books such as this one are so important to our profession. I am certain the reader will find it as instructive as I have.

When Steven asked me to write the foreword to this book, I was again both thrilled and terrified. I was thrilled to have the honor of writing this foreword for such an excellent manual for trial preparation for all marital and family law attorneys, and I was terrified that I would not be able to do justice either to the book or its author in the brief pages I was invited to write. It really doesn't matter. *One Hundred Days Before Trial*, like *The Family Law Trial Evidence Handbook* before it, is a practical and useful resource for the family trial lawyer. You will be glad you own this book, and you will be a more effective trial lawyer because you do.

Cary J. Mogerma, Esq.