Committee Newsletter | Fall 2017

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Introduction from the Committee

The American Bar Association Young Lawyer Division Family Law Committee welcomes you to the 2017 bar year. Our Committee is pleased to release our first of this year’s four newsletters. This year’s missions are to assist young family law practitioners by providing certain knowledge and practice tips and to provide a national family law network for new lawyers. The 2017 – 2018 leadership appointees are as follows:

Marie Sarantakis – Chair
Lori A. Frio-Walker – Chair

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Letter from the Editor
By: Paula E. Pitrak, Esq.

I am thrilled to be this year’s Content Editor for the YLD’s Family Law Committee. Our Newsletter aims to provide young practitioners with helpful tips, resources, and legal analyzes that are beneficial nationwide. Successful family law practitioners possess a particular set of skills—ranging from emotional aptitude and intelligence to a working knowledge of a myriad of topics, such as taxation, business valuation, estate planning, and forensic accounting, to name a few. We hope to provide valuable content and awareness of continuing legal education programs to better all our committee members.

Whether it’s watching a CLE webcast, attending networking events, reading the newsletter, or submitting an article, active participation in our Committee serves to better your career and our family law community. I encourage each of you to submit an article for publication on a topic that interests you or that could benefit our national family law network. If we each contribute to this year’s agenda and publications, we are sure to have an interesting, educational year.

If you are interested in submitting an article for consideration, please email your article along with a biography, not to exceed three sentences, to pepitrak@gmail.com. I look forward to compiling our wealth of knowledge into the remaining newsletters.

Deferred Action for Childhood Arrivals and Family Law
By: Paula E. Pitrak, Esq.

On June 15, 2012, President Barack Obama announced the Deferred Action for Childhood Arrivals (DACA) program, which gave undocumented youth temporary relief from deportation as well as authorization to work, which can be renewed once every two years. This program did not provide the permanent status of a legal resident or the ability to become a legal citizen to these undocumented youths. For approximately five years, children who benefited under DACA—“dreamers”—have become integral members of our school systems and professional industries, and many have gotten married and started families with either American citizens or other dreamers.

On September 5, 2017, the current administration made the decision to begin phasing out DACA protections if legislation is not passed by Congress. The effects and consequences of either the termination of DACA or the creation of legislation remain unknown. It is clear, however, that this will directly impact families who were granted temporary relief from deportation and the ability to work—some who may be our clients.

Family law practitioners should begin reaching out to immigration attorneys to learn more about the deportation process where dreamers are married to and/or have children with American citizens. We should attempt to create safeguards to protect parents’ rights and to keep intact their parental responsibilities. While this might dramatically affect whether dreamers or their spouses actually file for dissolution of marriage given the uncertainty of deportation, the unknown effects on...
current clients must be understood to be minimized.

Paula E. Pitrak practices family law in Chicago, Illinois. She is an active member of and serves in numerous leadership roles with the American Bar Association, Chicago Bar Association, and Illinois State Bar Association.

Primer on Pensions
By: Paula E. Pitrak, Esq.

Retirement benefits are often one of the most valuable assets in a marital estate. To ensure our clients are receiving an equitable division of the marital estate, we must be able to properly characterize these benefits, which then must be valued and distributed between the parties.

In 1974 the Employee Retirement Income Security Act (ERISA) was enacted, and then amended by the Retirement Equity Act (REA) of 1984—both altered the design, creation, qualification, and operation of all private sector pension and benefit plans. Today, almost all private employee benefit and pension plans are qualified plans under ERISA. Contributions to these plans are tax deductible for the employer, are not includable as taxable income to the employee, and are not taxed until the employee receives said funds from the plan.

Employee benefit plans pay an employee, upon the age of retirement; the participants’ employers are known as the plan sponsors. The plan sponsor must be a separate legal entity from the benefit operation of all private sector pension and benefit plans. Today, almost all private employee benefit and pension plans are qualified plans under ERISA. Contributions to these plans are tax deductible for the employer, are not includable as taxable income to the employee, and are not taxed until the employee receives said funds from the plan.

A defined benefit plan pays an employee, upon retirement, a defined benefit based on a predetermined formula that can be paid in a lump sum or over a certain number of years. The employer assumes full risk for these plans, and the employees have no control over the investments in the plan. These plans typically require expert valuation to determine their present value.

On the other hand, a defined contribution plan provides benefits based solely on the amount contributed to that participant’s account, personally or by the participant’s employer, together with any income, dividends, interest, capital gains, or forfeitures. The risk for these plans is entirely that of the plan participant, who receives on retirement an amount dependent upon the management of and investments in the participant-controlled plan.

Both types of plans become vested once the participant has earned certain rights to receive present or future benefits, which may not be taken away even if the employee quits or is terminated. If a participant leaves his or her employment when the plan is either unvested or partially vested, then the participant forfeits his right to the unvested portion. A plan is matured when the participant has satisfied certain conditions that entitle him or her to immediate retirement and immediate receipt of the plan’s benefits. A plan can be vested but not yet matured, but a matured plan is always vested.

In our next Newsletter we will address the maturation and valuation of both defined benefit plans and defined contribution plans.
**Professional Decorum**

By: Jennifer N. Airato, Esq.

Emotions run high in family law cases. Understandably so, as such cases are typically one of the most stressful times of our clients' lives. As attorneys practicing family law, it is easy to get swept up in our clients' emotions and to lose perspective on our responsibilities. It is always important and imperative that we, as attorneys, take a step back and remember our role in our cases. There is no benefit to our client when we take on their emotional personas. To the contrary, heightened emotions result in an attorney becoming unreasonable and unable to properly assess the issues of the case. When that occurs it is inevitable that a case will be litigated in a high conflict setting as opposed to settled or litigated in the client's favor. After all, judges do not look favorably at attorneys who are irrational and yelling in their courtroom. Rather, judges appreciate attorneys who advocate for their clients in a professional manner and are able to separate themselves from a case. Such boundaries lend themselves to an attorney that is respectful, insightful and competent. In the end, an attorney's ability to maintain perspective results in a client that is satisfied with his or her representation because you were able to provide clarity and calmness when the client needed it most.

*Jennifer N. Airato* practices family law in Chicago, Illinois. *She is an active member of the American Bar Association, Chicago Bar Association, and Illinois State Bar Association, and is a child's representative and mediator.*

**NEWS AND ANNOUNCEMENTS**

**2018 Section of Family Law Spring CLE Conference**

By: Paula E. Pitrak, Esq.

This American Bar Association’s 2018 Section of Family Law Spring CLE Conference will be held from May 9, 2018 to May 12, 2018 in Nashville, Tennessee at the Omni Nashville Hotel, which is located at 150 3rd Ave. S., Nashville, TN 37201.

**YLD Assembly and Business Meetings at the ABA Midyear Meeting**

By: Paula E. Pitrak, Esq.

This American Bar Association’s Midyear meeting will include the YLD Assembly and Business Meetings. The meeting will be held from February 2, 2018 to February 4, 2018 in Vancouver, British Columbia—registration and hotel accommodations to come.

**YLD Spring Conference**

By: Paula E. Pitrak, Esq.

This American Bar Association YLD Spring Conference will be held from May 10, 2018 to May 12, 2017 in Louisville, Kentucky—registration and hotel accommodations to come.

**2018 ABA Chicago Annual Meeting**

By: Paula E. Pitrak, Esq.

This American Bar Association Chicago Annual Meeting will be held from August 2, 2018 to August 7, 2018 in Chicago, Illinois at the Hyatt Regency Chicago.

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