Table of Contents

CHAPTER 1. MARRIAGE, PREMARITAL CONTRACTS, AND ANNULMENT

I. SUMMARY/SKETCH OF NATIONWIDE LAW

§ 1:1 In general

II. MARRIAGE AND ITS LEGAL SIGNIFICANCE

§ 1:2 In general (validity)

III. ANNULMENTS

§ 1:3 In general

IV. VOID (PROHIBITED) AND VOIDABLE MARRIAGES

§ 1:4 In general

V. PREMARITAL AGREEMENTS

§ 1:5 In general

VI. MISCELLANEOUS MARRIAGE ADVICE

§ 1:6 In general

§ 1:7 Special considerations for a "grey divorce"

APPENDIX 1A. DRAFTING PREMARITAL AGREEMENTS

APPENDIX 1B. Determining Readiness for Divorce

CHAPTER 2. ETHICS AND CLIENT RELATIONS

I. ETHICS AND MALPRACTICE BASICS

- § 2:1 Sources of authority on professional responsibility issues
- § 2:2 Attorney's obligations to client
- § 2:3 Most common transgressions

- § 2:4 Outline of lawyer discipline system
- § 2:5 Basic principles of malpractice law
- § 2:6 —Common mistakes

II. RETENTION, DISCHARGE, AND FEES

- § 2:7 Ethical and unethical sources of business
- § 2:8 Initial interview
- § 2:9 Client information packets
- § 2:10 Retention checklist
- § 2:11 Retainer contract or contract letter
- § 2:12 Charging practices and ethical rules thereon
- § 2:13 Ending the representation
- § 2:14 Withdrawal and discharge
- § 2:15 Charging practices/billing options: You must decide and client deserves to know
- § 2:16 Letters of retention and non-retention

III. CONFLICTS AND RELATED MATTERS

- § 2:17 Conflict of interest considerations
- § 2:18 Dealing with unrepresented opponent
- § 2:19 Avoiding ethical and malpractice complaints in attempting attorney mediation
- § 2:20 ABA lawyer-mediation standards
- § 2:21 Client funds and property

IV. CONFIDENTIALITY

§ 2:22 Maintaining confidentiality

V. OTHER CLIENT-RELATIONS ISSUES

- § 2:23 Forming and preserving good attorney-client relationship
- § 2:24 Attorney independence and client control
- § 2:25 Malpractice
- § 2:26 Clients to avoid

VI. FAMILY LAW PRACTICE-BUILDING IDEAS

§ 2:27 In general

VII. PRO SE SELF-HELP, "UN-BUNDLING," LIMITED LAWYER ASSISTANCE

§ 2:28 In general

Table of Contents

APPENDIX 2A. INITIAL INFORMATION PACKAGE

APPENDIX 2B. FORMS

CHAPTER 3. DISSOLUTION OF MARRIAGE

I. OVERVIEW OF LAW NATIONWIDE

- § 3:1 Jurisdiction to dissolve marriage
- § 3:2 Residency and domicile
- § 3:3 Standing and parties
- § 3:4 Grounds
- § 3:5 Procedure

II. MARRIAGE DISSOLUTION ALTERNATIVES

§ 3:6 In general

III. INITIAL INTERVIEW AS TO DIVORCE GROUNDS

§ 3:7 In general

IV. IMMEDIATE ADVICE AS TO SEPARATION

§ 3:8 In general

V. JURISDICTION AND RELATED REQUIREMENTS

§ 3:9 In general

VI. DIVORCE GROUNDS

§ 3:10 In general

VII. AFFIRMATIVE DEFENSES

§ 3:11 In general

VIII. MATTERS INCIDENT TO DIVORCE

§ 3:12 In general

IX. PROVING DIVORCE ENTITLEMENT GENERALLY—NO-FAULT

§ 3:13 In general

X. DIVORCE PROCEDURE, EVIDENCE—FAULT CASE

§ 3:14 In general

APPENDIX 3A. FORMS

CHAPTER 4. TEMPORARY RELIEF

I. GOVERNING LAW

- § 4:1 Statutes
- § 4:2 Jurisdiction
- § 4:3 Fault questions
- § 4:4 Procedural points
- § 4:5 Criteria for temporary alimony and child support amounts
- § 4:6 Injunctive relief
- § 4:7 Governing law—Temporary custody

II. WHETHER TO SEEK—GENERAL CONSIDERATIONS

§ 4:8 In general

III. INJUNCTIVE AND SIMILAR ORDERS— CONSIDERATIONS

§ 4:9 In general

IV. TEMPORARY CUSTODY

§ 4:10 In general

V. TEMPORARY ALIMONY

§ 4:11 In general

VI. CHILD SUPPORT

§ 4:12 In general

VII. INCOME AND EXPENSE STATEMENTS/ FINANCIAL AFFIDAVITS

- § 4:13 In general
- § 4:14 Annotated form and suggestion list

VIII. TRIAL PREPARATION AND TRIAL TECHNIQUES

§ 4:15 In general

IX. FEES AND COSTS

§ 4:16 In general

APPENDIX 4A. FORMS

CHAPTER 5. DISCOVERY

I. GOVERNING LAW, PRACTICAL PRINCIPLES

§ 5:1 In general

II. STRATEGIC CONSIDERATIONS AND TIMING

§ 5:2 In general

III. INTERROGATORIES TO THE OPPONENT

- § 5:3 Record-building complications
- § 5:4 Drafting interrogatories
- § 5:5 Interrogatories relating to property division
- § 5:6 Support-related inquiries
- § 5:7 Custody inquiries
- § 5:8 Grounds-related inquiries

IV. INTERROGATORIES FROM THE OPPONENT

§ 5:9 In general

V. REQUEST FOR DOCUMENTS

- § 5:10 Practice notes
- § 5:11 Grounds-related documents
- § 5:12 Custody-related documents
- § 5:13 Support-related documents
- § 5:14 Property-related documents

VI. DEPOSITIONS

- § 5:15 In general
- § 5:16 De bene esse depositions
- § 5:17 Using special deposition forms: Written questions, telephone, videotape and audiotape depositions, with documents

8	5:18	Foreign	depositions
2	0.10	I OI CIGII	acpositions

§ 5:19 When your client or witness is deposed

VII. REQUESTS FOR ADMISSIONS

§ 5:20 In general

VIII. COMPULSION AND ENFORCEMENT

§ 5:21 In general

IX. USE OF DISCOVERY MATERIALS AT TRIAL

§ 5:22 Interrogatories

§ 5:23 Depositions

APPENDIX 5A. FORMS

CHAPTER 6. ALIMONY/SPOUSAL MAINTENANCE

I. GOVERNING PRINCIPLES AND SKETCH OF LAW NATIONWIDE

§ 6:1 In general

II. JURISDICTION TO AWARD ALIMONY/ MAINTENANCE

§ 6:2 In general

III. CONTRACTUAL ALIMONY DISTINGUISHED FROM COURT-ORDERED ALIMONY

§ 6:3 In general

IV. TEMPORARY ALIMONY

§ 6:4 In general

V. PERMANENT ALIMONY

- § 6:5 Temporary/permanent alimony distinctions
- § 6:6 Basic theory and legal doctrines
- § 6:7 Eligibility for permanent alimony (criteria)
- § 6:8 Guidelines and formulas
- § 6:9 Considerations in initial interview
- § 6:10 Important trial considerations

xvi

VI. REHABILITATIVE ALIMONY

- § 6:11 Legal principles governing
- § 6:12 Showing necessary elements and obtaining award
- § 6:13 Sources of evidence in support of claim
- § 6:14 Defense against claim

VII. REIMBURSEMENT ALIMONY

- § 6:15 Theories of compensation for career-threshold no-asset professional's spouse
- § 6:16 Principles that govern reimbursement alimony awards
- § 6:17 Securing the award
- § 6:18 Defending the case

VIII. FACTORS AND CRITERIA

- § 6:19 Common law
- § 6:20 Statutory criteria
- § 6:21 Real operative criteria

IX. LUMP SUM OR PERIODIC ALIMONY

- § 6:22 Principles that will govern
- § 6:23 Securing, and defending against, lump sum award

X. TRYING THE ALIMONY CASE

- § 6:24 The alimony-seeking client's proof
- § 6:25 Arguing for alimony
- § 6:26 Supporting spouse's proof
- § 6:27 Argument against alimony
- § 6:28 Income/expense statement (budget sheet, financial declaration or affidavit)
- § 6:29 Imputed-income case

XI. ALIMONY AND BANKRUPTCY

§ 6:30 In general

XII. SETTLEMENT CONSIDERATIONS

§ 6:31 In general

XIII. TAX CONSIDERATIONS

§ 6:32 In general

XIV. ENFORCEMENT

- § 6:33 Legal principles
- § 6:34 To enforce by contempt—Steps
- § 6:35 Additional enforcement devices
- § 6:36 Defenses

XV. MODIFICATION AND TERMINATION

- § 6:37 Legal principles
- § 6:38 Securing a modification
- § 6:39 Defending against modification

APPENDIX 6A. FORMS

CHAPTER 7. CHILD SUPPORT

I. SKETCH OF LAW NATIONWIDE

§ 7:1 In general

II. JURISDICTION TO AWARD CHILD SUPPORT AND PATERNITY

- § 7:2 In general
- § 7:3 The Uniform Interstate Family Support Act (UIFSA)

III. TEMPORARY CHILD SUPPORT

§ 7:4 In general

IV. PERMANENT CHILD SUPPORT

§ 7:5 In general

V. CHILD SUPPORT FACTORS AND CRITERIA

- § 7:6 Common law criteria
- § 7:7 Statutory criteria
- § 7:8 Child support schedules (tables, guidelines)

VI. RELATIONSHIP TO CUSTODY

§ 7:9 In general

VII. CHILD SUPPORT AND ALIMONY

§ 7:10 Interrelationship of child support and alimony

xviii

TABLE OF CONTENTS

8	7:11	Crucial	child	support-alimony	distinctions

VIII. TRYING THE CHILD-SUPPORT CASE

- § 7:12 The support-seeking client's proof
- § 7:13 Income and expense statement (budget sheet, financial declaration or affidavit)
- § 7:14 Supporting spouse's proof
- § 7:15 Real operative criteria
- § 7:16 Arguing for higher child support
- § 7:17 Argument for limits on support

IX. TAX CONSIDERATIONS

§ 7:18 In general

X. SETTLEMENT CONSIDERATIONS

§ 7:19 In general

XI. RELATIONSHIP TO VISITATION

§ 7:20 In general

XII. TERMINATION OF CHILD SUPPORT

§ 7:21 In general

XIII. MODIFICATION

- § 7:22 Legal principles
- § 7:23 Securing a modification
- § 7:24 Defending against child support modification

XIV. ENFORCEMENT

- § 7:25 Legal principles
- § 7:26 Steps to enforce child support by contempt
- § 7:27 Additional details on special enforcement devices, operative distinctions
- § 7:28 Defenses to enforcement

XV. BANKRUPTCY

§ 7:29 In general

APPENDIX 7A. FORMS

APPENDIX 7B. Income Withholding—What Employers
Should Know

APPENDIX 7C. Office of Child Support Enforcement Income Withholding Electronic Withholding Order

Process

APPENDIX 7D. State-Specific Information On Employer

Reporting Requirements For Lump Sums

and Bonuses

CHAPTER 8. PROPERTY DIVISION

I. SKETCH OF LAW NATIONWIDE

§ 8:1 In general

II. DIVISIBLE PROPERTY TYPES

§ 8:2 In general

III. IDENTIFICATION OF PROPERTY AS SEPARATE OR MARITAL

§ 8:3 In general

IV. VALUATION

§ 8:4 In general

V. PROPERTY DIVISION FACTORS AND CRITERIA

§ 8:5 In general

VI. PROCEDURAL FORMULAS

§ 8:6 In general

VII. SETTLEMENT CONSIDERATIONS

§ 8:7 In general

VIII. ENTITLEMENTS AND PERCENTAGES

§ 8:8 In general

IX. REMEDIES IN EQUITABLE DISTRIBUTION

§ 8:9 In general

X. MECHANICS OF IMPLEMENTATION

§ 8:10 In general

XI. TAKING THE EQUITABLE DISTRIBUTION CASE TO TRIAL

- § 8:11 Preliminary steps
- § 8:12 Preparation
- § 8:13 Property-division case—Trial

XII. SOURCE-OF-FUNDS TRACING

§ 8:14 Generally

APPENDIX 8A. FORMS

CHAPTER 9. PENSIONS

I. PENSION DIVISION—OVERVIEW OF LAW NATIONWIDE

§ 9:1 In general

II. SETTLEMENT CONSIDERATIONS

§ 9:2 In general

III. IDENTIFICATION OF BENEFITS FOR DIVISION

§ 9:3 In general

IV. RETENTION OF PENSION EXPERT

§ 9:4 In general

V. INVESTIGATION AND DISCOVERY

§ 9:5 In general

VI. CRUCIAL INFORMATION FOR EXPERT

§ 9:6 In general

VII. PRETRIAL QUESTIONS FOR EXPERT AND HIS/HER REPORT

§ 9:7 In general

VIII. PREPARATION OF EXPERT FOR TRIAL

§ 9:8 In general

IX. VALUATION MECHANICS

§ 9:9 In general

X. DIRECT EXAMINATION OF EXPERTS

§ 9:10 In general

XI. CROSS-EXAMINATION OF EXPERTS

§ 9:11 In general

XII. PENSION EXHIBITS

§ 9:12 In general

XIII. OTHER PROOF OF PENSION FACTS

§ 9:13 In general

XIV. REMEDIES, STRUCTURE AND MECHANICS OF PENSION AWARD/DECREE

§ 9:14 In general

XV. QUALIFIED DOMESTIC RELATIONS ORDERS, ETC.

§ 9:15 In general

XVI. "PAYABLE COURT ORDER" DIVIDING MILITARY RETIRED PAY AS PROPERTY

§ 9:16 In general

XVII. DIVIDING FEDERAL THRIFT SAVINGS PLANS

§ 9:17 In general

APPENDIX 9A. Husband's Pension—Wife's Calculation

APPENDIX 9B. Assets and Liabilities of Husband and Wife

APPENDIX 9C. FORMS

CHAPTER 10. CUSTODY

I. SKETCH OF LAW NATIONWIDE

§ 10:1 In general

xxii

Table of Contents

II. STEPS AND STAGES IN LITIGATION

§ 10:2 In general

III. CRITERIA FOR CUSTODY DECISION

§ 10:3 In general

IV. CLIENT INTERVIEW

- § 10:4 Initial interview
- § 10:5 Later interviews

V. HANDLING INTERSTATE CASES

- § 10:6 In general
- § 10:7 A guide to the interstate custody statutes

VI. TEMPORARY CUSTODY ARRANGEMENTS

§ 10:8 In general

VII. CHILD'S COUNSEL, GUARDIAN AD LITEM

§ 10:9 In general

VIII. MEDIATION AND REQUIRED COUNSELING

§ 10:10 In general

IX. DISCOVERY

§ 10:11 General

X. SOCIAL WORKER INVESTIGATION

§ 10:12 In general

XI. EXPERT WITNESSES

§ 10:13 In general

XII. SETTLEMENT CONSIDERATIONS

§ 10:14 In general

XIII. EVIDENCE FOR CUSTODY HEARING

§ 10:15 Witnesses

XIV. TRIAL

§ 10:16 Custody trial preparation

	8	10:17	Going	to	trial	on	custod
--	---	-------	-------	----	-------	----	--------

XV. ENFORCEMENT

§ 10:18 In general

XVI. VISITATION

- § 10:19 Normal and traditional visitation scheme
- § 10:20 Visitation alternatives
- § 10:21 Visitation considerations and advice
- § 10:22 Rules for successful visitation
- § 10:23 Visitation dangers and difficulties
- § 10:24 Visitation modification

XVII. MODIFICATION

§ 10:25 In general

XVIII. REPRESENTING FATHER

§ 10:26 In general

XIX. REPRESENTING MOTHER

- § 10:27 In general
- § 10:28 Representing other parties; Same sex partners; Grandparents; Other caregivers

XX. INTERNATIONAL CUSTODY DISPUTES— RETURN OF CHILDREN FROM ABROAD UNDER HAGUE CONVENTION

- § 10:29 In general
- § 10:30 A guide to using the Hague Convention

XXI. CUSTODY ARRANGEMENTS/ALTERNATIVES

§ 10:31 In general

XXII. AMERICAN INDIAN CASES

§ 10:32 The Indian Child Welfare Act (ICWA)

XXIII. DEPLOYED PARENT CUSTODY AND VISITATION ACT

§ 10:33 In general

xxiv

TABLE OF CONTENTS

APPENDIX 10A. BASIC CUSTODY LITIGATION FORMS
APPENDIX 10B. CUSTODY MODIFICATION FORMS
APPENDIX 10C. INTERSTATE CUSTODY FORMS
APPENDIX 10D. HAGUE CONVENTION FORMS

CHAPTER 11. SEPARATION AGREEMENTS

I. SKETCH OF LAW NATIONWIDE

§ 11:1 In general

II. AGREEMENTS: GENERAL PRINCIPLES

§ 11:2 In general

III. MATTERS COVERED

§ 11:3 In general

IV. SETTLEMENT OR TRIAL

§ 11:4 In general

V. NEGOTIATION ALTERNATIVES

§ 11:5 In general

VI. PREPARATION FOR NEGOTIATION

§ 11:6 In general

VII. BARGAINING THEORY

§ 11:7 In general

VIII. PRACTICAL NEGOTIATION HINTS

§ 11:8 In general

IX. DEFENSIVE PRACTICE CONSIDERATIONS IN SETTLEMENT

§ 11:9 In general

X. TAX CONSIDERATIONS

§ 11:10 In general

XI. DRAFTING

§ 11:11 In general

§ 11:12 Useful clauses

XII. INCORPORATION

§ 11:13 In general

XIII. ENFORCEMENT OF THE SEPARATION AGREEMENT

§ 11:14 In general

XIV. SEPARATION AGREEMENT SET-ASIDE (OVERTURNING PROPERTY SETTLEMENT)

§ 11:15 In general APPENDIX 11A. FORMS

CHAPTER 12. TAX MATTERS

I. GOVERNING LAW

§ 12:1 In general

II. FILING STATUS

§ 12:2 In general

III. PROPERTY TRANSFERS

§ 12:3 In general

IV. PENSION AWARDS

§ 12:4 In general

V. ALIMONY

§ 12:5 In general

VI. CHILD SUPPORT

§ 12:6 In general

VII. DEPENDENCY EXEMPTIONS

§ 12:7 In general

VIII. COUNSEL FEES

§ 12:8 In general

xxvi

IX. MISCELLANEOUS CONSIDERATIONS

§ 12:9 Miscellaneous tax matters

CHAPTER 13. POSTLITIGATION WORK

I. CLOSING THE FILE

§ 13:1 In general APPENDIX 13A. FORMS

CHAPTER 14. ADOPTION

I. SKETCH OF LAW NATIONWIDE

§ 14:1 In general

II. TYPES OF ADOPTIONS AND ADOPTION NOMENCLATURE

§ 14:2 In general

III. ETHICAL CONSIDERATIONS AND PROFESSIONAL RESPONSIBILITIES OF LAWYERS

§ 14:3 In general

IV. PRELIMINARY ACTIONS

§ 14:4 In general

V. CONSENT

§ 14:5 In general

VI. INTERLOCUTORY AND FINAL DECREES OF ADOPTION

§ 14:6 In general

VII. RETRACTION OF CONSENT

§ 14:7 In general

VIII. CONTESTED ADOPTIONS

§ 14:8 In general

IX. INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

§ 14:9 In general

X. NAME CHANGES OF CHILDREN

§ 14:10 In general

XI. ADOPTION INVOLVING AMERICAN INDIAN CHILDREN AND FAMILIES

§ 14:11 The Indian Child Welfare Act APPENDIX 14A. FORMS

CHAPTER 15. PRACTICAL CONSIDERATIONS OF FAMILY LAW PRACTICE

I. GETTING STARTED

- § 15:1 Use of checklists
- § 15:2 Case evaluation

II. ORGANIZING RESOURCES, INFORMATION, AND TIME

- § 15:3 Your own domestic relations legal knowledge
- § 15:4 Your own experiential knowledge
- § 15:5 Continuing Legal Education (CLE) material
- § 15:6 Calendar and schedules
- § 15:7 Case files
- § 15:8 Approach to litigation practice
- § 15:9 Simple ways to build forms files
- § 15:10 "Master Information List" method

Table of Laws and Rules

Table of Cases