2026 - 2027 Edition Highlights

With this resource you can successfully complete domestic litigation cases—ensuring that you are covering the full range of steps and considerations. Each chapter of this definitive set begins with an overview, examining the current state of the law across the country along with supportive case law, then provides extensive checklists that fully review domestic relations law nationwide, and ends with forms.

This publication covers issues such as: annulments and premarital agreements, litigating contested divorces on fault and no-fault grounds, privacy issues stemming from discovery, separation and temporary relief, treatment of family photographs and football tickets as marital property to be divided, non-marital QDROs, withdrawal and windup, ethics and client relations, temporary relief, discovery, separation agreements, tax matters, post-litigation work, and key statutes such as the Uniform Reciprocal Enforcement of Support Act, Parental Kidnapping Prevention Act, and Uniform Child Custody Jurisdiction Act.

Some of the highlights in this year's update include:

- While there is a preference to find a marriage valid despite some defects in the procedure followed, a court cannot recognize as valid a marriage ceremony that does not bear any of the requisites of a marriage but is rather conducted as an afterthought to a religious baptismal ceremony for the couple's child, and only in response to the officiant's inquiry as to whether the couple wished to be married. (§ 1:2)
- Habitual cruel and inhuman treatment is a ground for a fault-based divorce based on conduct that endangers or creates a reasonable apprehension of danger to life, limb, or health, rendering the relationship unsafe, or is so unnatural and infamous as to render the marriage revolting to the non-offending spouse. (§ 3:4)
- A motion to renew in connection with a pendente lite support order may be based on allegations of the discovery of new facts, but the movant bears the burden to prove the reason and justification for the failure to discover and submit the information as part of the initial motion. (§ 4:5)
- Although not common, a spouse may place their physical or mental health in issue with regard to the ability to care

for the parties' children, finances, or personal lives. In such instances, the other spouse may seek a physical or mental examination of the other party as a part of the discovery process. (§ 5:1)

- Best practices suggest that, in presenting evidence of a spouse's minimum reasonable needs for support, counsel prepare not only the financial disclosures required by the court, but also an itemized list of monthly income and expenses, and then to follow up on that with affidavits, testimony, and documentation. With respect to future needs, such as roof repair for the marital residence, photographs, written estimates from contractors, demands for repair or replacement made by an insurer, and other similar information. (§ 6:21)
- Tax returns, while often required, are not always an accurate means of identifying assets or income, in that the application of various deductions, credits, and exclusions from income, as well as provisions for the carry-over of excesses from prior years may inordinately distort the actual financial picture of the parties. Tax returns can, however, be used to fact-check certain items contained in other financial disclosures by the opposing party, and to potentially identify assets (such as in the instance where the tax return reports income or losses from dividends, asset sales, stock splits or buybacks, and the like, which are all indicative of assets held by the party reporting such income or deductions. (§ 6:28)
- Child support should be distinguished from guardianships and conservatorships. A person may be appointed as a guardian (usually a family relative or close friend) of a minor when the parents are proven to be unfit; a conservator is appointed to manage the assets of a minor (such as an inheritance) and may apply those assets to the child's needs during their minority. (§ 7:1)
- A parent has the burden of rebutting the presumption that application of statutory support guidelines will result in a fair and equitable child support order. (§ 7:8)
- Courts disagree on the inclusion in marital property of a bonus or stock option earned before dissolution, but not paid or distributed until after dissolution. Most recently, courts in Arkansas and Missouri have included such items on the ground that the risk that the bonus or shares would not be distributed was very low, and that the amounts or shares were earned during the marriage and should be deemed marital property. Earlier courts may not have followed this rationale in concluding otherwise. (§ 8:1)
- The issue of pets as property to be distributed or as living things over which joint custody can be awarded has been

addressed differently by various state courts, with some holding that there is no authority to grant joint custody over a pet as property, and others assuming jurisdiction to determine custody. (§ 8:2)

- Adoption by estoppel can arise where person agrees to adopt a child, but no statutory adoption proceeding is completed due to some defect in the paperwork or the process for some reason, and the child was treated as if adopted and acted with love and affection for the purported adoptive parent. (§ 14:2)
- Case investigation of most aspects of family law will require counsel to delve into the relationships and backgrounds of the family members to determine whether the client is actually being truthful and forthcoming, and to determine if there are issues or concerns that may affect the client's credibility and case outcome. Therefore, a checklist identifies these common issues to be considered, as well as providing some sources from which information may be drawn. (§ 15:2)

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