

## ***About This Issue***

The valuation of assets at divorce poses very complex questions. We asked the experts to address various types of assets and outline the methods that courts are using to value them. The result is this current issue on valuation.

Our issue editor is Joanne Ross Wilder who practices in Pittsburgh. She is a member of the Academy and the past president of the Pennsylvania chapter. She is also the past chair of the Pennsylvania Bar Association Family Law Section. She is an adjunct Professor at the University of Pittsburgh School of Law and has written and lectured extensively on family law matters.

Our first article deals with perhaps the most challenging type of assets to value; those that are speculative in nature. Written by Larry Cutler and Sam Schoonmaker IV the article is entitled *Division and Valuation of Speculative Assets: Reasoned Adjudication or Courthouse Confusion?* In it the authors survey different approaches to valuation of these assets, identify common themes or apparent inconsistencies and then make recommendations for a uniform system. Mr. Cutler is the founding partner in the Morristown, New Jersey law firm of Cutler & Simeone, L.L.C., a practice limited to matrimonial and related matters. He is the past president of the New Jersey chapter of the Academy and a former chair of the Family Law Section of the New Jersey State Bar Association. He is also the co-author of a three volume treatise entitled *NEW JERSEY FAMILY LAW PRACTICE*. Mr. Schoonmaker practices with the firm of Schoonmaker, George & Colin P.C., in Greenwich, Connecticut. He is the ABA Young Lawyers Division Liaison to the Family Law Section Council and Vice Chair of the Family Law Section's Congressional Relations Committee. He is also the managing Editor of *The Connecticut Family Lawyer*.

In *Value: More Than A Superficial Understanding is Required* our business experts, Jay Fishman and Bonnie O'Rourke discuss the assumptions that underlie different standards of value that are used in the appraisal process. Using examples from cases, the authors point out the variations in the meaning of "value" and discuss the problems that result when the standards for determining value are not clearly delineated.

Both Mr. Fishman and Ms. O'Rourke are Principals of Kroll Lindquist Avey, a corporate valuation firm located in Fort Washington, Pennsylvania. Mr. Fishman is the former chairman of the American Society of Appraisers Business Valuation Committee and a Member Emeritus Trustee of the Appraisal Foundation. He is also the co-author of *GUIDE TO BUSINESS VALUATIONS*. Ms. O'Rourke is a frequent speaker on business valuations, addressing organizations such as the American Society of Appraisers, the American Institute of Certified Public Accountants as well as several state Bar associations. She has also taught courses at the university level and published other articles on business valuation topics.

Moving slightly away from valuation issues, the next article takes a look at a unique domestic relations client; the professional athlete. Katherine Kinser and Scott Downing provide a look at the complex problems that are faced by the attorney who represents the professional athlete in a

domestic relations matter. Ms. Kinser is the former president of the Dallas Bar Association Family Law Section and a member of the Academy's Federalization of Family Law Committee. She is an officer in the Texas Academy of Family Law Specialists. Mr. Downing, who is an associate at McCurley, Kinser & Nelson is a member of the Family Law Section of the ABA, the State Bar of Texas and the Dallas Bar Association. The article is entitled Family Law Issues that Impact the Professional Athlete.

Our next article is co-written by an actuary, Jerry Reiss and an attorney, Michael Walsh and is entitled Post-Retirement Medical Bene-fits: A Not -So- Certain Property Right. As an associate, Society of Actuaries, and an enrolled actuary, Mr. Reiss has provided consulting and actuarial services to hundreds of plan administrators. He has written numerous articles and is listed in the Academy's expert national directory.

He currently practices in Altamonte Springs, Florida. Mr. Walsh, a board certified marital and family lawyer and certified mediator and arbitrator is a Fellow of the Academy. He is a frequent author and lecturer for the Florida Bar Association as well as other professional organizations.

Their article attempts to determine when a post-retirement medical benefit can be considered "property" and therefore subject to possible distribution at dissolution.

Our fifth article is sure to spark attorneys' interest. Written by Chris Tiso, an associate with Melvyn B. Frumkes & Associates P.A., in Miami, it discusses whether an attorney spouse's interest in work in progress on contingency fee cases worked on or acquired during the marriage is subject to division. In the article entitled Contingency Fees Cases: Part of the Marital or Communal Estate the author explores some of the concerns and nuances associated with valuing such interests and protecting attorney-client confidentiality. Mr. Tiso is also licensed to practice in New York and is a member of the first Family Law American Inn of Court.

We have several student-written comments in this volume beginning with Valuation of Stock Options in Dividing Marital Property Upon Dissolution written by Lynn Curtis. The article provides an overview of how state courts are treating this particular type of asset. It is followed by a discussion of yet another complex area, that of pensions in Characterization, Valuation and Distribution of Pensions at Divorce by Susan Prather. The timing of valuation is often a critical issue in a dissolution and the different ways courts address the issue is discussed in The Road to Splitsville: How the Timing of Valuation During Marital Dissolution Leads to Costly Detours by Lynn Judkins. Our final student comment addresses professional goodwill, another asset subject to differing treatment by the state courts. The article is entitled Professional Goodwill: Is It a Settled Question or is There "Value" in Discussing It? and is written by Helga White.

Our issue concludes with an annotated bibliography of articles on the subject of valuation of marital assets written by Prof. Nancy Levit of the University of Missouri-Kansas City School of Law.

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