

page 2

'Surrogate mother' contracts are okay, one court says

Woman loses out when ex-wife suddenly reappears

No visitation rights for grandmother after adoption

page 3

Divorce judge could resolve family business dispute

page 4

Husband punished for hiding assets from ex-wife

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Reducing conflict in child custody

Some of the most contentious battles in divorce cases involve children. Parents are naturally inclined to argue over custody and visitation rights, but sometimes they also have different and very strong beliefs about how children should be raised. Parents may bicker over whether children should attend sleep-away camp, go to a certain church or school, play a sport, have limits on TV or computer time, and so on.

In addition, sometimes couples are still angry at each other and use child-rearing battles as a proxy for their own ongoing conflict.

While some disagreement is probably unavoidable, there may be techniques that can reduce the stress for parents who have high-conflict custody issues, and avoid the hassle and expense of constantly returning to court to battle over minor problems. For instance:

Parenting coordinators. In some states, a judge can appoint a parenting coordinator – a specially trained social worker, therapist or attorney – who can help resolve disputes



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Parenting coordinators can mediate disagreements and teach better communication skills. Sometimes, a coordinator can actually make child-rearing decisions if the couple simply can't agree (although the "losing" parent can usually still appeal to the judge).

Parenting coordinators typically have a professional degree, years of experience and

additional training. For couples who simply can't communicate with each other without warfare erupting, they can sometimes be a good idea.

It's important to note that a parenting coordinator's job is to resolve disputes in the best interests of the children. Although many

continued on page 3

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'Surrogate mother' contracts are okay, one court says

A "surrogate mother" who agreed in writing to carry a child to term for a couple can't change her mind later and keep custody of the baby, the Wisconsin Supreme Court recently decided.

Monica Schissel was a childhood friend of a woman who couldn't have children of her own due to battles with cancer.

She volunteered to act as a surrogate mother, carrying a baby to be fertilized in-vitro with her own eggs and the husband's sperm. Monica and the couple signed a contract under which the couple would become the full legal parents of the child with exclusive custody. Monica also agreed to cooperate in a court's termination of her parental rights and in her friend's adoption of the child.

While Monica was pregnant, however, she decided she wanted to keep the baby.

The Wisconsin Supreme Court sided with the couple. It said allowing surrogacy contracts like this one would promote family stability and avoid protracted custody lawsuits that could stretch on for the first few years of a child's life.

However, the decision applies only in Wisconsin. Other states have different rules, and we'd be happy to advise you if you're concerned about this issue.

Woman loses out when ex-wife suddenly reappears

Barbara Sullivan considered herself happily married to retired pro football player Thomas Sullivan for two decades before his death. After he died in 2002, it appeared his NFL retirement benefits would leave her in stable financial shape.

But four years later, a woman named Lavona Hill suddenly stepped into the picture, claiming she was Sullivan's wife and was entitled to all the benefits.

As it turns out, Sullivan had previously been married to Hill. Several years before Sullivan

married Barbara, he separated from Hill. But the couple never actually got divorced, which meant that Sullivan and Barbara – who was completely unaware of Hill's existence – were never technically married in the first place.

Barbara and Lavona went to court to fight about the retirement benefits. Barbara argued that since she had no idea that Sullivan had been married before, and since she had lived with him as his wife in good faith for 20 years, a judge should divide the benefits between the two women in some fair way that took both their interests into account.

Some courts have allowed such a result in this situation. But Barbara was out of luck, because the South Carolina Supreme Court said that under state law, only Lavona was the real wife, and only Lavona had a right to the retirement benefits.

The moral of the story: Before you tie the knot, make sure you (and your beloved) are finally, legally divorced from any former spouse. Jumping the gun before the last of the paperwork is completed can have very unfortunate consequences.

No visitation rights for grandmother after adoption

A woman wasn't entitled to visitation with her grandson after he was adopted by non-relatives, the West Virginia Supreme Court ruled recently.

The boy's biological parents had their parental rights terminated due to abuse and neglect. The boy was placed with the grandmother for a short period, but then moved to a foster home. The grandmother continued to visit the boy regularly after he was placed with the foster parents, but the foster parents asked the court to cut off her visitation rights once they formally adopted the child.

The grandmother argued that she should still be able to visit the boy if doing so was in his "best interests."

But the court said that under the state's visitation law, parents have an absolute right to end grandparent visitation once a child has been adopted outside the family.

Some ways to reduce conflict in child custody cases

continued from page 1

coordinators are lawyers or therapists, they are not *your* lawyer or therapist, and they are not bound by the same confidentiality rules as a lawyer or therapist whom you hired on your own. That means things you tell them and things they witness can be reported to the court, so you should be on your best behavior.

Private mediators. Parenting coordinators are appointed by a court, but parents in many states can nevertheless seek out the help of a private mediator who can assist in resolving disputes.

Mediators don't have the decision-making authority that judges or parenting coordinators do, and if a parent is being vindictive, mediation might not work. But if both parents are sincere and simply have hard-to-reconcile differences about how the children should be raised, a mediator can often help them find common ground and reach a compromise.

Mediation can be less stressful and expensive than going to court, and the experience can help parents to open the lines of communication and resolve

differences better in the future.

Detailed parenting plans. In some states, a judge can approve a highly detailed parenting plan that resolves current disputes and anticipates and provides for other issues that might arise as the children grow older.

Certainly, it's much easier to resolve as many child-rearing issues as possible at the time of the divorce, rather than going back to court and fighting about them piecemeal later.

Parenting websites. There are some commercial websites that allow parents to handle all their custody-related interactions online.

These websites may offer a shared visitation calendar and allow parents to communicate online about schedule changes, expense reimbursements, and other issues.

The advantage of online communication is that there's a written record of every interaction. Parents

are much less likely to be vindictive when they know their words are being preserved, and there are far fewer "he said, she said" disputes when there's an online record of every agreement.

Some disagreement may be unavoidable, but there are techniques that can reduce the stress of custody issues and avoid the hassle and expense of constantly returning to court.



Divorce judge could resolve dispute over family business

A divorce judge could have the final say about a business dispute between a couple who used to operate a family business together, according to the Pennsylvania Superior Court.

The couple had owned a company that operated a motel. The husband was the president and the wife was the treasurer. One day, the husband fired the wife and replaced her with his daughter. He also changed the locks, removed the wife from the company checking account, and told the police not to allow her onto company property.

Not surprisingly, the wife responded by filing for divorce.

The divorce judge announced a plan to resolve all disputes pertaining to the business as part of the divorce, and issued a deadline for filing any claims.

A year after the deadline had passed, however, the

corporation filed a lawsuit against the wife, saying she had misappropriated funds. The lawsuit claimed the wife had removed furniture belonging to the company, used company assets to reimburse herself for personal expenses, and even helped herself to change out of the motel's vending machines.

The husband argued that even though the lawsuit was filed a year after the deadline, it didn't matter because he wasn't personally suing his ex-wife; the lawsuit was brought solely by the corporation.

But the Pennsylvania Superior Court said that, in reality, the husband *was* the corporation, since he was the president and majority owner. The fact that the corporation's name was on the lawsuit rather than the husband's didn't matter, and the lawsuit had to be thrown out because any business claims against the ex-wife had to be resolved in the divorce case.

A wife allegedly removed some company furniture, reimbursed herself for personal expenses, and helped herself to change out of vending machines.



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Husband punished for hiding assets from ex-wife



A man divorced his wife in California in 1999, and soon fell way behind in his alimony and child support payments. He moved to Pennsylvania and remarried in 2006.

Shortly before his remarriage, the man acquired some valuable real estate from his mother. A few days after the wedding, he conveyed the real estate – along with ownership shares in his

corporation – into a “tenancy by the entireties” with his new wife. That meant that he no longer owned the property individually, and a creditor couldn’t go after the property without his new wife’s permission.

Meanwhile, the man’s ex-wife filed a lawsuit to collect the overdue support. In 2008, a court awarded the ex-wife a judgment of \$550,000.

The ex-wife wanted to collect the money from the husband’s real estate and corporate shares – but she couldn’t, because the new wife was a co-owner.

The case went to a federal appeals court. The result? The court said the husband had committed “fraud” by transferring the property into a tenancy by the entireties in order to avoid his debts to his ex-wife. It ordered the transfer to be undone and the assets returned to his sole ownership, so the wife could collect the judgment from them.

Then, in a unique twist, it ordered the man to pay an additional \$550,000 to the ex-wife as punishment for his bad behavior. It said this was permitted by a Pennsylvania law on fraudulent transfers of property.

Not every state allows this type of additional punishment, but every state has laws that make certain transfers illegal if they’re designed to avoid lawful debts. We’d be happy to answer any questions you have about these types of situations.