

Dan's Talking Points Memo



COUN 231 • H. Dan Smith, EdD, MFT
Wilcoxon, Remley, Gladding, & Huber; Chapter 9
(for discussion on November 12, 19, and December 3, 2009)

1. May spouses testify against each other? Anybody know whether this is possible in CA?
2. Note the comment on page 244 (top), which says that due to the Uniform Marriage and Divorce Act by the National Conference of Commissioners on Uniform State Laws (1971) there seems to be a trend toward standardizing the laws on divorce throughout the country. Are we there yet?
3. Note the rules on the various ages for getting married. If 18+ at the time of marriage, the rules are quite liberal; if 16 - 18, there is some approval processes necessary which include both parents **OR** judicial approval. If under 16, the processes includes approval by both parents **AND** judicial approval (in CA). Anybody know how "judicial approval" is handled in Fresno County? (p. 244)
4. The book says marriage is a "fundamental right." Don't gay people have rights? What is the problem here, and what is YOUR opinion on this issue? (p. 245)
5. **Vermont.** Lots of stuff happening there with "civil unions." Be up-to-speed on this. I've posted a copy of Vermont Statute Title 15: Domestic Relations. Chapter 023: Civil Unions on my web site. Vermont was in the news because of their liberal stance on "domestic unions." Read about it. What do you think about it? Talk to me! (p. 245)
6. What do Weyrauch and Katz mean by "the courts are increasingly leaving the nature and terms of marriage to the parties themselves rather than imposing restrictions by a formal pronouncement of policy by the state"? (p. 246)
7. What do you perceive about the author's opinion on "prenuptial agreements"? Have they changed your view of them? What is your view of them? Have a sense of Belcher and Pomeroy's suggestions on drafting prenuptial agreements. (p. 247)
8. According to Lavori, why are people cohabitating these days? It is much more than "just for the fun of it." (pp. 248-248)
9. **Palimony.** Note on my web page an article on the California "Palimony" Law. Anybody ever hear of Lee Marvin? **Scavenger Hunt:** Where is Lee Marvin's grave? When did he die? The judgment on his agreement with Michelle Triola "Marvin" was that partners can make express contracts affecting their property rights as long as sex is not part of the consideration for the agreement. (p. 249)
10. There is some "legitimacy" and "paternity" information of pages 249 to 251 that is quite fascinating and potentially important for MFTs to know and understand.

11. We need to discuss the issues surrounding adoption, particular in the area of the rights of the unwed biological father (mothers are generally easier to identify than fathers in some circumstances). Note how the view of the father's role and authority seems to be changing over time. (pp. 251-253)
12. Note the statute under Section 5 of the Uniform Parentage Act regarding surrogacy and the type of consent that is required prior to artificial insemination. Surrogacy has been a very risky area of law. We need to talk about the issues of surrogacy as they relate to the practice of MFT. (p. 253)
13. **Abortion.** In *Roe v. Wade* (1973), understand the changing interest of the state v. the mother during the three trimesters of pregnancy on matters of abortion. (p. 254-256)
14. Have a general understanding of the laws pertaining to parental consent relative to abortion rights of their minor children. This is very complex, and quite interesting. The Supreme Court holds that "parental consent, parental notification, or judicial bypass" is required for minors seeking an abortion. (pp. 255-256)
15. Be able to articulate the two sources of state's rights to intrude on a family: 1) police power, and 2) *parens patriae*. (p. 256)
16. Define *annulment*. Are these situations on the rise or the decline? Why? Is a "Catholic Annulment" different from a "Civil Annulment"? (p. 258)
17. According to Coogler, why is it *impossible* for a lawyer to be involved in an amicable divorce? How is the role of the attorney inconsistent with the desire to separate peaceably and without rancor? Why is it necessary for there to be conflict when attorneys get involved? (p. 259-260)
18. What are the grounds for divorce in California? Is this a no-fault state? Have the grounds for divorce changed over the years? From what, to what? I'll lecture on this point; not in your book.
19. Have an understanding of the criteria that must be considered concerning the award of "spousal support" (euphemistically known as "alimony"). Hmm. What are the tax implications of "spousal support"? What is meant by the expression, "a community property state"? (pp. 261-263)
20. In matters of child custody, understand the "tender years doctrine" and guidelines delineating "the best interest of the child." (p. 264)
21. Be able to speak on the types of custody per the authors. We'll discuss California specific issues. (p. 265-266)
22. Are you aware of the current trends in enforcement of child support orders? Wow, they are pretty powerful. No place to run, no place to hide. What are the tax implications of child support? (p. 267-268)