

BOOK REVIEW

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A Practical Guide to Divorce in New Hampshire

Jeanmarie Papelian, Editor, et al.

No. 2100346B00. Copyright 2009, 1st Edition, MCLE, Inc., 976 pages in 2 volumes (Looseleaf) with Forms on Disc. Nonmember \$195.00; MCLE Sponsor Member \$175.00. Supplemented Regularly.

I am pleased to have had the opportunity to review the two-volume set entitled *A Practical Guide to Divorce in New Hampshire*, published by Massachusetts Continuing Legal Education under the MCLE | New England imprint. The book consists of 25 chapters in two loose-leaf binders, and is edited by Jeanmarie Papelian, an experienced family law practitioner in New Hampshire. The authors of the various sections of the volumes were selected for their specific expertise and also represent geographic diversity from law offices throughout the State of New Hampshire. The topics range from procedural matters such as how to fill out the financial affidavit, to strategic issues such as trial practice techniques and dealing with such sensitive issues as parenting and domestic violence.

The book is a practical and detailed guide to family law practice in New Hampshire, filled with examples and sound guidance. There is an introduction to the Family Division, which is relatively new to most family law practitioners in New Hampshire. The Family Division has its own set of procedures and forms and these are explained in the book. I found particularly helpful the marital master's commentaries and practice notes. The fact that the family court masters have contributed their own perspectives make the volumes unique.

This book represents a first for New Hampshire's family law practitioners, and presents to the family law attorney a comprehensive resource.

Chapter 2, entitled, "Initial Client Interview and Starting an Action for Divorce" is very useful in setting forth, not only the substantive issues such as the potential for a conflict of interest; duties to former clients; the safekeeping of client's property; candor toward the tribunal; but also in setting forth specific procedures and best practices for accepting new clients.

Chapter 3, entitled, "Dispute Resolution Alternatives" is very useful, especially since court-sponsored mediation and arbitration is new with the advent of the Family Court in New Hampshire. The court has gone to great lengths to make available dispute resolution alternatives for litigating parties, a majority of whom in New Hampshire are pro se litigants, and this book outlines the significant aspects of this alternative to litigation.

Chapter 8, entitled, "Division of Marital Estate" points out that often a couple's financial situation can present complex issues for the family law attorney involved in the division of the marital estate. There is an excellent explanation of how defined contribution pension plans are divided as well as other benefit programs available to the litigants, and the chapter sets forth relevant cases that have shaped New Hampshire law in these areas. This area is supplemented by Chapter 15, entitled, "Retirement Assets". In that chapter, the author compares pension plans with "SERPs", non-qualified plans, and other retirement assets, I found this to be very helpful.

The marital masters' commentaries in Chapter 12, entitled, "Pretrial Hearings" contain very useful practice tips. Very often, attorneys with their busy schedules overlook the significance of pre-trial conferences, case management conferences and status conferences which take place in most contested actions. I found most notable the marital master commentary that sets forth the fact that the court at the pre-trial conference expects to elicit a fairly detailed list of witnesses expected to be called, as well as disclosure of expert's reports and a list of exhibits which are to be prepared, marked and exchanged at the pre-trial conference. This is a very significant change in the Family Division pursuant to N.H. Fam. Div. R. 2.21(A). The master's commentary

also states that "it is the rule and expectation of at least some of the Family Division judges that parties will come to the pretrial conference with trial exhibits marked, identified, and ready to be exchanged." I can't stress enough how the pretrial hearings section is educational to both attorneys who occasionally practice in the Family Division, and those who are in the family courts all of the time. This chapter is one of the most useful chapters in the two volumes and its author, Helen G. Honorow, is to be commended.

There is also an excellent chapter on valuation by Richard J. Maloney, an experienced lawyer-certified public accountant who deals with valuation of assets, of experts, assets and appraisal techniques as well as date of valuation. The issue of valuation of assets in matrimonial matters is fact-intensive and subject to wide discretion of the trial court. Counsel must provide the court with as thorough an analysis of the assets as possible. This chapter provides a useful groundwork.

The chapter on expert testimony in domestic relations cases is very well written, and contains useful practice notes. The chapter on pre-nuptial agreements features an interesting discussion of the contract principles that underlie pre-nuptial agreements, and this chapter provides tips on procedural and substantive fairness in drafting pre-nuptial agreements that will be very useful to a lawyer who may encounter a pre-nuptial agreement drafting assignment or encounter the issue of a pre-nuptial agreement in any divorce situation.

There are many forms available in the volumes. There is a CD that comes with the volumes, which provides a compendium of forms beyond those listed on the family law website's list of forms.

The editor and all of the authors of *A Practical Guide to Divorce in New Hampshire* are to be commended for producing an excellent and well-written resource. No one who practices in the Family Division in New Hampshire should ignore these volumes. I know that I will use them over and over again. By not referencing in this review any particular chapter of the book I do not mean to indicate that it is not material since I found the entire two volumes to be extremely useful in any given situation and extremely well written.

The New Hampshire Legislature has set forth the following as the goals of the Family Division:

The goals of the Family Division are the respectful treatment of all citizens by justices, marital masters, and other Family Division staff, the prompt and fair resolution of family issues by justices and marital masters specially selected and trained to deal effectively with such issues, the use of alternative dispute resolution to reduce the adversarial nature of proceedings involving families, and the assignment of all family matters of a single family to one Family Division justice or marital master located in a Family Division court that is geographically accessible to the family.

N.H. Rev. Stat. Ann. § 490-D:1.

These volumes will be most useful in assisting everyone dedicated to achieving those goals.

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