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FROM THE CHAIR

By J. Paul Helvy, Esq.
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Paul Helvy

Thanks to everyone who attended the Winter Meeting in Lancaster for their continued strong support of the Section. Our Programming Committee chairs, **Hillary Moonay** and **Kerri Cappella**, and the entire Programming Committee, which includes **Stephanie Winegrad**, **Jerry Shoemaker** and **Hilary Bendik**, spent countless hours organizing the CLE that was such an important part of the Meeting. I would also like to acknowledge Court of Common Pleas **Judges David R. Workman** (Lancaster), **Ann Marie Wheatcraft** (Chester), **Linda A. Cartisano** (Delaware), **Robert Matthews** (Philadelphia), **Leslie Gorbey** (Lancaster), **Joseph Adams** (York), **Jeannine Turgeon** (Dauphin), and **Thomas Doerr** (Butler County) for their

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hard work and participation in the CLE sessions. The comments we received confirmed that the judicial perspective on the various issues that we regularly confront in our practice is invaluable. A special thanks must also be made to our sponsors and exhibitors who help to make our Winter and Summer Meetings possible. Finally, a special thanks to the PBA's **Pam Kance** and **Janell Klein** for all of their hard work "behind the scenes" to make our meetings successful, with record numbers of attendees.

At the meeting, I was presented with a CD containing an annotated version of the Custody Statute by **Judge Matthews**. This material has been added to the PBA Family Law Section website and is available to all Section members (See Page 11).

The Section continues to be incredibly active. **Julie Auerbach** is leading a team of attorneys that is diligently working on certification for Pennsylvania Family Law attorneys. This process includes the creation of an exam and we are fortunate that **Mark Ashton**, **Jonie Burner** and **Judge Gorbey** have agreed to draft that exam. Past Chairs **Carol Behers** and **Mary Cushing Doherty** are spearheading our

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WHAT TAX FILING STATUSES ARE AVAILABLE DURING A DIVORCE? BY MITCHELL E. BENSON, CPA, MT, CFF; DONNA M. PIRONTI, CPA, MSA; AND ADAM M. POUTASSE, CPA, MAcc

Yet another tax season has arrived and it is time to file tax returns. However, anyone in the process of getting divorced may wonder which federal filing status to use. Each financial circumstance and marital situation is unique and the filing status that is most beneficial for the parties should be discussed with an attorney and a CPA. However, there is clear guidance under the Internal Revenue Code as to which filing status is available under certain circumstances.

An individual's filing status is driven by whether he or she is considered married or unmarried at year end. If the individual is married at the beginning of the year, the only way he or she is considered unmarried at the end of the year is if there has been a legal separation or a divorce that is final by year end.

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State law governs whether the individual is considered divorced or legally separated. And although every state can formally issue a divorce decree, not all states have a formal legal separation.

Pennsylvania does not provide for formal legal separation. Consequently, in Pennsylvania, if an individual is married at the

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beginning of the year and not divorced at year end, then he or she is still considered to be married. Pennsylvania tax rules are simple in that there are only two choices — either married filing jointly or married filing separately. As the tax rate is flat in Pennsylvania, and spouses cannot offset their separate income and losses within each income category, there are likely no tax consequences to choosing either filing method.

For federal tax filing purposes there are three filing status options that could be available — Married Filing Joint (MFJ), Married Filing Separately (MFS) and Head of Household (HOH) — depending on the answers to the following two questions. First, has the married couple been living in the same household for the last six months of the year and second, is there a dependent child or other dependent living in the household?

If the couple lived together during the last six months of the year, the only options for filing are MFJ and MFS. MFS tax rates are higher than MFJ (although sometimes the MFS overall tax is less), so the choice depends on each couple's circumstances.

If the parties lived apart during the last six months of the year and did not have a dependent child or other dependent living in their separate household, then the only choices are still MFJ and MFS. However, if there was a dependent living in one of the parties' household and the dependency requirements are met, then

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ARTICLES

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a third option is available for the parent with the majority of the time and support — HOH. The HOH tax brackets are lower than MFS and still afford the advantage of not filing with a spouse.

Filers should seek advice from an attorney and a CPA to choose the most beneficial tax filing status. To help determine the best option, it often makes sense to prepare a projection of each outcome since the confluence of types of income and deductions impacts rates (ordinary, capital gains, alternative minimum tax).

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OUR FAMILY WIZARD BY KATRINA VOLKER

For co-parents prone to conflict, long email exchanges and vague text messages often create ambiguity or miscommunication and make admissible records difficult for counsel to compile. As a result, courts routinely order parent communication on the OurFamilyWizard website (OFW) in cases spanning all 50 states, Washington, D.C., and five Canadian provinces. OFW is even ordered in domestic violence cases to keep parents informed while reducing opportunities for coercive control and harassment.

Lower courts' orders for communication with OFW are regularly upheld. In a sealed 2011 opinion Montgomery County Judge Carolyn Tornetta Carluccio wrote:

(Our)FamilyWizard is utilized by courts in cases involving litigious parents whose credibility is lacking and who are unable to communicate with each other. The tool protects each party against trivial or false contempt petitions by preserving evidence ... it facilitates communication between the parties in a non-hostile, non-confrontation, non-intrusive, monitored format. ... The tool is objective and applies equally to each party.

Now in its 14th year, OFW has helped more than 100,000 families maintain more amicable communication using secure mobile and web-based features for parents to communicate in a simple, well documented and highly organized manner. Along with their legal or mental health practitioners, co-parents are

linked together to share information using these main features:

- Free professional accounts that give practitioners access to simple, court-ready printouts.
- Text and email notifications that keep parents and professionals up-to-date on new activity.
- A calendar equipped with patented parenting time-modification requests, easy-to-use parenting schedules and protected journal entries for both parents.
- A message board that documents when messages are read by recipients for the first time. "Tonemeter" provides feedback that helps parents be mindful of their messages' tone and gives the author a chance to reframe a message before hitting "send."
- An information bank where parents store vital medical records, insurance information, emergency contacts, school work and more.
- An expense log where parents make reimbursements and requests for unreimbursed medical expenses, child support and other parenting expenses. Expenses and payments are easily categorized and reconciled. Parents banking information is not shared with their co-parent.
- Children, grandparents and other family members can also be included in the conversation with limited access to the calendar, journal and messages.

Mobile apps make OFW accessible even to those without a computer. Mobile and tablet applications for professional accounts will be released this year.

Family law professionals are offered an unfiltered window into co-parent communication via their free professional account.

Katrina Volker has been a professional liaison for the OurFamilyWizard website for three years. Her role includes educating judges, lawyers and other family law professionals on the online tools that can be used to benefit and monitor the parental communication process in high-conflict cases. kvolker@ourfamilywizard.com, 952-548-8129.

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