Family Law – Day #1 Assignment

Professor Linda Elrod                                           10:40-12:05 T/TH
Room 102

For: Tuesday, August 25, 2015

Book:  HARRY KRAUSE, LINDA ELROD, & THOMAS OLDHAM, FAMILY LAW: CASES, COMMENTS, QUESTIONS (7th ed. 2013)

Please read the first chapter. Be prepared to discuss the following questions:

A. Introductory materials

1. List five ways that family law differs from other areas of law. To what extent does it overlap other areas of law?
2. What role does public policy play in family law? Do the same public policy considerations that govern other areas, such as contract law, also apply to family law? Are there other considerations? Why?
3. What are some of the underlying themes in family law?

B. Changes in family law

Family law has changed over the past fifty years. Look up U.S. Census data to answer the following questions:

1. What percentage of American families have minor children living at home? (_____)  
2. What percentage of American children live with only one parent? (_____)  
   What percentage lived with only one parent in 1960? (_____)  
3. What percentage of American children live with no parent? (_____)  
4. What percentage of American men (_____) and women (_____) marry at some point during their lives?
5. Has the marriage rate risen or declined over the last fifty years? (_____)  
6. What is the median age of first marriage for American women (_____) and men (_____) today? In 1960s?
7. How has the rate of cohabitation changed since 1960s? How?
8. What percentage of cohabiting couples have children? (_____) Has that percentage risen or fallen since 1960? (_____)  
9. What is the ratio of marriages to divorces in the United States today? (_____)  
   What was the ratio in 1960? (_____)  
10. What proportion of divorced men remarry? (_____) of divorced women? (_____)  
11. What proportion of births in the United States today are nonmarital? (_____)  
   What was the proportion in 1960? (_____)  
12. What proportion of mothers with minor children work outside the home? (_____)  
   What was the proportion in 1960? (_____)
C. How does Mary Ann Glendon’s article help understand changes in the family?

1. Have kinship ties become more or less important?
2. What distinguishes the modern marriage?
3. How have parent/child relationships changed?
4. What are the major points that Glendon tries to make?

D. Defining a family

1. Why do we need to define a family?
2. How do we define?
3. Who defines?
4. In Moore v. City of East Cleveland, how does the U.S. Supreme Court deal with the definition of family?

PROBLEMS:

The rules of a federal fund for survivors of the victims allows claims by individuals related to a victim by blood, marriage or adoption. The legal rule to be applied in each case to determine legal entitlement is derived from the statutes of the victim’s domicile.

Marmily Cabrera was the partner for eleven years of Pedro Checo, vice president of investment operations for Fiduciary Trust, and had two children with him. They considered themselves married although they never entered into a formal ceremonial marriage. For ten of those eleven years, they resided in Kansas. For the past year, their primary residence was in New York. They owned a home together in Kansas which was titled in joint tenancy. After several years he began to introduce her as his wife, and all their social acquaintances thought they were married, although several of the oldest friends knew they had never had a marriage ceremony. Their children have his last name and her name is their middle name. They joked many times over the years that they were “more married” than most married couples they knew.

1. Is Marmily a lawful spouse?
2. What additional information do you need to know?
3. What is your analysis?
I. FEDERAL COURT JURISDICTION

A. What jurisdiction is exclusively federal?
   1. Give examples.
   2. Is there ever concurrent federal-state jurisdiction?

B. What is the domestic relations exception?
   1. Is it in their constitution or federal law?
   2. Does it still apply?

C. What are the federal court abstentions?

PROBLEMS:

Should a federal court take jurisdiction in the following cases?

1. Mother petitioned in federal court for return of her minor child under the Hague Convention on Civil Aspects of International Child Abduction. Because there was a child custody action pending in the Pennsylvania state court, the federal court abstained from hearing the case under Younger v. Harris. Was the court correct?

2. After his son’s divorce, a father sues in federal court on behalf of his disabled son and himself, alleging financial misfeasance by his former daughter-in-law during the waning days of the marriage. The divorce judge in state court had not found “a shred of evidence to support a finding of economic misconduct or fraud.”

3. As a result of a New Jersey divorce, a former wife was to sign over the marital residence to ex-husband and he was supposed to pay mortgages on property and fulfill other obligations. He did not and the bank foreclosed, sold marital residence, and a title insurance policy was issued. Former wife, now living in Pennsylvania, sues bank, sheriff, new buyer, and title company in New Jersey claiming improper sale of her former marital home. Do any abstentions apply?