

ASPEN COLLEGE SERIES

 Marshall W. Waller

CALIFORNIA FAMILY LAW FOR PARALEGALS

SEVENTH EDITION



Wolters Kluwer

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California Family Law for Paralegals

Seventh Edition

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California Family Law for Paralegals

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This book is dedicated to my parents, Charles W. Waller and Fern A. Waller. Their constant support and love throughout my life have taken me many places, not the least of which is this book. I also dedicate this book to my wife and partner, Mary Ellen Waller. Her support and dedication has been an invaluable resource and a keystone in our success in life.

Preface

The purpose of this book is to provide a source of reference and explanation on the material discussed in a class on family law. It is also intended to be a starting point for those not necessarily pursuing this particular course of study but nonetheless interested in the area and searching for a treatise that is written neither for certified specialists nor for completely untrained laypersons. Hopefully this book will fill that need.

As I so often caution my students, this particular study of law, second only perhaps to taxation, is one of the most rapidly evolving areas of law. Of course, all of "the law" changes significantly over time. This results from previously unanticipated necessity to meet the ever-changing dynamics of our society and often simply to satisfy the demands of a particular interest group.

Whatever the reason, change is inevitable. In family law, it is both inevitable and *quick*. Thus, the reader is cautioned to bear in mind that what is correct today may very likely be incorrect tomorrow. This book will be updated periodically to keep up with significant changes in the law, but nothing in this book should be relied upon in an actual legal setting without first undertaking extensive research regarding the particular legal question or consulting a trained professional. No book can substitute for legal advice given by a professional after evaluating all the pertinent facts.

The reader must also be aware that by its very nature this book cannot serve to fully explain the many mysteries of family law. Indeed, this book will be a success if it is able to shed a guiding light on the vast panoply of family law and clearly illuminate the "tip of the iceberg" of the various subjects covered. To presume to fully cover all of the areas referenced in this book does justice to neither the author nor the many fine authors of extensive, detailed treatises in this area.

This book is not a casebook, although where appropriate cases are mentioned and discussed. Nor is this merely a reference book to the various statutes used in family law, although they too are discussed as appropriate.

Indeed, California family law is a creature of statute. The general common law, while incorporated for the most part into the Family Code, plays little active role in the current resolution of disputes in this area. Case law, too, for the most part only interprets and refines the statutory system. Many is the family court that defers to the legislature to remedy problems in the law.

Accordingly, the plain focus of this book is on the “heart” of the law in this area: the Family Code. This book will thus integrate the two concepts of statutory law and judicial interpretation into a cohesive general discussion of family law and its various aspects. Reference to figures and diagrams are made periodically to help explain the ideas under consideration, and there is a rather detailed discussion of many of the various judicial council forms used in family law practice.

A final note regarding the judicial council forms is appropriate. The forms shown in this book were current as of the date this book went to print. However, as with all other aspects of the law, the Judicial Council regularly revises these forms, sometimes as often as twice a year. As such, care should be taken when reviewing the forms in the book to ensure that the most current one is being studied. Fortunately, although revisions are common, they are typically ministerial and do not reflect significant changes in the substance or content of the form.

Should the reader be so interested, a complete set of judicial council forms can be obtained from any county courthouse at minimal cost. For purposes of this text, the learning process will, in this author’s opinion, be unaffected should any of these forms be modified between the time the book goes to print and the time it ends up in the reader’s hands.

This book has been a work in progress for the past 21 years. I have seen the area of family law change dramatically over this time, and this book in its various editions has sought to keep up with these changes. This new seventh edition has seen a substantial overhaul of this book, both substantively and in format, because as the law in this area grows and develops there is simply more to write about. Changes in the law have given rise to a restructuring of this book into separate chapters devoted to custody, visitation, spousal support, and child support. Truth is, there is simply too much going on in these areas to keep them grouped together. This restructuring has allowed these areas of family law to be addressed in greater detail in their individual chapters while at the same time maintaining the general flow and consistency between these admittedly related topics.

Additionally, Chapter 11, titled “Selected Issues,” has been expanded to include discussion in the areas of collaborative divorce, same-sex marriage, and limited scope representation. These issues represent “hot topics” in California right now and will no doubt remain so for years to come.

Marshall Waller

December 2015

Acknowledgments

I would like to recognize the help and support of the many people who have assisted me in this endeavor. Inasmuch as the development of this book over its 7 separate editions has spanned over 21 years and required many, many long nights, I feel that the first to receive my sincerest thanks should be, and is, my family: my wife, Mary Ellen, and my children, Ryan and Lauren, all of whom have been patient and understanding throughout its development. I also thank my various assistants who have typed the several different incarnations of this book: Cathy Avery, Michele Lazaro, Sam Cesar, Courtney Stensvold, and Doina Gallion. Of my colleagues at work, attorney Sandra Salinas, CFLS has provided insights and suggestions that have found their way into this book over time, for which I am sincerely grateful.

I also wish to thank the various editors who have worked diligently on this book to ensure that it is grammatically sound and substantively readable. A lot goes into producing a book like this, and one would be amazed to see the many gaffes, inconsistencies, misspellings, and non-sequiturs that survive the author's initial draft. These people make these books readable, and they deserve much praise for doing so. To the extent that I look good between these two covers, I have them to thank.

I am very appreciative of and wish to recognize the efforts put into this book by Nicholas T. Lasoff, the developmental editor for this edition. To say that he has been diligent and dedicated to the success of this project would be to understate his hard work and attention to detail and his focus on the completion of this project on time and within guidelines. He has been instrumental in bringing this project to completion and has done so with tact, patience, and understanding. I also wish to thank Mary Elizabeth Grant, Esq. for her hard work, patience, and remarkable writing and editing skills and for all her help in ensuring that this seventh edition is current and up to date. It's not easy cite-checking and proofreading but that

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is an essential part of this process. I sincerely thank Ms. Grant for helping to make this book more readable, better organized, and current. Finally I wish to thank Betsy Kenny, my original developmental editor at Wolters Kluwer. Betsy has been patient, kind, caring, and tolerant of me for over 20 years and frankly deserves a promotion, a raise, and a medal for putting up with me for so long. Without her input and guidance these many years this project would have been nearly impossible to put together. I thank her for her time, her efforts, and her support.

California Family Law for Paralegals

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