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# FAMILY LAW

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Cases, Text, Problems

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SECOND EDITION

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Ira Mark Ellman

Paul M. Kurtz

Katharine T. Bartlett

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CONTEMPORARY   
LEGAL EDUCATION SERIES

# **FAMILY LAW**

**CASES, TEXT, PROBLEMS**

**Second Edition**

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# **FAMILY LAW**

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When I remember bygone days  
I think how evening follows morn;  
So many I loved were not yet dead,  
So many I love were not yet born.

Ogden Nash, *The Middle*.

In memory of Edward Ellman and Larry Spector, in recognition of Miriam Ellman, in celebration of Noah and Avi, and in awe of my marvelous luck 23 years ago when I married Tara.

I.M.E.

To Dad, whom I miss every day, to Mom, who keeps us together, to my loving sisters, and especially for my beloved Carol and Benji.

P.M.K.

In memory of Edgar Bartlett, for Emily and Teddy and Lily — each one unique and precious, woven together in the rich fabric of family — and for Chris, with my deepest love.

K.T.B.

## Preface

Rapid and sometimes dramatic changes in family law continue, rendering necessary the preparation of this second edition. We have endeavored to produce a true new edition that does not merely tack recent developments on to an otherwise dated presentation, and we have tried to prune at least as much as we have added. Much of the first edition remains relevant, of course. Moreover, we have adhered to the pedagogical philosophy underlying the first edition, and have strengthened many of the features that have proven useful. Our approach includes liberal use of textual material. We believe that casebook notes must do more than call attention to difficult questions of legal doctrine and policy; they should also illuminate them. Family law is too full of fascinating policy issues to waste class time clarifying legal questions that can be presented effectively in the text. At the same time, an essential part of legal education is acquiring the ability to apply legal rules to concrete fact patterns. Problems provide an ideal mechanism for developing this ability, and we have tried to offer an ample selection of them throughout.

This has been an exhausting but valuable collaboration, and while any joint effort of this magnitude necessarily requires allocating primary responsibility for particular chapters among the authors, nearly every chapter reflects the input of all three of us. The one exception is Chapter Nine, on the federal tax aspects of divorce, for which we once again must express our gratitude and debt to our Arizona State colleague, Professor Dennis Karjala, who revised and revised again to keep this chapter current with a constantly changing tax code.

We have benefitted from the assistance of many people in preparing this edition, but special mention must be made of Kay Winn, who managed so many details of the manuscript preparation as if she had nothing else to do, and Marianne Alcorn of the Arizona State University Law Library, who graciously hunted down any source, no matter how obscure the information she was given to work with. Finally, we acknowledge the contribution of Professor Ann Stanton to Chapter Four of the first edition.

## **Editorial Note**

Throughout the book, additions to and deletions from quoted material are indicated by brackets and ellipses, except that citations are deleted without notice. When retained, original footnote numbers have been placed in brackets. Paragraph breaks have on occasion been modified without notice to make edited excerpts coherent.



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