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BOOKS RECEIVED

Practice Under The California Family Law Act: Dissolution, Legal Separation, Nullity. Edited by M. Dee Samuels and Judge Frederick A. Mandabach. Berkeley, CA: California Continuing Education of the Bar. 1992 plus special interim update. Pp. xiii + 993. Paperback. \$115.

Practice Under the California Family Law Act offers a comprehensive treatment of the handling of dissolution, legal separation, and nullity actions for the family law practitioner. The book recognizes that family law is an area that requires the attorney to be a complex mix of trial lawyer, psychologist, financial wizard, and tax expert. Because of the volatile nature of family law cases, family lawyers are often faced with clients who are in the midst of personal crisis and who have highly unrealistic expectations about the potential results, the time requirements, and the costs involved. This book focuses on the personal side of family law practice as well as on the substantive legal issues and the practical procedural problems faced by the practitioner.

Part I of the book provides personal reflections on family law practice by M. Dee Samuels, a Certified Specialist in Family Law and Frederick Mandabach, a Superior Court Judge presiding in family law matters. Part II covers the substantive law underlying any action under the Family Law Act. Part III offers a step-by-step guide to the procedures in any such action.

Part I contains valuable general admonitions for the practitioner. The family law attorney is advised to keep current because there may be no more rapidly changing area of law. In Chapter One, M. Dee Samuels stresses the maintenance of good organizational skills and the ability to establish and maintain good attorney-client relationships. In Chapter Two, Judge Mandabach emphasizes preparation, trial skills, and credibility. He chastises the lawyer who cites cases for principles of law not to be found in the text and who vigorously argues "well-known rules" that appear nowhere in print. He warns that if a lawyer does this too often, the

judge will pass the word to other bench officers, and the lawyer will lose credibility. Both Samuels and Mandabach recognize that it is important for the family lawyer to remain calm and focused amidst the emotional turmoil that frequently swirls around the family law case.

Part II, or the substantive law section, contains seven chapters. Chapter three discusses the grounds, residency requirement, particular issues, and effect of judgment in a dissolution, summary dissolution, legal separation, and nullity proceeding. The chapter also contains useful sample copies of forms for summary dissolution, a marital property agreement, request for final judgment of dissolution, and notice of revocation of petition for summary dissolution. Chapter Four deals with problems of jurisdiction and venue.

Chapter Five covers the subject of property in the context of actions under the Family Law Act. Emphasis is placed on the three major components of resolving property issues: characterization, valuation, and division. For each component there are discussions of general principles and specific assets requiring special treatment. The discussion of property division also includes an introduction to the tax aspects that are of importance in property division. This chapter provides a systematic and well organized treatment of community property issues. It also includes a discussion of important case law and useful worksheets for calculations such as the *Moore/Marsden* approach to valuation that is used when community funds are used for mortgage payments during marriage and separate funds are used for the downpayment by one of the spouses before marriage. The worksheet permits easy calculation of the respective separate and community interests.

Chapter Six covers spousal support, both temporary and long-term. The chapter focuses on determination, modification, and duration of spousal support and provides an introduction to the tax aspects. Chapter Seven addresses the subjects of child custody and visitation. It focuses on court mandated mediation and on the considerations involved in awarding custody and visitation. Specific attention is given to the matter of jurisdiction, which is governed by the Uniform Child Custody Jurisdiction Act (UCCJA) and the Parental Kidnapping Prevention Act of 1980 (PKPA).

Chapter Eight covers the subject of child support with emphasis on statewide guidelines. A special interim update replaces a portion of this chapter. It discusses the revised statewide uniform child support guidelines effective July 1, 1992. It supplies a useful

worksheet that can be used to calculate child support payments. This chapter also discusses paternity issues, modification and termination of child support orders, and tax aspects of child support.

Chapter Nine covers awards of attorney fees and costs in an action under the Family Law Act. The chapter focuses on the bases for such awards and discusses the authority for such awards, the parties who may be payors or payees, and tax aspects.

Part III deals with procedural matters. Chapter Ten covers initial steps by the parties and emphasizes the petition, supplemental papers, and the service of papers by the petitioner and the response, supplemental papers and motions available to the respondent. The chapter contains a sample of such forms as the petition, summons, standard restraining order, confidential counseling statement, response, and property declaration. It also provides useful information with the forms concerning where to file the original and the copies.

The focus of Chapter Eleven is on temporary orders with emphasis on procedures for both moving and responding parties with respect to noticed motions. It deals with child custody and visitation order, child support orders, spousal support orders, protective orders, temporary orders for attorney fees or costs, and property restraints. The chapter also discusses methods of obtaining orders including automatic orders and contains samples of stipulation forms. *Ex parte* motions, noticed motions, and temporary restraining orders are also covered in this chapter.

Chapter Twelve covers the types of issues involving third parties that may be litigated in an action, the parties who may request joinder of a third party, and the factors to consider in deciding whether and when to request joinder. The chapter provides a detailed explanation of the procedural steps for requesting joinder and preparing the required pleading, responding to a request for joinder, and obtaining an order for joinder.

Chapter Thirteen deals with discovery in the context of an action under the Family Law Act. It includes a discussion of the client's role, development of a discovery plan, and implementation of the plan. Chapter Fourteen deals with uncontested proceedings, and Chapter Fifteen addresses pretrial procedures and trial preparations. The sections on pretrial procedures cover at-issue memoranda, trial-setting conferences, pretrial conferences, settlement conferences, and trial continuances. Chapter Sixteen discusses the trial with emphasis on the aspects peculiar to family law cases. Chapter Seventeen deals with judgment after trial. This chapter describes the strategic

considerations and procedures leading to preparation of the judgment, provides an explanation of the substantive and procedural requirements for preparing and obtaining a judgment after trial, and discusses special types of judgments.

Chapter Eighteen deals with various procedures for attacking the judgment at the trial court level. This chapter considers the legal or equitable bases for relief and the procedural requirements for each of the various methods. Chapter Nineteen summarizes the substantive and procedural law governing review by appeal and by extraordinary writ. Chapter Twenty surveys the methods available to a party seeking to enforce orders obtained in an action under the Family Law Act. Chapter Twenty-One discusses modification of orders in subsequent proceedings. The focus is on the strategic and procedural decisions an attorney must make based on the particular facts of the case.

Practice Under the California Family Law Act is a family law practitioner's bible. It provides a comprehensive treatment of every aspect of a family law case from its inception to its completion. It was written by attorneys who grappled with the problems faced by the practitioner, and distilled the most useful practice tips. The inclusion of forms and worksheets, as well as the discussion of strategic and procedural considerations, make this book relevant and useful for the novice as well as the seasoned practitioner. The book skillfully combines both theory and practice and provides a systematic, well-organized, and detailed treatment of family law.

Palestine and Israel: A Challenge to Justice. By John Quigley. Durham: Duke University Press. 1990. Pp. 337. Paperback. \$18.95.

In *Palestine and Israel*, John Quigley explores one of the most intractable international struggles in the world today. He argues that a recognition of the rights involved is critical to any meaningful solution to the problems in the Middle East. He hopes that a proper assessment of the claims of the Palestinians and the Israelis will provide a basis for seeking an enduring settlement. Although he does make some settlement proposals, the focus of the book is on the conflicting claim to the territory of historic Palestine. The author is sympathetic to the Palestinian position and provides a contrasting perspective to pro-Israeli scholarship. His book is important for any student of international law and for all those who are interested in one of the most incendiary conflicts in the world today.

John Quigley approaches his subject historically. In Part One he explores the Zionist settlement in Palestine and the British

involvement in the area. This section focuses on the Zionist-Arab conflict under the British Mandate after World War I, and examines the collapse of the British Mandate. The author observes that World War II left a legacy that would influence Palestine's future. As a result of the Nazi genocide, many Jews feared to remain in Central and Eastern Europe. In Poland violence against Jews continued after the war ended. No state was willing to accept the Jews. This section also focuses on the formation of the League of Arab States. In a resolution on Palestine the new organization deplored "the horror and suffering which the Jews of Europe have endured" but said that their situation should not be resolved by inflicting another injustice at the expense of the Palestinian Arabs. The Arab states found it unfair to "make the Arabs pay for Germany."

In Part One the author also examines the United Nations recommendation for partition. He quotes historian Arnold Toynbee's denunciation of the decision to partition an innocent non-Western people's territory. Toynbee felt that a guilty Western people's territory should have been carved up instead. In November, 1947 the United Nation's General Assembly adopted a draft resolution embodying the partition plan as Resolution 181. Quigley approvingly cites the words of U.S. military officer Commander E.H. Hutchinson. Commander Hutchinson stated that, in adopting Resolution 181, the major powers "overran the rights of the indigenous population of Palestine - the Arabs" and that every step in the establishment of a Zionist state was "a challenge to justice."

This section also examines the chaos after the British withdrawal on May 1948, and focuses on the United Nation's power over Palestine. The author concludes that since partition of Palestine was against the will of the majority of inhabitants their right to self-determination was violated.

In Part Two of the book, the author discusses the 1948 war and the establishment of Israel, the proclamation of statehood, and President Truman's recognition of Israel. He traces the extent of Hebrew settlement in Palestine from the twelfth century B.C. to 1880, the time just before the onset of Zionist immigration. The author states that in 1880 there were 20,000 Jews out of a population of 450,000 in the region. He concludes that the fact of psychological attachment to a territory does not yield territorial rights.

This section also discusses the wars between the Arabs and the Zionists and the expulsion of the Palestinians from the area. He

quotes an Israeli government report that stated that 600,000 fled from the area. He states that it is estimated that in the area Israel took in 1948 there had been 900,000 Arabs in 1947. Of these only 120,000 remained according to the first Israeli census.

In this section the author also discusses the recognition of Israel by the United Nations General Assembly and the contention this recognition gives Israel legitimacy. He ultimately rejects the argument that recognition can legitimize a state that asserts sovereignty over territory to which it is not entitled.

Part Three focuses on the status of Arabs in Israel. The author examines the further expulsion of Arabs from Israel and the immigration of European Jews to Israel. He discusses the adoption of the Absentees' Property Law that led to the confiscation of Arab land and focuses on the loss of the Palestinian economic infrastructure.

In this section, he also discusses ethnic distinctions in Israeli legislation, land ownership, and the Arab role in Israel's political system. The author states that title to 93 percent of the land in Israel is held by the state or quasi-public organizations in trust for the Jewish people. Arab citizens of Israel have the right to vote and to be elected to the Knesset or Parliament. Few Arabs, however, serve in bureaucratic posts; no Arab has been a cabinet minister. Of the 1,839 leading government officials in 1980, only 16 were Arabs.

Part Four examines the 1967 War, the acquisition of the West Bank and the Gaza Strip, confiscation of Arab land and Jewish settlement. The author states that, as it did after 1948 in Arab-populated areas, the government of Israel adopted policies in the West Bank and Gaza Strip that had the effect of obstructing Arab industrial initiatives. It closed the thirty banks operating there and limited the import by West Bank and Gaza industry of capital from the Arab countries.

In this section, the author also examines the Palestine Arabs' claim of a right to resist. He describes the growth of the Fatah organization after the 1978 war and discusses various theories that justify the lawful use of force by a dependent people to achieve independence. He focuses on Israeli raids on the PLO and the intifada uprisings in the Gaza strip and West Bank.

In Part Five, the author proposes a resolution of the Palestine-Israel conflict. He observes that a state which violates rights is required under international law to restore the situation as it was before the illegal act. If it is impossible to restore the prior situation, a state must compensate, typically by a money payment. He

maintains that the dispossession of a people from its land, followed by decades as refugees, is a wrong that must be recompensed. He contends that the duty to restore the preexisting situation requires Israel to repatriate the Arabs it dispossessed. He argues that the Palestine Arabs, as a people, are entitled to return to Palestine under international human rights law. He states that Israel is under an obligation to end discrimination against Arabs and must repeal those provisions of its Nationality Law that favors Jews. He contends that Israel must revise the land tenure system to make land available to all on a basis of equality. He maintains that, to end the discrimination against Arabs, Israel must reform itself into a state representing all its inhabitants.

In this section the author also examines the responsibility of other states for the injustice, and proposes a new role for the United Nations. In the final chapter, he examines the two-state approach proposed by the PLO. He contends that a solution in the direction of two states is practical but criticizes the PLO's proposal because it provides no immediate solution for the Palestine Arabs displaced from Palestine in 1948. He suggests possible negotiations between Israel and the new Palestine state on this issue. Finally, he concludes that until the 1948 refugees are offered the right to return or to be compensated, the upheaval generated by the 1948 war in Palestine will remain.

Palestine and Israel is an extensively documented book that explores the intricacies of international law and the complexities of the Arab-Israeli conflict. John Quigley's analysis of international law and historical evidence leads him to the conclusion that the Zionist movement that established Israel has violated many of the conventions and agreements of international law and that the Palestinians have good legal title to the territory. His viewpoint is not popular in many scholarly, as well as popular, circles; however, he contributes an important perspective to the debate on international human rights and the Middle East.

