

# FAMILY LAW



## COURTROOM EMOTIONS CAN CUT BOTH WAYS

Lawyers must know  
when to fan the fire,  
or cool things off

By GREGORY A. ALLEN

A family lawyer needs to be a master of handling emotions. Family law clients generally seek a family lawyer as a direct result of an emotional response to an event, whether it be fear, love, or betrayal. This means emotions are always just under the surface of any family law case. Consequently, the family lawyer is all too often presented with an emotional case to litigate alongside the legal case.

The cornerstone of our judicial system is that all litigation is decided on the logic and legal reasoning behind the cause of action being litigated. This is not to say that emotions are not a part of the litigation process. Any experienced lawyer or judge will tell you emotions can be a factor in a case. In fact, when properly introduced into court proceedings, emotions can help convey a client's message beyond what words can do alone.

The reason for this is simple. Courts deal in human interactions. Part of what makes us human is our emotions. Emotions are a necessary part of all of our interactions whether related to a car accident, a business deal or a pending divorce. Emotions can be highly effective when utilized to enhance an argument. They show a human side to an action or event and help make the retelling of it in court more real for the judge hearing the case. Real life is not made up of a string of cold, unemotional events. Consequently, cold, unemotional testimony cannot convey an accurate picture of what happened to a judge.

However, all too often emotions become a

hindrance to a client's case. Emotions can actually impair a client's ability to relay her case to a judge if they cloud the facts of the case instead of enhancing them. Emotions are conveyed by body language as much as by words. The tone of a client's responses on the witness stand and the client's body language in the courtroom are both evidence. A judge may look at body language, listen to inflections in the voice and assess the subtleties of each witness beyond simply what the witness' words themselves say. See *In re. Davonta V.*, 285 Conn. 483, 497 (2008).

A judge will notice if the words and emotions of a witness do not match. Because of this, clients must be counseled not only on how to testify but on how to act in court. They must also be made aware that all their actions in the courtroom are being observed. Some clients will require an opportunity to offload some of their emotional baggage before they go to court to testify.

Some will need to be told it is OK to express emotions in court. Some clients may have an



Gregory A. Allen

emotional response to an event that is not what most people would expect. This client's lawyer needs to know that in advance so that an explanation can be made to the court. The explanation should include the life events that contribute to the client's incongruent response and how the client's response is "perfectly normal" for their life events. There is more to preparing a client for court than simply helping him find the best words to convey his story.

### Dangerous Feedback Loop

A family law litigator who has accomplished this still has another pitfall to avoid. As a family lawyer, it is entirely too easy to get swept up in a client's strong emotions. The simple reason for this is that a family lawyer has to wade waist deep into the emotional baggage a client is carrying.

The typical first step in representing a client is researching and interviewing the client and potentially other witnesses about the emotional events that lead the client to turn to the court system. In doing this, the lawyer will experience these events from the client's point-of-view and share in the client's emotional response to the retelling of those events. The goal of this attorney-client interaction is to allow the lawyer to draw on those emotional experiences in advocating for the client in court. However, once in court it becomes all too easy for the lawyer to share in the client's emotional response and begin to express those emotions for the client. While it might seem natural for a client to be indignant at a spouse's response to a question, it

is less so if her lawyer has that reaction for her. This situation can become further compounded if the client then feeds off the lawyer's emotional response. This can cause a dangerous feedback loop that obscures the client's life story. These strong emotions are not tied to the underlying events and run the risk of seeming unnatural to the judge and may impact the client's credibility.

This same effect can be reached by a lawyer who gives into the pressure of a client to go after his soon-to-be ex-spouse to make her feel as miserable as she made him feel. This in turn can lead to an emotional investment in the litigation causing it to take on a life of its own. When this occurs, the end goal of the litigation is lost and clients and lawyers begin litigating for the sake of litigating. Litigating this way will have a negative impact on the client, the lawyer and the case.

A good litigator knows when and how to use emotions in the litigation process to amplify his legal argument and reasoning. He also knows that he walks a delicate tightrope. He must be constantly aware of his client's emotions and his own, and he must know when and how to fan the fire or cool things off. A litigator must be constantly aware of the emotions in a case but remain separated from them. His client's case and not the emotions in it must drive the litigation. ■

*Gregory A. Allen is a partner at Trendowski & Allen in Centerbrook, where his practice concentrates in the areas of personal injury, liquor liability, family law, probate, and real estate.*

# CONSERVATORS CAN PURSUE DIVORCES ON BEHALF OF WARDS

Ruling states that even those with dementia have access to courts

By **DAVID W. GRIFFIN** and  
**ALEXANDER J. CUDA**

Perhaps no other lawsuit is as deeply personal to the parties as a dissolution of marriage. What happens, then, when one party lacks the capacity to independently pursue legal action? How can that person avail himself or herself of a divorce?

The Connecticut Appellate Court recently answered that question in the case of *Luster v. Luster*, 128 Conn.App. 259 (2011). In *Luster*, the Appellate Court held that involuntary conservators of a party could bring a divorce action on behalf of their incompetent ward.

Mr. Luster had been found by the Probate

Luster could have brought the matter to a conclusion simply by withdrawing her complaint.

Mrs. Luster's counsel challenged the ability of the conservators to file such a cross-complaint on his behalf. Mrs. Luster's position was that for conservators to do so exceeded their statutory authority. She also raised a public policy concern that to allow conservators this authority would enable them to dissolve another person's marriage for their own financial gain or personal animosity. These challenges had prevailed at the trial level. The trial judge granted a motion to dismiss the conservators' cross-complaint on behalf of their ward.

The Appellate Court found that Mr. Luster's conservators were not prohibited from helping Mr. Luster's divorce proceedings. The Appellate Court dutifully examined the role of conservators and their statutory author-

ity. Ultimately the judges were guided by another principle: a person's right of access to the courts. It has long been a holding of the Connecticut courts that even one who was "insane" or otherwise "incompetent" retains "a legal capacity to sue or be sued." *Ridgeway v. Ridgeway*, 180 Conn. 533, 539 (1980).

Of course, those who are not competent may have a guardian ad litem appointed for them in the case. If the person has been formally adjudicated incompetent, a representative for court becomes required. Conserved persons cannot bring an action in their own right, but must depend on their conservators to do so. The Appel-

late Court ultimately considered that a conservator's authority and responsibility to protect the interests of the ward, and the general history of conservators bringing suit on behalf of their wards, required that the trial judgment be reversed and that the cross-complaint filed by Mr. Luster's conservators should stand.

## Protecting Dignity

Judge David M. Borden's concurrence with the majority opinion in *Luster* brings out a stirring point. Mrs. Luster's public policy concern, although overruled, holds some weight: there are certainly conservators who would exploit the position for their own gain, without proper regard to their wards' interests. But a conserved person would have legal recourse against his or her conservators if necessary.

On the other hand, Judge Borden reasoned, what if the conserved person is the victim of their spouse's bad behavior? (Note the charge of intolerable cruelty added in *Luster*.) If an incompetent spouse cannot pursue divorce through a conservator, that spouse becomes deprived of access to the court system for relief and is trapped in an abusive relationship with no way out. Judge Borden brings home that the decision of the Appellate Court in *Luster* was necessary to protect the dignity of conserved persons by ensuring their access to divorce proceedings through their conservators.



David W. Griffin



Alexander J. Cuda

## FAMILY LAW

Court to suffer from senile dementia and to be incapable of caring for himself. His children were appointed as permanent conservators of his person and estate. Mr. Luster did not voluntarily consent to this representation.

Mrs. Luster filed for legal separation, and Mr. Luster's conservators responded with a cross-complaint for divorce, which they subsequently sought to amend to include a charge of intolerable cruelty. This cross-complaint effectively converted the action from one for legal separation to a dissolution of marriage. Also, the cross-complaint gave Mr. Luster an independent right to continue the court action; without it, Mrs.

So what does this mean for family law practitioners? With a rapidly aging populace, many lawyers will have increasing familiarity with dealing with the Baby Boomer children of elderly parents who are suffering serious health difficulties – notably, mental concerns such as in *Luster*. Divorce may be the only way to guarantee peace and dignity, and to protect the conserved client's interests. Direct contact between lawyer and client, though, may be limited and difficult. It could even pose a risk to clients with particular vulnerabilities. Divorce litigation can be heated and contentious. It is hard to imagine dragging an 85-year-old man with Alzheimer's disease from an assisted living center to take the stand in such a setting.

Similarly, there are much younger litigants whose mental condition would make direct participation in a court proceeding virtually impossible. *Luster* guarantees those persons the right to a surrogate (to some extent, at least), and confirms for divorce counsel the authority of such a person. Regardless of their age, those who are incompetent are severely vulnerable to their spouses. *Luster* gives strength to those who protect the enfeebled in family court – both to loved ones and lawyers. In such cases, divorce counsel would be well-advised to consult the client's health providers and involve and work with probate counsel starting at an early stage to determine if appointment of a guardian ad litem or conservator is necessary.

One can also argue that *Luster* reinforces the responsibilities, as well as rights, that stem from *Ridgeway*. On occasion, there is the divorce litigant who seeks delay of trial or other events because of claims of the mental strain of the divorce process, or who argues that he or she cannot meet court-imposed deadlines because the divorce is simply too stressful. Admittedly, divorce is a serious, exacting process which is tough on all who go through it. *Every* divorce litigant is strained and stressed. As *Ridgeway* and *Luster* confirm, even an "insane" person can sue or be sued in a court of law.

A final thought, given the funding challenges and crowded dockets that have become the norm in our judicial system: If even the most fragile members of society must meet the expectations of the legal system one way or another, then other litigants (and counsel) should put matters in perspective and act responsibly to avoid contributing to the problems being faced by the courts. ■

SCHOONMAKER, GEORGE & COLIN, P.C.  
FAMILY & MATRIMONIAL LAW

Schoonmaker, George & Colin, P.C. is a nationally-recognized law firm committed to excellence in the areas of family and matrimonial law.



The attorneys at Schoonmaker, George & Colin are skilled trial lawyers and compassionate counselors who handle complex financial and child custody trials, as well as mediated family law matters. Members of the firm include leaders of the family law sections of the Fairfield County, Connecticut, and American Bar Associations and Fellows of the prestigious American Academy of Matrimonial Lawyers.

The lawyers at Schoonmaker, George & Colin are dedicated to providing high quality, effective legal representation. The firm recognizes that every case is unique and strives to meet each client's legal needs. Together with professional legal staff, the attorneys at Schoonmaker, George & Colin have the experience, understanding and discretion necessary to resolve difficult and delicate matters.

**Schoonmaker, George & Colin, P.C.**

81 Holly Hill Lane, Greenwich, CT 06830

(203) 862-5000 • Fax (203) 862-5099 • [www.sgcflaw.com](http://www.sgcflaw.com)

ex•act  
\ig-'zakt\ adj.  
capable of  
greatest precision



Kelly Law Registry® hits the target for all of your legal hiring needs. Contact us today.

**Anne Jennings, Managing Director**  
**Leslie Tucker, Senior Placement Director**  
**Lydia Berrios, Placement Director**  
**Yesenia Torres-Ayala, Recruiting Assistant**

E-mail: [klr17w1@kellylawregistry.com](mailto:klr17w1@kellylawregistry.com)

• Attorneys • Document Review Attorneys  
• Paralegals • Contract Administrators  
• Direct Hire Recruitment • Compliance Professionals

BEST OF STAFFING  
CANDIDATE . 2010

BEST OF STAFFING  
CLIENT . 2010

[kellylawregistry.com](http://kellylawregistry.com)

**KELLY**  
LAW REGISTRY

An Equal Opportunity Employer © 2011 Kelly Services, Inc. W0077

David W. Griffin is a partner and Alexander J. Cuda is an associate at the firm of Rutkin, Oldham & Griffin L.L.C. With offices in Westport and Greenwich, the firm focuses on matrimonial and family law, representing clients in high net worth, high income and custody cases.

# CRIMINAL AND FAMILY COURTS: ARE THEY ACTUALLY SEPARATE?

Divorces get more complicated when one spouse has other legal issues

By **MARISSA BIGELLI** and  
**TERESA DINARDI**

There are strong emotions that drive divorce and custody battles, but when a party to a divorce action also has pending criminal charges, the case becomes even more challenging. Though standard Connecticut procedure separates criminal cases from family matters, the two become intertwined when a family matter is pending.

Many clients do not realize how their independent actions during the pending divorce will impact the divorce outcome, specifically issues of

out when an evidentiary hearing is allowed for a protective order. If a protective and/or restraining order is entered against your client, how do you advise your client to communicate about the children but still follow the orders of the Court? When children are involved, the divorcing parties need a way to communicate. Most solutions involve the parties sending text messages, e-mails or other forms of communication, which can limit the type and amount of contact, and on the surface seems harmless.

However, these alternative avenues of contact make it tough to protect your client. The slightest slip-up can burden your client with

## FAMILY LAW

custody and visitation. As many warnings as an attorney can deliver to his or her client, certain situations do occur which can turn a fairly straight-forward divorce into a difficult proceeding for both the client and attorney. Here are some common examples to warn your client about:

Issuance of protective orders and restraining orders are unfortunately very common in divorce proceedings. The high intensity of the process often causes parties to act out of rage. Both orders can carry heavy penalties if violated, and when children are involved, the orders are often, but not always intentionally, violated. Prior to the entering of a protective order, an attorney should consult *State v. Fernando A.*, a Connecticut Supreme Court decision that lays

criminal charges and resulting family court orders. If the violation was by way of text message or e-mail, now the proof is documented for the world to see. Result? Visitation becomes nearly impossible.

In Family Court, the party obtaining the order can request to cease communication all together. It frustrates a criminal attorney when a violation occurred because of limited communication orders. A criminal attorney would prefer no communication so the client has less wiggle room. On the opposite end, it frustrates the divorce attorney who realizes having no communication will prolong the case and have an effect on agreements.

### Driving Offenses

Other common criminal charges are those related to reckless driving charge, DUI's, or

evading charges. Problems arise with custody and visitation orders. Not only are claims made dealing with the safety of the children, or limiting the ability of children to ride in the affected vehicle, but a person committing the offense may lose visitation rights altogether. Coordinating supervised visitation between clients is always a challenge, but if one party doesn't have a license, it becomes almost impossible.

Other examples are related to driving drunk with a minor child in the vehicle or when a parent is found to be under the influence while in supervising the children. A charge that involves the safety of children will greatly affect visitation and custody in family court. Many times the other spouse will use such information to gain sole custody or have supervised visitation as between the children and the offending parent. If there are questions of safety for the minor children, one may find himself or herself in court three or four times just trying to prove why they should have custody and/or visits.

The court always has the best interest of the children in mind. Some matters may require a third neutral party to act a guardian ad litem to



Marissa Bigelli



Teresa DiNardi

provide reports as to safety of the children with that parent. By the end of the day, your client could be facing legal fees for three separate attorneys, criminal, family and guardian ad litem.

Any way you slice it, the last thing you want to find out when you are handling a divorce is to find out that your client has added criminal charges to the mix. Though there may not be many ways to prevent such situations, a good relationship between the criminal and family attorney is crucial to effectively representing the client. Relationships between criminal and family attorneys are the key to good practice. ■

*Teresa DiNardi is the senior associate of Ruane Attorneys and is known as "Lady DUI" for her work in handling DUI defense and Department of Motor Vehicle hearings. Marissa Bigelli is a solo practitioner who is "of counsel" to Ruane Attorneys and has become known as "Lady Divorce" for her divorce representation. Bigelli is also admitted in Rhode Island.*

## Minorities & The Law – High Achievers

In September, the Law Tribune will publish a special section recognizing high-achieving minorities in the Connecticut legal community.

**Who:** We are looking for deserving partners and managers in law firms, successful solo and small firm practitioners, corporate counsel, judges, prosecutions and public defenders, educators, bar association officers or attorneys who have made a mark with pro bono work.

**How:** Go to [www.ctnominate.com](http://www.ctnominate.com) and tell us your choice and why you nominated him/her. (please have a photo of the nominee ready to upload)

**When:** Deadline for submission is August 19, 2011.

Connecticut  
**LawTribune**



**Konowitz, Kahn  
& Company, P.C.**

### *Past. Present. Future.*

Smart, strategic moves have contributed to our success in over 75 years in business. But, it's our clients who have brought us here, through their long-standing trust in us. We've made it our passion to provide them with stability and sound business advice.

To our clients, we say "Thank you" and look forward to the journey ahead.



**75 years young and growing**

North Haven  
203-239-6888

[www.konowitzkahn.com](http://www.konowitzkahn.com)

Middlebury  
203-598-0757

# FAMILY LAW

## OBLIGATIONS OF IMMIGRANT SPONSORS MAY OUTLAST DIVORCE

Alimony is often an overlooked to those signing Affidavits of Support

BY MICHAEL HAFKIN

Immigration practitioners are well-versed in preparing Affidavits of Support in family-based cases. However, attorneys also have to be able to explain to sponsors all the consequences of filing the affidavit. These consequences are wide-ranging and may last for quite a long period of time.

The requirement of providing an Affidavit of Support for sponsored aliens stems from Section 212 of the Immigration and Nationality Act (INA), 8 U.S.C. § 1182, which lists the classes of immigrants ineligible for admission into the United States. The most common grounds of inadmissibility are for those who have criminal convictions, prior violations of immigration laws, health-related issues, and present security risk to the United States.

The statute, in Subsection 4, also bars those who are likely to become a public charge from admission. The statute further requires all petitioners of family-sponsored immigrants to execute an Affidavit of Support on behalf of the

alien. Thus, in most situations, U.S. spouses, parents, children, brothers and sisters filing for their relatives to come to the United States have to execute an Affidavit of Support.

The purpose of the affidavit is to demonstrate to the U.S. government, that the sponsor will be able to support an alien at 125 percent of the federal poverty level. The mechanics of demonstrating this ability can be quite complicated and involve the use of income and/or assets, as well as co-sponsors or household members to demonstrate the proper level of income.

Whereas the clients may see an Affidavit of Support as just one of many technical forms they have to fill out in order bring their loved ones to the United States, it is the job of an attorney to explain the consequences of executing the affidavit and the duration of the obligation.

The traditional explanation for the use of the affidavit is that if the alien applies for public assistance in the United States, the government may seek reimbursement from the sponsor. Enforcement of the Affidavit of Support has varied in Connecticut over the last years and

has included a moratorium on the use of the affidavits, an active pursuit of reimbursement from sponsors, and provision of public benefits to immigrants if sponsors themselves qualify for public benefits. Most clients do not think twice about executing an Affidavit of Support, reasoning that their loved ones are not likely to apply for public benefits.

Sometimes, however, clients are hesitant in sponsoring their elderly parents because they are not eligible for publicly-funded medical assistance, are not likely to obtain employment with an employer-provided health insurance, and are not likely to afford an individual health insurance policy.

Most clients understand that execution of the Affidavit of Support creates an enforceable contract between themselves and the U.S. government, where the alien's admission to the U.S. is the consideration. However, Section 213A of the INA provides that if the sponsor fails to provide the required support, the sponsored alien may independently sue for enforcement.

### Divorcing Aliens

An interesting situation arises in divorce cases. A divorce does not terminate the sponsor's support obligations under the Affidavit of Support. Under Section 213A, these obligations terminate only when a sponsored alien can be credited with 40 quarters of coverage under the Social Security Act, which takes at least 10 years, or becomes a U.S. citizen, which takes three years if the parties are still married or five years if they are divorced.

The obligations also end when one of the parties dies or the sponsored alien leaves the country. So the issue is if the divorcing alien may make a claim for alimony based on the sponsor's obligations under the Affidavit of Support. Connecticut courts are not inclined to award alimony for short-term marriages.

Under Connecticut General Statutes § 46b-82, the length of the marriage is the very first listed factor for the court to consider when awarding alimony. However, a marriage of a U.S. citizen and an alien often involves parties in unequal positions. An alien spouse may have a limited earning capacity due to lack of knowledge of English or lack of employment skills needed in the U.S. In such circumstances



Michael Hafkin

at least a short-term award of alimony may be in order and existence of the Affidavit of Support may provide a justification for the trial court to do so.

Curiously, there is not much case law from Connecticut courts on this topic. In *Muir v. Muir*, 2002 WL 1837964, the court in rendering alimony and property distribution orders in a two-year marriage noted that while the plaintiff executed an Affidavit of Support on the defendant's behalf, his contractual obligations under the Affidavit were unaffected by the judgment.

In *Hernandez v. Burgos*, 2011 WL 782710, the plaintiff raised as an issue the fact that the defendant signed an Affidavit of Support. However, because the plaintiff did not claim that the trial court was bound by the federal form, the court declined to comment on its impact in the claim for alimony made by the plaintiff in the prayer for relief.

Several state courts throughout the country, however, have held that aliens can seek enforcement of Affidavits of Support in divorce proceedings. In *Barnett v. Barnett*, 238 P.3d 594 (Alaska 2010), the Supreme Court of Alaska addressed a situation where a sponsored alien was earning more than 125 percent of the federal poverty level. The trial court recognized the husband's obligations under the Affidavit of Support but did not award any support to the wife determining that the sponsor is required to pay only the difference between the sponsored non-citizen's income and the 125 percent of poverty threshold.

In an analogous situation, the Court of Appeals of Kansas affirmed the trial court's decision not to award support payments to a wife whose income exceeded 150 percent of the federal poverty threshold. See *In re Marriage of Sandhu*, 41 Kan. App.2d 975, 207 P.3d 1067 (Kan. App. 2009).

Interestingly, there are significantly more support actions filed in federal district courts by alien ex-spouses. The most typical scenario is where the state court does not award alimony in a divorce proceeding. See, e.g., *Shumye v. Felleke*, 555 F. Supp.2d 1020 (N.D. Cal. 2008). Because the Affidavit of Support provides that it may be enforced in federal or state court, federal courts have jurisdiction over this matter. Moreover, under Section 213A, the sponsor may also be liable for cost of collection, including attorney's fees.

The 2011 federal poverty level for one person is \$10,890 (except for those residing in Alaska and Hawaii, where it is higher), and 125 percent of this amount is \$13,612.50. If the court orders alimony for this amount for a period of five years, a sponsor will be liable for an amount close to \$70,000. This is definitely something to take into account when advising clients about executing an Affidavit of Support. ■

### LAW OFFICE OF JOSEPH T. O'CONNOR

733 SUMMER STREET  
STAMFORD, CONNECTICUT 06901  
(203) 356-0001  
JTO@JTOCONNORLAW.COM

### 25 YEARS OF PROFESSIONAL EXPERIENCE IN ALL AREAS OF FAMILY AND MATRIMONIAL LAW

- Trial Litigation and Post Judgment proceedings including enforcement, defense of judgments modification and appellate services
- Prenuptial, Postnuptial, Legal Separation and Divorce agreements
- Cost efficient and confidential alternatives to litigation including private arbitration and mediation
- Experienced staff provide personal and compassionate service

Michael Hafkin is a senior associate with Clayman, Tapper & Baram LLC in Bloomfield. He practices in the areas of Civil Litigation and Immigration and Nationality Law. He can be reached at mhafkin@ctattys.com. To learn more about the firm, visit www.ctattys.com.

# FAMILY LAW

## APPEARANCES ARE EVERYTHING: FINDING HIDDEN INCOME

Divorcing parties occasionally conceal assets in their businesses

By **CHARLES E. STRICKLAND** and  
**ELIZABETH I. TYLAWSKY**

A downturn in business can be as the result of many factors, from economic influences to industry considerations, to geographical causes. It also has a tendency to occur as the result of a divorce filing or child support action. Such an occurrence is usually a cause for a careful consideration of business losses and their origins; are they actual or do they just appear to be? Such an appearance can be contrived through the manipulation of company books and the concealment of assets, primarily in the form of cash. There are many ways to hide income but, with the right tools and expertise, there are many ways to find that income as well.

Income is most easily influenced and redirected in closely-held businesses where the owner has control over the company's finances. Because of this control, these types of businesses are at the highest risk for concealment of income. Not surprisingly, these types of business interests are also the most commonly seen type in family law matters. Because of the nature of such business interests, the disguising of income can appear in many forms. Underreporting cash receipts, deceptively increasing expenses, and offering incentives to customers who pay with cash are all methods employed to induce the appearance of a downturn in business.

These techniques of financial maneuvering can be counteracted through requests for third party records, a comparison between current and historical trends within both the company and the industry in which it operates, and lifestyle analyses of the subject parties. Such an analysis can reveal concealed income and, subsequently, the true value of the business and income to the subject party.

Requesting financial documents is customary in a family law proceeding where income or business value is at issue. One of the simplest and most reliable methods of ascertaining whether income may have been manipulated is to request records from a third party. While some records may be easily altered, other records are nearly impossible to adjust, such as bank and credit card statements. A review of these records may reveal a different financial depiction than that proclaimed by a spouse. While it is unlikely hidden income may be revealed through such an examination, expenses may show items which are personal in nature and which have been "reclassified" within a seemingly legitimate business operating expense category. Increased expenses result in decreased net income and, therefore, a lower

business value and subsequent decline in distributions or earnings to a spouse.

In addition to performing a careful review of such third party records, a thorough and comprehensive review and comparison of current and historical business trends can reveal questionable fluctuations. Certain expenses of many closely-held businesses fluctuate with revenues. Cost of goods sold may be linked with sales in inventory-based businesses, hourly wages may vary in accordance with revenues in labor-intensive companies, and ratios of sales made for cash compared to sales made on credit may be historically within a set range.

Where income has been underreported and expenses have not been subsequently modified to reflect the alteration, an analysis based on these historical trends may be strong evidence for unreported income.

In the alternative, performing a lifestyle analysis of the subject party may reveal that income has been hidden and may show the origin of such concealed income. A lifestyle analysis is an investigation of an individual's

historical levels of earnings and expenses. A level of expenses which cannot be supported by reported earnings may be indicative of such concealment. Similarly, a lifestyle analysis may yield personal expenses which have been paid by the business. Personal expenses paid by the business have a twofold effect; expenses of the business are increased, resulting in lower net income, while conversely, the subject party may reduce his income from the business since his personal expenses are lower, reducing his wages and subsequently the base figures which may be used for a support order.

Income can be concealed through many different methods and underreported through a variety of mechanisms. Whether expenses are artificially increased in order to reduce net income, payments are manipulated to give the appearance of diminished revenues or cash is sim-

ply pocketed and not reported, all techniques have the same end effect. A comprehensive review of past financial records, a comparison of company and industry trends, and a detailed analysis of individual earnings can reveal unexplained changes and inaccurate results which may be indicative of hidden income. ■



Charles E. Strickland



Elizabeth I. Tylawsky

Your strategic resource for resolving complex financial matters

Embezzlement. Fraud. White collar crime. Unfortunately, they're all too common in business. Uncovering the truth requires integrity, determination and experience. Forensic Accounting Services, LLC provides over two decades of expertise in digging deep into the facts. We find the missing pieces you need to resolve your matter. **Contact us today at 860-659-6550 to help you build a solid, fact-based strategy for your tough financial cases.**

 **forensic accounting services, llc**  
Piecing together financial puzzles™

www.forensicaccountingservices.com  
2389 Main St., Glastonbury, CT 06033

SERVING FAIRFIELD COUNTY AND BEYOND IN HIGH NET WORTH,  
HIGH INCOME, AND CUSTODY CASES

**RUTKIN, OLDHAM &  
GRIFFIN, L.L.C.**

A Boutique Family and Matrimonial Law Firm



*Authors of the Connecticut Practice Series  
Treatise on Family Law*

5 Imperial Avenue • P.O. Box 295 • Westport, CT 06880  
Two Lafayette Court • Greenwich, CT 06830  
203-227-7301 | www.rutkinoldham.com

Charles E. Strickland III is a senior valuation analyst and Elizabeth I. Tylawsky is a valuation analyst with Meyers, Harrison & Pia LLC, a certified public accounting firm and business valuation firm based in New Haven, with additional offices in Greenwich, Glastonbury, and New York.