

Family Law

# Section Quarterly Report

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### MESSAGE FROM THE EDITOR

We are always looking for informative or entertaining articles from our members to share with the Section. In this issue, Matthew Thompson of Jackson provides both in "I am an Undivorce Attorney," a look at Miss. Code. Ann. Section 93-5-31.

Our Section has agreed to sponsor an issue of *The Mississippi Lawyer* in 2009. If you would like to submit an article for the Family Law issue, please let me or our Section Chair, Leigh Ann Rutherford, know.

In August, the Court of Appeals decided *Price v. McBeath*, which in dissent discusses our new Miss. Code Ann. Section 93-5-34, providing relief in custody and visitation cases for parents receiving temporary duty, deployment or mobilization orders from the military.

On July 8, 2008, the Supreme Court amended Uniform Chancery Court Rule 8.06 [Change of Address of Children] to require inclusion in all custody and visitation orders the following:

"(c) In the event of a threat, disaster, or other emergency, such as a hurricane, which causes an emergency evacuation, any party who has custody of a minor child (physical custody or while exercising visitation) has a duty to notify the other parent of the location and well being of the minor(s) as soon as reasonably possible."

## NOTES FROM THE BAR

I am an Undivorce Attorney  
By Matthew Thompson

Family Law Practice may be the hardest type of law practice. I have heard more than a few lawyers say, "I did divorces at one time, but never again." Divorce practice is litigation, which is hard, and it involves families in turmoil, which is hard. Oftentimes divorce lawyers feel their clients really want a hitman, not a lawyer. There are some rare moments of fulfillment, though, which keep us going. I discovered one of these rare moments when a divorce client asked me to set aside his divorce. It was then that I discovered the "undivorce."

Pursuant to *Mississippi Code Ann. §93-5-31*, a judgment of divorce may be revoked. This creature of statute is not a remarriage, but wiping the slate clean of the parties' divorce. It is as if they were never divorced. The statute states, in part, that a judgment of divorce may be revoked at any time by the court which granted it, under such regulations as it may deem proper, upon joint application of the parties, and upon satisfactory proof of their reconciliation. *Id.*

I have had the opportunity to file and ultimately have granted two undivorces. The first was for a client who had an amicable irreconcilable differences divorce. We handled the divorce and some four years later this client called back. The client reported that after a year or so of being divorced the two began a new relationship with each other. At first they communicated via email and on the phone. After a while, they began the courtship process, and much to their own surprise, and to the delight of their grown children, realized they were meant to be together. The client contacted us for any options and was aware they could remarry, but asked about annulling the divorce. While this was not the proper terminology, we looked and discovered §93-5-31 was essentially the same as an annulment of the divorce. The revocation statute is very short, just three lines, and somewhat vague, but we used it.

The divorced couple signed a joint application, provided satisfactory proof of reconciliation, and after a short visit with the chancellor, they were undivorced. I am pleased to report they are still doing well.

The second instance was a much younger couple who seemingly rushed into marriage, and then rushed to divorce, but less than a week after being divorced realized they had made a mistake. Having one undivorce under my belt, I knew exactly what to do. They were undivorced and back to wedded bliss in a little less than 2 weeks. So in less than a month's time these parties were married, divorced, and then undivorced.

The "undivorce" is a relatively unknown and rarely used. However, it is a useful and satisfying endeavor for the beleaguered divorce attorney. The undivorce procedure is one that warrants a positive sense of accomplishment, with no regrets. Plus it is really cool, finding yourself at whatever social event you are attending, when asked what kind of lawyer you are, to say, "I am an undivorce attorney."

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