

**Course Syllabus
Immigration & Family Law
University of Houston Law Center
Spring 2014**

Profs. Janet Beck and Janet Heppard

Course Description:

In this class, students will work individually and in groups to find legal solutions to hypothetical situations where immigration and family law intersect e.g. marriage, divorce, adoption, domestic violence, the Hague Convention and Suits Affecting the Parent Child Relationship. Students will study family-based immigration law and learn how it relates to representation of individuals in family court. They will develop practical skills that will enable them to successfully represent clients who are seeking immigration benefits through a family member. Students will learn the practical aspects of representation of non-citizens in family court.

Course Materials:

Immigration Law and the Family: A Practical Guide to Family-Sponsored Immigration, 3rd Ed. (2013), edited by Charles Wheeler. If you order this book through www.aila.org/agora the price is \$ 65.00 plus shipping, etc. You must use the coupon code ADDFAM13. The UH Calhoun Lofts Bookstore also will have the book.

Students should pick up the Syllabus and Packet of Materials (POM) at the University of Houston Law Center Copy Center before the first class. They will be 3-hole punched with a Table of Contents. It is suggested that students put them in a looseleaf binder. Some materials in the POM are marked “Optional Reading” so that a student who becomes an immigration practitioner will be able to use the POM as a handbook.

Laptops:

Students must bring their laptops to class as there will be times when they will be using them for class exercises.

Attendance Policy:

Students are expected to attend and be prepared for each class. The University of Houston Law Center has a minimum 80% attendance policy for students. Students who attend fewer than the minimum percentage of required classes may be automatically dropped from the course.

Grading:

Grades will be as follows: 20% class participation, 25% take home assignments, 55% in-class final exam. For the final exam, 10 single-sided, double-spaced pages of notes will be allowed. The exam, itself, will contain the latest Visa Bulletin and any other pertinent materials.

Participation counts for 20% of the student's grade in this course. Here are the actions that demonstrate participation: 1) Asking questions, 2) Answering questions and 3) Making comments (extra points for comments that relate to material in the text or POM and for sharing relevant life/professional experiences). We will keep track of which students are participating. In addition, if students want to keep track of what they contributed and on what date i.e. the question asked, the answer given, the comments made, etc. students can send the professors this record at the end of the semester.

Final Exam:

Exam Date: May 5, 2014 4-7pm

Office Hours:

To meet with the professors with questions regarding the class, students should email them with available times. jbeck2@central.uh.edu and jheppard@uh.edu

Week 1 (January 13 and 15)

Jan. 13: Overview; Family-Based Preference System

- ☐ Chapters 1 pps. 1-21
- ☐ POM:
 - Visa Bulletin
 - Sample Documents from the M-274 Employer Handbook

Jan. 15: Immigration Law Definitions of Marriage, Children, Fiance(e)s and Widows(ers); Child Status Protection Act (CSPA)

- ☐ Chapter 1: pps. 2-5
- ☐ Chapter 5: pps. 131-135, 140-143
- ☐ POM:
 - INA § 101(b)
 - 9 FAM 40.1 Notes; 9 FAM 42.21 Notes
 - CSPA Practice Advisory, American Immigration Council

Week 2 (January 20-no class; January 22)

January 22: Priority Dates; Filing a Family-Based Petition

- ☐ Chapter 1: pps. 14-20
- ☐ Chapter 2: pps. 39-48
- ☐ POM:
 - Visa Bulletin (See Week 1)
 - USCIS form I-130 and instructions

- USCIS Memorandum, *Adam Walsh Child Protection and Safety Act of 2006*, July 28, 2006
- USCIS Memorandum *Guidance for Adjudication of Family-Based Petitions and I-129F Fiance(e) Under the Adam Walsh Act*, Feb. 8, 2007
- INA § 204(c)
- *Matter of Tawfik*, 20 I&N Dec. 166 (BIA 1990), aka Interim Decision 3130
- Optional Reading: 8 CFR § 204.5(d),(e)
- Optional: 8 CFR § 205 revocation
- Optional Reading: USCIS Policy Memorandum, *Guidance to USCIS Offices on Handling Certain Family-Based Automatic Conversion and Priority Date Retention Requests Pending a Supreme Court Ruling on Mayorkas v. Cuellar de Osorio*, November 21, 2013
- Optional Reading: *Cuellar Osorio v. Mayorkas*, 695 F.3d 1003 (9th Cir. 2012), *cert granted* June 2013 by the U.S. Supreme Court upon petition by DHS, oral argument Dec. 10, 2013

Week 3 (January 29 and 31)

January 29: Family Law Definitions of Marriage and Children

POM: TX FAM CODE

Definitions:

- 1.101: Every Marriage Presumed Valid
- 1.102: Most Recent Marriage Presumed Valid
 - *Loera v. Loera*, 815 S.W.2d 910 (Tex. App.—Corpus Christi 1991, no writ)
- 1.103: Persons Married Elsewhere

The Marriage Relationship:

- 2.401: Proof of Informal Marriage
 - *Flores v. Flores*, 847 S.W.2d 648 (Tex. App.—Waco 1993, writ denied)
 - *Small v. McMaster*, 352 S.W.3d 280 (Tex. App.—Houston [14th District] 2011, pet. denied)
- 2.402: Declaration and Registration of Informal Marriage
- 2.501: Duty to Support
 - *Ex. Parte Hall*, 854 S.W.2d 656 (Tex. 1993)

Bigamy:

- Tex Penal Code 25.01: Bigamy

Paternity:

- 160.201: Establishment of Parent-child Relationship
- 160.204: Presumption of Paternity
- 160.302: Execution of Acknowledgement of Paternity
- *Acknowledgement of Paternity form*
- 160.303: Denial of Paternity

- 160.305: Effect of Acknowledgement of Paternity
- 160.402: Registration for Notification
- 160.404: Termination of Parental Rights: Failure to Register
- 160.602: Standing
- 160.603: Necessary Parties to Proceeding
- 160.604: Personal Jurisdiction
- 160.605: Venue
- 160.606: no time limitation: no presumed father
- 160.607: Time Limitation: with a presumed father
- *In Re S.C.L*, 175 S.W.3d 555 (Tex. App.—Dallas 2005, no pet.)
- 160.631: Rules for Adjudication of Paternity

January 31: Conditional Permanent Resident Status

- ☐ Chapter 5
- ☐ POM:
 - USCIS form I-751
 - *Matter of Balsillie*, 20 I&N 486 (BIA 1992)
 - *Matter of Stowers*, 22 I&N Dec. 605 (BIA 1999)
 - Optional: INA § 216; 8 CFR § 216

Week 4 (February 3 and 5)

Feb. 3 and 5: Divorce Proceedings in Family Court

- ☐ POM: Tex. Family Code (Provisions and cases listed below)
 - Divorce Checklist
 - Custody Checklist

Divorce:

- 3.002: Community Property
- 3.003: Presumption of Community Property
- 3.201: Spousal Liability
- 6.001-6.007: Grounds for Divorce and defenses
- 6.102-6.111: Grounds for Annulment
- 6.201-6.206: Declaring a Marriage Void
 - *Desta v. Anyaoha*, 371 S.W.3d 596 (Tex.App.—Dallas 2012, no pet.)

Jurisdiction:

- 6.301: General Rule
 - *In Re Green*, 385 S.W.3d 665 (Tex. App.—San Antonio 2012, orig. proceeding)
- 6.305: Acquiring Jurisdiction Over a Non-resident

- *Bloom v. Bloom*, 935 S.W.2d 942 (Tex. App.—San Antonio 1996, no writ)
 - *Hoffman v. Hoffman*, 821 S.W.2d 3 (Tex. App.—Fort Worth 1992, no writ)
- 6.308: Exercising Partial Jurisdiction\
- 6.406: Mandatory Joinder of Custody Suit
 - *In the Marriage of Morales*, 968 S.W.2d 508 (Tex.App.—Corpus Christi 1998, no pet.)
- 6.407: Transfer of Custody Suit to Divorce Court

Custody (SAPCR):

- 100.103: Definition of minor child
- 102.003: Standing
 - *In re K.K.C.*, 292 S.W.3d 788 (Tex.App.—Beaumont 2009, orig. proceeding)
 - *In re M.K.S.-V.*, 301 S.W.3d 460 (Tex.App.—Dallas 2009, pet. denied)
- 102.004: Grandparent Standing
 - *Blackwell v. Humble*, 241 S.W.3d 707 (Tex.App.—Austin 2007, no pet.)
- 102.008: Contents of Petition
- 102.009/102.010/TRCP 106/108/109: Service (Notice of Suit)
- 102.011: Acquiring Jurisdiction Over Nonresident
 - *In re S.A.V.*, 837 S.W.2d 80 (Tex. 1992)
- 103.001: Venue
- 104.006: Hearsay Statement of Child Abuse Victim
- 105.001: Temporary Orders
- 105.006: Contents of Final Order

Custody/Possession and Access (Skim these sections)

- 153.002/153.004/153.005/153.006/153.009
 - *Shook v. Grey*, 381 S.W.3d 540 (Tex. 2012)
 - *Holley v. Adams*, 544 S.W.2d 367 (Tex. 1982)
 - *Lewelling v. Lewelling*, 796 S.W.2d 164 (Tex. 1990)
 - *In re K.L.W.*, 301 S.W.3d 423 (Tex.App.—Dallas 2009, no pet.)
- Rights and Duties Handout
- Standard Possession Order Handout

Child Support

- Child Support Handout
- 154.068: Salary Presumption
- 154.069: Spouses Income not Relevant

Preventing International Abduction

- 153.501 – 153.503: Preventing International Abduction

UCCJEA:

- 152.102: Definitions
- 152.105: International Application
- 152.108: Notice to Persons Outside the State

- 152.201: Jurisdiction
- 152.305: Registration of Child Custody Determination
- 152.306 and 152.308: Enforcement
- 152.309: Service of Petition and Order
- 152.310: Hearing & Order
- 152.313: Recognition & Enforcement
- CPRC 36.001-36.006: Enforcement of Judgments of Other Countries

TAKE-HOME ASSIGNMENT due February 12: Draft Petition/Counterpetition for divorce.

Week 5 (February 10 and 12)

Feb. 10: Adoption in Immigration Law

- ☐ Chap. 1 p. 4
- ☐ Chap 2 pps. 55-57
- ☐ POM:
 - 9 FAM 40.1 N2.4-1 thru Note 4
 - USCIS Memorandum *Exception to the Two-Year Custody and Two-year Residence Requirement for Abused Adopted Children*, Sept. 12, 2013

Feb. 12: Validity of Foreign Adoptions and Documents in Immigration Law

- POM:
 - USCIS Interim Memorandum “*Guidance for Determining if an Adoption is Valid for INA Purposes*,” July 9, 2012
 - *Matter of Chin*, 12 I&N Dec. 240 (BIA 1967)
 - 8 CFR § 287.6
 - DOS Country Documents for Sierra Leone
- Optional: USCIS Interim Policy Memorandum, “*Criteria for Determining Habitual Residence in the United States for Children from Hague Convention Countries*,” Dec. 23, 2013

Week 6 (February 17 and 19)

Feb. 17: Adoption in Family Court

- POM:
 - Termination/Adoption Checklist**

Termination

- 102.005: Standing
- 160.421: Registry Search

- 161.001: Involuntary Termination
 - *Wiley v. Spratlan*, 543 S.W.2d 349 (Tex. 1976)
 - *In re J.F.C.*, 96 S.W.3d 256 (Tex. 2002)
 - *In the Interest of M.C.M.*, 57 S.W.3d 27 (Tex.App.—Houston [1st Dist.] 2001)
 - *In the Interest of E.C.R.*, 402 S.W.3d 239 (Tex. 2013)
- 161.002: Termination of the Rights of an Alleged Biological Father
- 161.003: Involuntary Termination: Inability to Care for Child
- 161.103: Affidavit of Voluntary Relinquishment
- 161.106: Affidavit of Waiver of Interest in Child
- 161.206: Order Terminating Parental Rights
- 161.207: Appointment of Managing Conservator on Termination

Adoption

- 162.001: Who May Adopt
- 162.002: Prerequisites to Petition
- 162.005: Preparation of Health, Social, Educational, and Genetic History Report
- 162.009: Residence with Petitioner
- 162.016: Adoption Order
- 162.021: Sealing File
- 162.023: Adoption Order From Foreign Country
 - 192.006 Health and Safety Code: Supplementary Birth Certificate
 - 192.008: Birth Records of an Adopted Person
 - **192.009. Certificate of Adoption**

Hague Convention: Intercountry Adoptions

- 42 U.S.C.A. § 14902: Definitions
- 42 U.S.C.A. § 14901: Findings and Purpose
- 42 U.S.C.A. § 14911: Central Authority
- 42 U.S.C.A. § 14931: Adoptions of children immigrating to the U.S.
- 42 U.S.C.A. § 14942: Documents of Other Countries
- 42 U.S.C.A. § 14944: Enforcement
- 42 U.S.C.A. § 14952: Special Rules for Certain Cases

Feb. 19: Other Applications of the Hague Convention

POM:

- 42 U.S.C.A. 11601-11608: International Child Abduction Remedies Act (ICARA)
- Tex. Fam. Code 152.302: Enforcement Under Hague Convention
- 152.303: Duty to Enforce
- 152.304: Temporary Visitation
- Sample Hague Petition

Week 7 (Feb. 24 and 26)

Feb. 24: Quiz and Review

In-class Quiz

This week will start with a quiz (multiple choice and short answer) as a review of what the students have studied so far. The quiz will **not** be graded. After the quiz, we will discuss the answers. The quizzes will be turned in at the end of class so that the professors may make comments and return the quizzes to the students as soon as possible.

The quiz is designed to help students determine their level of understanding of the course as well as help the professors focus on where students need more help. If a student does not do well on the quiz, the student should make an appointment with one of the professors so that the professor can help the student better understand the course material.

Feb. 26: Consular Processing v. Adjustment of Status; Accompanying v. Following to Join; Cross-Chargeability; Surviving Relatives

- ☐ Chap. 1, pps. 7-8
- ☐ Chap. 2, pps. 45-58
- ☐ Chaps. 3 and 4; Chap. 6 pps. 181-186
- ☐ POM:
 - DS 260; I-485
 - Optional: 8 CFR § 245.10
 - Optional: INA § 204(1)

Week 8 (March 3 and 5)

March 3: Domestic Violence in Family Court

- **POM:**
 - Texas Family Code: Protective Orders**
 - 71.001-71.006: Definitions
 - 82.002: Who May File
 - 82.003: Venue
 - 82.004: Contents of Application
 - 83.001: Application for Temporary ExParte Order
 - 83.002: Duration of Ex Parte Order
 - 83.006: Exclusion of Party From Residence
 - 85.001: Required Findings and Order
 - *Boyd v. Palmore*, ____ S.W.3d. ____ (Tex.App.—Houston [1st Dist.] 2011, no pet.) (No 01-10-00515-CV; 9-29-11)
 - *Teel v. Shifflett*, 309 S.W.3d 597 (Tex. App.—Houston [14th Dist.] 2010, pet. denied)
 - 85.007: Confidentiality of Certain Information
 - 85.021-85.022: Contents of Order
 - 85.025: Duration of Order
 - 85.026: Warning on Protective Order
 - 88.005: Registration of Order (Foreign Order)

- Safety Plan

TAKE-HOME ASSIGNMENT due March 5: Draft application and order for protection.

March 5: Violence Against Women Act petitions (Immigration)

- ☐ Chap. 9
- ☐ POM:
 - USCIS Form I-360
 - Optional: USCIS Memorandum, *Continued Eligibility to File for Child VAWA Self-Petitions After Attaining Age 21*, Sept. 6, 2011

MARCH 10-14 SPRING BREAK

Week 9 (March 17 and 19)

March 17: Grounds of Inadmissibility, Deportability and Waivers for Same

- ☐ Chapter 6
- ☐ Chapter 7
- ☐ POM:
 - Inadmissibility and Deportability Chart
 - Optional: 9 FAM 40.6 Exhibit 1
 - Optional: INA §§ 212, 237

March 19: Representation of Family Beneficiaries in Removal Proceedings

- ☐ Chap. 5, pps. 107-27
- ☐ POM:
 - CIS denial of I-485
 - Notice to Appear (NTA)

Week 10 (March 31 and April 2)

March 31: Special Immigrant Juveniles (Immigration)

- ☐ POM:
 - Kids in Need of Defense (KIND) Powerpoint
 - Optional: INA § 101(a)(27)(J)
 - Optional: USCIS form I-360 (See Tab 13)

April 2: Special Immigrant Juveniles (Family- SAPCR)

- ☐ POM: reread Suit Affecting Parent Child Relationship statutes from Feb

Declaratory Judgment: CPRC

- CPRC 37.001: Definition
- CPRC 37.003: Power of Courts to Render Judgment
- CPRC 37.004: Subject Matter of Relief
- CRPC 37.006: Parties
- CPRC 37.007: Jury Trial
- CRPC 37.008: Court Refusal to Render
- CPRC 37.010: Review
- CPRC 37.011: Supplemental Relief
- Sample Declaratory Judgment

Week 11 (April 7 and 9)

April 7: Affidavit of Support

Chap. 8

- POM:
 - I-864, I-864 EZ
 - USHHS Poverty Guidelines for 2013
 - Hoffman, G, “Immigration Form I-864 (Affidavit of Support) and Efforts to Collect Damages as Support Obligations Against Divorced Spouses—What Practitioners Need to Know,” *The Florida Bar Journal*, Vo. 83, No. 9 (October 2009)
 - *In the Marriage of Kamali*, 356 S.W.3d 544 (Tex.App.—Texarkana 2011)
 - Optional: 8 CFR § 213a

April 9: Writing Skills (Immigration)

TAKE HOME ASSIGNMENT IMMIGRATION: Write a letter to USCIS pursuant to fact pattern distributed in class. You will need to create letterhead, cite the statute, the regulations, and make a List of Exhibits. Due April 16.

Week 13 (April 14 and 16)

April 14: Professionalism; Managing Difficult and High Maintenance Clients (Immigration and Family)

- POM: *Compassion Fatigue and Attorneys* (Tex. Bar Journal Sept. 2010)

April 16: Ethical Issues for Immigration and Family Attorneys (invited speaker)

- Chap. 10

Week 14 (April 21 and 23)

April 21: Law Practice Management (Invited Speakers)

- ☐ Chap. 10
 - ☐ POM:
 - “Being the Lincoln Lawyer- Law Practice Management on the Road,” by Kenneth Raggio
 - “Latest Tech Tools For Your Practice,” by Reginald Hirsh
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April 23: Exam Review. This will be the last class.

FINAL EXAM: May 5, 2014: 4-7 p.m.
