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VOLUME LXVII NUMBER VI
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MSBA President 2014-15

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My agenda for the upcoming bar year is simple: to begin a sustained, multiyear effort to focus the MSBA's resources on what it does best. We have good sections, popular online services, and a strong legislative presence at the State Capitol. We need to build on these successful programs and up our game in other areas such as diversity. To remain relevant the MSBA must learn to focus more.
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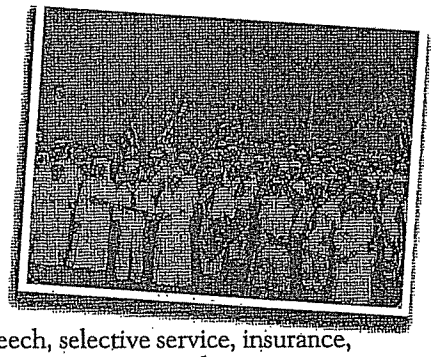

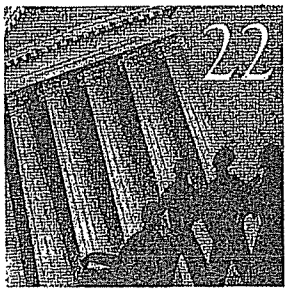

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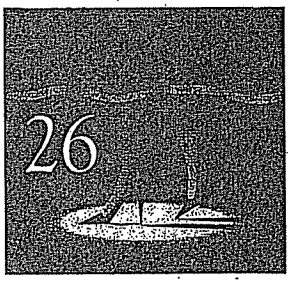
By Chief Justice Lorie S. Gildea

The Appearance of Professionalism
Women lawyers are perpetually under the sartorial microscope. Aren't they competent to make their own judgments about their professional obligations—including what they wear to work?
By Karen Erger



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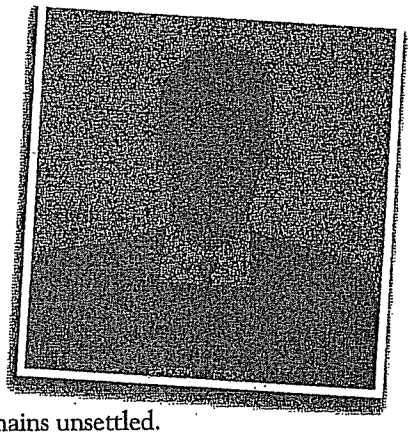

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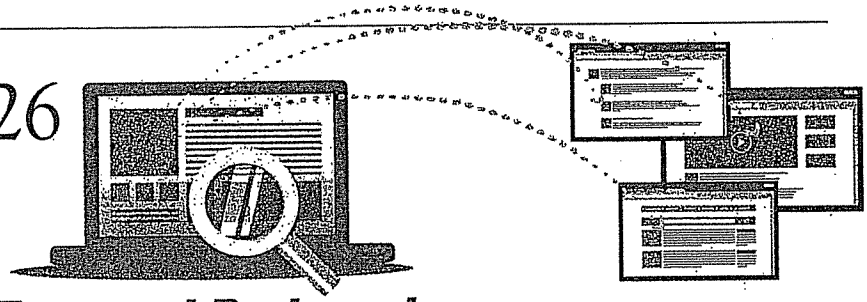
By John DelVecchio



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Official Publication of the Hennepin County Bar Association

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MINNESOTA FAMILY LAW JOURNAL

Volume 27, Number 5 LexisNexis® July/August 2014

Dispelling Alimony Myths: The Continuing Need for Alimony and the Alimony Reform Act of 2011

Rachel Biscardi*

[First of Two Installments]

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* Rachel Biscardi is the Director of Pro Bono Projects at the Women's Bar Foundation (WBF) where she recruits, trains, and mentors volunteer attorneys to represent low-income victims of domestic violence in their family law cases. She is the recipient of Lawyer's Weekly 2013 Excellence in the Law Award, Boston University School of Law's 2013 Public Interest Award, and the Women's Bar Association's 2010 Certificate of Service. Before joining the WBF, Ms. Biscardi worked at Community Legal Aid, the Essex County District Attorney's Office, and as a judicial law clerk in the Probate and Family Court. Ms. Biscardi teaches family law at New England Law, Boston and Northeastern University School of Law. In 2010–2011, Ms. Biscardi served as the Women's Bar Association's (WBA) representative on the Legislative Task Force on Alimony which drafted the Alimony Reform Act of 2011 codified in MGL c. 208 § 48–55. Currently, she is the WBA representative on the Governor's Working Group on Child-Centered Family Laws which is reviewing the custody laws in Massachusetts. Ms. Biscardi is the former co-chair of the Domestic and Sexual Violence Coalition, which is comprised of law firms, district attorney's offices, legal service agencies, and batterer's intervention programs. Ms. Biscardi is also a member of the Boston Bar Association's Family Law Steering Committee and the Legal Services Family Law Task Force. She has authored several articles on the value of pro bono work in such journals as the BBA Family Law Journal and the WBA Chronicle. She has also appeared in television shows such as Chronicle and Greater Boston with Emily Rooney. Ms. Biscardi is a graduate of Boston University School of Law with a specialization in litigation and dispute resolution. She would like to extend her appreciation to the Women's Bar Association for their continued support and dedicate this article to her spouse, Tony Biscardi, She would also like to thank Maria Tartaglia, a third year law student at Boston University School of Law, who interned with the Women's Bar Foundation in the summer of 2012. She was instrumental in helping research and assist in drafting this legal memorandum.

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Introduction

Alimony has captured the public's imagination over the past six [*2] years in Massachusetts as stories about the state's "antiquated" alimony laws proliferated in the media.[1] Grassroots organizations, primarily comprised of alimony payors, mobilized to seek legislative solutions to what they perceived as an outdated alimony system: a relic of a time when women stayed home and cared for children while men were the "breadwinners."[2]

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FAMILY LAW JOURNAL

Volume 27, Number 6 *LexisNexis®* *September/October 2014*

Creating A New Norm: Engaging Fathers Through Direct Representation In Child In Need of Protection or Services Actions

Cyrenthia D. Shaw*

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I. Introduction

The engagement of fathers in the **Child** in Need of Protection or Services (CHIPS) process is not a new concept.[1] Minnesota statutes and rules protect the rights of parents with the stated purpose of juvenile protection to preserve and strengthen family ties.[2] Although Minnesota social services agencies offer voluntary [*1144] services to families prior to court involvement, historically noncustodial and nonresident parents are lost in the shuffle.[3] Noncustodial parents are further disadvantaged by policies that delay the appointment of legal counsel to noncustodial parents until a secondary action of Termination of Parental Rights (TPR) is commenced,[4] which generally occurs six to twelve months after the initial CHIPS filing.[5]

In 2012, the Hennepin County Public Defender's Office implemented a pilot project to provide representation to noncustodial parents in juvenile court to engage the parents in the early stages of CHIPS actions.[6] Legal services are provided to noncustodial parents that voluntarily appear at the court hearing and request an attorney. Although the project provides legal representation to male or female noncustodial parents, fathers have primarily requested services. Hence, the project is referred to as the Father's Project.

A father's ongoing involvement in the **child** protection process is increased when the father dispels the notion that he is ignored; he has a voice at the counsel table to give input into the legal decisions that affect his **child's** well-being. An engaged father that participates in his case plan has a greater opportunity to be [*1145] presently active in meeting his **child's** needs.[7] Responsible parenting skills are improved upon as the bond between a father and his **child** is reinforced. Direct legal representation of fathers creates a new norm and expands the options for collaborative resolution in **child** protection matters.

II. The Responsibility of Parenting

A. Fatherhood

The father has a constitutional parental right under the Fourteenth Amendment.[8] A father acquires substantial protection by coming forward with interest in personal contact with his **child.**[9] In a juvenile protection action, Minnesota Statutes separately define a "Custodian" and a "Parent."[10] The inference is that a father with a legally established relationship is provided an opportunity for engagement in building a bond with his **child,** strengthening family ties, and developing greater awareness of his **child** based on what the **child** needs.[11] So why do fathers hear legal advocates in juvenile court proclaim that the father doesn't have any rights? A father without direct representation is understandably confused when he is expected to differentiate between his fundamental parental right; his legal parental status, important in juvenile court proceedings; and the custodial rights typically determined in family court to make legal and physical decisions about a child.In [*1146] Minnesota, the father has two avenues to establish himself as a legal parent.[12] Although an unmarried father may be the biological father of the **child,** he has no legal rights until he establishes paternity.[13] A father with the desire to have a legal relationship with his **child** can do so by executing a Recognition of Parentage ("ROP") form.[14] The ROP is a legal document that requires the mother's agreement and signature.[15] An ROP is proof of legal status as a parent, but it does not determine custodial (decision-making authority) or parenting time (visitation) rights.[16] A recognized father must take further legal action in family court to determine **custody** and visitation issues.[17] The second path to determine a father's legal parental status is by obtaining a court order in a

*Cyrenthia D. Shaw of Shaw Law Office, LLC, is a civil practice attorney focusing in family law and employment law. Ms. Shaw graduated from Hamline University School of Law in 2002. Since 2012, Ms. Shaw has been a contract attorney with the Hennepin County Public Defender's Office representing noncustodial parents. She has also represented children in child protection matters through the Children's Law Center since 2004. Ms. Shaw previously served on the Children's Law Center Board and is now a member of the Minnesota State Guardian Ad Litem Board.

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From the President

Pam Rochlin

MWL welcomes its 2014-2015 Board President, Pam Rochlin. Practicing law in Minnesota since 1991, Pam Rochlin is a personal injury lawyer who is deeply committed to helping injured victims and their families. Pam was a partner at Meshbesher & Spence, Ltd. until 1999, when she left to join her husband in creating the Rochlin Law Firm, Ltd.

MWL's roots go back to 1972 when a group of women acknowledged the need to promote, recognize, and encourage one another in the legal profession. I am humbled and honored to serve as MWL president this year, carrying on this tradition of providing a base of support for my fellow practitioners, just as MWL has been a significant source of support for me.

I joined MWL in 1996 because I felt the need to connect with other women who were practicing law.
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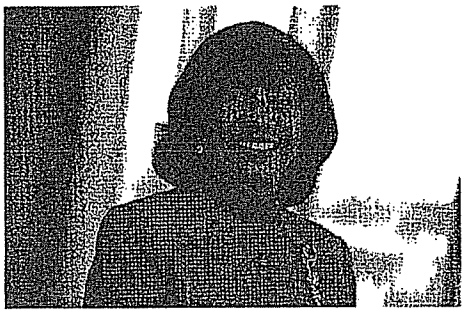
MWL Announces 20th Annual Rosalie Wahl Leadership Lecture

We're shaking things up at MWL! This year, Minnesota Women Lawyers has combined its Rosalie Wahl Leadership Lecture & Winter Celebration, into a single, powerhouse networking & speaker event. We hope you are able to join us!



Paulette Brown

The 20th Annual Rosalie Wahl Leadership Lecture will be held as a dinner and program on the evening of Tuesday, September 23rd, 2014 at the Marriott City Center in downtown Minneapolis.

Minnesota Women Lawyers is pleased to welcome Paulette Brown, American Bar Association President-Elect nominee, as our Wahl Lecture keynote speaker. If elected by the ABA House of Delegates this August, she will become the first woman of color and third African-American to serve as ABA president.

A silent auction to benefit MWL's Law Student Scholarship Fund will also be featured at the Wahl Lecture. We also welcome donations to MWL's Wahl Tribute Fund, established at Tubman.
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