

FAMILY LAW ADVOCACY CLASS

FINAL ASSIGNMENT

April 30, 2012

Instructors: Paula Kaldis
Abbe Hershberg
Jeanne E. Condurelli

For your final assignment you are to analyze the following fact pattern and follow the directions printed at the end of the fact pattern.

You represent Rebekka Sullivan who becomes the respondent in a Care and Protection petition on February 24, 2012 and whom you continue to represent thereafter. Rebekka tells you on that date that she wishes to obtain a divorce and to regain custody of her children.

Family identification and Background Information:

Wife/Mother: Rebekka Sullivan, DOB 08/02/80

Maiden name: Rebekka Becker

Ms. Sullivan is employed part-time as a cashier at Market Basket, Inc. earning \$200.00 per week. She is a Lawrence High School graduate who attended Northern Essex Community College for 6 months following her graduation. She became pregnant in 1998 and never went back to Northern Essex to pursue her business studies. She has taken part-time jobs as a hostess or as a cashier to contribute to the family finances between pregnancies during the marriage.

Husband/Father: Vincent Sullivan, DOB 06/27/77;

Mr. Sullivan is a Lawrence Regional Vocational Technical High School graduate. He is employed as a master carpenter by the Bear Hill Construction Company in Andover earning \$900.00 per week in gross wages. He pays \$60.00 per week for family group health insurance.

Children: Melissa Sullivan, DOB 04/01/99 (age 13)

Andrea Sullivan, DOB 04/29/04 (age 8)

The parties met at a dance at Central Catholic High School in Lawrence in 1997. They married after discovering that Rebekka was pregnant with Melissa in 1998.

Date of marriage: July 17, 1998

This was the first marriage for both parties.

History of Residence: The parties lived in Lawrence, MA from 1998-2003. In 2003 the family

moved to 3 North Broadway in Salem N.H. where they resided until May of 2011. In May of 2011, Mr. & Mrs. Sullivan moved to 15 Sutton Street in North Andover, MA. They have always rented.

Current Addresses: Rebekka - 15 Sutton Street, North Andover, Essex County, MA 01845.

Vincent - 20 Sycamore Street, Tyngsboro, Middlesex County, MA 01879.

The Massachusetts Department of Children and Families has been involved since February of 2012, when the police responded to a call from a neighbor regarding a domestic disturbance. When the police arrived Melissa answered the door with blood dripping from her lower lip. Andrea was huddled in a corner in the family room. Melissa led Officers Shears and Josephs to the bedroom. There, they found Mrs. Sullivan lying on the bed, sobbing and holding an ice pack to the side of her head. They attempted to interview Mrs. Sullivan but found her most uncooperative. On the closet floor, visible from the bedroom, was a shattered bottle of whiskey. Upon questioning Mrs. Sullivan, she did confirm that her husband, Vincent, had been drinking earlier in the evening. Melissa indicated that her father had pushed her and her mother into the wall and couch as they were attempting to prevent him from leaving the home. Mrs. Sullivan was treated at the Holy Family Hospital that evening for a concussion. Shortly after the police arrived at the home (on Friday, February 20, 2012), Vincent was arrested for assault and battery. The officers advised Rebekka Sullivan to obtain a restraining order and they filed a mandatory 51A report because of Melissa's disclosures to them about how she was injured. DCF screened in the case, but not as an emergency because the children were not in immediate danger as Vincent was taken into custody.

Vincent spent the weekend in lockup, but on Monday, February 23rd, Mrs. Sullivan bailed her husband out of police custody and took him home. After an initial intake and investigation by the Department of Children and Families, DCF filed a Care & Protection Petition in the Essex Juvenile Court (Lawrence), Docket No. 1218 CP 40 and 41, requesting temporary custody of both Melissa and Andrea. (February 24, 2012). The Department contended that Mr. Sullivan's violent behavior on February 20th placed the children at risk; his striking Melissa constituted physical abuse; and, Mrs. Sullivan neglected and failed to protect her children by failing to keep her husband out of the home. Lawyers were appointed to represent all of the parties at the hearing for temporary custody, which was to be held seventy-two hours after the petition was filed. Attorney Kristen Solomon of 2 Kenoza Ave. in Haverhill, MA was appointed to represent the father. Attorney Daniel Darbouze of 4 Main Street in North Andover, MA was appointed to represent both children. At the conclusion of the seventy-two hour hearing, the court awarded temporary custody to DCF, as it had satisfied its burden of proof, and ordered a court investigation pursuant to Massachusetts General Laws, Chapter 119, Section 24. A court review was scheduled for April 10, 2012 when the court planned to consider the report of the investigator and review the matter of custody.

On February 24th, you conferred with your client and you ascertained the following information:

Rebekka wants a divorce. She has fallen out of love with her husband, but she feels very sorry for him. On the night in question, Vincent came home

from work upset with his boss. Rebekka was home with the children. Her husband began drinking shortly after supper. His agitation increased steadily. After drinking a bottle of whiskey, Vincent announced that he "was going to get that bastard." Rebekka and Melissa tried to stop him from leaving the apartment by standing in front of the door, pleading with him to go in to his room and relax. Vincent cussed and threatened them, saying: "If you don't get out of my way, I'll kill you, too." With that, he threw his wife into the wall and he knocked his daughter down against the couch. Then, he left the apartment.

Upon questioning regarding finances, Rebekka intimates that with Vincent gone, she has tremendous difficulty providing the basic necessities of life for herself and the children. She discloses that the parties rent the marital residence for \$1075.00 per month. Although, Rebekka wants a divorce, she knows that living apart from Vincent will be difficult because she earns so little. Her food bill alone totals \$180 per week and that consumes more than she nets in weekly wages. Her deductions for federal tax at \$20.00 per week; state taxes are \$10.00; FICA is \$14.00 per week. The gas and electric bill are \$20.00 each, weekly. Heat (oil) costs an average of 129.00 per month. Additionally, Rebekka pays \$86.00 per month for car insurance on her old 2002 Chevy, which she holds in her own name. The car is worth about \$1000.00. Gas for the car costs about \$70.00 per week. Andrea takes dance lessons at a cost of \$260.00 per year. Melissa plays soccer with a registration fee of \$104.00 per year.

The parties have a joint checking account, which is in Rebekka's possession, with TD Bank, Acct. # 123456, having a balance of \$6,000.00. The Sullivans have no savings account, no pension, and no stocks, bonds or life insurance. They also have no personal loans. Rebekka only has one outstanding debt to Macy's for \$150.00 which originated in December of 2009, for Christmas gifts. She tries to pay about \$43.00 per month on this debt, if she can spare the cash. Vincent has a 2005 Mazda which Vincent and Rebekka hold jointly. It is worth \$3200.00.

The parties have not generally been violent during the marriage. Rebekka complains that Vincent did not participate in family life. He worked, played softball, or bowled and went out with his friends. He often returned home after the children were in bed. Vincent rarely did laundry, prepared meals, reviewed homework, read bedtime stories, or played with his daughters. Rebekka believes that her children wish to remain in her custody. She is desperate to have them in her custody. Despite this, Rebekka believes that the girls love their father and will miss him if he is not around.

Vincent went to live with his mother in Tyngsboro, on March 1, 2012.

The divorce action that you file will be assigned Docket Number 12D-4567-DR. Any

restraining order pursuant to MGL ch.209A that you may wish to file will be assigned Docket Number 12R0123AB.

INSTRUCTIONS:

For your final assignment you are to assess the facts you have been given. Create a case file for your client beginning on the date that began providing legal counsel to Rebekka Sullivan. This case file should document that you are delivering to Mrs. Sullivan the most effective assistance of counsel possible.

PART I

On the left hand side of your file, note chronologically all telephone calls, letters, motions, affidavits, complaints or other filings or communications as you act on them, working through the events in the fact pattern. Explain what you have done or will do for Mrs. Sullivan. Explain your strategies and your advice to your client. Also, explain the legal basis for your advice to your client. Identify all parties and courts involved in your activities. Identify the additional items that are to be filed with each document that you draft, or plan to draft/file. These would be your activity notes in the file.

PART II

On the right hand side of your file, you are to place properly drafted, filed and served complaints, requests, motions, affidavits or other forms, as appropriate, during each stage of your representation of Rebekka Sullivan. Indicate in all instances the court in which you are filing these documents. Demonstrate compliance with notice requirements in all motions.

LIMIT YOUR ACTUAL DRAFTING OF DOCUMENTS TO NO MORE THAN THE FOLLOWING ITEMS:

1. One (1) 209A Complaint – Docket No. 12R0123AB (with appropriate accompanying documents)* if you believe that it is appropriate, given the facts;
2. One (1) Complaint for Divorce (with appropriate accompanying documents) 12D-4567-DR; *
3. Two (2) Motions (with appropriate accompanying documents)*, requesting two (2) different types of relief; (These may be drawn from any point in the fact pattern.)
4. One (1) Financial Statement;

*If we do not provide you with a form that you believe should accompany the pleading specified, identify the required attendant document in the “activity notes” or put a blank sheet with the forms specifying the name of the required attendant document.

IMPORTANT:

Do not change the facts.

However, you may add inconsequential information which may make sense to complete a form, such as a fictitious business address, telephone number or docket number.

You may project future events or results related to litigation.

DO NOT WRITE YOUR NAME ON ANY PLEADING, MOTION OR OTHER DOCUMENT IN THE FILE.

USE YOUR STUDENT I.D. NUMBER ANYWHERE THAT YOUR SIGNATURE WOULD BE REQUIRED.

You may use: 500 FEDERAL STREET, ANDOVER, MA 01810 and (978) 681-0800 as your address and phone number.

FAMILY LAW ADVOCACY CLASS

FINAL ASSIGNMENT

May 2, 2011

Instructors: Paula Kaldis
Abbe Hershberg
Jeanne E. Condurelli

For your final assignment you are to analyze the following fact pattern and follow the directions printed on the last page.

On December 15, 2010, your secretary booked an appointment for you. You were told that Mr. Marc Henderson wished to see you about a domestic matter. You met with Marc Henderson in your office on December 18, 2010. Your interview yielded the information that follows.

FAMILY BACKGROUND AND IDENTIFICATION

MOTHER - Stephanie Henderson, born on November 4, 1974
Social Security #082-66-0010; Maiden name - Evans

FATHER - Marc Henderson, born on August 30, 1973
Social Security #033-28-5566

CHILDREN- Robyn Henderson, born on November 8, 1996
David Henderson, born on June 7, 2004

FAMILY SITUATION

Marc Henderson married Stephanie Evans on June 28, 1995 in Salem, New Hampshire. This is the first marriage for both Marc and Stephanie. Both are college graduates. The family moved from their home at 222 South Policy Road in Salem, N.H. in January of 2010 to a new and larger home on 38 High Plain Road in Andover, Essex County, MA.

Mr. Henderson has been employed continuously since the date of the marriage by the Vicor Corporation in Andover, MA. He is an engineer, and earns \$96,000.00 annually as gross income. Vicor pays full benefits for family health insurance coverage through Blue Cross Blue Shield of Massachusetts, certificate number XXA 033-28-5566. Since her pregnancy with Robyn, Mrs. Henderson has stayed at home to care for the children. Prior to quitting work in September of 1996, Stephanie Henderson was business manager for Vicor, where she met Marc.

Precipitating Marc's visit to you, the Henderson marriage had reached crisis proportions.

Marc relates that his wife has been visiting his neighbors over the last three months, telling them falsehoods about him and his conduct. He learned the details of these visits from his friend, Perry Atwater, who lives next door. According to Perry, Stephanie has been showing them empty liquor bottles, claiming that she found them among Marc's things. She told Perry and his wife, and others, that life with Marc has been a living hell. Stephanie alleged that Marc drank, went out with other women, then would come home and belittle her in front of the children. She complained of his vicious temper and his harsh manner of physically disciplining the children. Mrs. Henderson told the neighbors that she was worried about her safety and that of the children every day that she lived with her husband.

On December 14, 2010, Marc Henderson confronted his wife about what he learned from Perry. She became enraged and screamed obscenities at him loudly enough for all of the neighbors to hear. Further, in front of the children, she accused Marc of having an affair and of being a drunk. She ran to the utility closet, pulled out a hammer and attacked Marc, striking him on the shoulders and back. The bruises are still faintly visible, but Mr. Henderson did not seek medical attention for the injury at the time of the occurrence, nor did he telephone the police because he felt embarrassed.

Following this incident, Marc moved into the guest bedroom and put a lock on the door. Yet, he worried about the children. Stephanie threatened to leave the marital home and take the children with her to her family in Missouri while Marc was working. Additionally, she informed him that if he continued his drinking and womanizing she would expose him and ruin his reputation at work. Making the threat more believable, Stephanie has been telephoning Marc throughout the workday, questioning the secretary about what Marc was doing at lunch, whether he was also drinking at work, and whether the secretary knew the "bimbo" who was wrecking the Henderson home. Marc believes that his wife is delusional and mentally unstable. He is humiliated and afraid that he will lose his job.

Robyn, the Henderson's fourteen year-old, has told Marc that her mother yells at her and David all day long. David is hit for little or no reason. Robyn deals with this by staying outside of the home with friends for as long and as often as possible. She tells her dad that she is afraid for her younger brother who cannot just leave the house to seek refuge with a friend.

Marc Henderson tells you that until the birth of his son, David, the marriage was a happy one. He was primarily the breadwinner; Stephanie cared for the home, the finances, and Robyn. Things went along well until David was born. Then, Marc says that his wife changed. He claims that she has become prone to dramatic mood swings and violent fits of temper. The December 14th incident was not the first time that Marc has been caught in violent tirade.

Marc swears to you that he is not having an affair and that he does not drink. He fears that his wife's irrational behavior is having a harmful effect on his children. He has suffered a loss of sleep and a loss of appetite since his wife has begun accusing him of marital misconduct in front of neighbors and co-workers. He is also afraid that her fits of temper are escalating and that he and his children could be seriously hurt at any time. He wants a divorce and he wants Stephanie's crazy behavior to stop. However, he feels that he cannot leave her, even though he wants to, because the children are in a routine at home and he does not want to disrupt them by

moving them, with him, elsewhere. Plus, Mr. Henderson works all day and is not home when they arrive home from school.

Finally, Marc is concerned that if Stephanie discovers that he is planning to divorce her and take custody of the children, she will flee the Commonwealth with the children before he even arrives home from work.

Marc seeks your advice and promises to return your fee agreement within a week or so with a retainer so that you can begin working for him in earnest.

Before returning the retainer and signed fee agreement, on January 20, 2011, Marc telephoned you to say that the Department of Children and Families received a 51A report concerning the Henderson children. The basis for the report was a disclosure by David to his teacher that his mother had hit him repeatedly before school because he could not find his baseball cap. The DCF intake investigator called Marc to set up an interview for late in the day on January 21, 2011. Marc asked your advice on how to handle this meeting. Optimally, he wanted you to attend.

On the morning of January 21, 2011, you are formally engaged to represent Marc Henderson. You file the necessary pleadings for your client to terminate his marriage and seek protective and immediate relief.

Marc also supplied you with the following financial data:

Marc and Stephanie Henderson purchased their home in Salem, New Hampshire with jointly compiled funds from their individual savings. In 2010, when the family bought the Andover Home, now valued at \$700K, they did so at a purchase price of \$530K. They took a mortgage for 350K on which they still owe 200K. They own the property as tenants by the entirety and they are both jointly liable on the note which is secured by a mortgage to Citizens Bank, Loan #66208. The deed to the property is recorded at the Essex North District Registry of Deeds, Book 3051 Page 22. The payment to Citizens Bank (PIT) is \$2150/mo.

His deductions from his gross pay, claiming 3 exemptions, are:
\$200 for Federal tax, \$75 for state tax and \$100 for FICA weekly.

\$78 per week is deducted from his paycheck as a car loan re-payment to the Merrimack Valley Federal Credit Union on loan #22237.

He owns a 2008 Jeep Liberty which cost \$25,000 in 2005, of which \$15,000 is still outstanding on the note with two years left to pay. The Liberty is worth about 15K now.

He contributes \$50 per week to his retirement plan which is vested with a present cash value of 35K. Vicor matches the employee's contribution.

Homeowner's insurance is \$520 per year.

The home is heated with gas and that costs an average of \$129 per month.

Electricity is \$86 per month.

Telephone averages \$21.50 per month.

Water and Sewer costs \$300 quarterly.

Food costs \$120/wk including toiletries and house supplies.

He has his shirts cleaned for \$5 per week.

Cable T.V. costs \$43 per month.

Clothing for him and the children is about \$2600/yr.

Life insurance is provided by his employer without cost to him, just like his health insurance coverage. There is no cash value for the life insurance, but it is a \$25,000 policy.

Gas for the Jeep costs approximately \$18/wk, while repairs and maintenance run another \$520/year.

The parties maintain a checking account at Citizens Bank, acct. #34567, having an average balance of \$800 and a money market account, #98766, with a balance of \$10,000.

They have no stocks, bonds, valuable art or jewelry.

Stephanie drives a 2002 Volvo worth \$3500 with no liens. Both vehicles are owned by husband and wife jointly.

Household appliances and furnishings are worth about \$5000.

Marc and Stephanie owe \$1000 on their MBNA MasterCard for a vacation that they took last summer, acct. #77780. He tries to pay about \$30.00 per month on this account.

Marc tells you he feels hopeless and overwhelmed and needs your help to navigate the legal waters ahead. On February 26, 2011, Attorney Karina Tamara of 100 River Road, Andover, MA 01810 called you to say that she is representing Stephanie Henderson. The divorce action that you file is assigned Docket Number 11D-0567-DR.

INSTRUCTIONS:

For your final assignment you are to assess the facts you have been given. Create a case file for your client beginning on the date that began providing legal counsel to Marc Henderson. This case file should document that you are delivering to Mr. Henderson the most effective assistance of counsel possible.

PART I

On the left hand side of your file, note chronologically all telephone calls, letters, motions, affidavits, complaints or other filings or communications as you act on them, working through the events in the fact pattern. Explain what you have done or will do for Mr. Henderson. Explain your strategies and your advice to your client. Identify all parties and courts involved in your activities. Identify the additional items that are to be filed with each document that you draft, or plan to draft/file. These would be your activity notes in the file.

PART II

On the right hand side of your file, you are to place properly drafted, filed and served complaints, requests, motions, affidavits or other forms, as appropriate, during each stage of your representation of Marc Henderson. Indicate in all instances the court in which you are filing these documents. Demonstrate compliance with notice requirements in all motions.

LIMIT YOUR ACTUAL DRAFTING OF DOCUMENTS TO NO MORE THAN THE FOLLOWING ITEMS:

1. One (1) 209A Complaint -- Docket No. 11 R0043 AB (with appropriate accompanying documents)* if you believe that it is appropriate, given the facts;
2. One (1) Complaint for Divorce (with appropriate accompanying documents); *
3. Two (2) Motions (with appropriate accompanying documents)*, requesting two (2) different types of relief; (These may be drawn from any point in the fact pattern.)
4. One (1) Financial Statement;

*If we do not provide you with a form that you believe should accompany the pleading specified, identify the required attendant document in the "activity notes" or put a blank sheet with the forms specifying the name of the required attendant document.

IMPORTANT:

Do not change the facts.

However, you may add inconsequential information which may make sense to complete a form, such as a fictitious business address, telephone number or docket number.

You may project future events or results related to litigation.

DO NOT WRITE YOUR NAME ON ANY PLEADING, MOTION OR OTHER DOCUMENT IN THE FILE.

USE YOUR STUDENT I.D. NUMBER ANYWHERE THAT YOUR SIGNATURE WOULD BE REQUIRED.

You may use: 500 FEDERAL STREET, ANDOVER, MA 01810 and (978) 681-0800 as your address and phone number.

FAMILY LAW ADVOCACY CLASS

FINAL ASSIGNMENT

May 4, 2009

**Instructors: Paula Dickinson
Abbe Hershberg
Jeanne E. Condurelli**

For your final assignment you are to analyze the following fact pattern and follow the directions printed at the end of the fact pattern.

You are asked to represent Diana Tanner who becomes the respondent in a Care and Protection petition on February 24, 2009 and whom you continue to represent thereafter. Diana tells you on that date that she wishes to obtain a divorce and to regain custody of her children.

Family identification and Background Information:

Mother: Diana Tanner, DOB 08/02/77
Maiden name: Diana Cuminsky
Employed part-time as a cashier at Market Basket, Inc. earning \$200.00 per week.
Lawrence High School graduate. Attended Northern Essex Community College for 6 months following her graduation. She became pregnant in 1995 and never went back to Northern Essex to pursue her business studies. She has taken part-time jobs as a hostess or as a cashier to contribute to the family finances between pregnancies during the marriage.

Father: Lance Tanner, DOB 06/27/77;
Lawrence Regional Vocational Technical High School graduate. Employed as a master carpenter by the Bear Hill Construction Company in Andover earning \$900.00 per week in gross wages. He pays \$60.00 per week for family group health insurance.

Children: Erin Tanner, DOB 04/01/96 (age 13)
Jennifer Tanner, DOB 04/29/01 (age 8)

The parties met at a dance at Central Catholic High School in Lawrence in 1994. They married after discovering that Diana was pregnant for Erin in 1995.

Date of marriage: July 17, 1995

This was the first marriage for both parties.

History of Residence: Lived in Lawrence, MA 1995-2001

In 2001 the parties moved to 3 Cluff Crossing Way in Salem N.H. where they resided until February of 2008. In February of 2008, Mr. & Mrs. Tanner moved to 15 Clarendon Street in North Andover, MA. They have always rented.

Current Addresses: Diana - 15 Clarendon Street, North Andover, Essex County, MA 01845;

Lance - 20 Wingate Street, Tyngsboro, Middlesex County, MA 01879.

The Massachusetts Department of Children and Families has been involved since February of 2009, when the police responded to a call from a neighbor regarding a domestic disturbance. When the police arrived Erin answered the door with blood dripping from her lower lip. Jennifer was huddled in a corner in the family room. Erin led Officers Vasquez and Pangl to the bedroom. There, they found Mrs. Tanner lying on the bed, sobbing and holding an ice pack to the side of her head. They attempted to interview Mrs. Tanner but found her most uncooperative. On the closet floor, visible from the bedroom, was a shattered bottle of Southern Comfort. Upon questioning Mrs. Tanner, she did confirm that her husband, Lance, had been drinking earlier in the evening. Erin indicated that her father had pushed her and her mother into the wall and couch as they were attempting to prevent him from leaving the home. Mrs. Tanner was treated at the Holy Family Hospital that evening for a concussion. Shortly after the police arrived at the home (on Friday, February 20, 2009), Lance was arrested for assault and battery. The officers advised Diana Tanner to obtain a restraining order and filed a mandatory 51A report because of Erin's disclosures to them about how she was injured.

Lance spent the weekend in lockup, but on Monday, February 23rd, Mrs. Tanner bailed her husband out of police custody and took him home. After an initial intake and investigation by the Department of Children and Families, DCF filed a Care & Protection Petition in the Lawrence Division of the Juvenile Court, Docket No. 0918 CP 40 and 41, requesting temporary custody of both Erin and Jennifer. (February 24, 2009). The Department contended that Mr. Tanner's violent behavior on February 20th placed the children at risk; his striking Erin constituted physical abuse; and, Mrs. Tanner neglected and failed to protect her children by failing to keep her husband out of the home. Lawyers were appointed to represent all of the parties at the hearing for temporary custody, which was to be held seventy-two hours after the petition was filed. Attorney Sherri Nolli of 2 Kenosha Ave. in Haverhill, MA was appointed to represent the father. Attorney Anthony Candreva of 4 Main Street in North Andover, MA was appointed to represent both children. At the conclusion of the seventy-two hour hearing, the court awarded temporary custody to DCF, as it had satisfied its burden of proof, and ordered a court investigation pursuant to Massachusetts General Laws, Chapter 119, Section 24. A court review was scheduled for April 10, 2009 when the court planned to consider the report of the investigator and review the matter of custody.

On February 24th, you conferred with your client and you ascertained the following information:

Diana wants a divorce. She has fallen out of love with her husband, but she feels very sorry for him. On the night in question, Lance came home from work upset with his boss. Diana was home with the children. Her husband began drinking shortly after supper. His agitation

increased steadily. After drinking an entire bottle of Southern Comfort, Lance announced that he "was going to get that bastard." Erin and Diana tried to stop him from leaving the apartment by standing in front of the door, pleading with him to go in to his room and relax. Lance cursed and threatened them, saying: "If you don't get out of my way, I'll kill you, too." With that, he threw his wife into the wall and he knocked his daughter down against the couch. Then he left the apartment.

Upon questioning regarding finances, Diana intimates that with Lance gone, she has tremendous difficulty providing the basic necessities of life for herself and the children. She discloses that the parties rent the marital residence for \$1075.00 per month. Although, Diana wants a divorce, she knows that living apart from Lance will be difficult because she earns so little. Her food bill alone totals \$180 per week and that consumes more than she nets in weekly wages. Her deductions for federal tax at \$20.00 per week; state taxes are \$10.00; FICA is \$14.00 per week. The gas and electric bill are \$20.00 each, weekly. Heat (oil) costs an average of 129.00 per month. Additionally, Diana pays \$86.00 per month for car insurance on her old 1999 Chevy, which she holds in her own name. The car is worth about \$1000.00. Gas for the car costs about \$35.00 per week. Jennifer takes dance lessons at a cost of \$260.00 per year. Erin plays soccer with a registration fee of \$104.00 per year.

The parties have a joint checking account, which is in Diana's possession, with BankNorth, Acct. # 123456, having a balance of \$6,000.00. The Tanners have no savings account, no pension, and no stocks, bonds or life insurance. They also have no personal loans. Diana only has one outstanding debt to Macy's for \$150.00 which originated in December of 2003, for Christmas gifts. She tries to pay about \$43.00 per month on this debt, if she can spare the cash. Lance has a 2002 Mazda which Lance and Diana hold jointly. It is worth \$3200.00.

The parties have not generally been violent during the marriage. Diana complains that Lance did not participate in family life. He worked, played softball, or bowled and went out with his friends. He often returned home after the children were in bed. Lance rarely did laundry, prepared meals, reviewed homework, read bedtime stories, or played with his daughters. Diana believes that her children wish to remain in her custody. She is desperate to have them in her custody. Despite this, Diana believes that the girls love their father and will miss him if he is not around.

Lance went to live with his mother in Tyngsboro, on March 1, 2009.

The divorce action that you file will be assigned Docket Number 09D-0567-D1.

INSTRUCTIONS:

For your final assignment you are to assess the facts you have been given. Create a case file for your client beginning on the date that you first were assigned to represent Diana Tanner. This case file should document that you are delivering to Mrs. Tanner the most effective assistance of counsel possible.

PART I

On the left hand side of your file, note chronologically all telephone calls, letters, motions, affidavits, complaints or other filings or communications as you act on them, working through the events in the fact pattern. Identify all parties and courts involved in your activities. Identify the additional items that are to be filed with each document that you draft, or plan to draft/file. These would be your activity notes in the file.

PART II

On the right hand side of your file, you are to place properly drafted, filed and served complaints, requests, motions, affidavits or other forms, as appropriate, during each stage of your representation of Diana Tanner. Indicate in all instances the court in which you are filing these documents. Demonstrate compliance with notice requirements in all motions.

LIMIT YOUR ACTUAL DRAFTING OF DOCUMENTS TO NO MORE THAN THE FOLLOWING ITEMS:

1. One (1) 209A Complaint – Docket No. 09RO 1234D (with appropriate accompanying documents)* if you believe that it is appropriate, given the facts;
2. One (1) Complaint for Divorce (with appropriate accompanying documents); *
3. Two (2) Motions (with appropriate accompanying documents)*, requesting two (2) different types of relief; (These may be drawn from any point in the fact pattern.)
4. One (1) Financial Statement;

*If we do not provide you with a form that you believe should accompany the pleading specified, identify the required attendant document in the “activity notes” or put a blank sheet with the forms specifying the name of the required attendant document.

IMPORTANT: Do not change the facts.

However, you may add inconsequential information which may make sense to complete a form, such as a fictitious business address, telephone number or docket number.

You may project future events or results related to litigation.

TO PRESERVE THE INTEGRITY OF ANONYMOUS GRADING, DO NOT WRITE YOUR NAME ON ANY PLEADING, MOTION OR OTHER DOCUMENT IN THE FILE. USE YOUR EXAM NUMBER ANYWHERE THAT YOUR SIGNATURE WOULD BE REQUIRED. USE 500 FEDERAL STREET, ANDOVER, MA 01810 AND (978) 681-0800 AS YOUR ADDRESS AND PHONE NUMBER.

**FAMILY LAW ADVOCACY
FINAL ASSIGNMENT
Spring 2007**

**Instructors:
Abbe Hershberg
Paula Kaldis
Jeanne Condurelli**

For your final assignment you are to analyze the following fact pattern and follow the directions printed on the last page.

Family History:

Mother: Regina Richardson, maiden name- Regina Daley, age 25, born April 30, 1982, in Hingham, MA, Social Security No. 048-72-3282

Father: Philip Richardson, age 30, born February 1, 1977, in Henniker, N.H., Social Security No. 019-87-1378

Date of Marriage: November 8, 1998 in Stoneham, Middlesex County MA (first marriage for both)

Child #1 Marisa, born July 1, 1998 (age 8), third grade

Child #2 Paula, born September 13, 2000 (age 6), kindergarten (2 day)

Child #3 Thomas, born August 14, 2004 (age 2)

Presenting Problem and Case History:

On February 1, 2007, Community Legal Services, Inc. asks you to represent Regina Richardson pro bono in a divorce action. Regina is given your office number. On February 6, 2007, Regina calls and tells you that she has not been home in two days. She called her husband on February 4th and while they were talking he threatened to punch her face in. Regina tells you that her husband suspects that she has a boyfriend, Jason Munroe, a man with whom she works. You tell Regina to meet you at the Woburn District Court where you intend to file a 209A Complaint for her.

You have an interview with Mrs. Richardson on the afternoon of February 6th in the courthouse corridor. You discover the following:

Regina and Philip met in 1997 and dated for one year and got married four months after the birth of their eldest child, Marisa. Regina was 16 years of age when she married, with her mother's permission - Philip was 21. He was a mechanic but has worked only sporadically since a work related injury in 2003. Both parties have a history of alcohol use as well as drug use (cocaine and marijuana). Philip sees a therapist occasionally. Regina says that Philip has an explosive temper which gets worse when he drinks. The marriage has been marked by frequent and increasing episodes of physical violence by Philip against Regina. Most recently, about a week ago, in a fit of temper about the toys on the kitchen floor, Philip flung a Tonka truck at Regina hitting her in the shoulder. The children were present. There was no visible bruise at the time of your interview and Regina sought no medical attention at the time of the incident. Regina has been issued two previous 209A orders by the Woburn District Court over the last year. Each time, she and Philip reconciled within a few months. Both Regina and Philip grew up in Stoneham, Middlesex County, MA and have family (parents and siblings) in the area. In the last several years they have moved frequently - Stoneham (1998-2001), Manchester, N.H. (19 South Street, 2001-2005), then back to Stoneham, MA (20 Bear Hill Road, May 2005 to the present).

On February 6, 2007, an ex parte order under Mass. Gen. L. Ch. 209A was granted on the facts presented to the Woburn District Court, Docket, No. 07-RO-2095. Directly after this hearing, outside the courtroom you schedule a second interview with Regina to come to your office for a full domestic relations intake.

The next day, Regina comes to your office for your second interview. You learn that Regina and the children plan to remain in the marital home at 20 Bear Hill Road in Stoneham, for the time being, even though Philip knows where they are. Regina also relates that throughout the marriage she has always been employed, except for brief periods after the birth of her children. Regina is employed in Wakefield, MA as an aid at the Fernwood Nursing Home earning \$15.00/hr. She works 30 hours per week, juggling schedules around babysitter availability. Regina shows you a pay stub listing deductions of \$30, \$18, and \$10 per week for federal, state and F.I.C.A. withholdings. She claims 0 exemptions. In the 2006, she earned \$18,000. Her employer does provide her with family medical coverage through Blue Cross/Blue Shield of Massachusetts (Cert. No. XXP478238888), as a benefit of employment without cost to Regina. Regina's neighbor provides help with child care in exchange for \$60/wk. Also, in exchange, Regina provides the babysitter, a senior citizen, with transportation when requested.

Philip does janitorial work for \$18.00/hr. at Waste Management in Woburn, MA. He works 35 hours per week. He has lost many jobs in the last several years.

There are few marital assets. The parties do not own a home. The rent is \$1075/mo. including heat and utilities. Regina has a 2001 Toyota Corolla which costs \$800/yr. to insure. Title is held solely in Regina's name. There is also a 2000 Jeep Cherokee registered in Philip's name, only. These vehicles are worth approximately \$2600 and \$2000, respectively. There are no auto loans outstanding on either vehicle. During the marriage the parties acquired household furnishings including a waterbed and other personal property including a widescreen TV, microwave and DVD player. Regina estimates that she could sell these items for a total of \$3000.00.

The couple is current on most of their bills. In 2002, Regina had co-signed a loan for a truck for Philip which was repossessed. They owe \$2000 for that debt and they pay \$40/mo. on that bill. In October of 2004, the parties received a personal loan from Sovereign Bank in both of their names. (\$1248 total with finance charges as of March of 2007) The monthly payment on this is \$25. Regina estimates spending \$100/wk. on food, \$15/wk. on clothing for herself and the children and \$20 on other miscellaneous expenses.

The parties have a joint checking account with the Sovereign Bank, Acct. # 47859990, with a current balance of \$880.00. Neither party has a pension plan, life insurance or any stocks or bonds.

Regina indicates that without Philip in the household to contribute financially, she will be unable to remain current on their bills and provide food shelter and clothing for herself and the children. Besides providing you with this financial information, Regina relates that Philip is temporarily staying with his brother at 52 Broadway in Swampscott, (Essex County) MA. Also, her husband has filed a motion to vacate her 209A order in the Woburn District Court and he has filed his own 209A Complaint against her.

On February 16, 2007, Philip=s motion to vacate Regina=s restraining order is denied in the Woburn District Court. However, Regina=s 209A order is extended for 3 months. Philip is to vacate and remain away from the residence. He is ordered not to contact Regina and the children and Regina is awarded temporary custody. Although Philip=s request for a restraining order is denied, Philip is adamant that he will seek custody of the children, even if he has to go to Probate Court to obtain this. Regina is concerned about this threat to her continued care of the minor children.

On March 4, 2007, Philip lodges a complaint about Regina with DSS by calling the DSS hotline. He complains about her boyfriend and says she=s neglecting the children. The very next day Regina receives a call from Philip=s therapist. In a therapy session Philip threatened to kill Regina and himself. On March 6, 2007 Philip shows up at Regina=s house and threatens her and Jason in front of the children. He punches Jason and pushes Regina. Regina calls the police and Philip is arrested. Later that day, DSS meets with Regina and decides to support the 51A for abuse by Philip based on possible physical injury due to threats made by Father. DSS does not support the 51A against Regina and the children remain in her care.

On March 7, 2007 Regina indicates to you that she has no interest in remaining married to Philip. She tells you that she is considering filing for divorce.

On April 15, 2007 Regina calls you to say that she has received an eviction notice and plans to take the kids and move in with boyfriend, Jason, who lives in Tewksbury, MA. She is thinking of doing this after she=s exhausted her rights to oppose or appeal the eviction.

On April 22, 2007, Philip again reports Regina to the Department of Social Services for neglect of the three children. He claims that the sleeping arrangements in Regina=s home are

inappropriate and that Regina=s boyfriend is an alcoholic and drives the children around town. DSS again investigates, this time supporting the report of neglect, based on conversations with the children. However, no emergency legal action is taken at this point to remove the children from Regina=s care. However, the DSS investigator instructs Regina to come to the DSS office to discuss appropriate services.

Your client calls you to ask your advice on how to handle this meeting. She also instructs you to move forward in filing for divorce action against Philip Richardson to resolve issues of custody, visitation, support and the division of marital property.

On April 25, 2007, Attorney Martha Swanson of 100 River Road, Andover, MA 01810 calls you to say that he will be representing Philip.

The divorce action that you file will be assigned Docket Number 07D-0567-D1.

INSTRUCTIONS:

FOR YOUR FINAL ASSIGNMENT YOU ARE TO ASSESS THE FACTS YOU HAVE BEEN GIVEN. CREATE A CASE FILE FOR YOUR CLIENT BEGINNING ON THE DATE THAT YOU FIRST WERE ASSIGNED TO REPRESENT Regina Richardson. DOCUMENT THAT YOU ARE DELIVERING TO Mrs. Richardson THE MOST EFFECTIVE ASSISTANCE OF COUNSEL POSSIBLE.

PART I

ON THE LEFT HAND SIDE OF YOUR FILE, NOTE CHRONOLOGICALLY ALL TELEPHONE CALLS, LETTERS, MOTIONS, AFFIDAVITS, COMPLAINTS OR OTHER FILINGS OR COMMUNICATIONS AS YOU ACT ON THEM, WORKING THROUGH THE EVENTS IN THE FACT PATTERN. IDENTIFY ALL PARTIES AND COURTS INVOLVED IN YOUR ACTIVITIES. TELL WHAT ITEMS GET FILED WITH WHICH DOCUMENTS. THESE WOULD BE YOUR ACTIVITY NOTES IN THE FILE.

PART II

ON THE RIGHT HAND SIDE OF YOUR FILE, YOU ARE TO PLACE PROPERLY DRAFTED, FILED AND SERVED COMPLAINTS, REQUESTS, MOTIONS, AFFIDAVITS OR OTHER FORMS, AS APPROPRIATE DURING EACH STAGE OF YOUR REPRESENTATION OF Regina Richardson. INDICATE IN ALL INSTANCES THE COURT IN WHICH YOU ARE FILING THESE DOCUMENTS. DEMONSTRATE COMPLIANCE WITH NOTICE REQUIREMENTS IN ALL MOTIONS.

LIMIT YOUR ACTUAL DRAFTING OF DOCUMENTS TO NO MORE THAN THE FOLLOWING ITEMS:

1. One (1) 209A Complaint (with appropriate accompanying documents) if you believe that it is appropriate, given the facts;

2. One (1) Complaint for Divorce (with appropriate accompanying documents);
3. Two (2) Motions (with appropriate accompanying documents), requesting two (2) different types of relief; (These may be drawn from any point in the fact pattern.)
4. One (1) Child Support Guideline Worksheet;
5. One (1) Financial Statement;

Do not change the facts.

However, you may add inconsequential information which may make sense to complete a form, such as a fictitious business address or telephone number.

TO PRESERVE THE INTEGRITY OF ANONYMOUS GRADING, DO NOT WRITE YOUR NAME ON ANY PLEADING, MOTION OR OTHER DOCUMENT IN THE FILE. USE YOUR SOCIAL SECURITY NUMBER ANYWHERE THAT YOUR SIGNATURE WOULD BE REQUIRED. USE 500 FEDERAL STREET, ANDOVER, MA 01810 (508) 681-0800 AS YOUR ADDRESS AND PHONE NUMBER.

**Massachusetts Family Law Advocacy/Clinic
Final Project
Spring 2006**

**Instructors:
Abbe Hershberg
Paula Dickinson
Jeanne Condurelli**

For your final assignment you are to analyze the following fact pattern and follow the directions printed on the last page.

Family Identification and Background Information

Mother: Debra Martin, DOB 09/04/75, SS # 559-66-7782

Maiden name: Debra Smith

Employed part-time as a house cleaner for Happy Maids in Andover, MA making \$275.00 per week in gross wages. Earned \$14,000.00 in 2005. Lowell High School graduate. Attended Northern Essex Community College for 1 year following her graduation. Debra became pregnant in 1993 and never completed her studies for an associate's degree. She has taken part-time jobs as a house cleaner or a waitress to contribute to the family finances between pregnancies during the marriage.

Father: Joseph Martin, DOB 7/23/73, SS# 334-89-9000

Lowell High School graduate. Employed as a truck driver for Door to Door Storage in Haverhill, MA earning \$700.00 per week in gross wages. Pays \$60.00 per week for family health insurance. Earned \$34,300 in 2005. He has worked steadily throughout the marriage.

Children: Brianna Martin, DOB 2/25/94 (age 12)

Heather Martin, DOB 10/8/01 (age 4)

History of the Relationship: The parties met in high school in 1991. They married when the parties discovered that Debra was pregnant with Brianna. This was the first marriage for both Joseph and Debra and it took place in Tewksbury, MA on June 15, 1993.

History of Residence: The parties lived in Lowell, MA from 1993-1998. In 1998, they relocated to 4 Primrose Lane in Nashua, NH where they resided until January of 2005. In January 2005, the Martins moved to 94 Zamora Street in North Andover, MA.

They have always rented.

At present, Debra Martin resides at 94 Zamora Street, North Andover, Essex County, MA 01845 and Joe resides at 42 Cross Street in Tewksbury, MA Middlesex County MA 01850. Again, both

parties are renting apartments.

Presenting Problem. The Massachusetts Department of Social Services, Lawrence Area Office, has been involved with the Martin family since February of 2006. Police responded to a call from the parties= eldest child Brianna on February 22, 2006. When the police arrived, Brianna answered the door crying. She had visible bruises on her face. Heather was crying in the family room. Brianna led Officers Melendez and Robinson to the bedroom. There they found Debra lying on the bed, dazed and with a bruised face and a bloody lip. They attempted to interview Debra but found her uncooperative. On the floor of the bedroom was an empty bottle of vodka. Debra did confirm that her husband, Joseph, had been drinking. Brianna told the police that her father frequently drank and became violent. She reported that on the evening of February 22nd, her father hit her mother and when Brianna tried to step between them, her father shrugged her off of him and elbowed her in the face. Shortly after the police arrived and investigated, Joe was apprehended and arrested for assault and battery. The police officers advised Debra to obtain a restraining order. Subsequently, Debra and Brianna were both treated at the Holy Family Hospital. Debra received 6 stitches to her lip.

The officers filed a mandatory 51A report of abuse that evening. Three days later, after an initial intake and investigation by DSS, the Department filed an emergency Care and Protection petition Docket N0.06 23CP 42, requesting and receiving temporary custody of the two Martin children (February 25, 2006). DSS contended that Mr. Martin's violent behavior placed both of the children at risk and constituted physical abuse. The Department further asserted that Mrs. Martin neglected and failed to protect the children by exposing them to domestic violence by failing to take action to keep her husband out of the home.

After a hearing, the court allowed DSS to retain the children in an out-of-the home placement pending a court investigation pursuant to Massachusetts General Laws, chapter 119, section 24. A court review is scheduled for May 10, 2006. Attorney Desiree Matza will be representing the Department of Social Services. The social worker on the case is Stan Maroun. The Lawrence Area Office is located at 15 Union Street in Lawrence, MA 01841 and the telephone number there is (978) 555-5700. Debra and Joseph indicated to the court that they would retain private counsel for all future hearings, and their court-appointed attorneys (Attorney Surette for father and Attorney Graham for mother) were discharged. Attorney Tofani will remain as counsel for the children.

On March 3, 2006, Debra met with you for the first time in your office and asked you to represent her. That same day Debra Martin obtained a 209A restraining order from the Lawrence District Court against her husband, Joseph. The case was docketed as 06RO1558. After further consultation with Debra, you ascertained the following information:

Debra wants a divorce. On the night in question, Joe came home from work in a foul mood. Debra was home with the children. Her husband soon began drinking. His agitation steadily increased. After drinking an entire bottle of vodka, he began arguing with Debra and started pushing her and punched her in the face. Brianna tried to stop him and got hurt, as well. Then he left the apartment.

The parties rent the marital residence for \$900.00 per month. Debra believes the children wish to remain in her custody. Although, Debra wants a divorce she knows it will be difficult financially to live apart from her husband because she earns so little. She pays a neighbor about \$20.00 a week to sit her children while she works. She claims 3 exemptions for tax withholding purposes.

Her itemized deductions from her pay are \$31.00/wk. for federal tax, \$22.00/wk. for state tax, and \$18.00/wk. for FICA. Debra's food bill totals \$ 165.00/wk. She pays \$45.00/mo. for gas, and \$50.00/mo. for electricity. Heat, which is oil heat, runs an average of \$100.00/mo., which she pays on a budget. The telephone bill is \$38.00/mo. Mrs. Martin estimates that clothing for herself and the children totals about \$1000.00/yr. and that the children's uninsured medicals total another \$150.00/yr. Debra's car insurance premium is \$900/yr. and it costs her approximately \$48.00/wk. for gas and repairs on her 1999 Saturn, which is now worth about \$3,000.00. The car she drives is held in her own name and she has no auto loan outstanding on it. The parties have a joint Capital One Visa card with a balance of \$3,000 and a monthly minimum payment of \$50.00. The parties have a joint checking account at the Sovereign Bank with a \$600.00 balance at present. Debra has the checkbook in her handbag when she meets with you. She estimates that household furnishings and appliances in the marital residence are worth about \$2,500.00.

Debra complains that Joe did not participate in raising the children. He worked and went out with friends. He often returned home when the children were already in bed. He rarely did laundry, prepared meals, reviewed home work, read bedtime stories or played with his children. He did not drink to excess until the last year and has not generally been violent during the marriage. Debra believes that the children love their father and will want to see him.

Joe went to live with his mother at 42 Cross Street in Tewksbury on March 1, 2006.

You filed a complaint for divorce for Debra on March 10, 2006. It was assigned docket number 06D0667-DV1.

On March 25, 2006, Attorney Michael Phito of 10 River Road, Andover, MA 01810 called you to say that he will be representing Joseph Martin.

INSTRUCTIONS:

FOR YOUR FINAL ASSIGNMENT YOU ARE TO ASSESS THE FACTS YOU HAVE BEEN GIVEN. CREATE A CASE FILE FOR YOUR CLIENT BEGINNING ON THE DATE THAT YOU FIRST WERE ASSIGNED TO REPRESENT Debra Martin. DOCUMENT THAT YOU ARE DELIVERING TO Mrs. Martin THE MOST EFFECTIVE ASSISTANCE OF COUNSEL POSSIBLE.

PART I

ON THE LEFT HAND SIDE OF YOUR FILE, NOTE CHRONOLOGICALLY ALL TELEPHONE CALLS, LETTERS, MOTIONS, AFFIDAVITS, COMPLAINTS OR OTHER FILINGS OR COMMUNICATIONS AS YOU ACT ON THEM, WORKING THROUGH THE EVENTS IN THE FACT PATTERN. IDENTIFY ALL PARTIES AND COURTS INVOLVED

IN YOUR ACTIVITIES. TELL WHAT ITEMS GET FILED WITH WHICH DOCUMENTS. THESE WOULD BE YOUR ACTIVITY NOTES IN THE FILE.

PART II

ON THE RIGHT HAND SIDE OF YOUR FILE, YOU ARE TO PLACE PROPERLY DRAFTED, FILED AND SERVED COMPLAINTS, REQUESTS, MOTIONS, AFFIDAVITS OR OTHER FORMS, AS APPROPRIATE DURING EACH STAGE OF YOUR REPRESENTATION OF Debra Martin. INDICATE IN ALL INSTANCES THE COURT IN WHICH YOU ARE FILING THESE DOCUMENTS. DEMONSTRATE COMPLIANCE WITH NOTICE REQUIREMENTS IN ALL MOTIONS.

LIMIT YOUR ACTUAL DRAFTING OF DOCUMENTS TO NO MORE THAN THE FOLLOWING ITEMS:

1. One (1) 209A Complaint (with appropriate accompanying documents);
2. One (1) Complaint for Divorce (with appropriate accompanying documents);
3. Two (2) Motions (with appropriate accompanying documents), requesting two (2) different types of relief;
4. One (1) Child Support Guideline Worksheet;
5. One (1) Financial Statement;

FAMILY LAW ADVOCACY CLINIC
FINAL ASSIGNMENT
May 10, 1993

Instructors: Abbe Hershberg
 Paula Dickinson
 Jeanne Condurelli

FLAC - FINAL ASSIGNMENT
FALL 1994

Family Background and Identification:

Mother: Veronica Lacey, (maiden name, Blakely);
D.O.B. August 6, 1950 — 44
Soc. Sec. #022-32-1888
Occupation: florist at DiBianca's Florist, Bradford, MA
Education: Assoc. Degree in Business from Northern Essex
Community College
Work History: Employed as a florist intermittently
during the marriage. She stayed at home
exclusively during her pregnancy and until her
daughter entered 1st grade.

Father: Leonard Lacey; D.O.B. July 23, 1951; — 43
Soc. Sec. #084-67-5253
Occupation: Electronics Engineer at Textron Industries in
Wilmington, MA
Education: B.S. Degree from Worcester Polytechnic
Institute in Electrical Engineering
Work History: Continuously employed throughout the
marriage

Daughter: Donna Lacey: D.O.B. October 30, 1978 — 16
Education: 2nd year at North Andover, High School

Date of Marriage: May 15, 1973; First marriage for both parties,
at Lewiston, Maine. — 21 years

Living History: Lewiston Maine until 1982; North Andover, MA
thereafter.

On November 4th, 1994, Sylvia Dee went to her friend, Donna Lacey's home. Donna answered the door by peeking through the doorchain. She said "Go away. Don't let him hear you. I can't go anywhere right now." Sylvia thought Donna looked as if she was crying.

The next day, November 5th, Donna skipped school. Sylvia and her mother, Lydia went to Donna's house to bring her to field hockey practice. Donna was wearing dark glasses, concealing a

black eye.

Lydia gently prodded Donna to tell her what had happened. She told the following story:

Mother and Dad bicker constantly. This happens most frequently when they both have been drinking. Mother drinks only occasionally; Dad more frequently.

Donna's mother, Veronica, always complains of husband, Leonard's inconsiderate, self-centered ways. Both parties work and Mom is left to do all of the household chores herself, along with bringing Donna to all of her appointments and activities. Dad returns from work and does nothing but watch T.V. and read the paper. If he is not home after work, he has gone out to play cards with his friends.

On the evening of November 4, 1994, Donna got fed up with her parent's antics and yelled at her father that she hated him and wished that he would leave. He slapped her across the face for that insolent remark, accidentally hitting her in the eye, causing the bruise. Mom then threw herself at her husband, whereupon he pushed her off of him, knocking her into the breakfast bar, injuring her right arm. This was the first and only act of violence between her parents, but Donna was fearful that it would occur again given the escalating tempers in the home. Furthermore, Dad has used corporal punishment to discipline her throughout her childhood and she believes that this could certainly continue. (Mom has also, but far less frequently.)

Sylvia recommended that Donna and her mother consult a lawyer. Meanwhile, she calls the Lawrence Area Office of the Department of Social Services to report her concerns about Donna and her living environment.

You are listed in the yellow pages as an attorney specializing in family law. Veronica comes to you for assistance on November 8, 1994.

You conduct a new client intake and you learn (in addition to the information given above) that DSS has sent Veronica Lacey a letter informing them of a 51 A report of abuse and neglect concerning her daughter. The letter informs her that they will be investigating the matter and meeting with her on November 10, 1994. Mother is terribly upset. Her bags are packed and she and Donna will be staying with her mother, Virginia Blakely, at 165 Pleasant Street in Stoneham, Middlesex County as of tomorrow. She cannot stand another day in the home with Leonard. However, ultimately, she tells you, she wants to oust him from the marital home in North Andover, so that she and Donna may live there to continue their regular work/school routine.

Veronica pays you your customary retainer. She tells you that

she wants to file for divorce by November 20, 1994. She further wants to take immediate action to protect Donna from any future risk of physical harm from Leonard. Veronica is concerned that if she does not take action quickly, the DSS will see her as guilty of neglecting Donna's needs. You advise her on this subject and you assure her that you will help her to take quick action on this.

Veronica says that she has enough money to last her until December 5, 1994. However, after this date, even if she is living with her mother, she will need financial help from Leonard for Donna's support. You direct her to return to your office on November 21, 1994 prepared to complete a financial statement.

On November 21, 1994, Veronica returns with her paystub and Leonard's most recent paystub - and - the following financial information:

<u>Veronica</u>	<u>Leonard</u>
Wages: \$275.00/wk.	\$4500.00/mo.
Deductions:	
Fed. Tax \$28.00/wk	350.00/mo.
State 15.00/wk.	225.00/mo.
FICA 30.00/wk.	415.00/mo.
Med. Ins. 0	86.00/mo.
Retirement. 0	64.50/mo
Gross income	
1993 \$13,000.00	\$52,000.00
Expenses:	
food \$75.00/wk.	unknown
clothing \$1000.00/yr.	unknown
miscell. \$25.00/wk.	unknown

The parties own the single family home located at 54 Pinewood Circle in North Andover, Essex County, MA. They purchased it in 1982 for \$80,000.00 with a down payment accumulated from joint savings. They gave a mortgage to Citizen's Bank of \$55,000.00 on the home, of which there is presently outstanding \$35,000.00. The comparable houses in the neighborhood are selling for \$185,000.00.

The mortgage payment is \$752.50 per month.

The parties have two joint bank accounts with Shawmut Bank. There is a savings with a balance of \$15,000.00 and a checking account with an average balance of \$1500.00.

Veronica drives a 1987 Plymouth Voyager which is worth \$2,500.00 Leonard drives a 1988 Chevy Citation also worth \$2,500.00. Both vehicles are held in joint names and there are no outstanding automobile loans on either vehicle.

The parties have no significant debt on other loans or retail charge accounts.

The family is covered under Leonard's Blue Cross plan of health insurance.

INSTRUCTIONS:

FOR YOUR FINAL ASSIGNMENT YOU ARE TO ASSESS THE FACTS THAT YOU HAVE BEEN GIVEN. CREATE A CASE FILE FOR YOUR CLIENT BEGINNING ON THE DATE THAT YOU FIRST BECAME MRS. LACEY'S ATTORNEY. DOCUMENT THAT YOU ARE DELIVERING TO MRS. LACEY THE MOST EFFECTIVE ASSISTANCE OF COUNSEL POSSIBLE.

PART I

ON THE LEFT HAND SIDE OF YOUR FILE, NOTE, CHRONOLOGICALLY, TELEPHONE CALLS, LETTERS, MOTIONS, AFFIDAVITS, COMPLAINTS OR OTHER FILINGS OR COMMUNICATIONS AS YOU ACT ON THEM, WORKING THROUGH THE EVENTS IN THE FACT PATTERN. IDENTIFY ALL PARTIES AND COURTS INVOLVED IN YOUR ACTIVITIES. TELL WHAT ITEMS GET FILED WITH WHICH DOCUMENTS. THESE WOULD BE YOUR ACTIVITY NOTES IN THE FILE.

PART II

ON THE RIGHT HAND SIDE OF YOUR FILE, YOU ARE TO PLACE PROPERLY DRAFTED, FILED AND SERVED COMPLAINTS, REQUESTS, MOTIONS, AFFIDAVITS OR OTHER FORMS, AS APPROPRIATE DURING EACH STAGE OF YOUR REPRESENTATION OF MRS. LACEY. INDICATE IN ALL INSTANCES THE COURT IN WHICH YOU ARE FILING THESE DOCUMENTS. DEMONSTRATE COMPLIANCE WITH NOTICE REQUIREMENTS WITH ALL MOTIONS.

~~LIMIT YOUR ACTUAL DRAFTING OF DOCUMENTS TO THE FOLLOWING:~~

1. ONE (1) 209A COMPLAINT (WITH APPROPRIATE ACCOMPANYING DOCUMENTS)
2. ONE (1) COMPLAINT FOR DIVORCE (WITH APPROPRIATE ACCOMPANYING DOCUMENTS)
3. Two (2) MOTIONS (WITH APPROPRIATE ACCOMPANYING DOCUMENTS) REQUESTING Two (2) DIFFERENT TYPES OF RELIEF.
4. ONE (1) FINANCIAL STATEMENT FOR MRS. LACEY.

DO NOT CHANGE THE FACTS. HOWEVER, YOU MAY ADD INCONSEQUENTIAL INFORMATION WHICH MAY MAKE SENSE TO COMPLETE A FORM, SUCH AS A TELEPHONE NUMBER.

N.B. TO PRESERVE THE INTEGRITY OF ANONYMOUS GRADING, DO NOT WRITE YOUR NAME ON ANY PLEADING, MOTION OR OTHER DOCUMENT IN THE FILE. USE YOUR SOCIAL SECURITY NUMBER ANYWHERE THAT YOUR SIGNATURE WOULD BE REQUIRED AND USE 500 FEDERAL STREET, ANDOVER, MA 01810,

(508) 681-0800 AND YOUR ADDRESS AND PHONE NUMBER.

GOOD LUCK AND HAPPY HOLIDAYS!

FAMILY LAW ADVOCACY CLINIC
FINAL ASSIGNMENT
DECEMBER 5, 1994

Instructors: Paula Dickinson
Abbe Hershberg
Jeanne E. Condurelli

FLAC Final Project

FAMILY HISTORY

Mother: Kathy Collins, nee Kathy Linde, age 24, born August 30, 1968 in Lowell, MA
Social Security No: 048-72-3282

Father: Robert Collins, age 30, born August 1, 1962 in Lowell, MA
Social Security No: 019-87-1378

Date of
Marriage: November 10, 1984 in Lowell (first marriage for both parties)

Child #1: Rachel DOB August 18, 1984 (age 8) third grade

Child #2: Erica DOB October 3, 1986 (age 6) Kindergarten (1/2 day)

Child #3: Jason DOB July 14, 1990 (age 2)

PRESENTING PROBLEM AND CASE HISTORY

On October 1, 1992, Merrimack Valley Legal Services, Inc., asks you to represent Kathy Collins pro bono in a divorce action. Kathy is given your office number. On October 6, 1992, Kathy calls and tells you that she has not been home in two days. She called her husband on October 4, and over the phone he threatened to punch her face in. Kathy tells you that her husband suspects that she has a boyfriend - Joe Smith, a man with whom she works. You tell Kathy to meet you at the Lowell District Court where you intend to file a 209A Complaint for her.

You have an interview with Mrs. Collins on this afternoon in the courthouse corridor. You discover the following:

Kathy and Robert met in 1983, dated for one year and got married three months after the birth of their eldest child, Rachel. Kathy was 16 years old when they got married - Robert was 22. He was a mechanic but has worked only sporadically since a work related injury in 1989. Both parties have a history of alcohol use as well as drug use (cocaine and marijuana). Robert sees a therapist occasionally. Kathy says that Robert has an explosive temper which gets worse when he drinks. The marriage has been marked by frequent and increasing episodes of physical violence by Robert against Kathy. Most recently, about a week ago, in a fit of temper about the toys on the kitchen floor, Robert flung a Tonka truck at Kathy hitting her in the shoulder. The children were present. There was no visible bruise at the time of your interview and Kathy sought no medical attention at the time of the incident. Kathy has been issued two previous 209A orders by the Lowell District Court over the last year. Each time, she and Robert

reconciled within a few months. Both Kathy and Robert are from Lowell and have family (parents and siblings) in the area. In the last several years they have moved frequently - Lowell (1984-1987), Lawrence (1987-1989), Nashua, N.H. (at 9 Juniper Street from 1989 to September of 1991), then back to Lowell (at 12 Pine Street from September 1991 to the present).

On October 6, 1992, an ex parte order under Mass.Gen.L. Ch. 209A was granted on the facts presented to the Lowell District Court, Docket Number 92-1RO83. Directly after this hearing, outside the courtroom, you schedule a second interview with Kathy to come to your office for a full domestic relations intake.

The next day, Kathy comes to your office for your second interview. You learn that throughout the marriage Kathy has always been employed -- except for brief periods after the birth of her children. She is employed in Tewksbury as an aid at the Briarwood Nursing Home earning \$5.50 per hour. She works 30 hours per week, juggling schedules around family babysitter availability. Kathy shows you a pay stub listing deductions of \$20, \$12 and \$4 per week for federal, state and F.I.C.A. withholdings. She claims 0 exemptions. In the previous year, she earned \$8000. Robert does janitorial work for \$8.50 per hour at Waste Management. He works 30 hours per week. He has lost many jobs in the last several years.

There are few marital assets. The parties do not own a home. Their rent is \$430 per month including heat and utilities. Kathy has a 1982 Ford Escort which is uninsured. Title is held solely in Kathy's name. There is a Chrysler Newport registered in Robert's name but insured in Kathy's name. These vehicles are worth approximately \$1500 and \$1800, respectively. During the marriage they acquired household furnishings including a waterbed and other personal property including a color TV, microwave and VCR. Kathy estimates that she could sell these items for a total of \$1500.

The couple is current on most of their bills. In 1980, Kathy had co-signed a loan for a truck for Robert which was repossessed. They owe \$1300 for that debt. In October 1991, the parties received an HFC loan in both of their names (\$1248 total with finance charges in March 1992. The balance of the loan is \$1094.60) Monthly payments are \$25 and \$20 respectively. Kathy estimates spending \$60 per week on food, \$15 per week on clothing for herself and the children, and \$20 on other miscellaneous expenses.

Kathy indicates that without Robert in the household to contribute financially, she will be unable to remain current on their bills and provide food, shelter and clothing for herself and the children.

Besides providing you with this financial information, Kathy relates that she has to be in Middlesex Probate Court in Cambridge on October 25, 1992. Her husband has filed a Complaint for Custody and a Motion to vacate her 209A order in the Lowell District Court and he has filed his own 209A Complaint against her.

The following events then occur:

1. October 16, 1992

Robert's Motion to Vacate Kathy's 209A is denied in Lowell District Court. Kathy's 209A order is extended for 3 months. The Judge orders mutual restraining orders. Kathy remains concerned about Robert's attempts to claim custody of the children. She also fears that she cannot maintain the house and feed herself and the children without Robert's financial contribution.

2. October 18, 1992

You file a Divorce on behalf of Kathy. You file and schedule motions on her behalf as well. Docket number #92D-0383-DI is assigned and you receive a summons from the Registrar's office.

3. October 25, 1992

Hearing on the Motions - Middlesex Probate and Family Court - Cambridge. After meeting with a Family Service Officer, the following agreement is reached:

- * Robert's Complaint for Custody is dismissed; instead, custody will be addressed in the Divorce action.
- * The parties will have temporary shared legal custody.
- * Kathy will have physical custody.
- * Robert will have visitation Sundays 10 a.m. - 6 p.m. with the transportation of children to be done by a third party.
- * Child support was not addressed. Robert says he's unemployed.
- * Robert will vacate marital home and is restrained from interfering with Kathy's personal liberty.
- * Robert is allowed to remove personal property if accompanied by a police officer.

4. November 4, 1992

Robert lodges a complaint about Kathy with DSS by calling the DSS hotline. He complains about her boyfriend and says she's neglecting the kids.

5. November 5, 1992

Kathy receives a call from Robert's therapist. In a therapy session Robert threatened to kill Kathy and himself.

6. November 6, 1992

Robert shows up at Kathy's house and threatens her and Joe in front of the children. He punches Joe and pushes Kathy. She calls the police and Robert is arrested.

7. November 6, 1992

Later that day DSS meets with Kathy at Kathy's home and decides to support the 51A for "emotional abuse by Robert (father) based on possible physical injury due to threats made by Father". DSS does not support the 51A against Kathy, and children remain in her care.

8. November 7, 1992

Ex-parte court hearing - Middlesex Probate Court; Robert's visits are suspended pending hearing on November 15, 1992.

9. November 15, 1992

Court hearing - Robert is given court appointed counsel, Ronald Racine. His visits are reinstated to once a week - for one hour at the DSS office. Both parties are to be evaluated at the Court Clinic. Robert is to make 5 job applications per week.

10. December 15, 1992

Kathy is terminated from her job for taking too much time off. She has received an eviction notice and plans to take the kids and move in with boyfriend Joe who lives in Dracut.

11. December 23, 1992

Robert's attorney brings a motion for increased visitation. After a Court hearing Robert's visits are expanded to every other weekend (unsupervised). Holiday visitation is addressed.

12. January 4, 1993

Both parties are evaluated at the court clinic in Cambridge.

13. January 27, 1993

Robert refuses to return the children after a visit and instead brings them to the Lowell police station. A 51A is filed based on Robert's allegation that Kathy struck Rachel.

14. January 28, 1993

(Children are still at father's.) DSS does home visit at father's. Robert, however, is drunk and belligerent when DSS arrives. Kathy is there screaming that she wants the children back. DSS reports that Robert lives in a rooming house with a common bathroom. His room has one queen size bed where all of the children sleep. DSS reports that all three children are extremely dirty. Worker asks Rachel about being hit by her mother — she said that mother did hit her. Rachel and Erica state that when mother drinks she acts and talks funny. Kathy admitted slapping Rachel when she shouldn't have. She stated that she drinks on weekends when Robert has the kids. Children are placed in foster care under Mass.Gen.L.Ch. 119 §51B.

15. January 29, 1993

Care and Protection filed by DSS in Lowell District Court because of "physical abuse by mother and neglect by father. Mother admitted drinking and hitting Rachel. Father's living situation is not appropriate for the children and he is violating his custody agreement and was observed to be drunk." A summons is issued to parents notifying them of the pending action filed pursuant to Mass.Gen.L.Ch. 119 §24, Docket numbers 93CPO5, 93CPO6, 93CPO7.

16. February 1, 1993

Hearing in Lowell District Court. You file an appearance for Kathy. DSS is given temporary legal custody of the three children with physical custody to Kathy pending intervention by DSS in the Probate Court divorce action. Care and Protection continued to March 14, 1993. Robert retains weekend visitation rights. Attorney Dianne Millane appointed to represent children in Care and Protection. DSS Social Worker Betty Jones assigned to case.

17. February 15, 1993

Betty Jones has a meeting with Kathy. At issue are the services needed by the family.

18. February 21, 1993

Robert again refuses to return children to Kathy after a weekend visit. He goes to the DSS office with the children on Monday morning on February 22nd. He threatens Kathy and you at the DSS office in front of the children and Betty Jones.

19. March 1, 1993

Robert's court appointed attorney brings a motion for Leave to Withdraw (Middlesex Probate Court). Motion allowed. New Counsel appointed -- John Robinson.

20. March 14, 1993

Review of Care and Protection in Lowell District Court. DSS says they have concerns about the father's erratic behavior. Father refuses to sign a service plan. Care and Protection continued to April 14, 1993.

21. March 28, 1993

DSS motion to intervene in Divorce case allowed. Robert's visits are restricted to Tuesday, Wednesday and Thursday 4:30-5:30. Children to be dropped off and picked up at DSS.

22. April 14, 1993

Care and Protection dismissed in Lowell District Court.

23. April 28, 1993

Probate Court review of order dated March 28, 1993. DSS recommends Robert's visits be increased Saturday 1:00 p.m. to Sunday 5:00 p.m.

24. May 7, 1993

Robert's second court appointed attorney brings Motion to Withdraw based on "attorney and client's inability to agree on virtually any matters in the case." Motion allowed.

From this day forward your client instructs you to move forward in the divorce action against Robert Collins, to resolve issues of custody, visitation, support and the division of marital property.

INSTRUCTIONS:

FOR YOUR FINAL ASSIGNMENT YOU ARE TO ASSESS THE FACTS YOU HAVE BEEN GIVEN. CREATE A CASE FILE FOR YOUR CLIENT FROM THE DATE YOU FIRST BECAME COUNSEL FOR MRS. COLLINS. DOCUMENT THAT YOU ARE DELIVERING TO MRS. COLLINS THE MOST EFFECTIVE ASSISTANCE OF COUNSEL POSSIBLE.

PART I

ON THE LEFT SIDE OF YOUR FILE, NOTE, CHRONOLOGICALLY, TELEPHONE CALLS, LETTERS, MOTIONS, AFFIDAVITS, COMPLAINTS OR OTHER FILINGS OR COMMUNICATIONS AS YOU ACT ON THEM, WORKING THROUGH THE EVENTS IN THE FACT PATTERN. IDENTIFY ALL PARTIES AND COURTS INVOLVED IN YOUR ACTIVITIES. THESE WOULD BE YOUR ACTIVITY NOTES IN THE FILE.

PART II

ON THE RIGHT SIDE OF YOUR FILE YOU ARE TO INCLUDE PROPERLY DRAFTED, FILED AND SERVED COMPLAINTS, REQUESTS, MOTIONS, AFFIDAVITS OR OTHER FORMS, AS APPROPRIATE DURING EACH STAGE OF YOUR REPRESENTATION OF MRS. COLLINS. LIMIT THE DRAFTING TO THE FOLLOWING:

1. ONE (1) 209A COMPLAINT (WITH APPROPRIATE ACCOMPANYING DOCUMENTS);
2. ONE (1) COMPLAINT FOR DIVORCE (WITH APPROPRIATE ACCOMPANYING DOCUMENTS)
3. ONE (1) COMPLAINT FOR CONTEMPT
4. THREE (3) MOTIONS (WITH APPROPRIATE ACCOMPANYING DOCUMENTS) REQUESTING THREE (3) DIFFERENT TYPES OF RELIEF, DRAWN FROM ANY POINT IN THE FACT PATTERN.

BE SURE TO INDICATE THE COURT IN WHICH YOU ARE FILING THESE DOCUMENTS, AND BE SURE TO INDICATE COMPLIANCE WITH NOTICE REQUIREMENTS OF THE RULES OF PROCEDURE.

YOU HAVE HERETOFORE BEEN PROVIDED WITH FORMS FROM WHICH YOU MAY DRAW TO COMPLETE THIS PART OF THE ASSIGNMENT.

DO NOT ATTEMPT TO CHANGE THE FACTS. YOU MAY, HOWEVER, ADD INCONSEQUENTIAL INFORMATION WHICH MAY MAKE SENSE TO COMPLETE A

FORM, SUCH AS A FICTITIOUS MAIDEN NAME OR A TELEPHONE NUMBER.

WITH RESPECT TO YOUR WORK ON THE CARE AND PROTECTION ASPECT OF THE FACT PATTERN, DO NOT WORRY ABOUT NOT HAVING OFFICIAL DOCUMENTS ISSUED FROM THE COURT SUCH AS CUSTODY ORDERS OR DSS STATUS REPORTS OR RECORDS. YOU HAVE ENOUGH INFORMATION IN ORDER TO FORMULATE A STRATEGY FOR MOTHER AND IN ORDER TO PREPARE FOR, OR RESPOND TO, THE OCCURRENCES OF EACH DATE.

DO NOT CONSULT WITH ANYONE ABOUT THIS ASSIGNMENT; THE WORK PRODUCT MUST BE YOUR OWN. YOU MAY, IN FACT, YOU SHOULD, CONSULT STATUTES, PRACTICE MANUALS, THE MASSACHUSETTS RULE BOOK, CASES, THE MASSACHUSETTS LAWYER'S DIARY OR ANY OTHER SUCH RESOURCE TO HELP YOU COMPLETE THIS ASSIGNMENT.

YOUR ASSIGNMENT IS DUE ON THURSDAY, MAY 27, 1993, BY 6:00 P.M. PLEASE SUBMIT YOUR FILE TO PROFESSOR DICKINSON ON OR BEFORE THAT DAY.

*N.B. IN ORDER TO PRESERVE THE INTEGRITY OF ANONYMOUS GRADING, PLEASE SUBMIT ALL YOUR MATERIAL IN A 8 1/2 x 11 MANILA FILE FOLDER. YOU ARE TO TYPE EVERYTHING IN YOUR FILE. (EXCEPTION: YOU MAY PRINT A FINANCIAL STATEMENT OR A CHILD SUPPORT GUIDELINES WORKSHEET, INSTEAD OF TYPING THESE, BECAUSE OF THEIR TIME CONSUMING NATURE.) DO NOT SIGN YOUR NAME TO ANY PLEADING OR DOCUMENT OR ANYTHING IN YOUR FILE. WHEREVER YOUR SIGNATURE WOULD BE REQUIRED, PLACE INSTEAD YOUR SOCIAL SECURITY NUMBER. DO NOT WRITE YOUR SOCIAL SECURITY NUMBER ON THE OUTSIDE OF YOUR FILE. YOUR ADDRESS AS COUNSEL FOR MRS. COLLINS IS 500 FEDERAL STREET, ANDOVER, MA 01810.

GOOD LUCK!

FAMILY LAW ADVOCACY CLINIC
FINAL ASSIGNMENT

MAY 8, 1995

Instructors: Paula Dickinson
Abbe Hershberg
Jeanne E. Condurelli

For your final assignment you are to analyze the following fact pattern and follow the directions printed on the last page. You will be asked to represent Donna Ryan who becomes the respondent in a Care and Protection petition on February 6, 1995 and whom you continue to represent thereafter.

Family identification and Background Information:

Mother: Donna Ryan, DOB 06/02/64
Maiden name: Donna Marie O'Neil
Employed part-time as a hairdresser making \$240.00 per week. Lowell High School graduate. Attended Blaine hair-dressing school. Has worked as a hairdresser and a waitress intermittently during the marriage.

Father: John Ryan, DOB 08/17/63
Lowell High School graduate. Employed as a machine operator at the West Lowell Creamery earning \$562.80 per week in gross wages. He pays \$44.00 per week for family group health insurance.

Children: John Ryan, Jr., DOB 12/23/87 (age 7)
Caitlyn & Courteney Ryan, (twins) born 08/18/89 (age 5)

The parties met in Lowell, MA in 1986.
Date of marriage: November 7, 1987

This was the first marriage for both parties.

History of Residence: Lived in Lawrence, MA 1987-1988
In 1988 the parties moved to Lowell where they have lived at three different addresses in Lowell, MA.
They have always rented.

Current Addresses: Donna - 14 Jones Street, Lowell, MA 01854
from January 1994 to present.
45 Washington Ave, Lowell
from 1991 - 1994

John - 55 Quinn Street, Lawrence MA 01840
since December 23, 1994

DSS has been involved with this family on and off since 1990. When the twins were about a year old, the family doctor notified the Department that they children failed to thrive after being born prematurely. He further suspected that Donna was being physically

abused by John. The DSS supported this 51A based on neglect of the children by the parents. The twins were referred to Ann Sullivan Early Intervention Center for assessment and monitoring.

John Jr., has been diagnosed with Attention Deficit Disorder and is in counselling with the school psychologist.

Father was arrested on December 22, 1994 for assault and battery on Donna after an upstairs neighbor called the police when he heard loud shouting and banging of furniture. Donna told you that she and John were arguing that night because he hit John Jr. When Donna intervened, her husband pushed her up against the refrigerator and then threw a chair against the wall.

On the following day, December 23, 1994, at John's arraignment in Lowell District Court, Donna obtained a restraining order under M.G.L. Ch. 209A (Docket #94II RO 940) that included a no abuse and no contact order, custody of the three children and an order requiring John to vacate the home. The return date was January 10, 1995, the same day as John's pre-trial conference in the criminal matter.

John was released on bail on December 23, 1994.

At the pre-trial conference in the criminal matter on January 10, 1995, John pleaded guilty to assaulting Donna and was given twelve (12) months probation. He was further ordered to attend batterer's treatment. The judge continued Donna's restraining order for one year (until December 23, 1995).

On January 27, 1995, Donna vacated her restraining order in order to allow John to come to the apartment and see the children.

On February 3, 1995, in a batterer's treatment session, John disclosed that he has been seeing his children and that they have been allowed to "run wild" since he left the home. He added that the kids need a good smack because Donna is too lenient.

Jane Dought, the counselor at the batterer's treatment center filed a 51A report with the DSS later that day. Sally Smith, a DSS social worker, appeared at Donna's home on February 6, 1995 and found that the children were disheveled and the house was a mess, with dirty dishes piled in the sink, garbage and clothes strewn everywhere. John Jr. was not at school and had bruises on his arms and legs. He said his father hit him.

Donna admitted to being overwhelmed since John had left the home. She told the social worker that she vacated the restraining order because she couldn't deal with the kids and the house but she admitted to fighting with John over how to discipline the children, especially John Jr., as recently as February 5, 1995.

The Ryan children were removed from the home on February 6, 1995 and a Care and Protection petition was filed in the Lowell District

Court. You were appointed to represent Donna at this time, after the children were removed from Donna Ryan and placed in foster care. A 72-hour hearing was scheduled for February 8, 1995, at which you appeared for Donna.

On February 8, 1995, DSS was granted legal and physical custody of the children. Donna told you that she will cooperate with DSS in order to get her children back as soon as possible. At this hearing a court investigator, John Robbins, was appointed and the court set a review date for March 8, 1995.

At the court review on March 8th, the DSS attorney, Robin Shea agreed to dismiss the Dare and Protection case as long as Donna abides by the terms of the service plan, including going to parenting classes and individual counselling. The children were returned to Donna's custody on that date and the C & P was dismissed.

On April 12, 1995, you received a call from Donna. She told you that she and John got into a fight the night before. He did not hit her but he threatened to do so, in the children's presence. John has not moved back with mother, but he has stayed overnight at Donna's home. Donna is afraid that DSS will discover that John has been abusive again. She said that before this last fight, she had been thinking of letting him move back in, partly for financial reasons, since she is not making ends meet with her part-time job. She tells you, however, that this is the last straw. She wants a restraining order immediately so that he cannot come back into the apartment. She also wants you to represent her in a divorce. She will borrow money from her sister to pay your retainer.

INSTRUCTIONS:

FOR YOUR FINAL ASSIGNMENT YOU ARE TO ASSESS THE FACTS YOU HAVE BEEN GIVEN. CREATE A CASE FILE FOR YOUR CLIENT BEGINNING ON THE DATE THAT YOU FIRST WERE ASSIGNED TO REPRESENT DONNA RYAN. DOCUMENT THAT YOU ARE DELIVERING DONNA RYAN THE MOST EFFECTIVE ASSISTANCE OF COUNSEL POSSIBLE.

PART I

ON THE LEFT HAND SIDE OF YOUR FILE, NOTE CHRONOLOGICALLY ALL TELEPHONE CALLS, LETTERS, MOTIONS, AFFIDAVITS, COMPLAINTS OR OTHER FILINGS OR COMMUNICATIONS AS YOU ACT ON THEM, WORKING THROUGH THE EVENTS IN THE FACT PATTERN. IDENTIFY ALL PARTIES AND COURTS INVOLVED IN YOUR ACTIVITIES. TELL WHAT ITEMS GET FILED WITH WHICH DOCUMENTS. THESE WOULD BE YOUR ACTIVITY NOTES IN THE FILE.

PART II

ON THE RIGHT HAND SIDE OF YOUR FILE, YOU ARE TO PLACE PROPERLY DRAFTED, FILED AND SERVED COMPLAINTS, REQUESTS, MOTIONS, AFFIDAVITS OR OTHER FORMS, AS APPROPRIATE DURING EACH STAGE OF YOUR

REPRESENTATION OF DONNA RYAN. INDICATE IN ALL INSTANCES THE COURT IN WHICH YOU ARE FILING THESE DOCUMENTS. DEMONSTRATE COMPLIANCE WITH NOTICE REQUIREMENTS IN ALL MOTIONS.

LIMIT YOUR ACTUAL DRAFTING OF DOCUMENTS TO THE FOLLOWING:

1. One (1) 209A Complaint (with appropriate accompanying documents);
2. One (1) Complaint for Divorce (with appropriate accompanying documents);
3. Three (3) Motions (with appropriate accompanying documents), requesting three (3) different types of relief;
4. One (1) Child Support Guideline Worksheet.

Do not draft a financial statement.

Do not change the facts. However, you may add inconsequential information which may make sense to complete a form.

TO PRESERVE THE INTEGRITY OF ANONYMOUS GRADING, DO NOT WRITE YOUR NAME ON ANY PLEADING, MOTION OR OTHER DOCUMENT IN THE FILE. USE YOUR SOCIAL SECURITY NUMBER ANYWHERE THAT YOUR SIGNATURE WOULD BE REQUIRED. USE 500 FEDERAL STREET, ANDOVER, MA 01810 (508) 681-0800 AS YOUR ADDRESS AND PHONE NUMBER.