

**Health Law Fellows Presentations Center for Health, Science and Public Policy Brooklyn Law School Project Abstracts**

**Projects 2026**

**Forgetting What is a Child's Best Interest: Looking at the Role and Appropriateness of New York's Forensic Custodial Evaluations in Child Custody Cases Impacted by Domestic Violence**

Emma Cohen '26

Abstract:

*In already stressful and contentious child custody and visitation cases, New York Family Court and Supreme Court Matrimonial judges will often consult mental health professionals, commonly referred to as "forensic child custody evaluators" who help determine child custody and parenting time. Judges often refer to these experts in order to help determine "what is for the best interest of the child, and what will best promote its welfare and happiness," a standard known as "the best interest standard." Currently, judges seem to forgo making their own best interest standard analysis and instead put the burden of a custody determination on an often biased and inconsistent forensic evaluation. This project argues that the current overutilization of forensic evaluations is especially harmful in custody matters involving domestic violence due to several key issues: (1) the overvaluation of forensic evaluations by judge, which heightens the effects of these issues; (2) the "parental alienation" claim, which is more often found in cases involving domestic violence; and (3) the risk of harm when domestic violence is involved in the forensic evaluations. Thus, this project argues that in order to ensure children's best interests are considered, and their parents' safety is prioritized, New York courts should aim to implement the 11 recommendations from the Governor's Blue-Ribbon Commission on Forensic Custody Evaluations, formed to evaluate the current system of forensic custody evaluations. The project argues that these recommendations should be passed within the next five years, a solution which can be found in Senate Bill S4994, currently in the New York State Committee Senate. However, this project's proposal offers an amended version of S4994, that forgoes a moratorium on forensic evaluations and instead mandates training in domestic violence for judges and court personnel.*

**The Ex Files: How Bankruptcy Reclassifies the Non-Debtor Spouse**

Victoria Le Fraga '26

Abstract:

*This paper looks at what happens when divorce and bankruptcy collide. Specifically, it examines what that collision can mean for the non-debtor spouse. While divorce law is supposed to divide property fairly and assign financial obligations between spouses, bankruptcy law follows a very different set of priorities. Once a bankruptcy is filed, the focus shifts to the debtor's estate, the rights of creditors, and which obligations survive. The result is that the non-debtor spouse can end up in a very different position than the divorce process seemed to promise.*

*The project started from the simple question: how does timing change the outcome? From there, the paper explores the idea that timing is not just a procedural detail but rather can completely reshape the non-debtor spouse's legal position. Depending on when bankruptcy is filed, that spouse may be treated as someone with strong protection because the obligation is considered support, as an unsecured creditor competing with everyone else for a share of the estate, or even as the target of a claw-back action after receiving property through the divorce process.*

*To explain how that happens, the research focuses on four core mechanisms in bankruptcy law that drive these different outcomes: the petition date, which determines what property enters the estate; the automatic stay, which halts and can disrupt the financial side of a divorce; discharge and classification rules, which affect whether obligations survive; and state-law vesting rules, which determine whether the non-debtor spouse has a true property interest or only an unfinalized claim. Rather than treating these rules in the abstract, the paper walks through them across three common timing scenarios to show how the same set of underlying divorce facts can lead to very different results.*

*The paper argues that the non-debtor spouse's vulnerability is often shaped less by the equities of the divorce itself and more by where the divorce stands when bankruptcy enters the picture. By tracing that problem, the project aims to give family law practitioners a clearer framework for spotting timing risks early and protecting clients before those risks harden into worse outcomes.*

### **Addressing the Shortcomings of Guardianships: Special Needs Trusts as an Alternative to Preserve Autonomy for Individuals with Disabilities in New York**

Porter Stracke '27

#### Abstract:

*This paper argues that Special Needs Trusts ("SNTs") can serve as a powerful alternative to traditional guardianship for individuals with disabilities in New York. It compares the drawbacks of the current guardianship statutes in New York, Article 17-A and Article 81, to the advantages provided by a SNT. For example, current guardianships risk abuse and limit an individual's sense of autonomy. Nevertheless, parents planning for their child with a disability reaching adulthood often feel a pressure to secure guardianship out of fear or lack of knowledge of alternatives. Against this backdrop, this paper traces the development of SNTs in New York as a*

*tool within supported-decision making to enhance the quality of life for individuals with disabilities.*

*By establishing limitations over the access to an individual's assets, SNTs create opportunities for an enhanced quality of life such as independent living, employment, and other liberating activities. Importantly, SNTs also preserve an individual's eligibility for government benefits such as Medicaid and Supplemental Security Income. For parents considering guardianship for their child, increased awareness and understanding of SNTs in New York may help preserve these opportunities while alleviating the confusion and complexities that accompany the transition to adulthood for individuals with disabilities.*

## **The UCCJEA: How the Law Works Against Survivors of Domestic Violence, and what Survivors Should Know About Fleeing State Lines with Their Children**

Allison Sullivan '27

### Abstract:

The most common advice given to domestic violence survivors is to leave immediately. However, what is advised less commonly is the warning of the federal and state legal consequences that domestic survivors face when they flee state lines with their children. This research focuses on the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and how its jurisdictional devices have a negative impact on domestic violence survivors.

Included in this research are the similarities between the UCCJEA and its international predecessor, the International Child Abduction Act (ICARA), which similarly favors the person petitioning for the return of the child. Where domestic violence is involved, the petitioner is often the abuser, and the Act provides narrow exceptions to prevent the return of the child, resulting in the domestic violence survivor and children returning to the location of the abuser.

The UCCJEA's statutory provisions and courts' subsequent interpretations tend to penalize domestic violence survivors, through its strong preference to the home state, limited exceptions for emergency jurisdiction, and lack of defined terms resulting in state substantive law and judicial discretion creating inconsistent results. Further, as noted in practice, there are procedural inconsistencies between family law judges who often, in a rush to make a decision, disregard the procedural steps and relinquish jurisdiction to the

home state. To get a better understanding of how the statute works in practice, I interviewed a practicing family law attorney to understand her perspective.

There are several revisions that could make the UCCJEA more accommodating to domestic violence survivors, such as amending the inconvenient forum provision to prioritize evaluating domestic violence, requiring the refuge state to consult with the home state in actions involving domestic violence, and loosening emergency jurisdiction requirements to permit past exposure to harm as sufficient for exercising temporary emergency jurisdiction. The UCCJEA should prescribe clearer standards and include provisions allotting time for investigations in order for judges to consider the nature of allegations. All states, including New York, should have a rebuttable presumption against awarding custody to a spouse who has committed acts of domestic violence against their partner.

Additional recommendations discussed include raising awareness for the legal implications of fleeing domestic violence, and how to navigate these jurisdictional hurdles when fleeing for the safety of oneself and their family.

## **AI and Separation: Easing a Personal Process**

Ava Zhang '27

### Abstract:

*This project explores various ways in which artificial intelligence (“AI”) can enable and facilitate mediation. The immediate benefit to incorporating AI into the dispute resolution process for parties is the potential for cost-effectiveness, though other possible benefits include an increased appearance of neutrality or feeling of privacy. Since AI can access and synthesize large amounts of information, there’s also the possibility that it can give parties creative, problem-solving solutions by having access to a database of anonymized settlement agreement terms.*

*Since people have varying levels of comfort with AI, especially when dealing with a process that is incredibly emotionally charged, there are various potential ways to incorporate AI that have differing levels of human supervision and/or intervention. On*

*one end, parties could contract or opt into an agreement that states any and all disagreements should be resolved through AI mediation by a specialized LLM chatbot (with voice input for convenience), which would also enable remote mediation. On the other end, parties could have a more traditional mediation experience by retaining a human mediator with AI usage limited to attempting temporary dispute resolution while a human mediator is not immediately available. There's also the possibility to consent to AI mediation with an option to refer the case to a human mediator.*

*An apparent objection to AI incorporation is a concern for privacy, but this can be mitigated by a thorough privacy policy and refraining from giving information to third parties. All information should only be stored and used in a closed-world environment for the purposes of communicating with other parties and/or an assigned mediator. Furthermore, the current traditional mediation experience does not guarantee more privacy than AI-incorporated mediation, especially with remote video call mediation becoming increasingly popular.*

*This project includes model web interfaces to demonstrate how this could work in practice, but the main idea is to promote how AI can be used to relieve the burdensome cost of divorce and any associated future disagreements. Although there may be apprehension towards mixing AI with deeply personal processes such as divorce, it is worthwhile to think about how AI can be used responsibly to alleviate what can often be a lengthy, contentious experience.*