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**Problem-Solving Courts**

The rise of drug, mental-health, and other therapeutic courts

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## The Lawyer of Love

Chicago divorce lawyer Corri Fetman offers advice in – and poses for – *Playboy*.

**C**hicago lawyer Corri Fetman is definitely *not* your grandfather's lawyer – except maybe in his lustier dreams.

### Joe from South Bend

On January 11, 2008, Fetman and *Playboy* magazine issued press releases notifying readers of a new feature in the magazine: Fetman now writes a monthly legal advice column for *Playboy's* print and online editions entitled "The Lawyer Of Love." A click or two away from the online column are *Playboy*-style revealing photos of Fetman.

In her column, Fetman provides sound, no-nonsense advice, both legal and personal. In response to a query from a married man whose mistress threatened to tell his wife about their affair and resulting pregnancy unless he agreed to pay her a certain amount of money, Fetman wrote, "Take your wife on a romantic Italian Riviera trip as soon as possible...[A]t the end of the trip (why waste a great vacation if she flips out), tell her what transpired and ask for forgiveness. If you love your wife, do whatever it takes to grovel and show how badly you feel."

But some of Fetman's advice rubbed some lawyers the wrong way. In response to a call for members' views on ISBA's Family Law discussion group, Chicago lawyer Annemarie Kill, whose practice includes family law and employment law, focused on the following question and answer from Fetman's inaugural column, posted January 11, 2008.

*Joe, South Bend IN:*

*How do I find a good divorce lawyer?*

The Lawyer of Love:

Joe, Locate the most miserable divorced guy you know who lives in a rat hole because he is supporting his ex-wife and family. Ask Mr. Misery the name of the attorney who represented his wife and call that attorney. Even if you do not like this attorney, it may prevent your wife from hiring or meeting with this attorney. By engaging in an initial consultation and paying a consultation fee, you have prevented the attorney (and the law firm) from representing your spouse.

"We hear about attorney shopping so that a client can 'conflict-out' potential attorneys," Kill said. "I would like to have faith in my colleagues, and hope that none of us privately counsel clients to do this. It is a manipulation of the system, and deprives a person of his or her choice of counsel."

Former ARDC administrator Mary Robinson and Executive Director Cheryl Niro of the Commission on Professionalism of the Illinois Supreme Court shared Kill's views. Said Robinson, "It's clear: if a lawyer talks with a prospective client, he will be conflicted out if he receives any confidential information [under RPCs 1.9 and 1.10]. I don't know how you can guard against that in an initial divorce interview."

For a lawyer to advise a client to do this with no object other than creating a conflict for the other lawyer, Robinson said, would be "slimy. It's like advising someone to defraud a lawyer."

But Fetman, Robinson pointed out, did *not* advise a client to do this. Rather, she wrote an advice column directed to readers of a magazine suggesting a reasonable method of finding a

lawyer, and including the factually correct observation that if the questioner decided not to hire that lawyer after the initial consultation, the questioner's wife might be prevented from retaining that lawyer herself. It's difficult, Robinson suggests, if not impossible, to find any clear-cut ethical violation on Fetman's part in so doing.

### Like "a cocktail party conversation"

To consider whether a lawyer's words present an ethical problem, "We have to pay attention to the context," Robinson believes. In her view, an advice column "is like cocktail party conversation." Who among us, Robinson asks, has not tossed off some remarks on some social occasion that we might not consider appropriate to provide to clients in our offices? "People have to understand that this advice is generic and glib."

And what if Fetman had written an article for the *Illinois Bar Journal*, or for a general newspaper, Robinson continues, presenting the same information but not advocating it as a course of action? Patently, for her to have done so would be perfectly appropriate and would present no issues whatsoever of ethics or professionalism, Robinson believes.

Moreover, she adds, Fetman's speech is protected by the First Amendment. For Robinson, then, Fetman's answer to Joe in South Bend presents a harder question of professionalism than of ethics.

For Niro, conduct that is merely unprofessional falls into "the gap that exists between what our ideal standards are and what we get disciplined for."

Niro concurred with Robinson's views on Fetman's answer. "Are we supposed to teach people how to manipulate the system? It doesn't feel right, but I can't point to a rule it violates."

Then again, Niro speculated that some might interpret Fetman's answer to fall within the language of SCR 770: "Conduct of attorneys which violates the Rules of Professional Conduct... or which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute shall be grounds for discipline by the court." But both she and Robinson doubt whether it would be possible for lawyers to reach a definitive consensus that Fetman's answer to Joe in South Bend does or does not constitute such conduct.

"What is the culture of divorce practice?" Niro asks. "Is this something that should be permitted? Is this a matter that the profession should address?" The two also note that lawyer-shopping with the aim of creating conflicts for opposing parties may occur in corporate law beauty contests as often as in the family law context.

### Those photos

As for Fetman's photos, Niro sums up her general reaction in a word: "Disappointing." Expanding, she opines, as did Robinson, that Fetman's photo spread is "insulting to the women in our profession who were the real trailblazers and to the memory of the women who struggled to gain respect in a male dominated profession."

Most ISBA members who posted to ISBA's family law and café discussion groups concurred with Niro's and Robinson's views. But Peoria lawyer Philip Lenzini disagreed. "[O]n balance most...[arguably ill-considered actions of other members of the bar] have not been too damaging to our profession or reputation." And, he adds, "This lady has great beauty and brains. Simply by appearing in *Playboy* she has likely inspired many 'over 40' women that their respective lives are not over."

Will Fetman's venture help her practice? Should the rest of us leap at such an opportunity, or encourage our well-endowed partners or associates to do so? Fetman, alas, declined to comment for this article, though in at least one interview posted on her Web site she responded "[w]e're not complaining"

when asked how business has been since her inaugural column and photo spread.

But Chicago lawyer Jack Coladarci said, "I maintain that she won't pick up a lot of high asset value or expensive contested custody cases, and that the folks who have those kind of cases tend to talk to a lot of the good lawyers in town." Coladarci further wonders, "How many serious clients with good cases are going to specifically avoid retaining her because they don't want to [be] represented by a Playboy Bunny?"

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## Hudson | Continued from page 176

peal of the original involuntary dismissal, then, was not proper, Kilbride wrote, and the court had misapplied SCR 273. The court should now, he believed, move to correct the "untenable consequences created in the wake of *Rein*." *Hudson* at \*18 (Kilbride dissenting).

Kilbride and the other dissenting justice would have found that a refiled action, though a "new action" for purposes of 735 ILCS 5/13-217, is to be treated as a continuation of the former suit, with all prior rulings binding in the second action. Under the dissent's logic, a plaintiff who chooses to refile, as did the plaintiffs in *Rein* and *Hudson*, may not appeal determinations in the first lawsuit until either the time expires for refiling the suit or a judgment on the merits is issued in the refiled action. *Hudson* at \*16 (Kilbride dissenting). The plaintiffs in *Hudson* had not engaged in improper

To access Fetman's column and archives, go to [playboy.com](http://playboy.com) and click on the "Sex + dating" link at the left. You'll find a link to "The Lawyer of Love" with Fetman's (fully clothed) photo. (Inquiring minds may also view a selection of more revealing Fetman photos by following the links.) Fetman's law firm has a separate web page dedicated to "Playboy Press" at which readers may download articles about and interviews with Fetman concerning her *Playboy* venture, at <http://www.fgalawfirm.com/playboy-press.html>. ■

claim-splitting and should not, the dissenters maintained, be deprived of their legislative right to refile their voluntarily dismissed claim.

In their petition for rehearing, the plaintiffs amplified a point from the dissent. They wrote,

When the negligence count was dismissed, the willful and wanton claim was not affected; but rather, according to the *Rein* rationale, the willful and wanton count remained valid until it was voluntarily dismissed, and only then was barred by res judicata. *This is retroactive res judicata*. To hold an active claim barred by a prior dismissal when it was dismissed without prejudice is to ignore the meaning of "without prejudice."

Plaintiff's petition for rehearing at 3; emphasis in original.

At press time, the petition remained pending. ■

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## Felzak and Ligon | Continued from page 177

to respond, all counsel agree.

If such a reasonable request, perhaps coupled with some apt quotations from *Ligon* or *Felzak*, doesn't work, and if you don't feel that moving for a substitution of judge is an option, judges quoted in *Judges' Pet Peeves: Peevish Practitioners, Poor Preparation, and More*, 94 Ill Bar J 20 (January 2006) provided further suggestions to lawyers presented with less than exemplary behavior from the judiciary.

Find out whether there's a judicial ombudsman in your circuit, and consider

talking to that person, or another well-respected lawyer with a good relationship with the offending judge, they suggested. Consider, too, whether approaching the judge on another occasion, outside the context of the case, to discuss the problem might be an option. Taking a matter up with the chief judge for the circuit is another possibility, those judges offered.

But, as Judge Richard Posner of the U.S. Seventh Circuit Court of Appeals sanguinely commented for that article, in many cases "realistically, there is nothing [you] can do but grin and bear it." ■