The Journal of Law & Family Studies (JLFS) is an interdisciplinary journal addressing a broad range of empirical and doctrinal topics concerning families, family relationships, and the law, and also explores issues in family and juvenile law as well as other family-related issues relevant to public policy. JLFS is published twice a year, and membership is determined by a summer writing competition.

JLFS makes every effort to conform to the following editing sources: The Bluebook: A Uniform System of Citation (19th ed. 2010) and The Chicago Manual of Style (16th ed. 2010). The JLFS Board of Editors strives to maintain the text of published articles in its original format by editing only for accuracy and, where necessary, clarity. Views expressed herein are to be attributed to their authors and not to JLFS, its editors, the S.J. Quinney College of Law, or the University of Utah.

COPYRIGHT: © 2013 by the Journal of Law & Family Studies. Printed Winter 2014 (ISSN 1529-398X). In addition to the rights to copy that are granted by law, the owner of the copyright of each article published in this issue, except as expressly otherwise noted, grants permission for copies of that article to be made and used for educational purposes by nonprofit educational institutions, provided that the author and journal are identified, that proper notice of copyright is affixed to each copy of the article, and that copies are distributed at or below cost.

ACKNOWLEDGMENTS

The editors of the Utah Journal of Law and Family Studies wish to express their gratitude to the following: The University of Utah S.J. Quinney College of Law, the Journal Alumni Association, and the University of Utah Publications Council for their support; Dick Baldwin, Jared Forsgren and the staff of the Utah Law Review; Professor Laura Kessler, faculty adviser; Laura Skousen, editorial assistant; and the S.J. Quinney College of Law faculty and staff.

The Journal also gratefully acknowledges the American Academy of Adoption Attorneys, which held its symposium: The Future of Adoption in America in Salt Lake City, Utah. The symposium generated a number of thoughtful articles about adoption, several of which appear in this issue.
JOURNAL OF LAW & FAMILY STUDIES

VOLUME 15                                                                                                                     NO. 1 2013

BOARD OF EDITORS 2012–2013

Editor-in-Chief
Joseph Gatton

Managing Editor  Executive Articles Editor
Jeffrey Enquist  Lacee Whimpey

Executive Text & Citation Editors
Anetta Pietrzak
Aunica Smith

Note & Comment Editors
Lenora Babb  Christian Cueva
Maria Mooers-Putzer  Jamie Banks
Heather Pack

Faculty Adviser  Editorial Assistant
Laura Kessler  Laura Skousen
NATIONAL ADVISORY BOARD

Irwin Altman
Distinguished Professor of Psychology and Professor of Family and Consumer Studies, University of Utah.

Ann Laquer Estin
Professor of Law, University of Iowa College of Law.

Marsha Garrison
Professor of Law, Brooklyn Law School.

Carl E. Schneider
Professor of Law; Chauncy Stillman Professor for Ethics, Morality and the Practice of Law; Professor of Internal Medicine, University of Michigan.

Elizabeth S. Scott
Harold R. Medina Professor of Law, Columbia Law School.

Debora L. Threedy
Professor of Law, University of Utah.

Lynn D. Wardle
Professor of Law, J. Reuben Clark School of Law, Brigham Young University; Former President of the International Society of Family Law.

Cathleen D. Zick
Professor, Department of Family and Consumer Studies, University of Utah.
CONTENTS

SYMPOSIUM
THE AMERICAN ACADEMY OF ADOPTION ATTORNEYS:
THE FUTURE OF ADOPTION IN AMERICA SYMPOSIUM

Conscience Clauses and the Placement of Children
Mark Strasser........................................................................................................... 1

Once Born, Twice Orphaned: Children’s Constitutional Case Against Same-Sex Adoption Bans
Tanya M. Washington............................................................................................ 19

The Oncoming Storm: State Indian Child Welfare Act Laws and the Clash of Tribal, Parental, and Child Rights
Philip (Jay) McCarthy, Jr., ................................................................................ 43

Transracial Adoption in the United States: The Reflection and Reinforcement of Racial Hierarchy
David Ray Papke ................................................................................................... 57

David M. Smolin ................................................................................................. 81
ARTICLE

A Remedy to Fit the Crime: A Call for the Recognition of the Unreasonable Rejection of a Parent by a Child as Tortious Conduct

Bruce L. Beverly ........................................................................................................ 153

NOTES

A Win for Transgender Employees: Chevron Deference for the EEOC’s Decision in Macy v. Holder

Laura Anne Taylor.................................................................................................. 181

Utah and Juvenile Incompetency

Dannon Lee........................................................................................................... 209