"mere conduit," then the contribution will be treated as a contribution to the foreign charity rather than the U.S. entity. Some examples of the type of control/discretion needed include: (1) communicating to donors that distributions of contributions for foreign charitable activities or grantees is exclusively within the control of the charity's governing body; (2) implementing internal procedures for review of all proposed distributions of funds to non-IRC § 501(c)(3) organizations, including identification of specific charitable uses to which funds will be put; and (3) requiring grantees to furnish periodic accountings to show how funds were used and to return unused funds. Rev. Rul. 66-79 (amplifying Rev. Rul. 63-252). In addition, many U.S. public charities use grant agreements for grants to foreign charities containing provisions similar to those in private foundation "expenditure responsibility" agreements. Such grant agreements generally include specific grantee certifications. While beyond the scope of this article, such certifications can also demonstrate compliance with U.S. antiterrorism financing rules applicable to U.S. charities, which are intended to ensure that charitable funds are not used to finance terrorist activities in foreign countries (a complete discussion of these rules can be found on the Council on Foundations' USIG Web site noted above).

CONCLUSION

Supporting international charitable organizations and activities will continue to be a priority for many in the philanthropic community. Effective tax planning for charitable giving outside the U.S requires a working knowledge of the various alternatives, options, and potential pitfalls, as well as the particular donor's goals and options. While there is no "one size fits all" solution, with careful planning, international philanthropy can be accomplished in a manner that accomplishes intended charitable goals in a tax advantageous manner.

ESTATE PLANNING FOR THE NONTRADITIONAL FAMILY: TOTO, I'VE A FEELING WE'RE NOT IN KANSAS ANYMORE

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What is a traditional family? Not so long ago, it consisted of a husband, wife and couple of children. Today, however, if a family includes a married, opposite sex couple, it no longer represents the majority of U.S. families. In 2010, only 49.9% of U.S. households included a married couple.[1]

What constitutes a family today? The total number of opposite sex, unmarried couples was 7.5 million in 2010, compared to just 3.8 million in 2000.[2] Between 2009 and 2010, there was a 13% increase in the number of opposite-sex couples who were cohabitating but not married.[3]

Because a modern family includes many types of arrangements—couples of the same or opposite sex, married or unmarried, with or without children; and single parents, whether divorced, widowed, or single by choice—advisors must be prepared to adapt traditional planning techniques to a wide variety of circumstances.

ISSUES UNIQUE TO THE SECOND MARRIAGE

If the divorce rate is nearly 50%, many clients will be in their second or third marriage. What is a typical estate plan for a first-time married couple could have very different results for the surviving families of clients who have been married more than once. If the surviving spouse receives all assets outright, children from first

marriage may be disinherited. If the surviving spouse is the sole beneficiary of the deceased spouse's trust during her lifetime, there may be a substantial delay until children of the deceased spouse receive inheritance.

The surviving spouse may elect to exercise her elective share, which could significantly affect the inheritance of children not born of the marriage. Under Ohio law, the surviving spouse shall receive up to one-half of the net estate unless the decedent dies with two or more surviving children, in which case the surviving spouse receives up to one-third of the net estate.[4] If all assets are held in trust for a surviving spouse during her lifetime, the investment philosophy (i.e., income versus growth) to maintain the surviving spouse may differ from the goals of the remainder beneficiaries.

If the clients have not entered into a premarital agreement and there are children of prior marriages, consider providing for those children upon the death of the first spouse through outright bequests, including children as beneficiaries of the credit shelter trust or lifetime gifting. A client may also eliminate a spouse's elective share in favor of an alternative method of inheritance by funding her revocable trust during lifetime.[5] To avoid arguments over investment decisions that may prefer a surviving spouse to the detriment of the children, or vice versa, include a unitrust payment to a surviving spouse from a deceased spouse's trust to allow the trustee to adjust for income and principal investments as she deems necessary without limiting distributions to the surviving spouse of only trust income.[6] Finally, just as life insurance is often an inexpensive means of funding the estate tax bill, consider creating an irrevocable life insurance trust to provide for children upon the first death, leaving the remaining estate to the second spouse.

THE UNMARRIED COUPLE

Unmarried couples, whether opposite or same sex, do not benefit from laws governing property division upon the end of a relationship or protecting from disinheritance upon death as do their married counterparts. Consequently, any property rights or decision-making authority that one partner wishes to bestow upon another must be set forth in writing to be enforceable.

To define rights during the relationship and at death, consider a domestic partnership agreement (DPA), which is similar to a premarital agreements with respect to pre-execution requirements. Pay particular attention to the consideration of the parties to the DPA, as it may not be sufficient if domestic service is the only consideration.[7] Furthermore, in nearly every state, consideration based on sexual services between unmarried persons will void any alleged (or otherwise valid) agreement. Consideration based on business services alone is generally valid.[8]

As with any partnership arrangement, a DPA should set forth procedures for resolving disputes during the relationship, which may include expense obligations. Unlike the termination of the marriage, which may be defined by the parties in a premarital agreement and is certainly defined by law, the termination of the marriage must be defined in the DPA.

1. PROPERTY RIGHTS AND DECISION-MAKING AUTHORITY DURING LIFETIME

When titling assets as joint tenants with rights of survivorship, consider both gift tax consequences upon the creation of account, or the retitling of property, and estate tax consequences upon death. For joint bank accounts, a gift occurs when the noncontributing owner withdraws money from the account.[9] For all other joint property, a presumed gift of one-half of the value of the property occurs upon creation of the joint tenancy by the contributing owner to the noncontributing owner.[10] Unless the surviving owner has contributed to the as-

set, the entire amount is included in the estate of the deceased owner.[11]

If the primary concern is ensuring that property automatically passes to a surviving partner on death, consider naming partner as the "transfer on death" or "payable on death" beneficiary of an asset to avoid gift tax consequences of joint ownership and to provide the contributing partner with the most control over the asset.

2. ANCILLARY DOCUMENTS

Unless she is appointed guardian of the estate, one partner has no authority to act on behalf of another without having been named attorney-in-fact. If a partner executes a springing power of attorney effective upon incapacity, make sure a HIPAA medical information release has been executed allowing for medical information to be released to the attorney-in-fact.[12]

With respect to health care decisions, it is imperative to appoint a domestic partner in writing as agent. A partner who has not been so named has no right under Ohio law to make her partner's health care decisions, regardless of the longevity of the relationship.[13] If there are minor children of the relationship who are unrelated to a partner, execute consent forms and/or medical authority authorizations giving the unrelated partner the power to act for the child in certain instances.

3. RIGHTS OF THE SURVIVING UNMARRIED PARTNER

It is estimated that more than one-half of U.S. citizens die without a will. If an unmarried partner dies without an estate plan, assets pass pursuant to the laws of descent and distribution, which would not include the surviving partner.[14] To ensure that assets pass pursuant to a plan agreed upon by the parties, consider an agreement to make a will, which must be in writing and signed by the maker or some other person at the makers direction.[15] An agreement to make a will supersedes any later lifetime disposition of property of either of the parties to the agreement.

Of course, unmarried partners may execute wills and trusts that include the surviving partner. To avoid contests of testamentary documents include forfeiture (*in terrorem*) clauses. Consider giving a disgruntled family member a nominal amount subject to forfeiture upon contest to discourage the contest, and specify intentions with respect to the inclusion of the partner and exclusion of other beneficiaries. Avoid nominal amounts to disgruntled family members as evidence of disinheritance.

Funding a revocable trust for management of assets if one partner becomes incompetent may be less burdensome to the other partner, if named as trustee, than using financial power of attorney. In the case of same sex or common law marriages, specifically identify the partner by name. Also consider a clause identifying when a partner would not be a beneficiary (i.e., on the termination of the relationship upon triggering events clearly defined in the document).

Name the partner as the beneficiary of assets that pass by contract on death. An unmarried partner of an asset holder would not be included as a default beneficiary of assets such as retirement plans, pension plans and life insurance.

Execute a funeral directive that names the surviving partner as the individual with the authority to make decisions as to the disposition of the deceased partners remains. Section 2108.70 of the Ohio Revised Code provides for the assignment of rights regarding disposition of remains and § 2108.72 provides a form of written declaration of assignment.

One partner may designate the other as an heir at law, after which the person designated

will stand in the same relation, for all purposes, to the declarant as she could if a child born in lawful wedlock.[16] While an heir at law may not take through a declarant as the issue or descendant of the declarant, an heir at law would be considered a child of the declarant in the event a testamentary document is successfully challenged. An heir at law designation may be revoked if the relationship terminates prior to death.

Should the relationship end prior to death, revoke property rights and decision-making authority of the partners as to each other. Laws revoking divorced spouses' beneficial rights under § 2107.33(D), § 5815.33, and § 5815.34 of the Ohio Revised Code do not apply to unmarried couples. Also revoke all beneficiary designations, amend testamentary documents and prepare new financial and health care powers of attorney. Include end of relationship clauses in wills, revocable and irrevocable trusts that terminate one partner's beneficial interest or fiduciary authority upon a triggering event. Make sure to clearly define what event(s) trigger the termination (i.e., no longer residing in the same household, a dissolution of a domestic partnership, etc.).

4. TRANSFER TAX ISSUES AND PLANNING OPPORTUNITIES FOR UNMARRIED COUPLES

Unmarried couples do not enjoy a number of transfer tax advantages available to married couples. There is no gift or estate tax marital deduction available to unmarried couples, and the generation-skipping transfer tax applies to transfers to nonfamily members (i.e., between unmarried couples with a significant age difference and to descendants of an unrelated partner). Portability of the federal estate tax exclusion amount is only available to married couples.[17]

With respect to joint property, the estate of the first partner to die is presumed to include the entire value of the asset passing to the surviving partner.[18] When a married person dies, only 50% of the asset is presumed to be included in the estate of the deceased spouse.[19] For an unmarried couple, unless the survivor can prove she owned a portion of the property and did not acquire it for less than adequate consideration, the entire asset is includible in the decedent's gross estate.[20]

Unmarried couples may not elect to treat gifts as being made one-half by each of them. A surviving partner may not roll over a retirement plan account to defer minimum distributions over her life expectancy and that of someone 10 years her junior. However, the Pension Protection Act 2006 (PPA) allows a nonspouse beneficiary to roll her inherited retirement plan benefits directly to an inherited IRA, which permits the beneficiary to stretch out distributions over her life expectancy and to control plan investments.

Although transfer tax laws favor married couples, the fact that an unmarried couple is not “family” for purposes of the Internal Revenue Code provides the couple with several important planning opportunities. Chapter 14 of the Internal Revenue Code restricts transactions involving family members, which do not include unmarried couples. For example, there is a limit on the amount of appreciation that may be transferred gift tax-free to family members by transferors who transfer growth interests in an entity while retaining the income interests.[21] Those restrictions do not apply to unmarried couples. Therefore, a wealthy partner may transfer her assets to a partnership and retain the right to a preferred return while providing the other partner with rights to future appreciation. Presumably, the transferred common interest will have minimal value at the time of the gift but all future appreciation will pass gift tax-free from one partner to the other.

Certain restrictions that are ignored under Chapter 14 for valuation purposes involving transfers between family members do not ap-

ply to unmarried couples. Those restrictions increase valuation discounts for both gift and estate tax purposes, allowing for more leveraged transfer possibilities between unmarried couples.

Because Chapter 14 only applies to transfers to family members, a grantor retained income trust (GRIT) is available to unmarried couples. The grantor of a GRIT may retain an interest in the accounting income from the GRIT for a fixed term of years (versus only an annuity or unitrust amount of a GRAT or GRUT used by family members to avoid Chapter 14 rules). At the end of the GRIT term, assets remaining are distributed to the beneficiary. If the grantor dies during the GRIT term, the assets are included in the grantor's gross estate.[22] Using a GRIT, the grantor who is part of an unmarried couple can leverage her gift to her partner. When the GRIT is created, grantor makes a gift to the beneficiary. The value of the gift is determined using the current § 7520 rate. If the accounting income realized is lower than the § 7520 rate assumed for calculating the value of the retained income interest, a discount in the value of the gift may be obtained because the income interest is overvalued.

Consider life insurance to provide for wealth replacement due to the loss of the marital deduction. The partner buying insurance on another must have an insurable interest in the insured, which varies from state to state. One partner may also secure a policy on her life and transfer ownership via gift to her partner (if for consideration, the transfer-for-value rule may apply). Keep in mind that the gift tax marital deduction is not available to unmarried couples so transfers above the annual exclusion would be subject to gift tax.

A partner may also create an irrevocable life insurance trust to own a policy on her life for the benefit of her partner. This alternative may be preferred to an outright transfer of a policy to a partner because the trust may include provisions that terminate a partner's rights upon the termination of the relationship.

CHILDREN BORN THROUGH THE USE OF ASSISTED REPRODUCTIVE TECHNOLOGY

What defines a parent and child will affect who takes under intestacy laws and under testamentary documents executed by the parent, child and third parties. Does the term "descendants" include children "who are born outside of marriage and are genetically related to a man who many not act as a father, who are conceived the old-fashioned way or through some form of assisted reproduction, or who are conceived after the death of one of the genetic parents?"[23]

The determination of a child's legal parents is complicated. Assisted reproductive technology allows for the storage of gametic material. A surrogate mother may assist in the gestation and birth of a child. A surviving partner may use the deceased partner's stored gametic material to conceive.

Section 3111.95 of the Ohio Revised Code provides that a husband is the father of a child if his wife has been artificially inseminated and he consents to the insemination. However, if a woman is the subject of a nonspousal artificial insemination, the donor shall not be treated as the natural father of the child conceived. Section 3111.97 of the Ohio Revised Code, which deals with embryo donation for the purpose of impregnating a woman to bear a child she intends to raise as her own, provides that a woman who bears a child born as a result of embryo donation is treated as the natural mother of the child. If a married woman gives birth to a child born as a result of embryo donation to which her husband consented, the husband shall be treated as the natural father of the child. However, if the husband has not consented, the presumption that the husband is the father may be rebutted by clear and convincing evidence of the lack of consent.

A " 'donor' means an individual who produced

genetic material used to create an embryo, consents to the implantation of the embryo in a woman who is not the individual or the individuals wife, and at the time of the embryo donation does not intend to raise the resulting child as the individuals own."[24] A donor is not treated as the parent of the child. In addition, a donor has no parental responsibilities and no obligations or rights with respect to a child resulting from the donation.

Intestacy statutes assume that decedents prefer property to pass to family. "All of [the] purposes that underlie the intestacy statutes depend on a definition of family. In recent years, scholars have pointed out the problems of intestacy statutes that do not reflect the wide range of American families in existence today."[25] Most intestacy statutes do not include unmarried couples, children conceived with the assistance of reproductive technology or children conceived more than 300 days following a decedent's death.

What happens if a child born with the assistance of reproductive technology dies without a will? If the donation of the sperm or embryo was confidential, how is heirship determined? What duty, if any, does a personal representative have to locate half siblings? There are a number of Web sites that offer limited information regarding donors and siblings of children born with the assistance of reproductive technology who have registered on the Web site.[26] Must a personal representative contact the registries or attempt to contact individuals registered on the Web sites who are related to the child? Must registry information known to a personal representative be presented to the court in a proceeding to determine heirship?[27]

The Uniform Parentage Act (UPA) provides rules establishing legal parentage. Promulgated in 1973 and modernized in 2000, it sets forth all the possible ways a parent-child relationship may be created. The amendments to the Uniform Probate Code (UPC) were enacted in 2008 and change the definition of parent and child for purposes of intestate succession.

Genetic parents are parents regardless of marital status unless an exception applies.[28] A genetic mother provides the egg that was fertilized by the genetic father.[29] A genetic father is the man whose sperm fertilized the egg OR the man established as the legal father under state law presumptions of paternity.[30]

Adoptive parents are intestacy parents unless (a) in the case of a step-parent adoption, the genetic parent who is no longer the legal parent will not inherit from the child but the child will inherit from or through the parent unless estate planning documents dictate otherwise, (b) if an adoption occurs after the death of the genetic parents, the child inherits through the genetic parents, and (c) if a child is adopted by a relative, the child will inherit through the genetic parents.[31] Under the UPA, if a child is created using assisted reproduction and no written agreement establishes the father as the intended parent, father may still be adjudicated the father if mother and father lived together with child for two years after child's birth and held child out as theirs.[32] The UPC provides that the parent-child relationship may be established if the parent functioned as a parent no later than two years after birth.[33]

If a person who deposits gametic material for assisted reproduction with the intent to become the parent later withdraws consent for its use, the person is not the parent.[34] If a person making a deposit dies before placement, to be the parent, the UPA requires consent for posthumous use and the UPC allows clear and convincing evident to show that decedent intended to be treated as the parent.[35]

What about posthumously conceived children? "If the intent is that any posthumously born children be included in the estate plan, the client should be fully informed of the existing law as to inheritance, Social Security ben-

efits, insurance benefits, etc. Since this area of the law is in a state of flux, specific steps for protecting a resulting child should be considered."[36] To include the posthumously born child as a legatee, consider the following: "[T]o my children, including whatever children are conceived or born before or after my death from my frozen genetic material."[37]

Also consider when to close the class and what happens to assets prior to the date the class closes. If, upon the decedent's death, trust property is divided into shares for beneficiaries or distributed outright to beneficiaries, to what would a posthumously conceived be entitled? The New York Surrogate's Court in *In re Martin*[38] held that children conceived three years after the death of the settlor's son using the son's sperm were "issue" or "descendants" of the settlor for purposes his trust.[39] The court noted that although the decedent probably assumed his posthumously conceived children would benefit from his family's trust, the settlor's intent—not the decedent's—controlled. "[A] sympathetic reading of these instruments warrants the conclusion that the grantor intended all members of his bloodline to receive their share."[40]

In *In re Doe*,[41] a trust provided for distribution to the settlor's issue and descendants but excluded adopted children. The husband of the settlor's daughter provided sperm to impregnate a surrogate. Twin children were born to the surrogate in California where the daughter and her husband obtained a judgment of parentage. The children were not blood relatives of the settler because his daughter did not contribute gametic material to the assisted reproduction. However, the New York Surrogate's Court held that the children were beneficiaries because they were not adopted, the settlor showed no intent to exclude assisted conception, and the parentage judgment was entitled to full faith and credit.[42]

Generally, a child conceived before the death of a genetic parent but born after the death of the parent will be considered alive as of the parent's death. How long after varies from 280 to 300 days.[43] The Ohio Revised Code provides that a man is presumed to be the natural father of a child if "[t]he man and the child's mother are or have been married to each other, and the child is born during the marriage or is born within three hundred days after the marriage is terminated by death, annulment, divorce, or dissolution or after the man and the child's mother separate pursuant to a separation agreement."[44] Under the UPA, a man is presumed to be the father of a child if it is born during the marriage or is born within 300 days of the termination of the marriage by death, annulment, divorce or dissolution.[45]

Also under the UPA, "[a] man who provides sperm for, or consents to, assisted reproduction by a woman with the intent to be the parent of the child, is a parent of the resulting child."[46] However, the law on parentage is in a state of flux. The Ohio Revised Code provides that "[d]escendants of an intestate begotten before his death, but born thereafter, in all cases will inherit as if born in the lifetime of the intestate and surviving him; but in no other case can a person inherit unless living at the time of the death of the intestate."[47] Ohio law seems to preclude inheritance by a child *created* from gametic material after the death of the decedent (compared to a child in gestation at the time of a decedent's death or, specifically in the case of married father, born more than 300 days after the fathers death[48]).

A number of cases have dealt with posthumous conception when determining if a child qualifies for Social Security benefits as a child of the deceased parent. In *Gillett-Netting v. Barnhart,*[49] the court concluded that twin girls born 10 months after the death of the decedent were "legitimate" children under the Social Security Act and entitled to benefits. In *Stephen v. Commr Soc. Sec. Admin.,*[50] the court denied

Social Security benefits because (a) the decedent from whom sperm was extracted the day after he died could not have consented to be the parent of the posthumously conceived child and (b) Florida law precludes inheritance unless the deceased parent provides for the child in his/her will.

If a client created gametic material, how should it be dealt with on death? If the client plans to store gametic material, specific instructions should be provided as to the use of the material after death, including transfers to a third party; use for research or destruction; how long after death it may be used; to whom it shall be entrusted; whether children resulting from the material are to be included in the estate plan of the client; and who shall be appointed guardian for any posthumously conceived children.

How gametic material is characterized may affect the ability to transfer it upon death. "Body parts are not generally treated as property under the law, and for that reason application of doctrines such as soles, conveyances, bailments, etc., have no direct application to legal disputes over body parts that are sui generis. Property rights include the ability to control, to possess, to use, to exclude, to profit from, and to dispose of assets."[51] If gametic material is not treated as property, can it be passed under a will or distributed from a trust? Consider addressing the issue in both testamentary documents and with the facility storing the material.

Whether or not a state has addressed legal issues regarding children who are posthumously conceived or born, estate planners must. Among basic information such as birthday and address, estate planners must ascertain whether clients have stored genetic material. If so, estate planning documents must address what happens with such material in existence at death and whether children conceived from such material—during lifetime or after death—should inherit from a deceased parent. And if a posthumously born child is entitled to inherit, when should that child inherit? It has been reported that a child was born from sperm frozen for 21 years.[52]

It is also extremely important to carefully define "child" or "descendant" when a client has children born with the assistance of reproductive technology. If a definition limits children to those "born in wedlock," children born to single mothers and children born to unmarried couples, regardless of sexual orientation, will be excluded. As the definition of family continues to change, "born in wedlock" may be less significant to a client today than it was 30 years ago. *In re Martin,*[53] and *In re Doe,*[54] illustrate the tendencies of courts to include children born with the assistance of reproductive technology as "children," "descendants," and "issue" under testamentary documents unless a contrary intention is specified. Because use of gametic material is relatively new, we should see more case law addressing rights of these children.

CONCLUSION

The broad definition of a modern family requires estate planners to delve deeper when gathering information necessary to make planning recommendations. No longer is it sufficient to merely ask a client for the name of her spouse and her children. In addition to all of the traditional inquiries, the advisor must consider the following: How many times has the client been married? Are there children of her current marriage? Children of the prior marriage? Is the client unmarried but in a committed relationship? Are there children of that relationship? Has the client or her spouse/partner created gametic material that is being stored? Does the client have children born with the assistance of reproductive technology? As advisors, we are accustomed to changing laws, to adapting our planning recommendations to changing laws, and to building flexibility into

plans to accommodate future changes. So, too, must we consider the changing concept of family.

ENDNOTES:

[1]U.S. Bureau of the Census, Americas Families and Living Arrangements, *Table A1. Marital Status of People 15 Years and Over, by Age, Sex, Personal Earnings, Race, and Hispanic Origin* (2010).

[2]*Compare* U.S. Bureau of the Census, Americas Families and Living Arrangements, *Table UC1. Opposite Sex Unmarried Couples by Labor Force Status of Both Partners* (2010) *with* U.S. Bureau of the Census, *Opposite Sex Unmarried Partner Households by Labor Force Status of Both Partners, and Race and Hispanic Origin* (2000).

[3]Rose M. Kreider, U.S. Bureau of the Census, *Housing and Household Economic Statistics Division Working Paper* (2010).

[4]Ohio Rev. Code § 2106.01.

[5]*Dumas v. Estate of Dumas,* 68 Ohio St. 3d 405, 1994-Ohio-312, 627 N.E.2d 978 (1994).

[6]*See* Ohio Revised Code § 5812.03(G)(3).

[7]*Compare Marvin v. Marvin,* 18 Cal. 3d 660, 134 Cal. Rptr. 815, 557 P.2d 106 (1976) (rejected by, *Silver v. Starrett,* 176 Misc. 2d 511, 674 N.Y.S.2d 915 (Sup 1998)) (noting that "[a] promise to perform homemaking services is, of course, a lawful and adequate consideration for a contract" between unmarried cohabitants) *with Hewitt v. Hewitt,* 77 Ill. 2d 49, 31 Ill. Dec. 827, 394 N.E.2d 1204, 3 A.L.R.4th 1 (1979) (holding that property rights based on the fact of a cohabitation relationship and not other independent factors will not be recognized regardless of the resulting inequities).

[8] Horwood, Zaluda, Wolven and Hudgins, 813-3rd T.M., Estate Planning for the Unmarried Adult at VIII, C.

[9]Treas. Reg. § 25.2511-1(h)(4).

[10]Treas. Reg. § 25.2511-1(h)(5).

[11]I.R.C. § 2040.

[12]See Privacy of Individually Identifiable Health Information, 45 C.F.R. § 164.500, *et seq*.

[13]Ohio Rev. Code § 2133.08(B).

[14]Ohio Rev. Code 2105.06.

[15]Ohio Rev. Code § 2107.04.

[16]Ohio Rev. Code § 2105.15.

[17]I.R.C. § 2010(c).

[18]I.R.C. § 2040(a).

[19]I.R.C. § 2040(a); § 5731.10(B) of the Ohio Revised Code.

[20]Ohio Rev. Code § 5731.10(A).

[21]I.R.C. § 2701.

[22]I.R.C. § 2036(a).

[23]Susan N. Gary, *We Are Family: The Definition of Parent and Child for Succession Purposes,* 34 ACTEC J.171 (2008).

[24]Ohio Rev. Code § 3111.97(D).

[25]*Id.* at 172.

[26]*See, for example,* California Cryobank's Sibling Registry (http://www.sibling-registry.com) and The Donor Sibling Registry (http://www.donorsiblingregistry.com).

[27]*See* Ohio Rev. Code § 2123.01.

[28]UPC § 2-117.

[29]UPC § 2-115(6).

[30]UPC § 2-115(5).

[31]UPC § 2-118(a) and § 2-119.

[32]UPA § 704(b).

[33]UPC § 2-120(f)(2)(A).

[34]UPA § 706(b) and UPC § 2-120(j).

[35]UPA § 707 and UPC § 2-120(f)(2)(C).

[36]Kathryn Venturatos Lorio, *Conceiving the Inconceivable: Legal Recognition of the Posthumously Conceived Child,* 34 ACTEC J. 154, 162 (2008).

[37]Margaret War Scott, *A Look at the Rights and Entitlements of Posthumously Conceived Children: No Surefire Way To Tame the Reproductive Wild West,* 52 Emory L. J. 963, 972 (2003).

[38]*In re Martin B.,* 17 Misc. 3d 198, 841 N.Y.S.2d 207 (Sur. Ct. 2007).

[39]*Id.* at 205.

[40]*Id.*

[41]*In re Doe,* 7 Misc. 3d 352, 793 N.Y.S.2d 878 (Sur. Ct. 2005).

[42]*Id.* at 354-56.

[43]*See Lorio,*34 ACTEC J. 154, Appendix B, for a summary of state laws governing the inheritance rights of posthumously born children.

[44]Ohio Rev. Code § 3111.03(A)(1).

[45]UPA § 204(a)(2).

[46]UPA § 703.

[47]Ohio Rev. Code § 2105.14.

[48]Ohio Rev. Code § 3111.03(A)(1).

[49]*Gillett-Netting v. Barnhart,* 371 F.3d 593 (9th Cir. 2004).

[50]*Stephen v. Commissioner of Social Sec.,* 386 F. Supp. 2d 1257 (M.D. Fla. 2005).

[51]Charles P. Kindregan, Jr. and Maureen McBride, *Assisted Reproductive Technology: A Lawyers Guide to Emerging Law and Science* 83 (2nd ed., ABA 2006).

[52]*Sperm Cryopreserved for 21 Years Before Cancer Treatment Yields Live Birth,* Obesity, Fitness & Wellness Week (August 24, 2004).

[53]*In re Martin B.,* 17 Misc. 3d 198, 841 N.Y.S.2d 207 (Sur. Ct. 2007).

[54]*In re Doe,* 7 Misc. 3d 352, 793 N.Y.S.2d 878 (Sur. Ct. 2005).

