



## Highlights of this issue

- News/Announcements
- Focus on:
  - Custody: Its impact on legislation and relocation

## News/Announcements

- Russell I. Marnell named to the prestigious 2014 ‘Best Divorce Lawyer’/Best of Long Island list
- Russell I. Marnell earns AVVO 5.0 Ranking; Highest professional rating
- Russell I. Marnell to speak at the Association of Divorce and Financial Planners (ADFP) Long Island Tax Practitioners Symposium on November 19, 2014

### Russell I. Marnell Named to 2014 ‘Best Divorce Lawyer’ Category in Long Island Press’s “Best of Long Island” poll

Russell I. Marnell, the lead attorney and founder of the Law Offices of Russell I. Marnell, P.C., was recently nominated for the prestigious 2014 ‘Best Divorce Lawyer’ category in Long Island Press’s “Best of Long Island” poll.

“I’m deeply honored to be nominated for an award that is based on the votes of my clients,” said Marnell. “In recognizing us publicly, our clients prove to us that our practice delivers the quality of service expected and the level of support our clients both demand and deserve.”

The 9th Annual “Best of Long Island” program, hosted by the Long Island Press - Long Island’s premier investigative news journal - is an awards program giving Long Islanders an opportunity to vote on the best businesses. Their motto, “We ask you to tell us. You vote. We tally. You decide. We tell the world.”



### The Law Offices of Russell I. Marnell Earn Highest Distinction From Martindale-Hubbell®

In the wake of being awarded a nomination for Long Island Press’s “Best of Long Island,” the Law Offices of Russell I. Marnell, P.C. earned additional distinction through Martindale-Hubbell® Peer Review Ratings™, an objective indicator of a lawyer’s high ethical standards and professional ability. Founding Partner Russell I. Marnell earned the highest rating of 5.0 (AV Preeminent®). Being listed with an AV Preeminent® rating is a significant rating accomplishment and testament to the fact that the lawyer’s peers rank the recipient at the highest level of professional excellence. “You know you’ve reached a pinnacle in your career when both your clients and your industry peers provide you with ratings of excellence,” said Russell I. Marnell, founder of the Law Offices of Russell I. Marnell, P.C.

Generated from evaluations of lawyers by other members of the bar and the judiciary in the United States and Canada, the Martindale-Hubbell® reflects a combination of high ethical standards and legal ability across specific areas of practice.

### Divorce and Dads: Custody Laws In Flux

The news media has recently highlighted an important element of family law relating to the historically unbalanced rights of fathers in cases of divorce and custody of one’s biological children. In fact, state legislatures across the U.S. are rethinking, and in some cases rewording, child custody laws post-review of scientific research proving that fathers are important to a child’s physical and emotional well-being.

Less recognized as the main child rearing gender by the courts, but equally capable, fathers are now banding together in a movement in support of father’s rights and shared custody laws. Typically, in matters of divorce and custody, judges will fall back on tradition (default)—with primary custody being awarded to the mother. However, deeply loving and involved fathers are enraged not by the fact that their marriages are ending, but that their family is being torn away from them and are now less willing to accept visitation and child support only arrangements.



This major shift not only in the legal system, but in legislation, is the result of new familial trends where both parents work. Historically with divorce, the mother would remain in the home and maintain full-time custody of the children, while the father worked full time and received visitation. Now, more households maintain dual-working parents and families in which both parents take active roles in the lives of their children from chauffeuring and coaching, to cooking, cleaning and homework responsibilities.

Maria Cognetti, president of the American Academy of Matrimonial Lawyers, believes that custody should be awarded on a case-by-case basis since “what fits one set of facts and one set of children, doesn’t necessarily fit another. What we’re seeing is the court is very much open to a request for a 50-50—true shared custody,” she said.

As each state’s governing bodies maintain say over provisions for legislation, it is unlikely that there will ever be national conformity. The vocal fathers’ rights activists are definitely pushing for shared or more equal custody and time will tell if the laws will follow.

## **Relocation: Can a mother just take her child and go?**

When couples divorce, it sometimes become necessary—for personal or professional reasons—for one parent to relocate. The situation is not optimal for anyone as, ultimately, a parent is left behind while the other gains full (or near full) responsibility for the children, which often leads to more emotionally-charged discussions surrounding custody. Yet, when a divorced custodial parent seeks to relocate with a child (or children) to improve their lives in some way, the decision whether or not they can do so often rests in the hands of the court.

A recent New York case, *Kevin McK v. Elizabeth A.E.* brought to light a situation where the father attempted to impede the mother’s attempt to relocate from New York to her hometown of Oxford, Miss. with their 10-year-old child. The father claimed that the move would, “disrupt his very close and steady relationship” with the child—even though he had not reliably paid child support. Contrarily, the mother—who had been unemployed for seven months due to the closing of the riding academy where she had taught horseback riding for nearly 20 years prior—had borrowed money from family to pay bills and keep her credit card balance at \$0 while supporting herself and her child. In an effort to improve the situation for herself and her child, she wished to move to a location she was familiar with, where she had two (2) full time job offers and family nearby.

Surprisingly, the trial court, with input from a forensic psychologist and financial records in hand, denied her application to relocate. The mother therefore ratcheted her request up to the Appellate Division, which, not surprisingly, granted her permission to relocate and suggested that the trial court’s “determination denying the mother’s petition for relocation...after the mother had established by more than a preponderance of the evidence that relocation is in the best interests of the child in that it will enhance the child’s life both economically and emotionally.” The Appellate Division also noted that it rejected the trial courts denial, stating, “...we observe that proof of economic necessity does not require the parent to wait until she has used up every last dollar of her savings before taking steps to ensure that she will be able to care for the child’s future needs.”

Although the parents disagreed on relocation, what mattered in the eyes of the court was not who had sole custody (the mother), but rather, consistency. The mother had consistently supported the child and had proven by word and action that she did not interfere in the relationship between father and child. Additionally, the mother outlined for the court how relocation would benefit her child, even though the move would ultimately create geographic distance between the father and his child.

The shortened version of this, as well as many other requests for relocation even in matters of sole custody, is that how parents serve in their role as parents frequently determines the result in matters of relocation. It is not exclusively based on custody alone.



LAW OFFICES OF

# Russell I. Marnell, P.C.

Divorce and Family Law



## Russell I. Marnell, Esq.

Russell I. Marnell is admitted to the bars of New York, California, Nevada, Florida, the United States Tax Court, and Federal District Court. In addition to receiving his J.D. from Hofstra University School of Law, Mr. Marnell has earned a MBA in Accounting and has passed the CPA examination. He has litigated over two hundred trials specializing in cases involving complex custody, equitable distribution, child support, and maintenance issues.

Mr. Marnell's accomplishments include:

- Current member of the Matrimonial Committees of The Nassau and Suffolk County Bar Associations
- Member of the prestigious New York Family Law American Inns of Court
- Fellow of the American Academy of Matrimonial Lawyers

Mr. Marnell has published numerous articles on matrimonial and family law topics, is a frequent lecturer on these subjects, and has appeared on several television and radio programs. Additionally he is 'AV' rated by Martindale-Hubbell. \*\*(An AV rating shows that a lawyer has reached the height of professional excellence. He or she has usually practiced law for many years, and is recognized for the highest levels of skill and integrity.)

## Susan P. Marnell, Esq.

Susan P. Marnell, who is of counsel to the firm, concentrates on estate planning, drafting of wills, trusts and related documents, estate administration and guardianship matters.



## Bruce W. Albert, Esq.

Bruce W. Albert, of counsel, has been engaged in the practice of family law in New York City, Long Island and Westchester for more than 35 years and is an adjunct professor at Hofstra University Law School. Bruce W. Albert is a New York State Court appointed Arbitrator and has served as a Referee and Neutral Evaluator in numerous matrimonial cases. Mr. Albert also presently serves on a select committee to make recommendations on behalf of the matrimonial bar to streamline the operations of the matrimonial courts.

Please see our website

[www.NYFamilyDivorceLawyer.com](http://www.NYFamilyDivorceLawyer.com) for complete attorney profiles.



LAW OFFICES OF

**Russell I. Marnell, P.C.**

**Divorce and Family Law**

The Financial Center at Mitchel Field

90 Merrick Avenue, Suite 400

East Meadow, NY 11554

© Russell I. Marnell, Esq. 2014

info@NYFamilyDivorceLawyer.com

www.NYFamilyDivorceLawyer.com

(516) 542-9000

(Reply to East Meadow address)

Smithtown, NY 11787

Suite 308

180 East Main Street

East Meadow, NY 11554

Suite 400

90 Merrick Avenue

Mitchel Field

The Financial Center at

Mailing Address:

Contact Us

About Law Offices of  
**Russell I. Marnell, P.C.**

Founded in 1985, the Law Offices of Russell I. Marnell, P.C. provides the residents of Long Island and all areas of New York City exceptional attorney representation as they navigate the difficult journey through complex divorce and custody proceedings. For nearly 30 years our attorneys have concentrated their practice in aggressively defending the rights and interests of our clients in all matters involving divorce, custody, and family law. We understand that the process of resolving family issues is emotionally and financially taxing, and our legal team will respond quickly and honestly to any issues and concerns that you may have throughout the process.

The information in this newsletter is presented as general information and is not to be construed as legal advice to apply to any person or particular situation. Please keep in mind that the law is constantly changing and therefore you should always consult an attorney for legal advice based on the individual circumstances of your situation.