

BOOK REVIEW

By Lee A. Schwartz

A Compelling Case for Family Law Arbitration

Carolyn Moran Zack, a family law practitioner and partner at Momjian Anderer LLC, has written an encyclopedic book on the practice of family law arbitration, the need for a statute in Pennsylvania codifying this necessary practice, and a valuable collection of forms and agreements necessary to engage in this form of alternative dispute resolution. Zack took over one and a half years to painstakingly research the status of family law arbitration in all 50 states and the District of Columbia.

Zack consulted with and discussed this topic with over 80 attorneys across the country in order to gain their perspectives, experiences and guidance on the usefulness, status and future of family law arbitration nationwide. Hence, the perspective of this book is nationwide and offers a comprehensive perspective on family law arbitration as it exists in the United States. In doing so, Zack makes a compelling case for the usefulness of this process for all family law practitioners, in the appropriate cases.

Zack begins her book from the perspective of the necessity of family law arbitration during COVID-19. Family courts were closed or operating on a “part-time” basis, when it comes to appearing “live” in a courtroom. The courthouses nationwide were closed for a period; cases already filed, and matters scheduled in a courtroom were necessarily canceled and rescheduled. New cases were not able to be filed for weeks or months. For many of our cases, litigants can’t wait; our clients’ issues and concerns strike at the core of their lives: when and

how will I see my child, who may be living primarily with another parent; how and when will a support issue be resolved. In short, people who are simply in limbo and want to move on with their lives.

Family law arbitration can alleviate these tensions and concerns. Using an experienced private arbitrator can move these crucial matters along in an efficient and expedient manner, providing litigants with the ability to keep their matters moving forward to resolution.

Many family law practitioners are not specifically aware of the benefits of family law arbitration for their clients. Many lawyers know that arbitration is used many times in more complex divorce cases, but don’t see the practicality of using it in smaller cases or for more limited issues. In addition to the complex case, arbitration is used for issues such as establishing parenting plans, school choice determinations, child and spousal support concerns and the like. Naming a lawyer/colleague as an arbitrator, who might assist with the division of personal property, if the clients cannot do so by agreement, is an effective method of keeping clients out of court after a divorce decree has been granted. Even the issue of which party may keep a pet can be arbitrated privately.

The book also provides a detailed explanation of the Uniform Family Law Arbitration Act, the Model Family Law Arbitration Act and the North Carolina Family Law Arbitration Act. Through this discussion, Zack highlights the benefit of adopting family law-specific arbitration statutes and rules that will aid in the use of

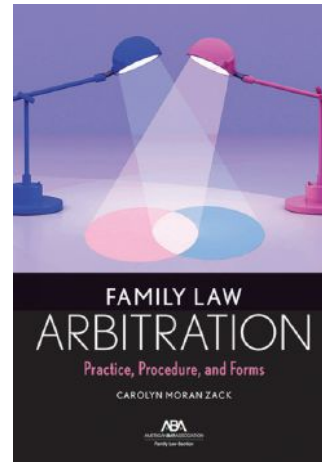
family law arbitration in cases where it is not presently used or not used comprehensively.

To that end, Zack is also spearheading the adoption of a Family Law Arbitration Act in Pennsylvania, which has been drafted and is beginning to make its way through the Pennsylvania Legislature. While family law arbitration as a practice has been utilized in Pennsylvania for decades, there has not been a statute codifying its specific use in Pennsylvania. Through Zack’s tireless efforts, she and her task force specifically formed for this purpose, hope to have such a statute in place in Pennsylvania is short order.

To call Zack’s book comprehensive is accurate. It is a “must-read” for all family law practitioners. Attorneys are always looking for “another tool in their toolbox.” That is exactly what this is.

This book is published by the American Bar Association and is easily available in print and digital formats.

Lee A. Schwartz is the founder of Schwartz Law Firm, LLC, which is a litigation law firm in Philadelphia, and Peaceful Separation and Divorce, which is exclusively involved in the non-litigation resolution of family law matters, in mediation, collaborative law and private arbitration. Schwartz is a prior chair of the Family Law Section of the Philadelphia Bar Association and two-time president of the Nicholas Cipriani Family Law, American Inn of Court.



***Family Law Arbitration:
Practice, Procedure, and Forms***

by Carolyn Moran Zack

463 pages