By James A. Reed and Michael R. Kohlhaas

Family law issues concerning gays, lesbians and their children under Indiana law

The ongoing debate in the Indiana legislature over a prospective state constitutional amendment that would limit the legal definition of "marriage" to relationships between "one man and one woman," as well as bar any future statute from extending marital status and related legal benefits to unmarried persons, is but the most recent episode in an historic controversy about homosexuality and its role within the law. (In the interest of brevity, the term "homosexual" is used throughout this article as an umbrella term referring to both gay men and lesbian women.)

The history of homosexuality, of course, is a lengthy, complex and sometimes controversial one. History suggests that homosexuality has been a social issue in our society since the beginning of civilization, but it was not a substantial legal issue until the mid-to-late 20th century. Expedited by the growing trend of urbanization, homosexuals began to live within increasingly common (and increasingly populated) communities of their own during the 20th century. That infrastructure, in turn, helped homosexuals gain outward confidence in their collective conclusion that sexual orientation did not justify the stereotyping, prejudice, criminal prosecution and discrimination that society imposed upon them, and they began to organize themselves and act accordingly, and associated legal developments were inevitable.

Property rights and the *Marvin* foundation

Not surprisingly, these social and political changes have been reflected in developments in the law as well. It should not be surprising that, as unmarried couples, many of the legal rights (and obligations) presently enjoyed by (and imposed upon) homosexual couples are derived from the laws previously applied to their unmarried heterosexual counterparts. Thus, one of the most significant cases in the development of same-sex cohabitation is, somewhat ironically, the California case of *Marvin v. Marvin*.[1] In the *Marvin* case, actor Lee Marvin was sued by his longtime girlfriend, Michelle Triola, who claimed that they had an oral agreement at the beginning of their 6-year relationship and cohabitation concerning issues of her support and shared property rights. Specifically, Triola asserted that she and Marvin had an understanding that all property acquired during the relationship would be shared equally, and that Marvin would provide for Triola's support for life; in exchange, Triola would be Marvin's companion and homemaker. In *Marvin*, the California Supreme Court held such a promise to be valid and enforceable as a matter of law, even if it were only *implied* between the parties.

The central analysis and holding of *Marvin* would be adopted subsequently in many jurisdictions involving heterosexual cohabitants. Indeed, in 1980, the Indiana Court of Appeals cited *Marvin* in its important case of *Glasgo v. Glasgo*.[2] *Marvin* has also been expressly applied to homosexual litigants in many jurisdictions, though that remains a matter of first impression in Indiana.[3]

Marriage, for now, is not an option

Indiana's case law involving cases expressly dealing with same-sex legal issues is relatively sparse, but the recent *Morrison v. Sadler* case squarely addressed the constitutionality of the Indiana Code's definition that legal marriage must be heterosexual in nature.[4] In *Morrison*, three same-sex couples brought a declaratory action seeking a determination of unconstitutionality as to Indiana Code §31-11-1-1(a), which provides in relevant part that "[o]nly a female may marry a male. Only a male may marry a female." The trial court dismissed the parties' action as failing to state a claim for which relief could be granted. The Court of Appeals, affirming the trial court's dismissal, concluded that the Defense of Marriage Act ("DOMA") did not violate the Equal Privileges and Immunities Clause of the Indiana Constitution because the state had a legitimate right to treat opposite-sex couples differently by encouraging them to marry and raise children within a marriage, since same-sex couples only procreate (via artificial insemination, adoption, etc.) as part of an inherently deliberative process.

The *Morrison* court further rejected the alternative argument of the plaintiffs that there is a fundamental "core value" under the Indiana Constitution to marry another of the same sex. The court finally rejected the plaintiffs' Article 1, §12 claim, concluding that there is no substantive due process right within the Indiana Constitution that is implied by the DOMA.

As noted above, Indiana law has not yet dispositively addressed *Marvin*-type claims in the context of same-sex cohabitation. Nevertheless, Indiana has significant case law pertaining to heterosexual cohabitation, which is generally quite supportive of the prospective claimant. Indiana law has a well established history of recognizing various causes of action arising from a period of cohabitation that either does, or does not, include a marriage.

Bingham McHale LLP
Indianapolis, Ind.
JReed@binghammchale.com
MKohlhaas@binghammchale.com

Glasgo and the recognition of cohabitation claims

Unquestionably, the *Glasgo* case was Indiana's fountainhead cohabitation decision.[5] In *Glasgo*, the parties were married for 11 years when they divorced. Several years after the divorce, the parties reconciled but never remarried. Instead, they cohabitated from 1973 to 1978.[6] Ms. Glasgo later filed an action against Mr. Glasgo for a portion of the property they accumulated together during the period of cohabitation. The trial court found in favor of Ms. Glasgo and issued a judgment in her favor against Mr. Glasgo.

On appeal, Mr. Glasgo first argued that Ms. Glasgo failed to state a claim for which relief could be granted, since common law marriage was not recognized in Indiana. The court rejected this argument, noting that Ms. Glasgo's theory was not that she was Mr. Glasgo's wife, but instead was based upon contract theory. The Court of Appeals considered it important that the trial court did not seek to divide all of the parties' property (as would be the case in a dissolution), but instead only "specific jointly acquired property" during the period of cohabitation.[7] Having established a viable legal theory, the court turned to the evidence. There was evidence presented to the court that, during the cohabitation, the parties referred to their property as "shared equally" between them.[8] The court concluded that

> While we do not subscribe to the theory that cohabitation automatically gives rise to the presumed intention of shared property rights between the parties, we find in this case that it would be unjust for [Mr. Glasgo] to assert in one breath that [Ms. Glasgo] can in no way be presumed to be his wife for purposes of either the dissolution of marriage statutes or the concept of putative spouse and to assert in another the presumption that she rendered her services voluntarily and gratuitously. Such presumption will not arise where, as here, there is substantial evidence to support not only an implied, but also an express, agreement to the contrary between the parties.[9]

And, thus, with *Glasgo*, a viable cause of action was born.

Serving equity is central

The next notable Indiana cohabitation development was the *Rance* case in 1992.[10] *Rance* is intriguing from a cohabitation perspective not from the holding

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per se, but more due to certain dicta appearing in the *Rance* opinion. *Rance* involved a 29-year relationship that, evidently, was legally bigamous at the date of the wedding ceremony due to Mr. Rance's prior marriage not having been dissolved; thus, the parties' wedding did not yield a valid marriage. Three decades later, when the parties separated, Ms. Rance faced an unusual and significant legal problem when her "marriage" with Mr. Rance ended: Because she was never legally married to Mr. Rance, she was unable to seek a division of their collective property interests pursuant to the Indiana Code's marriage dissolution provisions. Nevertheless, the Indiana Court of Appeals guided Ms. Rance:

> Although Delores is not entitled to remedies which by statute are unique to a spouse, she may nevertheless seek an equitable division of property acquired through the joint efforts of herself and Arthur. *See, Sclamberg v. Sclamberg* (1942), 220 Ind. 209, 41 N.E.2d 801 (although the purported marriage was void and the trial court was powerless to decree a divorce or award alimony, the court could settle the property rights acquired during the "marriage relation").[11]

Thus, *Rance* arguably stands for the proposition that two people, who live together as a couple outside of a legally recognized marriage, may nevertheless be entitled, upon termination of their relationship, to an equitable division of property acquired through the joint efforts of the parties.[12]

Bright: the first 'pure' cohabitation case

In 1995, the Indiana Court of Appeals decided the more traditional cohabitation case of *Bright v. Kuehl*.[13] *Bright* was significant because it was the first "pure" cohabitation case, in that the case involved only cohabitation; the parties were not married before or after the cohabitation (as had been true in *Glasgo* and *Chesnut*), nor was at least one of the parties under the belief that the relationship had been a legal marriage (as was true in *Rance*). In August 1990, Bright moved into Kuehl's residence, and the couple lived together until April 1991. During their cohabitation, the parties commingled their finances. When the relationship ended, litigation ensued. As a basis for judgment, the trial court found:

> [N]otwithstanding the lack of express contract between Ronald and Cathy, a contract can be implied from this relationship generally and also her tipped measure of control, financially, psychologically, and physically over Ronald, with consequence, and therefrom his entitlement to something in return. On the financial side, for example, her expenditures to her benefit far outweighed her contribution, to his detriment. Unjust enrichment and equitable considerations seem to flow naturally and logically therefrom in Ronald's favor, also rendering some entitlement to Cathy.

On appeal, after reviewing prior Indiana law (which dealt with cohabitation before or after a marriage), the Court of Appeals concluded that, "we determine that a party who cohabitates with another without subsequent marriage is entitled to relief upon a showing of an express contract or a viable equitable theory such as an implied contract or unjust enrichment." After establishing this standard, the Court of Appeals reviewed the trial court record in *Bright* and found – curiously, perhaps – that the facts of the case established neither unjust enrichment nor an implied contract between the parties.[14]

Finally, the Indiana Court of Appeals revisited this area of law in 2003.[15] In *Turner*, the couple in question lived together for more than a year, until Freed became pregnant in late 1989. At that time, Freed moved to Indianapolis and gave birth. In January 1991, Freed and Turner reconciled and rented a home together in Anderson. Paternity of their son was established, Freed was awarded custody, and Turner was ordered to pay child support. They remained in the rental home for about four years together. After reconciling, Freed assisted Turner with Turner's home business. By June 1999, the parties separated. Freed filed suit against Turner. The value of the assets accumulated during their cohabitation totaled around $108,000. After a hearing, the trial court ordered Turner to pay Freed $18,000 under the theory of unjust enrichment.

In affirming the trial court's decision, the Court of Appeals first noted the appropriate legal standard: "Freed needed to show that a measurable benefit had been conferred on Turner under such circumstances that Turner's retention of the benefit without payment would be unjust. Principles of equity prohibit unjust enrichment of a party who accepts the unrequested benefits another person provides despite having the opportunity to decline those benefits."[16] In reviewing the record, the court concluded that the trial court's determinations that Freed's "homemaking and housekeeping services" to be worth $18,000 was not erroneous.

In sum, the current status of Indiana law is such that it appears extremely receptive to property-related civil claims arising from heterosexual cohabitation. While no Indiana case has yet squarely addressed whether like cases involving homosexual litigants would be treated with like receptivity, one could surmise that – because the existing cases are based upon quasi-contractual and equitable theories that seem unrelated to sexual orientation – a case involving same-sex cohabitation would be treated in like fashion.

Child custody issues arising from same-sex relationships

The bias against homosexual parental fitness

While there is a notable absence of property cases involving same-sex couples, there has been substantial appellate guidance on child custody and adoption issues arising from same-sex couples, as well as the issue of homosexuality and parental fitness, starting with *D.H. v. J.H.*[17] In *D.H.,* Father and Mother divorced in 1981, with three children. During the final hearing, significant evidence was presented about Mother's alleged lesbian relationships with other women. While Mother did not testify as to the alleged relationships, both other women did testify as to the relationships with Mother. Father was awarded custody of the children, from which Mother appealed. The Court of Appeals concluded, as a matter of first impression, that "homosexuality standing alone without any evidence of adverse effect upon the welfare of the child does not render the homosexual parent unfit as a matter of law to have custody of the child." Nevertheless, the Court of Appeals affirmed the custody award to Father on other grounds, noting that, setting aside the issues of Mother's apparent homosexuality, there were legitimate grounds for awarding custody to Father,

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including that Father had been the primary parent to the children in recent years of the marriage.

Ten years later, in 1992, similar issues arose in *Pennington v. Pennington.*[18] In *Pennington*, Mother and Father divorced, with one child, in 1991. Mother received custody, subject to Father's reasonable visitation schedule. However, Father objected to a restriction on his overnight visitation schedule that "[Father's] overnight visitation is restricted only to the extent that Ashley D. Barrow shall not be present during said visitation, for the reason that the Court specifically finds that said presence would be injurious to the minor child's emotion development." Mother presented evidence that she suspected Father and Mr. Barrow had a homosexual relationship; Father insisted it was merely a close friendship. Father appealed this conditional visitation, but the Court of Appeals affirmed. The court concluded that the evidence presented to the trial court was sufficient for a finding that Mr. Barrow's involvement in the visitation periods could be injurious and, thus, the order of the trial court imposing the restriction was not an abuse of discretion.

In 1994, the specific issue of homosexuality and custodial fitness was squarely addressed in *Teegarden v. Teegarden*,[19] and, for the first time on appeal, the issues were resolved in favor of the homosexual parent. Mother and Father divorced, with two children, in 1990. Father received custody of the children, subject to Mother's parenting time. Father later remarried with Stepmother. Father subsequently died, and a custody dispute of the children arose between Mother and Stepmother. After a hearing, Mother – now in a lesbian relationship – was granted custody of the children subject to two conditions: (1) that Mother not cohabitate with any women with whom she has a lesbian relationship; and (2) that Mother not engage in "homosexual activity" in the presence of the children. The trial court further ordered Mother and the children to counseling "to aid [the children] in making the transition to their new home." The trial court issued these conditions despite making a specific finding that the Mother's lifestyle had no adverse effect on the children.

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Mother appealed these conditions. On appeal, the Court of Appeals reversed the imposition of these conditions, noting that there was no evidence to suggest that Mother behaved inappropriately in front of the children and, indeed, the trial court made a finding that the Mother's lesbian relationship did not adversely affect the children; therefore, the imposition of conditions upon the custodial award to Mother was inappropriate.

Similar issues were addressed, but resolved differently, in the 1998 case of *Marlow v. Marlow*.[20] Father and Mother's marriage was dissolved in 1996, after Father recognized his own homosexuality. The parties had three children. The trial court awarded custody of the children to Mother and imposed two restrictions on Father's parenting time: (1) no non-blood related persons could be present during overnight parenting time, and (2) during periods of Father's visitation, Father could not include the children in "any social, religious, or educational functions sponsored by or which otherwise promote the homosexual lifestyle." Father appealed.

In this case, significant evidence was presented to the trial court, including in the form of expert testimony, of emotional distress that was being caused for the children, who were previously raised in a very conservative environment. The Court of Appeals thus reasoned that the limitations on Father's overnights were not an abuse of the trial court's discretion. The Court of Appeals also rejected Father's constitutionally based claims, observing that the trial court's motivation for the restrictions was predicated on advancing the children's best interests, not promoting a bias against Father. It is a bit difficult to reconcile *Teegarden* and *Marlow* except, perhaps, that the *Marlow* record contained more "evidence" of a potential adverse consequence for the children.

In 2002, this issue presented itself again in *Downey v. Muffley*.[21] Mother and Father divorced in 1996 with two young children. Initially, Mother and Father shared joint legal and physical custody of the children. Mother subsequently became involved in a same-sex cohabitation relationship. During a later modification, the trial court issued an order that included the following restriction:

> Parental Living Arrangements: Neither parent shall allow an unrelated adult member of the opposite sex, or of the same sex if they are involved in a homosexual relationship with the parent, to spend overnight with them while a child is in their care.

Mother appealed that portion of the order. Citing *Teegarden*, the Court of Appeals reversed this portion of the order, holding that any overnight restriction must be predicated upon a finding made by the trial court that some harm or adverse effect would exist as to the children under the restricted circumstances. Here, since no such harm or adverse effect arising from exposing the children to these circumstances was advanced by the trial court, the overnight restriction was an abuse of discretion. The *Downey* Court did not, however, part ways with its prior *Marlow* decision, instead distinguishing that case by noting that, in *Marlow*, the trial court articulated findings of adverse effects on the children – nightmares, bedwetting, etc. – arising from the children's inability to understand the exposure that their Father was giving them to his new homosexual lifestyle.

Same-sex challenges: adopting children

Obviously, the preceding cases dealt with homosexuality (or allegations thereof) in the wake of a dissolution of a heterosexual marriage. But, in 2003, the Court of Appeals decided a same-sex adoption case, *In re: M.M.G.C.*[22] In 1999, Shannon adopted three children through international adoptions. In 2001, Shannon's partner,

Amber, filed a petition to adopt all three of Shannon's children as a second parent. Amber's petition was denied by the trial court, citing that, by Indiana statute, Amber may adopt Shannon's children only if Amber and Shannon are legally related or, alternatively, if Shannon's parental rights were terminated.

In reversing the trial court, the Court of Appeals noted that the trial court applied the law incorrectly when it set forth an ostensible requirement that Shannon and Amber must be related, or that Shannon's parental rights must be terminated, as a condition precedent to the adoption. Since the statute did not either expressly allow (or prohibit) two unmarried parties to have parental rights over a child, the court concluded that historical considerations and public policy (including the advantage of a two-parent home) supported construing this ambiguity in favor of allowing such adoptions within a same-sex relationship.

A similar adoption wrinkle arose in the case of *In re: the Adoption of K.S.P.*[23] There, Mother and Father were divorced in 1994 with two children. Mother retained custody of the children. In 2003, Mother's domestic partner ("Melissa") filed a petition to adopt both children. Mother and Father each filed written consents to Melissa's adoption; Father's consent included a relinquishment of parental rights. Following an uncontested hearing for the adoption, the trial court issued an order stating that the proposed adoption was not allowed by statute, since the petitioner was not married to the biological mother.

Melissa appealed. The Court of Appeals, agreeing with Melissa, noted that a strict reading of the applicable adoption statute supported the trial court's order; however, the legislature surely could not have intended that result:

> We conclude that where, as here, the prospective adoptive parent and the biological parent are both in fact acting as parents, Indiana law does not require a destructive choice between the two parents. Allowing continuation of the rights of both the biological and adoptive parent, where compelled by the best interests of the child, is the only rational result.

K.S.P., 804 N.E.2d at 1260 (internal citations omitted). Thus, the decision was based deeply on public policy considerations, essentially

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concluding that our adoption laws should err on the side of supporting adoptions, not blocking them.

Joint adoptions

Most recently, in 2006, the Indiana Court of Appeals addressed the question of first impression of whether a same-sex couple could file a joint petition for adoption in the *Infant Girl W* case.[24] Prior to the *Infant Girl W* case, same-sex couples that wanted to adopt a child needed to undertake the adoption as part of a "sequential," two-step process, whereby, in the first step, one of the parties would adopt the child as a "single parent," and, then after that adoption was complete, the couple could try and add the other party as an adoptive parent by way of a second and distinct adoption proceeding.

In *Infant Girl W,* Girl W was placed in foster care with a same-sex, lesbian couple ("Parents") involved in a long-term relationship when Girl W was two days old. Parents were licensed foster care providers. Girl W's biological mother elected to place Girl W up for adoption, and Girl W's biological father was unknown and never registered with the putative father registry.

Girl W was born in Morgan County, and, as a result of her birth mother electing to give Girl W up for adoption, she was adjudicated a CHINS by the Morgan County Juvenile Court. After a hearing in which the placement with Parents was made known, the Morgan County Juvenile Court cited a preference that Girl W be placed with a married couple. The Office of Family and Children ("OFC") was ordered to develop a plan for Girl W's adoption with a married couple.

After providing foster care for Girl W for many months, and after the above Morgan County CHINS decision, Parents filed a joint adoption petition in the Marion County Probate Court. The biological mother consented to the adoption. Evidence was heard from the OFC that Parents were "wonderful parents," but the OFC nevertheless felt compelled to object to the adoption due to the Morgan County order. No other objections to the adoption were raised, and the joint adoption petition was granted that day, terminating the rights of the biological mother and putative father.

At a subsequent review hearing in Morgan County Juvenile Court, the Morgan County judge was advised of the joint adoption by Parents in Marion County. Parents were allowed to intervene in the Morgan County CHINS case, after which they moved to dismiss the CHINS matter, asserting that Girl W was no longer CHINS due to the adoption. Following multiple subsequent hearings, the Morgan County judge ordered that (1) Girl W remain a CHINS and in OFC placement and care; (2) that Girl W be placed with a pre-adoptive family; and (3) that Girl W's biological mother provide information on relatives willing to care for Girl W.

The Parents appealed the Morgan County Juvenile Court decision that denied their motion to dismiss the CHINS matter, and the OFC appealed the Marion County Probate Court's decision to grant the joint adoption petition. The OFC argued that the Indiana Adoption Act did not permit an unmarried couple to adopt jointly. Reviewing the statute, the court concluded that the statute's authorization for "a resident of Indiana" to file a petition for adoption must be construed in plural as well as singular, absent language in the statute to the contrary. And, of course, married couples are permitted to adopt jointly, even though not expressly provided. Therefore, the Court of Appeals reasoned, absent an express prohibition on joint adoptions by unmarried couples, which is not present in the statute, joint adoption by unmarried couples is permitted. Thus, the Marion County Probate Court's adoption decree was affirmed.

As to the Morgan County CHINS matter, the court concluded that the adoption of Girl W rendered her no longer a CHINS and, thus, the CHINS matter should have been dismissed. The Court of Appeals noted that it was inappropriate for the Morgan County court to treat the Marion County adoption decree as void simply because the decision was questioned – the proper remedy to objection about the Marion County Probate Court decision would have been an appeal by the litigants, not treating the adoption decree as void. Thus, the Morgan County Juvenile Court's order was reversed and remanded with instructions to dismiss the CHINS case; the Marion County Probate Court's joint adoption decree was affirmed.

With transfer to the Indiana Supreme Court having been denied, the *Infant Girl W* case is the latest development in same-sex parents/children issues, but that case provides no clear forward direction. Though, on one hand, *Infant Girl W* seems to extend or clarify new rights to same-sex couples, the prospect of that case being legislatively overturned seems a real possibility.

Custody issues when same-sex adoptive couples separate

The practical issue of what happens when same-sex couples separate – after an adoption – came to the fore in the 2005 case of *Mariga v. Flint*.[25] In 1992, Lori and Julie began an intimate relationship. Lori was previously divorced and had two children from that prior marriage. In 1996, Julie sought to adopt Lori's children under Indiana's stepparent adoption statute. The children's biological father agreed to terminate his parental rights. The trial court approved the adoption. In 1998, Lori and Julie separated, and both children remained with Lori. Julie's parenting time with the children became increasingly sporadic, and support payments Julie paid to Lori by an informal agreement eventually stopped.

Lori subsequently filed a petition to establish support. While that petition was pending, Julie filed a petition to vacate her original adoption of the children. Julie's petition to vacate the adoption was denied, and she was ordered to pay weekly child support. On her appeal, the Court of Appeals wholly rejected Julie's argument that the adoption should have been vacated, noting that Julie had legally and properly become the parent of the children, and the responsibilities attendant with that outcome cannot be set aside simply because the underlying domestic partnership concludes.

Artificial insemination for same-sex couples

In 2005, Indiana had its first same-sex, artificial insemination case with *In re the Parentage of A.B.*[26] Dawn and Stephanie were involved in a 9-year, same-sex domestic relationship. During the relationship, Dawn and Stephanie decided to have a child together, which they subsequently accomplished when Stephanie had a child by artificial insemination; the sperm donor was Dawn's brother. Dawn was present at the child's birth, and all birth expenses were paid from the parties' joint account. Following the birth, Dawn filed – with Stephanie's consent – a petition to adopt the child. While that matter was pending, the parties separated, and Stephanie withdrew her consent to the adoption. During separation, Dawn enjoyed parenting time with the child and provided financial support. At some point, Stephanie unilaterally terminated Dawn's parenting time and rejected her support. Dawn then filed a declaratory judgment action, seeking to be recognized as the child's parent, with all of the rights and responsibilities attending to that designation. The trial court dismissed that action, based upon its failure to state a claim for which relief could be granted.

The matter found its way to the Indiana Supreme Court, which reversed the trial court's dismissal, noting that, "Indiana courts have authority to determine 'whether to place a child with a person other than the natural parent' which we hold necessarily includes the authority to determine whether such a person has the rights and obligations of a parent," driven largely by public policy reasons serving the best interests of the child. Chief Justice Shepard, concurring, noted the narrow scope of the holding, expressly reserving for future decision "[w]hether any element of [Dawn's] claims will be legally sustainable ... after a hearing on the merits."

Conclusion

Over the past 40 years, the homosexual community has experienced increased social awareness and acceptance in our society generally. Concurrently, though arguably with a significant lag time, infrastructure of family law statute and case law – including in Indiana – has evolved so as to become better equipped (though clearly with ongoing controversy) to handle the unique legal problems faced within, and arising from, homosexual relationships. In recent years, though, and largely in response to developments in the case law, the debate over homosexuality and related legal rights has taken on greater prominence in the public forum. If and how the Indiana legislature

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redefines "marriage" and limits the allocation of related legal incidents will feature prominently in developments regarding homosexuality and the law for many years to come. ⚖

1. *Marvin v. Marvin,* 557 P.2d 106 (Cal. 1976).
2. *Glasgo v. Glasgo*, 410 N.E.2d 1325 (Ind. Ct. App. 1980), *reh'g denied* (discussed *infra*).
3. *See, e.g., Ireland v. Flanagan*, 627 P.2d 496 (Or. App. 1981).
4. *Morrison v. Sadler,* 821 N.E.2d 15 (Ind. Ct. App. 2005).
5. *Glasgo v. Glasgo*, 410 N.E.2d 1325 (Ind. Ct. App. 1980).
6. While, technically speaking, *Glasgo* did involve a marriage between the parties, it is unclear if the marriage was legally significant since both the marriage and a subsequent period of separation preceded the period of cohabitation.
7. *Glasgo*, 410 N.E.2d at 1328.
8. *Glasgo*, 410 N.E.2d at 1332.
9. *Glasgo*, 410 N.E.2d at 1332.
10. *Rance v. Rance,* 582 N.E.2d (Ind. Ct. App. 1992).
11. *Rance*, 587 N.E.2d at 152.
12. Of course, *Rance* can be distinguished from a typical cohabitation case in that, in *Rance*, at least one of the parties believed the relationship to be a legal marriage. Nevertheless, the equitable underpinnings of *Rance* arguably have a broader application.
13. *Bright v. Kuehl,* 650 N.E.2d 311 (Ind. Ct. App. 1995), *reh'g denied.*
14. *Bright*, 650 N.E.2d at 316.
15. *Turner v. Freed*, 792 N.E.2d 947 (Ind. Ct. App. 2003).
16. *Turner*, 792 N.E.2d at 950 (internal citations omitted).
17. *D.H. v. J.H.*, 418 N.E.2d 286 (Ind. Ct. App. 1981).
18. *Pennington v. Pennington,* 596 N.E.2d 305 (Ind. Ct. App. 1992), *trans. denied.*
19. *Teegarden v. Teegarden*, 642 N.E.2d 1047 (Ind. Ct. App. 1994).
20. *Marlow v. Marlow,* 702 N.E.2d 733 (Ind. Ct. App. 1998).
21. *Downey v. Muffley,* 767 N.E.2d 1014 (Ind. Ct. App. 2002).
22. *In re: M.M.C.G.*, 785 N.E.2d 287 (Ind. Ct. App. 2003).
23. *In re: the Adoption of K.S.P.*, 804 N.E.2d 1253 (Ind. Ct. App. 2004).
24. *In the Matter of Infant Girl W,* 845 N.E.2d 229 (Ind. Ct. App. 2006), *trans. denied.*
25. *Mariga v. Flint*, 822 N.E.2d 620 (Ind. Ct. App. 2005).
26. *In re: the Parentage of A.B.,* 837 N.E.2d 965 (Ind. 2005).

James A. Reed, having focused his entire career on family law and related personal service legal issues, is the founder of the Matrimonial & Family Law Practice Group at the Indianapolis-based firm Bingham McHale, LLP. He has been involved in divorce cases with some of the largest marital estates in Indiana and has extensive experience representing clients with respect to both cohabitation agreements as well as the dissolution of domestic partner relationships. A 1983 graduate from Indiana University School of Law-Indianapolis, magna cum laude, *Jim is a frequent presenter at continuing legal education seminars.*

Michael R. Kohlhaas of Bingham McHale, LLP, Indianapolis, concentrates his practice primarily in the area of family law, with a focus on the drafting and litigation of premarital and cohabitation agreements. Mike has represented a wide range of individuals, including executives, professional athletes, civic leaders and other high-profile and/or high-net-worth individuals. Mike has written on – as well as litigated – various and complex legal subject matter, including business valuation issues, stock option division complexities, guides for other attorneys on drafting premarital agreements, legal issues incident to the commencement (and conclusion) of same-sex relationships, and other topics at the fore of the modern personal service legal practice. He received his undergraduate degrees in economics and political science from Indiana University-Bloomington in 1995. In 1998, he graduated from the I.U. School of Law-Bloomington, where he served as articles editor for the Indiana Law Journal.