

# Lawyers as Nonlawyers in Child-Custody and Visitation Cases: Questions from the "Legal Ethics" Perspective

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The Child Advocacy Clinic at Indiana University School of Law-Bloomington ("Indiana Clinic") takes as a premise that, in custody and visitation disputes, children may be best served by lawyers as guardians ad litem, rather than by lawyers *qua* lawyers,<sup>1</sup> on one hand, or by nonlawyer guardians ad litem, on the other.<sup>2</sup> In contrast, participants in a national conference at Fordham Law School<sup>3</sup> concluded two years ago that "[a] lawyer appointed or retained to serve a child in a legal proceeding should serve as the child's lawyer."<sup>4</sup> That is, the lawyer should regard the child as a client, not a ward. Implicit in this recommendation was that, if the court appoints a guardian ad litem ("GAL") to serve the child, it should assign a nonlawyer to that role.<sup>5</sup>

This disagreement raises intertwined questions about how best to serve children in the context of the existing adversary process for making custody and visitation decisions and the prevailing "best interest" standard by which these

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1. By "lawyers *qua* lawyers," I mean lawyers who enter into a lawyer-client relationship with the children whom they serve.

2. See generally Frances Gall Hill, *Clinical Education and the "Best Interest" Representation of Children in Custody Disputes: Challenges and Opportunities in Lawyering and Pedagogy*, 73 IND. L.J. 605 (1998).

3. The three-day Conference on Ethical Issues in the Legal Representation of Children, held in December 1995, was cosponsored by 13 organizations from across the country and attended by close to 80 participants. It produced 23 pages of recommendations and more than 700 pages of additional writings, which were published together in March, 1996. See Bruce A. Green & Bernardine Dohrn, *Foreword: Children and the Ethical Practice of Law*, 64 FORDHAM L. REV. 1281 (1996); *Proceedings of the Conference on Ethical Issues in the Legal Representation of Children*, 64 FORDHAM L. REV. 1299 (1996).

4. *Recommendations of the Conference on Ethical Issues in the Legal Representation of Children*, 64 FORDHAM L. REV. 1301, 1301 (1996) [hereinafter *Recommendations*].

From this recommendation, several others followed. One was that laws providing for the appointment of a lawyer to serve in a legal proceeding as a child's guardian ad litem should be amended to authorize instead the appointment of a lawyer to represent the child in the proceeding. See *id.* at 1301-02. Another was that, where it is unclear what role the lawyer has been appointed to serve and the lawyer appears to have a choice, the lawyer should elect to serve the child as a lawyer, not as a guardian ad litem. See *id.* at 1302; see also Green & Dohrn, *supra* note 3, at 1294-95.

5. A fourth possible view—namely, that nonlawyers should serve children in accordance with the norms governing lawyer-client relationships—does not appear to have any adherents.

decisions are made.<sup>6</sup> First, if someone is appointed to represent the child,<sup>7</sup> what role should that person play? And, second, to whom should courts assign this role?

As Professor Hill describes, lawyers *qua* lawyers and GALs undertake different responsibilities and serve according to different norms. The GAL is expected to meet the child, conduct additional investigation, and then present an independent, personal recommendation to the court.<sup>8</sup> In the process, the GAL may, and indeed must, withhold information from the child, betray the child's confidences, and disregard the child's objectives when she believes it is in the child's best interest to do so.

At the Indiana Clinic, a law student in the role of lawyer prepares pleadings and memoranda of law and advocates for the GAL in court.<sup>9</sup> In essence, the Indiana Clinic disaggregates those tasks (for example, advocacy) deemed to comprise the practice of law from those (for example, deciding what position to advocate) that arguably do not, assigning the former to a law student *qua* lawyer and the latter to a law student *qua* GAL. In this scheme, it should be emphasized that the *lawyer* represents the GAL, not the child. The child has no legal representative.

The responsibilities of a child's lawyer differ from those of a GAL, particularly when the child is intellectually and psychologically capable of directing the representation.<sup>10</sup> The lawyer interviews the child, conducts additional investigation, assists the child in determining what is in his or her best interest and in formulating the position (if any) to take in the proceeding, and advocates for the child's position. In accordance with the professional norms governing the relation between lawyers and their clients, the lawyer must counsel the child fully and candidly to enable the child to make informed decisions,

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6. Cf. Martha Fineman, *Dominant Discourse, Professional Language, and Legal Change in Child Custody Decisionmaking*, 101 HARV. L. REV. 727, 746-53, 768-74 (1988) (discussing social workers' challenge to lawyers' use of adversary procedure in custody cases and proposing that a "primary caretaker" standard replace the "best interest" standard for making custody decisions).

7. There is far from universal agreement that children should be appointed a representative in custody and visitation disputes. See Hill, *supra* note 2, at 612-15. At the Fordham Conference, participants recommended that further study be given to "[w]hether there should be mandatory appointment of counsel for children in disputed custody and visitation cases, and based upon what criteria." *Recommendations*, *supra* note 4, at 1323.

8. See Hill, *supra* note 2, at 617.

9. See *id.* at 3 & n.10.

10. When there is doubt whether a child is capable of directing the representation, the lawyer should explore whether the child has the requisite capacity, if necessary with the aid of other professionals, and make a judgment. See Peter Margulies, *The Lawyer as Caregiver: Child Client's Competence in Context*, 64 FORDHAM L. REV. 1473 (1996); *Recommendations*, *supra* note 4, at 1312-14. Lawyers representing infants and other children who cannot direct the representation would serve in a manner closer to, but not identical to, the role of a GAL described by Professor Hill. See Hill, *supra* note 2, at 619-20; Jean Koh Peters, *The Roles and Content of Best Interests in Client-Directed Lawyering for Children in Child Protective Proceedings*, 64 FORDHAM L. REV. 1505 (1996); *Recommendations*, *supra* note 4, at 1308-12.

promote the child's objectives zealously, loyally, and competently, and preserve the child's confidences.

With respect to children who are mature enough to make reasoned decisions relating to the representation, the difference between these roles would seem to be significant, as illustrated by a recent ethics opinion that drew heavily on the writings of the Fordham Conference. The New York City ethics committee offered guidance concerning a lawyer's responsibilities when a teenage client confides that he is the subject of serious, but not life-threatening, psychological or physical abuse by a parent. The committee advised that the child's lawyer may not disclose the confidence without the child's consent.<sup>11</sup> In contrast, the child's GAL would disclose the confidence if she considered it to be in the child's best interest to do so.

The preference for a lawyer-GAL over either a lawyer *qua* lawyer or a nonlawyer-GAL reflects two assumptions. The first is that serving on a child's behalf in a custody-and-visitation proceeding does not comprise the practice of law, and that the professional norms that govern lawyers in the practice of law are, in this context, inferior to the standards that govern this nonlawyering task.<sup>12</sup> The second is that lawyers are nevertheless qualified—and, perhaps, best qualified—to render this nonlawyering service.<sup>13</sup> As discussed below, these twin assumptions make the lawyer-GAL an anomaly from the perspective of the ideological understandings underlying the legal profession's monopoly over the practice of law.

At its most basic, the legal ideology proclaims that lawyers are more capable than others of providing professional services relating to the law. This is thought to be true not only because lawyers' education and training better qualify them to deal with legal matters,<sup>14</sup> but also because the licensing and disciplinary processes require adherence to a set of professional norms that establish the optimal terms for the relationship between professionals and those to whom they provide legal assistance. The relevant norms, embodied within the legal ethics codes and bar association opinions and enforced by courts and disciplinary authorities, include, among others, the duties to serve clients competently and loyally, to carry out their objectives, to preserve their confidences, and to counsel them fully and candidly. These norms are supposed to enable the lawyer to best promote the client's legal and nonlegal interests. The presumptive superiority of the legal profession's norms is essential both to the profession's claim that it should have a monopoly over certain tasks (for example, courtroom advocacy), and to its claim that lawyers should be preferred even with respect to law-related tasks that nonlawyers are authorized to perform.

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11. See Committee on Prof'l and Judicial Ethics of the N.Y. State Bar Ass'n, Formal Op. 1997-2 (1997) [hereinafter Formal Op. 1997-2].

12. See Hill, *supra* note 2, at 626-30.

13. See *id.* at 624-26.

14. For an argument that legal education and training do not invariably qualify lawyers to provide legal services, see Bruce A. Green, *Lethal Fiction: The Meaning of "Counsel" in the Sixth Amendment*, 78 IOWA L. REV. 433, 481-89 (1993) (arguing that a law license does not guarantee ability to competently defend a capital case).

These orthodoxies in turn shape the legal ethics codes and the bar association opinions interpreting them. For example, lawyers are forbidden from forming partnerships with nonlawyers to provide services that include "the practice of law,"<sup>15</sup> which is defined broadly to encompass virtually any professional services relating to the law, including many that nonlawyer professionals are legally authorized to perform. Thus, lawyers are forbidden from entering into partnerships with accountants to provide tax services, with real-estate brokers to provide brokerage services, or with psychologists to provide divorce mediation.<sup>16</sup> The premise is that the nonlawyer members of the partnership cannot be relied on either to provide the quality of services expected of lawyers or to adhere to the legal profession's superior professional norms when offering law-related services.<sup>17</sup>

More generally, the professional ideology explains the relatively noncontextual and nonnegotiable nature of the rules governing the lawyer-client relationship. Rules addressing client competence, candor, conflicts of interest, confidentiality, decisionmaking authority, and the like, are drafted in general terms to apply apparently in the same way to all lawyers regardless of the nature of the lawyer's task, the client, the legal matter, or the setting in which the lawyer practices.<sup>18</sup>

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15. See MODEL CODE OF PROFESSIONAL RESPONSIBILITY DR 3-103(a) (1981); MODEL RULES OF PROFESSIONAL CONDUCT Rule 5.4(b) (1995). For criticisms of restrictions on lawyer-nonlawyer partnerships, see Thomas R. Andrews, *Nonlawyers in the Business of Law: Does the One Who Has the Gold Really Make the Rules?*, 40 HASTINGS L.J. 577 (1989); Louis M. Brown, *Emerging Changes in the Practice of Law*, 1978 UTAH L. REV. 599, 609; Roger C. Cramton, *Delivery of Legal Services to Ordinary Americans*, 44 CASE W. RES. L. REV. 531, 564-78, 616 (1994); Susan Gilbert & Larry Lempert, *The Nonlawyer Partner: Moderate Proposals Deserve a Chance*, 2 GEO. J. LEGAL ETHICS 383 (1988); Stephen K. Huber, *Competition at the Bar and the Proposed Code of Professional Standards*, 57 N.C. L. REV. 559, 581 (1979).

16. See Committee on Prof'l and Judicial Ethics of the N.Y. State Bar Ass'n, Ethics Op. 678 (Jan. 10, 1996) (citing authorities).

17. These aspects of the legal ideology are similarly embodied in "unauthorized practice of law" provisions. See generally Deborah L. Rhode, *Policing the Professional Monopoly: Constitutional and Empirical Analysis of Unauthorized Practice Prohibitions*, 34 STAN. L. REV. 1, 5, 75, 90 (1981); Deborah L. Rhode, *The Delivery of Legal Services by Non-Lawyers*, 4 GEO. J. LEGAL ETHICS 209 (1990); Kathleen Eleanor Justice, Note, *There Goes the Monopoly: The California Proposal to Allow Non-Lawyers to Practice*, 44 VAND. L. REV. 179 (1991).

18. The vast majority of the ethical rules, and particularly those defining the lawyer-client relationship, are highly general. That is, they do not address issues of professional conduct that are particularly relevant to lawyers engaged in specific areas of practice. Further, in dealing with crosscutting problems, they do not make distinctions among such lawyers or provide specific guidance about how to apply general principles to specific problems. For example, the *Model Rules* call for lawyers to "provide competent representation," MODEL RULES OF PROFESSIONAL CONDUCT Rule 1.1, "abide by a client's decisions concerning the objectives of representation," *id.* Rule 1.2(a), "act with reasonable diligence," *id.* Rule 1.3, "keep a client reasonably informed," *id.* Rule 1.4(a), keep their fees "reasonable," *id.* Rule 1.5(a), preserve the confidentiality of "information relating to the representation," *id.* Rule 1.6(a), and "make reasonable efforts to expedite litigation," *id.* Rule 3.2.

The organized bar eschews distinct rules for particular areas of legal practice.<sup>19</sup> Further, the universal rules are not simply default rules; many are unalterable even by agreement between the lawyer and client.<sup>20</sup> These features of the professional norms are essential to the claim that lawyers are superior because they play by a superior set of rules. If professional norms instead varied with the context or were subject to negotiation, it would be difficult to argue that the legal profession's norms best define the relationship between professionals and those whom they assist with respect to legal matters. In turn, it would be difficult to argue that lawyers, because they conform to a superior set of norms, should be preferred over others who might perform law-related tasks differently.

From the perspective of professional ideology, the child's representative in custody and visitation disputes ought to be a lawyer *qua* lawyer, on the theory that the role of protecting children's interrelated legal and nonlegal interests in these proceedings, as in other judicial proceedings, comprises the practice of law to be undertaken in accordance with the legal profession's norms. The role of lawyer-GAL seems anomalous; it rejects one ideological premise—namely, that the legal profession's norms are superior to nonlawyering norms, while embracing another—namely, that lawyers are preferable to nonlawyers. Whether either generalization appropriately applies in this context<sup>21</sup> cannot be fully answered without empirical research.

The first question—namely, whether the GAL norms are preferable to the standards governing the lawyer-client relationship—depends in large measure on which will lead to better outcomes for the child, in the sense of more appropriate judicial decisions concerning custody and visitation.<sup>22</sup> The legal profession's

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19. See generally Bruce A. Green, *Whose Rules of Professional Conduct Should Govern Lawyers in Federal Court and How Should the Rules Be Created?*, 64 GEO. WASH. L. REV. 460, 490 n.146, 517 (1996) (discussing ABA's preference for universal rules).

Except for this proposed rule [regarding contributions by municipal finance lawyers], all our professional rules are of general application. This one applies only to a narrow group of lawyers, and then only when they are performing an even narrower class of professional engagement. The ABA has successfully resisted the "Christmas tree effect" (placing ornaments on the Rules that reflect some group's current cause in hopes of having it mentioned specifically in the Model Rules). This proposal calls for a departure from that tradition. The proposed rule, which bears no resemblance to any other, micromanages one very distinct aspect of a lawyer's professional life.

Larry J. Fox, *Why Does Gift Limit Single Out Bond Lawyers?*, NAT'L L.J., May 5, 1997, at A19, A19.

20. See, e.g., MODEL RULES OF PROFESSIONAL CONDUCT Rule 1.7 (prohibiting a client from consenting to be served by a lawyer with a conflict of interest that might impair the quality of the representation); Formal Op. 1997-2, *supra* note 11 (prohibiting a client from making irrevocable agreement allowing lawyer to disclose confidences).

21. As Professor Hill recognizes, generalizations concerning the representation of individuals in other legal settings—including generalizations concerning children's representation in delinquency or abuse and neglect proceedings—may not apply to the children's representation in custody and visitation disputes. See Hill, *supra* note 2, at 612-15.

22. At the Fordham Conference, one commentator questioned "whether advocacy for the competent child's wishes truly leads to the best outcomes." Daniella Levine, *To Assert Children's Legal Rights or Promote Children's Needs: How to Attain Both Goals*, 64

norms assume that, with the benefit of the lawyer's counseling, clients are generally more capable than their lawyers of determining what objectives will best serve their interests; hence, lawyers must advocate for their clients' objectives.<sup>23</sup> This generalization might seem applicable when serving a child in a custody or visitation proceeding no less than in other contexts because of the danger that the child's representative would make an independent judgment compromised by his or her own biases<sup>24</sup> or by the inadequacy of the available investigative resources.<sup>25</sup> It may be, however, that a child's assessment of her own best interest is inherently less trustworthy than that made by a professional or trained lay person on the basis of "commonly held beliefs or values" combined with information gleaned during his or her investigation.<sup>26</sup>

Further, the legal profession's norms posit that a promise of confidentiality is necessary to enable the legal representative to obtain and employ relevant information that the client would not otherwise disclose. But, again, it might be

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FORDHAM L. REV. 2023, 2024 (1996). The Conference itself specifically recommended that further study be given to this question. *See Recommendations, supra* note 4, at 1307.

23. *See, e.g.*, MODEL RULES OF PROFESSIONAL CONDUCT Rule 1.2(a).

24. *See* Annette R. Appell, *Decontextualizing the Child Client: The Efficacy of the Attorney-Client Model for Very Young Children*, 64 FORDHAM L. REV. 1955, 1958 (1996); Frank P. Cervone & Linda M. Mauro, *Ethics, Cultures, and Professions in the Representation of Children*, 64 FORDHAM L. REV. 1975, 1982 (1996); Ann M. Haralambie, *Response to the Working Group on Determining the Best Interest of the Child*, 64 FORDHAM L. REV. 2013, 2014 (1996); Peters, *supra* note 10, at 1525-27.

25. The question of whether children are better served by lawyers or by GALs is often debated based on the assumption that the GAL will be a nonlawyer. Thus, the question of which role is more appropriate becomes intertwined with the question of who will fill the role. It then becomes tempting to debate the question either by comparing the idealized lawyer (as described, for example, in *Recommendations, supra* note 4) with real-world GALs, some of whom may be inadequately trained, overworked, and underfunded, or by comparing the idealized GAL (as described, for example, by Professor Hill) with real-world lawyers, some of whom may be inadequately trained, overworked, and underfunded. Either one, of course, would be an unfair comparison. In almost anyone's cosmology, a good lawyer is preferable to a bad GAL, and vice versa.

The concept of "lawyer-GAL" frames the debate differently by supposing that, regardless of what role is assigned, the individual assigned to the role will be the same—namely, a lawyer with a particular level of skill and knowledge and a particular amount of time and other resources. The question becomes, in what role will that lawyer best serve the child?

When either role is performed well by an individual with adequate training and sufficient resources, the conceptual differences may well outweigh the practical differences. One question worth exploring is whether a good lawyer is different from a good GAL in terms of the results in the case and the impact on the child. In the first case, the lawyer will spend considerable time counseling the child so that the child can make an informed decision; in the second case, the GAL will spend considerable time with the child in order to form a judgment about the child's best interest. It may be that, at the end of the process, the result will generally be the same.

It is important to acknowledge, however, that not all who serve in either role will serve well. Thus, one might ask whether one role is better than the other given the human limitations of the individuals who will serve in either capacity, and given the time and resource limitations and other systemic limitations within which they will serve. One might also ask, who will do less harm, a bad lawyer or a bad GAL?

26. Hill, *supra* note 2, at 624.

different for children in custody and visitation cases. Does the promise of confidentiality affect the extent to which children are forthcoming? Are children an important source of information in this setting or is the same information available from other sources? Will children invoke confidentiality, contrary to their own self-interest and against the lawyer's advice, thereby compelling their representatives to withhold important information from the court?

The question of which norms are most appropriate also turns, however, on which best enable the child's representative to protect the child's nonlegal interests. Of particular significance is whether the psychological and emotional well-being of the child will best be safeguarded by a representative who counsels the child and advances the child's objectives or by one who is not bound by these responsibilities but whose explicit duty is to act in the child's best interest.<sup>27</sup> The legal profession's norms presuppose that one whose interests are at stake in a legal proceeding will resent being denied relevant information and the opportunity to define a position and have it advocated. But receiving information about the custody or visitation proceeding and the opportunity to present her preference to the court may prove psychologically damaging, rather than empowering, for the child.<sup>28</sup>

The second question—namely, whether lawyers are better qualified than nonlawyers to serve as GALs—depends in part on the fit between lawyers' ordinary training and experience and the responsibilities and norms of the GAL role. Because this is a nonlawyering role, there is less reason to assume that lawyers have superior expertise relative to other professionals or trained lay people. Moreover, lawyers are trained and licensed to serve according to a different, antithetical set of norms.<sup>29</sup> Social workers and trained lay people may

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27. See *Recommendations*, *supra* note 4, at 1307.

28. See Martha L. Fineman, *The Politics of Custody and the Transformation of American Custody Decision Making*, 22 U.C. DAVIS L. REV. 829, 856 (1989) (noting that "some research indicates that it may be harmful for older, competent children to choose between parents at divorce") (emphasis in original).

That children may be harmed in custody and visitation disputes by being offered the opportunity to take a position raises several questions for lawyers serving children as clients. One is whether this consideration may be factored into the lawyer's determination of whether the child has the capacity to make reasoned decisions. See *supra* note 10 and accompanying text. Assuming it would be a proper consideration, is it something that a lawyer can ascertain at the outset of the representation and, if so, how? A further question is, can a lawyer avoid harming the child in this manner through sensitive counseling and, if so, in what manner?

Finally, there are questions concerning the likelihood that, despite reasonably high-quality legal representation, children will be harmed by the opportunity to take a position. If many or most children will be harmed in this way, does it follow that children should never be represented by counsel in this context? Alternatively, would a significant number of children be better served psychologically by being given the opportunity to present their preferences to the court? If so, can a categorical judgment be made (for example, that children over a certain age should be represented by lawyers), or can these children be identified by the court or by an assigned lawyer on a case-by-case basis?

29. In this respect, the GAL role differs from other nonlawyering roles that lawyers customarily assume, such as that of escrow agent or administrator of an estate. The norms governing lawyers' relations with clients are inapplicable to these roles because there is no "client," but these roles are not governed by an alternative set of norms that conflict with those

be better qualified<sup>30</sup> because they serve consistently with, rather than contrary to, their training.<sup>31</sup> If so, this would be troublesome because, as Bryant Garth previously observed in the pages of this journal, lawyers' authority is diminished insofar as they are perceived to act outside their areas of expertise.<sup>32</sup>

Even if lawyers are equally qualified, it does not follow that they should serve in this role. Lawyers are more expensive than lay people and nonlawyer professionals because of the high cost of educating them. Indeed, lay representatives often serve on a volunteer basis and devote substantially more time to a child than could a lawyer. The expense of assigning a lawyer cannot be justified unless lawyers are not only equally qualified, but substantially better qualified than nonlawyers.

Further, even if lawyers are otherwise better qualified to serve as GALs, the appointment of a lawyer to this role may create false expectations. There is a danger that the lawyer's recommendations will receive undue weight because of the court's misperception that lawyers have superior expertise.<sup>33</sup> And, there is a danger that the child will be misled to believe that the lawyer is functioning as a lawyer.<sup>34</sup> The child may have no expectations regarding lawyers at the outset of the relationship,<sup>35</sup> and so may not initially be disappointed. But the child may derive an unfortunate lesson for the future: that lawyers breach their clients' confidences, disregard their directions, and substitute their own notions about what is in their clients' best interest for those of their clients.

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of the legal profession.

30. In other contexts, it has been noted that lawyers acquire habits through training and experience that may undermine their ability to perform certain nonlawyering tasks. *See, e.g.,* Mary Pat Treuthart, *In Harm's Way? Family Mediation and the Role of the Attorney Advocate*, 23 GOLDEN GATE U. L. REV. 717 (1993).

31. If the lawyer cast in the role of GAL must play against type, the challenge of the role will only be compounded when the lawyer is asked to serve additionally as counsel to the GAL—that is, as counsel to himself or herself. In the dual role, however, the single lawyer would be compelled to act according to two different sets of norms at the same time in the same proceeding. *See* Hill, *supra* note 2, at 616 n.40, 626 n.81. Although the Indiana Clinic avoids this complexity by assigning these roles to separate actors, outside the context of a law school clinic this division of tasks among lawyers is unlikely to be made because of the obvious efficiency in assigning a single lawyer to both roles. It would be hard to persuade a court to assign one lawyer to serve as GAL and another to serve as counsel.

32. *See* Bryant G. Garth, *Independent Professional Power and the Search for a Legal Ideology with a Progressive Bite*, 62 IND. L.J. 183, 187 (1986).

33. *See* Fineman, *supra* note 28, at 859-60 (observing that "the presence of an attorney designated as the child's advocate may give added undue weight to professional advice" on which the attorney formulates an opinion about the child's best interest).

34. Professor Hill suggests that this danger may be minimized by explaining that the lawyer is not functioning in a lawyer-client relationship. *See* Hill, *supra* note 2, at 618-19 & nn.53-54.

35. *See generally* Emily Buss, "You're My What?" *The Problem of Children's Misperceptions of Their Lawyers' Roles*, 64 FORDHAM L. REV. 1699 (1996); Janet A. Chaplan, *Youth Perspectives on Lawyers' Ethics: A Report of Seven Interviews*, 64 FORDHAM L. REV. 1763 (1996).



There is undoubtedly a need for far more work before these questions can be answered conclusively.<sup>36</sup> The Indiana Clinic and others like it will serve an important function insofar as they become laboratories for undertaking some of the necessary research. Meanwhile, the Indiana Clinic has already served a useful role by offering an unorthodox model of representation that challenges aspects of the conventional wisdom embraced not only by child advocates in particular, but by the legal profession in general.

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36. Notably, the Fordham Conference Recommendations were largely devoted to identifying areas in which further study is needed. See *Recommendations*, *supra* note 4, at 1306-08, 1312, 1314, 1316, 1319-20, 1323; see also Green & Dohm, *supra* note 3, at 1296, 1298 (observing that “[t]he Conference identified more than two dozen areas in which further study should be undertaken to enable lawyers to serve children effectively and appropriately,” and encouraging continuation of “a national, interdisciplinary dialogue on ethical issues in the legal representation of children”).

