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DEALING OUT JUSTICE

ROBERT E. RAINS*

Hardworking attorneys who practice divorce
Despite good intentions have cause for remorse.
Day in and day out, we all render asunder
The couples who learn that their marriage was blunder.

We listen in billable (I mean, rapt) attention
As spouses dispute to the umpteenth dimension
Over who should get what, which, when, where and how,
'Til there is no milk left in the conjugal cow.

They fight over photos and old pans and pots,
Poodles and mildewing World War II cots,
Knick-knacks and widgets and all sorts of stuff,
'Til our brains want to scream that enough is enough.

In the State of Montana a few years ago
A divorce case was battled that just goes to show.
Most of the story is common, if sad:
A mommy and daddy, a girl and a lad.

The mom was a housewife who raised the two kids
Through good times and bad, 'til things went on the skids.
The dad was a lawyer who rose to be judge,
But that didn't mean he could not hold a grudge.

As best I can tell from just reading the case
Most of the issues were solved face to face.

* Robert E. Rains is a professor at The Dickinson School of Law in Carlisle, Pennsylvania, where among other duties, he has served as a supervisor of the Family Law Clinic for what seems like a very long time. This article originally appeared at 17 A.B.A. FAM. ADV. 54 (Spring 1995).

There isn't a hint of the least acrimony
As to whether or not there would be alimony.

Or who'd pay what debts, who'd remain in the house,
Or whether each one was an innocent spouse.
There's not indication of custody tension,
And but minor discord on splitting the pension.

Indeed everything was just sweetness and light,
Except one main issue created a fight.
It seems that the man had amassed a collection
Of jillions of cards with a baseball connection.

Babe Ruth, Willie Mays, the DiMaggio Brothers,
The stars of the diamond, and plenty of others.
He happily parted with children and wife,
But swore, Take my cards and you're risking your life.

When settlement failed, there was one last resort;
The ball card collection was taken to court.
I'm sure all my readers will be most amazed
That there was disparity on who it appraised.

The wife's expert witness opined from the stand
That the cardboard was worth over two hundred grand.
The husband said, Pish tosh, do not make me laugh,
A much truer value would be less than half.

The trial judge, who must have had kids of his own,
Said he couldn't make this decision alone.
So like good King Solomon wielding the axe,
He ordered the husband make two equal stacks.

Then he ordered the wife to decide which to pick—
A most innovative judicial card trick.
The husband said, No! it's a raw kind of deal,
And directed his lawyer to file an appeal.

So the cards shuffled off to the state's Highest Court
To be dealt with by umpires of last resort.

Those appellate jurists must long have been yearning
To be pitched such a case to display all their learning.

These Solons (or law clerks) examined the case
And decided the trial judge's call was off base.
The Court held that an error had been committed
When the wife a full half share had been permitted.

The majority balked, and ruled that the wife
Could not steal any cards bought *before* married life.
For the parties agreed that ere he took her hand,
The husband owned cards that were worth some five grand.

The trial judge was wrong (the Highest Court said it)
For failing to give him appropriate credit.
One justice disputed the housewife's awards,
Said his brethren could not see the deck for the cards.

As I contemplate, passing through this vale of tears,
That I studied in schools for some nineteen long years,
I reflect and conclude, as this story I'm giving,
That I just have to do something else for a living.

But the unhappy spouses line up at the door,
All proclaiming that they just want to even the score.
And I know in my heart I'm still wed to those hours;
I'm not ready quite yet to be sent to the showers.

A casenote of sorts, loosely based on In re Marriage of Keedy, 813 P.2d 442 (Mont. 1991).

