A. The Seminar’s Focus and Scope: This seminar explores adoption and modern alternatives to adoption, which include various forms of assisted reproductive technologies (or ARTs). Considering these topics together reveals several interesting themes and tensions.

First, the juxtaposition of these topics recognizes that adoption, increasingly, is only one option for many persons who face reproductive challenges (from infertility, perhaps, or the lack of a heterosexual partner). Similarly, the laws governing these topics are entwined: Legal issues raised by adoption often implicate rules and policies regarding ARTs and vice versa.

Second, adoption and ARTs both reflect a tension between privacy and state intervention. Although the right to privacy protects sexual reproduction, child welfare remains a centerpiece of American adoption law, with best interests as the test, even in contemporary variations such as stepparent and second-parent adoptions. Hence, the state closely regulates adoption – from the acquisition of the biological parents’ consent to child placement criteria. Increased use of independent placements, in which birth parents select adoptive parents, reveals a movement toward greater privacy and autonomy. And, in the ongoing debate over disclosure about birth and genetic parents, both proponents and opponents of secrecy invoke privacy concerns.

A consideration of ARTs accentuates the tension between privacy and state intervention. Donor insemination, surrogacy, and in vitro fertilization occupy a contested place on the continuum between private sexual reproduction, on the one hand, and state-regulated adoption, on the other. More specifically, these alternatives to adoption raise the question whether reproductive privacy includes protection for assisted reproduction, in turn implicating issues of gender equality, morality, and religion.

Third, a study of the parentage rules and procedures applicable to ARTs and adoption emphasizes how the law (not biology or nature) constructs our understanding of the family. The new Uniform Parentage Act, promulgated in 2000 and revised in 2002, provides one model for such constructions.

Finally, this seminar’s topics and themes – which raise issues of identity, family, and secrecy – touch deep emotions, stimulate the imagination, and inspire fascinating stories. Hence, one can find many relevant works in literature, popular culture, and nonlegal scholarship. This seminar’s scope will reach beyond the law to include contributions from these other sources, which help bring the legal materials to life or situate them in a broader context.
B. Course Structure and Papers: The class will meet regularly, as shown by the schedule below. For most of the semester, students will prepare assignments for in-depth class discussion. The final class sessions will focus on students’ paper topics.

Students will be evaluated both on their seminar papers and their contributions to the class discussions. The seminar paper should be roughly 20 pages long although quality is a much more important attribute than quantity, so papers longer or shorter than 20 pages are welcome if varying the length improves the quality. The paper should include a well-researched legal analysis (not a book or movie review) that uses as a point of departure, or at least integrates, insights from a relevant nonlegal source, such as one of the books, magazine essays, or films listed below or, say, an oral history based on interviews with an individual who can speak from lived experience about one of the topics covered. Ideally, every student should choose a slightly different paper topic, which we shall discuss as a group in the final class sessions of the semester.

Most of your research and writing efforts will occur as you prepare the first draft of your paper, which must be submitted no later than Wednesday, November 1. Each student will meet with me individually after I have reviewed his or her first draft to discuss suggestions for the revision. The deadline for the revised, final version of the paper is Friday, December 1, the last day of classes. Throughout the semester I shall be available for guidance as you select a topic, draft and rewrite your paper, and prepare your presentation for the class.

C. Course Materials. The assigned materials will come primarily from D. KELLY WEISBERG & SUSAN FRELICH APPLETON, MODERN FAMILY LAW: CASES AND MATERIALS (3D ED. 2006) – mostly from chapter IX (pp. 1021-1148), which is not covered in the Family Law course, with a few additional segments to provide background or set the stage for chapter IX. The materials to prepare for the first class are available as photocopies in room 301. During the first class, we’ll discuss the options for the remainder of the semester: ordering and purchasing the casebook (a good idea if you are planning to take Family Law this coming spring or next year) or purchasing from room 301 photocopies of only those parts of the book we’ll cover in the seminar (a much cheaper option if you don’t plan to take Family Law). Note: This is a new edition of the casebook, so no used copies will be available.

D. Syllabus and Schedule. The list below sets forth the specific topics to be covered and corresponding assignments for each two-hour class.

August 21:
   a. Introduction.

August 28:
September 4: No class - Labor Day

September 11:

September 18:

September 25:
   c. Adoption jurisdiction and international adoption: pp. 1073-1084.

October 2: No class - religious holiday  (Students will watch a one-hour video anytime during the week of October 2 to make up for this class.)

October 9:
   a. The attorney’s role, the adoption “market,” and “special needs” adoptions: pp. 1060-1067.
   c. Adoption failure: pp. 1097-1102.

October 16:

October 23:

October 30:
   b. Disputes over frozen embryos: pp. 1127-1134.

November 6 - November 27: reserved for discussion of student paper topics.

E. Suggested Nonlegal Sources for Student Papers and Presentations. The list that follows is not meant to be exclusive; feel free to ask me about other possibilities. I’ll say a few words about each during the first class.
1. Fiction:
   e. Anne Tyler, Digging to America (2006) - novel about adoption of Korean children.
   f. Mark Twain, Pudd’nhead Wilson (1894) - slavery, racism, and an informal adoption.

2. Film:

3. History, memoirs, and/or investigative reporting:
   b. Lincoln Caplan, An Open Adoption (1990) - chronicle of one open adoption and commentary on the practice.
4. Political science, public policy, and/or sociology:

5. Magazine essays:
   d. Peggy Orenstein, Looking for a Donor to Call Dad (N.Y. Times Magazine, 2005) - searches by offspring of donor insemination.