

1996

Mario G. Beltran v. Denise Allan; LDS Social Services, an Agency of the Church of Jesus Christ of Latter-day Saints; and John Does 1 through 5 :  
Brief of Appellee

Utah Court of Appeals

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DOCKET NO. 960079-CA

## MARIO G. BELTRAN,

Plaintiff-Appellant,

**VS.**

DENISE ALLAN; LDS SOCIAL SERVICES, an Agency of the Church of Jesus Christ of Latter-day Saints; and JOHN DOES I through V,

**Defendants-Appellees.**

Case No. 960079-CA

## Priority No. 4

Appeal From A Final Judgment Of The Fourth District Court of Utah County  
Judge Guy R. Burningham

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MAY 24 1996

## COURT REPORTERS

IN THE UTAH COURT OF APPEALS

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MARIO G. BELTRAN,

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vs.

DENISE ALLAN; LDS SOCIAL  
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BRIEF OF APPELLEES

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## STATEMENT OF JURISDICTION

Appellant's statement of jurisdiction is incorrect, as the appeal was improperly initiated in the Utah Supreme Court. The case was presumably transferred to this Court pursuant to Rule 44, Utah R. App. P., governing improperly pursued appeals. In any event, because this is an appeal from the district court involving domestic relations, the Utah Court of Appeals has original appellate jurisdiction pursuant to U.C.A. § 78-2a-3(2)(i).<sup>1</sup>

## STATEMENT OF ISSUES ON APPEAL

Plaintiff-Appellant attempts to raise three issues on appeal; however, he argued only the second issue in the district court. The issues raised are as follows:

1. Whether there are material issues of fact precluding summary judgment?

(a) This issue was not preserved in the district court. Plaintiff did not argue that summary judgment was precluded by the existence of material issues of fact. (R. 259.) In fact, plaintiff filed a cross-motion for summary judgment and argued that summary judgment was appropriate. (R. 230, 251-52.)

(b) If addressed, the district court's conclusion that there are no material issues of fact is reviewed for correctness. *Neiderhauser Builders and Development Corp. v. Campbell*, 824 P.2d 1193, 1196 (Utah App. 1992).

2. Whether it was impossible for plaintiff timely to register his paternity through no fault of his own?

(a) This is the only issue specifically argued by plaintiff and decided in the district court. (R. 254, 288.)

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<sup>1</sup>On a related matter, the designation of case priority on the cover of Appellant's Brief is also incorrect. The priority is not category 2, pertaining to criminal convictions, but category 4, which includes appeals from orders concerning child custody or termination of parental rights. Rules 27(c) and 29(b), Utah R. App. P.

(b) The district court's ruling that timely registration was not impossible is reviewed for correctness. *In re Adoption of W*, 904 P.2d 1113, 1116 (Utah App. 1995).

3. Whether requiring plaintiff to register a claim of paternity violates his due process rights.<sup>2</sup>

(a) Plaintiff did not argue the due process issue in the district court. Due process is not mentioned in the verified complaint, and it is mentioned only in passing, without analysis or authority, in plaintiff's summary judgment memorandum. (R. 21, 252.)

(b) If addressed, the due process issue is a question of law reviewed for correctness. *In re Adoption of W*, 904 P.2d 1113, 1116 (Utah App. 1995).

#### **DETERMINATIVE AUTHORITY**

This appeal is governed by the paternity registration statute, U.C.A. § 78-30-4.8 (1994 Supp.), which is set forth verbatim in the Addendum. (Add. 43.)

#### **STATEMENT OF THE CASE**

This is an action by an unwed father to obtain custody of a child relinquished and placed for adoption on November 17, 1994. Plaintiff initially filed a paternity action in California, but subsequently filed this action in Utah. The district court in this case ruled that Utah had exclusive jurisdiction of the issues, and the parties stipulated to dismissal of the California action. (R. 171, 174-75.) The district court subsequently granted defendants' motion for summary judgment and denied plaintiff's cross-motion for summary judgment. (R. 285-88.) Plaintiff filed this appeal from the order of summary judgment. (R. 292.)

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<sup>2</sup>Plaintiff also mixes into this issue the question whether the district court misread *In re Adoption of W*, 904 P.2d 1113 (Utah App. 1995), as binding precedent. However, the holding in *Adoption of W* is not the issue, but the legal basis for deciding the issue. The district court had no choice but to follow that precedent.



The Utah Supreme Court entered a conditional Order of Dismissal for failure to file a docketing statement, but subsequently transferred the case to this Court. (Add. 6.) This Court issued a Sua Sponte Motion for Summary Disposition on the basis that the case was being considered for summary affirmance under the authority of *In re Adoption of W*, 904 P.2d 1113 (Utah App. 1995). (Add. 7.) However, the Court later decided to defer decision of the issues until plenary presentation and consideration of the case. (Add. 8.)

### STATEMENT OF FACTS

Plaintiff, Mario G. Beltran, and defendant Denise Allan, both age 20 when this action began, are single individuals who have never been married. They were residing with their respective parents in the State of California when they began dating in 1993. In March of 1994, Denise informed plaintiff that she was pregnant by him and that the baby was due in November 1994. (Verified Complaint, ¶¶ 1-2, 6, R. 20-21; Affidavit of Denise Allan, ¶¶ 2-3, R. 212, Add. 10; Deposition of Mario G. Beltran, 3-4, 9-12, 17, 51; Affidavit of Mario G. Beltran, ¶¶ 2-4, R. 233-34.)

In approximately May of 1994, plaintiff and Denise ceased dating, and Denise informed plaintiff that she had decided to place the baby for adoption. Plaintiff expressed opposition to the adoption, but he believed that Denise would proceed with the adoption anyway. Thereafter, Denise never told plaintiff that she would not place the baby for adoption, and plaintiff understood the continuing possibility of adoption. In approximately June 1994, Denise contacted LDS Social Services ("Agency") regarding placing her baby for adoption in Utah. Denise subsequently requested plaintiff to complete background

information forms related to the adoption, and plaintiff complied. (Allan Aff't, ¶¶ 4-5, R. 211-12, Add. 10; Beltran Dep. 20-31, 38, 69-72; Beltran Aff't, ¶¶ 5-8, R. 233.)<sup>3</sup>

Around mid-August 1994, Denise left California to reside with her aunt in Provo, Utah, where she planned to complete her pregnancy and place the baby for adoption. Prior to leaving California, Denise informed plaintiff that she was going to Utah to complete the pregnancy and place the baby for adoption. Plaintiff responded by accusing Denise that she was leaving out of selfishness and embarrassment to be carrying his baby. Upon arriving in Utah, Denise contacted the Agency's Provo office to complete arrangements for the adoption. (Allan Aff't, ¶¶ 6-7, R. 211, Add. 11; Affidavit of Beverly R. Bekker, ¶ 2, R. 188, Add. 34; Beltran Dep. 53-56.)<sup>4</sup>

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<sup>3</sup>Plaintiff acknowledged in his deposition that, following his conversation with Denise in May 1994, he believed she would carry out the adoption:

Q: So she told you over the phone that she was going--that she had decided to place the baby for adoption?

A: Yes.

Q: What was your response?

A: Told her no.

....

Q: So when that conversation ended you believed that she was going to place the baby for adoption?

A: Yes. After that conversation, after that conversation, yes. [Beltran Dep. 23.]

<sup>4</sup>Plaintiff admitted in his deposition that Denise informed him, before she left, that she was going to Utah and would return to California after placing the baby for adoption:

Q: Before she came to Utah did she ever tell you that she would move back to California as soon as the child had been placed for adoption?

A: Yes, yeah. [Beltran Dep. 54.]

Q: . . . Did she ever tell you that she was planning to move back to California after the adoption?

A: Yes.

Q: When did she tell you that?

A: I don't recall. I don't know when she told me that.

....

Q: Well, if she told you she was coming back to California right after the adoption, it had to have been before she left didn't it?

While in Utah during the pregnancy, Denise communicated by telephone and letters with plaintiff and his mother regarding the planned adoption. In one phone conversation with plaintiff around the first of October 1994, Denise reaffirmed her adoption plan to plaintiff. In response to one of her letters, Denise received a letter from plaintiff's mother, dated October 17, 1994, expressing her "mixed feelings" regarding the proposed adoption. (Allan Aff't, ¶ 8, R. 211, Add. 11; Beltran Dep. 38-39, 67-71.)

On October 26, 1994, plaintiff filed a paternity action in California, alleging that he was the father of Denise's unborn child, and that Denise had moved to Utah to release the child for adoption. Plaintiff mailed a copy of the California paternity complaint to Denise and the Agency at their Provo, Utah addresses. Upon receiving the complaint, Denise called plaintiff by phone and expressed her surprise and disappointment at his effort to block the adoption. Denise reaffirmed her adoption decision and told plaintiff that she had selected an adoptive family and was proceeding with the adoption. Following this conversation, plaintiff knew that Denise would proceed with the adoption. (Allan Aff't, ¶¶ 9-10, R. 210-11, Add. 11-12; Bekker Aff't, ¶ 4, R. 188, Add. 34; Beltran Aff't, ¶¶ 13-15, R. 232; Beltran Dep. 48-54, 69-71.)<sup>5</sup>

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A: I suppose, yes.

Q: So she told you before she left that she would come right back after the adoption?

Mr. Moody: If you have a recollection.

The Witness: Yes.

Q: (By Mr. Nelson) She did tell you that before she left?

A: Yes. [Beltran Dep. 55-56.]

<sup>5</sup>Regarding the telephone conversation with Denise after commencement of the California action, plaintiff testified:

Q: Did she say she would not go ahead with the adoption?

A: No, she didn't say that.

In a letter to plaintiff dated October 27, 1994, the Agency confirmed that Denise was in Utah and that she intended to place the baby for adoption. Plaintiff subsequently consulted with three different California attorneys to stop the adoption, but they each explained that they could not help because they did not know Utah law. Despite knowing of the need to contact a Utah attorney, plaintiff failed to do so until around the end of November 1994, two weeks *after* the birth and placement. (Bekker Aff't, ¶ 3, R. 188, Add. 34; Beltran Aff't, ¶ 16, R. 231; Beltran Dep. 40-46, 79-80.)<sup>6</sup>

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Q: So as far as you knew after that conversation she was still going ahead with the adoption?

A: Yes. [Beltran Dep. 71.]

<sup>6</sup>Regarding his contact with California attorneys following receipt of the October 27 letter, plaintiff testified:

Q: So you received the letter from Social Sevicees saying that Denise was going ahead with the adoption and you wanted to take action to stop the adoption?

A: Yes.

Q: Did you contact an attorney?

A: Not at this time. We had talked to a few down in California.

....

Q: A few days after you received that [letter] you talked to an attorney?

A: Yes. And they didn't know the laws over in Utah.

....

Q: Did you talk to just one?

A: No, we talked to three.

Q: Three different attorneys?

A: Yes.

....

Q: Did you retain any of them to help you?

A: No.

Q: Why?

A: They didn't know the laws of Utah. . . . [Beltran Dep. 44-45.]

Plaintiff also repeatedly asserts that, after receiving the October 27 notice from the Agency, he telephoned Beverly Bekker, the Agency representative, and that she hung up on him. However, in his deposition, plaintiff admitted that he *never telephoned* Beverly Bekker or anyone else at the Agency:

Q: Did you ever talk on the phone with Beverly Bekker?

A: No.

Q: You never did?

A: No.

Q: Did you ever talk on the phone with anyone from LDS Social Services in Utah?

On November 14, 1994, Denise gave birth to a baby girl in a Utah County hospital. On November 17, 1994, Denise signed a Relinquishment and Consent to Adoption, transferring custody of the baby to the Agency, and the Agency placed the baby with the Adoptive Parents that same day. Upon returning to California the following week, Denise informed plaintiff that she had placed the child for adoption in Utah. The Agency confirmed the adoptive placement in a December 1994 letter responding to plaintiff's request for information. (Allan Aff't, ¶¶ 11-13, R. 210, Add. 12; Bekker Aff't, ¶¶ 5-7, R. 187-88, Add. 34-35; Beltran Aff't, ¶¶ 17-18, R. 231; Beltran Dep. 76-79; Verified Complaint, ¶ 11, Exh. F., R. 1.)<sup>7</sup>

Plaintiff failed to register a claim of paternity with the Utah Department of Health prior to relinquishment of the child for adoption; in fact, plaintiff has *never* registered a claim of paternity with regard to Denise's baby in the State of Utah. (Bekker Aff't, ¶ 8, R. 187, Add. 35; Order, R. 287, Add. 2; Beltran Dep. 81.)

Plaintiff commenced this action on January 11, 1995, seeking custody of the child and damages. (R. 21.) Plaintiff subsequently stipulated to dismissal of his California paternity action. (R. 175.) On November 30, 1995, the district court granted defendants summary

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A: No. [Beltran Dep. 63.]

<sup>7</sup>Regarding his knowledge of the adoption, plaintiff testified:

Q: When did you learn the baby was placed for adoption?

A: Once Denise--I'm not positive, I think it's when Denise got back she told me.

Q: Now, that conversation with Denise was about, you said, about five days after the birth of the baby?

A: Yes.

Q: So that would have been in November when you learned that it had been placed?

A: Yes. [Beltran Dep. 79.]

judgment in this case based on plaintiff's failure to comply with the Utah paternity registration statute, as construed and upheld by this Court in *In re Adoption of W*, 904 P.2d 1113 (Utah App. 1995). (R. 287-88, Add. 1.)

### **SUMMARY OF ARGUMENT**

This is an appropriate case for summary judgment, and plaintiff failed to argue to the contrary in the district court. Plaintiff has cited no material issue of fact. Any supposed dispute as to what was done or understood prior to October 1994 is rendered immaterial by plaintiff's own admission at that time that he knew Denise was in Utah placing the child for adoption. Defendants are entitled to judgment as a matter of law because, given plaintiff's knowledge in October 1994, plaintiff could have registered his paternity by November 17, 1994, but failed to register at all.

Plaintiff concedes that he failed to register his paternity prior to Denise's relinquishment, as required by the registration statute. Moreover, the "impossibility exception" to timely registration cannot apply in this case because (1) it was possible for plaintiff to register prior to the relinquishment; (2) plaintiff's failure to register by that deadline was due to his own fault in failing to ascertain the Utah registration requirement; and (3) plaintiff, having failed to register at all, plainly failed to register within 10 days after it became possible. Utah law is clear that an unwed father must strictly comply with the statutory requirements to assert his paternal rights. Prior cases applying the impossibility exception are distinguishable from this case because plaintiff knew, at least 23 days before the relinquishment, that Denise was in Utah with the intent of placing the child for adoption. Furthermore, plaintiff is not entitled to a hearing on compliance with the registration statute,

because there is no evidence that it was impossible for him to register timely through no fault of his own.

Plaintiff failed to argue the due process issue in the district court. In any event, in *Adoption of W* this Court reaffirmed the constitutionality of the registration statute and held that the 10-day rule satisfies due process. Moreover, the 10-day rule is fair and reasonable as applied in this case because plaintiff *never registered*, and if he had registered within 10 days after it became possible, he could have contested the adoption. Because plaintiff failed to register, he is barred from contesting the adoption or asserting any interest in the child.

### **ARGUMENT**

#### **POINT I: PLAINTIFF HAS CITED NO MATERIAL ISSUE OF FACT PRECLUDING SUMMARY JUDGMENT.**

Plaintiff argues that there are material issues of fact precluding entry of summary judgment. (App. Br. 12-13.) However, plaintiff fails to cite even one such disputed fact. Moreover, plaintiff failed to make this argument in the district court and is, therefore, barred from raising it on appeal. *E.g., James v. Preston*, 746 P.2d 799, 801 (Utah App. 1987).

In the district court, without arguing against summary judgment, plaintiff listed four supposedly "disputed material facts:" (1) whether plaintiff believed in May 1994 that Denise would place the baby for adoption; (2) whether the background information provided by plaintiff pertained to adoption; (3) whether Denise communicated with plaintiff by telephone from Utah; and (4) whether the Agency's October 27, 1994 letter "reaffirmed" that Denise was in Utah. (R. 258-59.) Again, plaintiff did not argue that those claimed disputes precluded summary judgment. Moreover, as defendants demonstrated in reply, none of those

four claimed disputes is material to the sole legal issue of whether timely registration of paternity was impossible, through no fault of plaintiff. (R. 274-78.)

Plaintiff does not dispute the essential material facts in this case. He does not dispute that he learned of the pregnancy in May 1994; he knew of the planned adoption throughout the pregnancy; and he knew by at least the middle of October 1994, one month before the relinquishment, that Denise was in Provo, Utah. With that information, plaintiff could have contested the adoption by merely registering a claim of paternity in Utah prior to November 17, 1994. Accordingly, any claimed dispute regarding what plaintiff believed in May 1994, or the purpose of the adoption papers in July 1994, or whether Denise informed plaintiff she was going to Utah in August 1994, or whether the two communicated by telephone thereafter *is completely immaterial*. All such facts are rendered immaterial by plaintiff's own admission in his October 25 California complaint that *Denise "has moved to Utah and plans to release the child for adoption."* (R. 125, emp. added.) With that information on October 25, if not earlier, plaintiff certainly could have registered a claim of paternity in Utah by November 17. Thus, plaintiff's own admission confirms the only material facts in this case.

In summary, there is no factual dispute regarding plaintiff's ability to register a timely claim of paternity.

**POINT II: PLAINTIFF FAILED TO SATISFY THE IMPOSSIBILITY EXCEPTION TO TIMELY REGISTRATION OF PATERNITY.**

**A. Paternity Registration Requirement.**

The adoption statute in effect when this case arose provides that an unwed father may claim paternal rights in his newborn child only by timely registering a claim of paternity. Section 78-30-4.8(1)(a), Utah Code Ann. (1994 Supp.), states:



Any person who is the father or claims to be the father of a child born outside of marriage may file notice of his claim of paternity and of his willingness and intent to support the child to the best of his ability with the state registrar of vital statistics in the Department of Health. [Add. 43.]

To be timely, the father's paternity registration must be filed *before* the child is relinquished for adoption. Section 78-30-4.8(2) provides:

The notice may be filed prior to the birth of the child but *must be filed prior to the time the child is relinquished to a licensed child placing agency . . . .* [Id., emp. added.]

Because of the vital importance of determining with promptness and finality the long-term care of the child, a father who fails to register timely is barred from filing any action to assert any interest in the child. As set forth in section 78-30-4.8(3):

The Legislature finds that a certain degree of finality is necessary in order to facilitate the state's interest in expediting the adoption of young children and in protecting the rights and interests of the child, the birth mother, and the adoptive parents. Therefore, *any putative father who fails to file his notice of paternity is barred from thereafter bringing or maintaining any action to assert any interest in the child . . . .* [Id., emp. added.]

Furthermore, subsection (4) makes clear that a father who fails to register his paternity has *no rights* in relation to the adoption of the child:

[F]ailure to file a notice of paternity *shall be deemed to be a waiver and surrender of any right to notice* of any hearing in any judicial proceeding for adoption of the child, *and the consent of that person to the adoption of the child is not required.* [Id., emp. added.]

In accordance with these statutes, an unwed father who fails to register his claim of paternity prior to the child's relinquishment for adoption forfeits all paternal rights to the child, is barred from filing any action to assert any interest in the child, and has no right to contest the adoption of the child. See *In re Adoption of W*, 904 P.2d 1113, 1120 (Utah App. 1995) (father who fails to register pursuant to section 78-30-4.8 "is explicitly barred from

objecting to the adoption petition"); *Swayne v. L.D.S. Social Services*, 795 P.2d 637, 640 (Utah 1990) (rights of unwed father are "automatically terminated" upon mother's adoptive relinquishment); *Wells v. Children's Aid Society*, 681 P.2d 199, 202 (Utah 1984) (father's rights are "surrendered pursuant to statute" by failure to register timely claim of paternity); *Sanchez v. L.D.S. Social Services*, 680 P.2d 753, 755 (Utah 1984) (a firm cutoff date for registration is essential, and the father's diligence and sincerity short of timely registration are unavailing).<sup>8</sup>

Plaintiff concedes that he failed to comply with the foregoing registration requirement. (App. Br. 15.) Plaintiff not only failed to register a claim of paternity prior to Denise's relinquishment, he has *never registered a claim of paternity*. Therefore, plaintiff has forfeited his paternal rights, and this action is barred. *In re Adoption of W, supra*, 904 P.2d at 1120.

**B. Impossibility Exception.**

Plaintiff argues that he is exempt from the registration requirement by the terms of the statutory impossibility exception. (App. Br. 15.) However, the district court correctly ruled that plaintiff failed to satisfy the conditions of that exception.

The so-called "impossibility exception" authorizes the court to recognize a late paternity registration if the father proves by "clear and convincing evidence" that it was

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<sup>8</sup>The current adoption statute, effective May 1, 1995, contains a similar paternity registration scheme. The unwed father of a newborn child can establish his paternal rights by filing with the Department of Health a notice of commencement of a paternity action prior to the mother's relinquishment of the child for adoption. U.C.A. § 78-30-4.14(2)(b) (1995 Supp.). A father who fails to comply with the statute "is deemed to have waived and surrendered any right in relation to the child . . . and his consent to the adoption of the child is not required." *Id.*, subsection (5). Accordingly, the legislative intent to require timely and definitive action by unwed fathers remains unchanged.

impossible for him to register timely through no fault of his own. Specifically, as set forth in 78-30-4.8(3), the unwed father must establish the following three conditions:

- (a) it was not possible for him to file a notice of paternity within the period of time specified in Subsection (2);
- (b) his failure to file a notice of paternity was through no fault of his own; and
- (c) he filed a notice of paternity within 10 days after it became possible for him to file. [*Id.*, Add. 43.]

This Court traced the legislative history and provided the correct interpretation of the impossibility exception in the recent case of *In re Adoption of W*, 904 P.2d 1113 (Utah App. 1995). There, the unwed parents were Indiana residents, but the mother went to Nevada one month before the birth without notifying the father. The mother's family refused to disclose her location to the father. The mother gave birth in Nevada and relinquished the child to an agency for adoptive placement in Utah. Unaware of the mother's location or of the child's birth, the father commenced a paternity action in Indiana on the day after the birth. Two weeks later, the mother notified the father of the birth and pending Utah adoption. However, the father failed to register a claim of paternity in Utah until eight months later. Instead, his attorneys notified the adoptive parents of his opposition to adoption and filed an objection in the adoption proceeding. This Court held that the father's failure to register timely barred him from objecting to the adoption. *Id.* at 1120. Moreover, the Court rejected the argument of substantial compliance with the statute, observing that precise adherence to statutory requirements is mandated by both policy and precedent. *Id.* at 1121. Finally, the Court held that the impossibility exception did not apply because, even if timely registration was impossible through no fault of the father, he still failed to register within ten days after

it became possible, based on the mother's notice of the Utah adoption. The Court concluded:

As a result of this failure to timely file his notice, [the father] forfeited the benefits of the statute. [*Id.*]

Based on the analysis and holding in *Adoption of W*, it is evident that the three conditions for the impossibility exception are not satisfied in this case.

1. **Impossibility.** Plaintiff has presented *no evidence*, clear and convincing or otherwise, demonstrating that timely registration of paternity was impossible. Plaintiff argues that timely registration was impossible because Denise left California without advising him and gave birth in Utah. (App. Br. 21.) As noted in the Statement of Facts, Denise maintains that she did inform plaintiff of her departure in August 1994, and plaintiff admitted in his deposition that he was informed prior to her departure. The record also shows correspondence between Denise and plaintiff's family in early October 1994, indicating that plaintiff knew Denise's Utah address. However, even if plaintiff was not informed of Denise's departure in August 1994, his own California complaint, signed October 25, concedes that he knew Denise had "moved to Utah and plans to release the child for adoption." (Add. 25.) Moreover, plaintiff mailed that complaint to Denise at her Provo, Utah address. Therefore, plaintiff admittedly knew Denise's location and intent at least 23 days before she relinquished the child on November 17. Because plaintiff learned of Denise's location and intent within sufficient time to register in Utah, her supposed departure without notice did not render timely registration impossible. *In re Adoption of W*, *supra*, 904 P.2d at 1120-21; *Wells v. Children's Aid Society*, 681 P.2d 199, 207-08 (Utah 1984) (timely registration

was not impossible because the father had "ample advance notice of the expected time of birth and the fact that the mother intended to relinquish the child for adoption").

Plaintiff next argues that timely registration was impossible because no one advised him of the paternity registration requirement. (App. Br. 21.) However, the law does not require actual notice of the statutory requirements for establishing paternal rights. *Sanchez v. L.D.S. Social Services, supra*, 680 P.2d at 755. The only notice that is required to an out-of-state father is that the child is to be born in Utah and could be placed for adoption. *Ellis v. Social Services Dept.*, 615 P.2d 1250, 1256 (Utah 1980); *In re Adoption of Baby Boy Doe*, 717 P.2d 686, 690-91 (Utah 1986). Plaintiff admittedly knew that the child was to be born in Utah and that Denise planned to place the child for adoption. With that knowledge, the burden is on the father to learn of the Utah legal requirements to protect his rights. *In re Adoption of W, supra*, 904 P.2d at 1121 (nonresident father must "strictly comply" with Utah law). Plaintiff contacted three different California attorneys who informed him that he needed a Utah attorney. Yet, plaintiff apparently ignored that advice and proceeded with a California action. However, filing a paternity action in the father's home state does not satisfy the Utah registration requirement. *In re Adoption of W, supra*, at 1115, 1120-21 (father's Indiana paternity action held unavailing under Utah law). Thus, plaintiff cannot create impossibility by choosing to remain ignorant of Utah legal requirements.

Finally, plaintiff claims that timely registration was impossible because he was not notified of the child's birth and relinquishment until the end of November 1994. (App. Br. 22.) However, occurrence of the birth is not necessary for timely registration. As set forth in section 78-30-4.8(2), the father's claim of paternity "may be filed *prior* to the birth of the

child." (Emp. added.) The father is not required to wait for the birth. Moreover, if he waits for notice of the relinquishment, he is too late in any event. *Id.* Here, plaintiff had advance notice of the expected birth and planned adoption with sufficient time to register his paternity. Therefore, plaintiff's ignorance of the actual birth and relinquishment did not render timely registration impossible.

In summary, timely registration was not impossible.

**2. Plaintiff's Fault.** Neither can plaintiff show that his failure to register prior to the relinquishment was through no fault of his own. Plaintiff argues that, upon learning of the impending Utah adoption, he "did everything he thought necessary to preserve and protect his rights." (App. Br. 23.) Plaintiff refers to his California paternity action, this subsequent Utah action, and his "manifested" intent to keep the baby. (*Id.*) However, while plaintiff may have done what he *thought was necessary*, he did not do what was *required by law*.

Plaintiff's actions do not satisfy the Utah registration statute. *In Adoption of W*, *supra*, the Indiana father commenced a paternity action in Indiana on the day after the birth, prior to the relinquishment and adoption petition in Utah. He subsequently filed an objection in the Utah adoption proceeding. However, this Court held that such legal actions avail nothing because they do not strictly comply with the registration statute. 904 P.2d at 1121. This Court cited *Sanchez v. L.D.S. Social Services, supra*, in which the Utah Supreme Court rejected a paternity registration that was one day late, holding that "strict compliance with the adoption statutes is reasonable because of the nature of adoptions." *Id.* This Court also cited *Lehr v. Robertson*, 463 U.S. 248 (1983), in which the United States Supreme Court held that the filing of a paternity action was insufficient to satisfy a paternity registration statute,

even though the adoption court and all interested parties were aware of the father's action.

The *Lehr* court explained:

The legitimate state interests in facilitating the adoption of young children and having the adoption proceeding completed expeditiously that underlie the entire statutory scheme also justify a trial judge's determination to require all interested parties *to adhere precisely* to the procedural requirements of the statute. [*Id.* at 265, emp. added.]

*See also Burns v. Crenshaw*, 733 P.2d 922 (Or. App. 1987) (unwed father's Washington paternity action did not satisfy the Oregon registration statute so as to qualify the father for notice of the Oregon adoption proceeding). Thus, plaintiff's legal actions and various manifestations of interest are inadequate to protect his rights.

Plaintiff's own fault was in failing to contact a Utah lawyer, or other person with knowledge of the Utah registration requirement, in time to register a claim of paternity prior to the relinquishment. Plaintiff admittedly knew of the impending birth and relinquishment in Utah, and he was advised by three California attorneys of the need to contact a Utah attorney, yet he failed to do so until it was too late. Plaintiff attempts to blame Denise for his failure, asserting that he had obtained a California restraining order against her departure. (App. Br. 25.) However, the supposed restraining order was not mailed to Denise until more than *two months after* she had already left California. Moreover, it had no effect on the child because the child was not yet born. In any event, the supposed order, by its own terms, had no effect until Denise received "personal service" or signed the waiver of service, neither of which occurred. (R. 195.) Finally, plaintiff blames the Agency for not advising him of his legal obligations. (App. Br. 25.) However, the Agency's duty was to Denise, the Agency's client. The Agency has no duty to advise an unwed father how he can

defeat the adoption plan of the client-unwed mother; to do so would violate the duty of confidentiality and loyalty owed to the mother, as well as the mother's right of privacy. Moreover, plaintiff has cited no authority for such a repugnant proposition.

In summary, plaintiff had sufficient information to protect his own rights, and he failed to do so. Because he himself bears the fault for failing to register his paternity, he cannot satisfy the impossibility exception.

**3. Registration Within 10 Days After It Became Possible.** Finally, plaintiff cannot show that he actually registered a claim of paternity within 10 days after it became possible to do so. Even if plaintiff could establish that timely registration was impossible through no fault of his own, he would still have to show that he registered within 10 days after it became possible. *Adoption of W, supra*, 904 P.2d at 1121 (even if impossibility and lack of fault are established, father "still must file his notice of paternity within ten days after it becomes possible for him to file"). But plaintiff admittedly *has never registered a claim of paternity*, not within 10 days after it became possible, not ever. If registration prior to the relinquishment was impossible, then it certainly became possible when Denise personally informed plaintiff of the completed adoption near the end of November 1994. *See Adoption of W, supra*, 904 P.2d at 1121 (concluding that registration became possible at least when the father was notified of the pending Utah adoption). In any event, a determination of precisely when registration became possible in this case is rendered unnecessary by plaintiff's failure to register at all. By that failure, plaintiff has forfeited the benefits of the impossibility exception statute. *Id.*



Plaintiff attempts to justify his failure to register by arguing that this Court's decision in *Adoption of W* is wrong, that registration is not necessary to apply the impossibility exception, and that an unwed father may, *by any means of his choosing*, "come forward within a reasonable time after the baby's birth." (App. Br. 26-28.) However, this is simply a vain claim that plaintiff is above the law and should be permitted to ignore the registration statute. Obviously, there is no legal support for this claim. To the contrary, the law is well established that an unwed father of a newborn child has only an inchoate right, or "opportunity interest" with regard to the child, and that such right or interest becomes vested and enforceable *only* by strict adherence to statutory requirements. Accordingly, that provisional right is forfeited or surrendered by failing to comply with statutory requirements. *E.g., Lehr v. Robertson, supra*, 463 U.S. at 263-65; *Wells v. Children's Aid Society, supra*, 681 P.2d at 202-03, 206-07; *Adoption of W, supra*, 904 P.2d at 1116-20. Even in *Ellis*, cited by plaintiff, the father "came forward" by filing a statutory claim of paternity. As stressed by the Utah Supreme Court in *Sanchez v. L.D.S. Social Services, supra*:

It is no too harsh to require that those responsible for bringing children into the world outside the established institution of marriage should be required either *to comply with those statutes* that accord them the opportunity to assert their parental rights or to yield to the method established by society to raise children in a manner best suited to promote their welfare. [680 P.2d at 756, emp. added.]

Plainly, to allow unwed fathers to "come forward" by any means and at any time of their choosing would introduce chaos, confusion, uncertainty, and delay into the adoption process. Sound public policy requires strict compliance with prescribed statutory procedures. If an unwed father could choose any convenient means of communicating his interest and commitment, from verbal assurances and phone calls to letters and legal actions, disputes

would invariably arise over whether a communication occurred and what was intended. Such informal communications are also subject to denial or misrepresentation by other parties. Informal commitments can easily change or be withdrawn and are therefore difficult to verify and enforce. If adoption agencies were required to delay adoptions while attempting to locate and identify committed parties and determine the veracity of conflicting and changing claims, children would languish in foster care, the privacy of the mother would be violated, and adoptive parents would lose interest. To avoid such results and facilitate the adoption process, the Legislature has provided one clear, definitive, and unmistakable means of demonstrating legal commitment to an out-of-wedlock child, and that is through the timely registration of a claim of paternity with the Utah Department of Health. *See, e.g., Swayne v. L.D.S. Social Services*, 795 P.2d 637, 641 (Utah 1990); *Wells v. Children's Aid Society, supra*, at 203, 206-07; *Sanchez v. L.D.S. Social Services, supra*, at 755-56.

In summary, plaintiff has failed to satisfy the three conditions for application of the impossibility exception to timely registration.

**C. Cases Prior to Statutory Impossibility Exception.**

Plaintiff relies on *Ellis v. Social Services*, 615 P.2d 1250 (Utah 1980), and *In re Adoption of Baby Boy Doe*, 717 P.2d 686 (Utah 1986), to support application of the statutory impossibility exception. However, these two cases were decided *prior to* the impossibility statute and were based on constitutional rather than statutory grounds. In any event, the two cases are easily distinguishable from the present case.

In *Ellis*, the unwed parents were both residents of California, where the father expected the child to be born. Just before the child's birth, the mother came to Utah without

notifying the father. Here, the mother gave birth, declared the father "unknown," and relinquished the child for adoption. The father learned of the mother's actions and registered his paternity in Utah two weeks after the relinquishment. Despite the late registration, the Supreme Court held that the registration may be deemed timely if it was "impossible for the father to file the required notice of paternity prior to the statutory bar, through no fault of his own." 615 P.2d at 1256. Because lack of knowledge of *where the birth was to occur* may render timely registration impossible, the Court remanded for a hearing on whether the father could reasonably have expected the child to be born in Utah. *Id.*

The basis for impossibility in *Ellis* does not exist in this case because plaintiff admittedly knew, at least 23 days before the relinquishment, that Denise was in Utah, where she planned to deliver and relinquish the child for adoption. Even if plaintiff disputes being notified of Denise's departure for Utah, or communicating with Denise after her arrival in Utah, he cannot dispute his own allegation in the California complaint that he knew where Denise was and what she was doing. The Agency's formal notice of October 27, confirming to plaintiff that Denise was in Utah planning to relinquish the child for adoption, was sent for the very purpose of avoiding the situation in *Ellis*. Moreover, the father in *Ellis* registered his paternity at the first opportunity, while plaintiff did not. Because plaintiff knew Denise was in Utah placing the child for adoption, and yet never registered his paternity, *Ellis* is distinguishable and provides no support for plaintiff's claim of impossibility. See *Sanchez v. L.D.S. Social Services*, *supra*, 680 P.2d at 755 n.1 ("declin[ing] to expand the holding in *Ellis* beyond the type of factual situation involved in that case").

*Baby Boy Doe* is also distinguishable. There, the father knew the mother was in Utah, but was misled by the mother's statements that she would keep the baby and marry the father. The father did not learn of the adoption until one day after the relinquishment, and he registered a claim of paternity the very next day. 717 P.2d at 687-88. Based on the mother's misrepresentations, the Supreme Court concluded that the father did not know of the need to protect his rights through earlier registration; therefore, his late registration was deemed timely. *Id.* at 691. By contrast, in the present case plaintiff alleges no misrepresentation regarding the adoption plan. Plaintiff knew of the possibility of adoption from the third month to the final week of the pregnancy, and Denise never told the plaintiff that she would not place the child for adoption. Therefore, unlike the father in *Baby Boy Doe*, plaintiff knew of the need to protect his rights, and yet failed to register at all. Accordingly, neither does *Baby Boy Doe* support plaintiff's claim of impossibility. *See Swayne v. L.D.S. Social Services, supra*, 795 P.2d at 643 (timely registration is not impossible where the father was not misled and "should have been aware of the need to protect his parental rights").

Accordingly, plaintiff has cited no authority to excuse him from timely registration.

**D. Evidentiary Hearing.**

Finally, plaintiff argues that he is entitled to an evidentiary hearing to establish that timely registration was impossible. (App. Br. 20-22.) However, this is but another way of challenging the summary judgment, which, by definition, is entered on the undisputed facts *without a trial*. Plaintiff relies on *Ellis* for the proposition that he is entitled to a hearing to show that he was not afforded a reasonable opportunity to comply with the statute. 615 P.2d

at 1256. However, in *Wells v. Children's Aid Society, supra*, the Supreme Court expressly rejected the notion that an evidentiary hearing is required in every case:

[T]he "reasonable opportunity" referred to in the quoted sentence [from *Ellis*] only applies "in such a case," i.e., when it is first shown that it was "impossible" for the father to file "through no fault of his own." Otherwise, the need to prove in each adoption case that the unwed father . . . had a "reasonable opportunity" to file the required notice of paternity would frustrate the statute's purpose to facilitate secure adoptions by early clarification of status. [681 P.2d at 208.]

Because plaintiff has *not* shown that timely registration was impossible through no fault of his own, his status was properly decided as a matter of law, without an evidentiary hearing. *See, e.g., Swayne v. L.D.S. Social Services, supra*, 795 P.2d at 643 (affirming summary judgment against the father for lack of timely registration).

In summary, plaintiff has provided no factual or legal support for his argument that he should be entirely excused from registering his paternity on the basis of the statutory impossibility exception. Therefore, summary judgment was proper.

### **POINT III: THE PATERNITY REGISTRATION REQUIREMENT DOES NOT VIOLATE DUE PROCESS.**

Plaintiff presented no analysis or authority in the district court for his current claim that the paternity registration statute violates due process. Therefore, plaintiff is precluded from raising the due process issue on appeal. *See, e.g., James v. Preston*, 746 P.2d 799, 801 (Utah App. 1987). In any event, the due process argument has no merit, and was expressly rejected by this Court in *Adoption of W, supra*.

#### **A. Ten-Day Filing Requirement.**

Plaintiff concedes that the requirement of filing a claim of paternity satisfies all due process requirements, as held in *Wells v. Children's Aid Society, supra*, and other cases.

Plaintiff objects only to the condition in the impossibility exception that the claim be filed within 10 days after it becomes possible. Plaintiff argues that the 10-day period is unreasonable and serves no useful purpose. (App. Br. 28-31.) However, in *Adoption of W*, *supra*, this Court approved and applied the ten-day period "as the 'reasonable time' period described in *Ellis* for the putative father to file his notice of paternity when the other two conditions are met." 904 P.2d at 1119. Even if the other conditions had been met, the father in *Adoption of W* "forfeited the benefits of the statute" by failing to register within ten days after it became possible. *Id.* at 1121. Regarding due process, this Court observed that the registration statute has "repeatedly withstood due process challenges" and "has always been found to be constitutional on its face." *Id.* This Court also expressly upheld the 10-day provision:

The requirement that [the father] register his notice of paternity with the State of Utah within ten days after it became possible for him to do so, while short, *is not impermissibly short*. The state has a legitimate and compelling interest in "expediting the adoption of young children and in protecting the rights and interests of the child, the birth mother, and the adoptive parents, and therefore may require that biological fathers, who are in the best position to protect their own rights, adhere strictly to the requirements of its adoption laws. [*Id.* at 1122, emp. added, citations omitted.]

Thus, the 10-day rule satisfies due process.

#### **B. Application of 10-Day Rule.**

Plaintiff argues that the 10-day rule violates due process as applied to this case because it serves no purpose in this case. (App. Br. 31-34.) However, plaintiff misconstrues the purpose of the 10-day requirement, misreads the registration statute, and attempts to apply the 10-day rule to an extreme hypothetical situation that is far removed from the facts of this case.

The purpose of registration is to allow the adoption agency or adoptive parents to check in one central place, prior to accepting a child for adoption or filing an adoption petition, to determine conclusively whether the father intends to assert his paternal rights. *See* U.C.A. § 78-30-4.8(2). This allows the child and adoptive parents to avoid the pain of separation after bonding has begun and relationships have formed. *See Wells v. Children's Aid Society, supra*, 681 P.2d at 206. An *additional* search of the paternity registry is made prior to finalizing the adoption to verify that the father is not contesting the adoption. Section 78-30-4.8(5). At both stages of inquiry, the agency or adoptive parents also attempt to determine whether any grounds for the impossibility exception may exist, such as the father's ignorance of the mother's location, as in *Ellis*, or his ignorance of the proposed adoption, as in *Baby Boy Doe*. If, as in this case, the father knows of the mother's location and planned adoption, the father has no excuse for not registering, and the adoption may proceed. If the father may not be aware of the mother's location and adoption plan, then he is notified of that information, as was done with plaintiff in this case. If the father fails to register within 10 days after receiving that information (or by the date of the relinquishment, whichever is longer), then the adoption may proceed. Accordingly, the 10-day rule provides a definite period of time in which a notified father must act, and after which his objections are barred.

The 10-day rule served its purpose in this case. While the record shows that plaintiff had sufficient information to protect his rights by at least mid-October 1994, the Agency sent its October 27 letter to plaintiff out of an abundance of caution to remove any possible basis for a claim of impossibility. If plaintiff had registered his paternity within 10 days after that

notice, he could have contested the adoption. In fact, because the relinquishment did not occur until November 17, plaintiff actually had 21 days from that notice to register. Because plaintiff failed to register by either deadline, his action is barred.

Plaintiff's hypothetical case of a father registering after the placement, but within 10 days after registration became possible, has no similarity to this case. However, in such a case, the registration would still be noted prior to entry of the decree (pursuant to 78-30-4.8(5)) and would still entitle the father to contest the adoption, despite the placement. But if, as in this case, earlier registration *was possible*, then a late registration is ineffective. If, as plaintiff claims (albeit without explanation or support), his registration was not possible until January 1995, then a registration within 10 days thereafter would have been effective to contest the adoption, despite the placement. U.C.A. §§ 78-30-4.7 and -4.10. A registration at that point would be ineffective only if earlier registration was possible. Thus, in this case, as plaintiff concedes, any registration after November 17 would be ineffective, *not* because the child had already been placed, and *not* because the registration would go unnoticed, but simply because earlier registration was possible. In any event, on these facts, plaintiff has difficulty challenging the 10-day registration period when he has failed to register at all, ever. Because plaintiff has never registered, he has no standing to argue that the deadline for registration is unreasonable; for plaintiff not only missed the deadline, he totally ignored it.

In summary, plaintiff has provided no legal basis or authority for his belated argument on due process.



### CONCLUSION

Based on the foregoing, this Court should affirm the district court's order of summary judgment in favor of defendants.

Respectfully submitted this 24<sup>th</sup> day of May, 1996.

KIRTON & McCONKIE

By: Merrill F. Nelson  
David M. McConkie  
Merrill F. Nelson  
Attorneys for Defendants-Appellees  
Denise Allan and LDS Social Services

### CERTIFICATE OF SERVICE

I hereby certify that I caused to be mailed two copies of the foregoing BRIEF OF APPELLEES this 24<sup>th</sup> day of May, 1996, in the United States mail, postage prepaid to the following:

Robert L. Moody  
MOODY & BROWN  
2525 North Canyon Road  
Provo, UT 84604

Attorney for Plaintiff-Appellant

Les F. England  
PO Box 680845  
Park City, UT 84068-0845

Attorney for Adoptive Parents

Merrill F. Nelson

## ADDENDUM

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Nov 30 4 23 PM '95



## MARIO G. BELTRAN,

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:
: ORDER

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: Case No. 950400021

: Judge Guy R. Burningham

000001

on the motions. The Court, having reviewed the file, considered the memoranda of counsel, and being fully advised in the premises, hereby orders as follows:

1. There is no material issue of fact.
2. Defendants are entitled to judgment as a matter of law because (a) plaintiff has made no efforts to file a notice of claim of paternity with the Utah Department of Health; (b) plaintiff is barred from asserting any interest in the child and has no right of consent to the child's adoption, Utah Code Ann. § 78-30-4.8 (1994 Supp.); and (c) the recent case of *In re Adoption of W.*, 275 U.A.R. 20 (Utah App. 1995), is directly on point in rejecting plaintiff's legal claims.
3. Defendants' Motion for Summary Judgment is granted.
4. Plaintiff's Cross-Motion for Summary Judgment is denied.
5. Plaintiff's request for oral argument is denied, pursuant to Rule 4-501(c)(b), Code of Jud. Admin., because "the issue . . . governing the granting [of summary judgment] has been authoritatively decided."

Dated this 30 day of November, 1995.



*Burningham*  
Burningham

CERTIFICATE OF SERVICE

I hereby certify that I caused to be mailed the foregoing ORDER this 21<sup>st</sup> day of November, 1995, in the United States mail, postage prepaid to the following:

Robert L. Moody, Esq.  
TAYLOR, MOODY & THORNE  
2525 North Canyon Road  
Provo, UT 84604

Attorney for Plaintiff

Les F. England, Esq.  
3760 South Highland Drive, Suite 500  
Salt Lake City, UT 84106

Attorney for Mr. and Mrs. Doe

Connie Barney

IN THE FOURTH JUDICIAL DISTRICT COURT  
UTAH COUNTY, STATE OF UTAH

FILED  
Fourth Judicial District Court  
Utah County, State of Utah  
11-11-95  
CARMA B. SMITH, Clerk  
ED Deputy

MARIO G. BELTRAN,

Plaintiff,

vs.

CASE NO. 950400021

DENISE ALLAN; LDS SOCIAL  
SERVICES, an agency of the Church of  
Jesus Christ of Latter-day Saints; and JOHN  
DOES I through V,

Defendants.

RULING

This matter comes before the Court, under Rule 4-501 of the Utah Code of Judicial Administration (1995), on Defendants' Motion for Summary Judgment. The Court has reviewed the file, considered the memoranda of counsel, and upon being advised in the premises, now makes the following:

RULING

1. Plaintiff has made no efforts to file notice of his claim of paternity with the Utah Department of Health.

2. Pursuant to Utah Code Ann. § 78-30-4.13 (Supp. 1995) and because In the Matter of the Adoption of W., 275 Utah Adv. Rep. 20 (1995), is directly on point, Defendants' Motion for Summary Judgment is **GRANTED**.

3. Plaintiff's Cross-motion for Summary Judgment is therefore **DENIED**.

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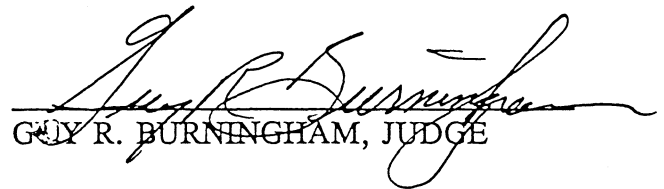
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4. Pursuant to Rule 4-501(3)(c)(b) of the Utah Code of Judicial Administration (1995), Plaintiff's request for oral argument is **DENIED**; "the issue . . . governing the granting [of summary judgment] has been authoritatively decided."

Counsel for Defendants is to prepare an order consistent with the terms of this ruling and submit it to opposing counsel for approval as to form prior to submission to the Court for signature.

Dated this 14 day of November, 1995.

BY THE COURT:

  
GUY R. BURNINGHAM, JUDGE

cc: DAVID M. McCONKIE  
MERRILL F. NELSON  
KIRTON & McCONKIE  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111-1104

ROBERT L. MOODY  
TAYLOR, MOODY & THORNE  
2525 North Canyon Road  
Provo, Utah 84604

IN THE SUPREME COURT  
FOR THE STATE OF UTAH

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Mario G. Beltran,  
Plaintiff and Appellant,  
v.  
Denise Allan; LDS Social  
Services, an Agency of the  
Church of Jesus Christ of  
Latter-Day Saints; and John  
Does 1 through V,  
Defendants and Appellees.

No. 960023  
950400021CV

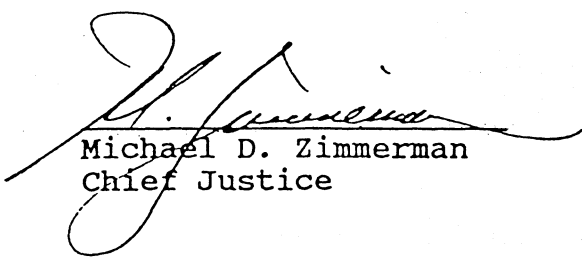
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ORDER OF DISMISSAL

For failure of appellant to file the docketing statement within the time permitted by Utah Rule of Appellate Procedure 9(a), which time expired on January 19, 1996, IT IS HEREBY ORDERED that the appeal is dismissed, See Utah Rule of Appellate Procedure 3(a); provided, however, that if the docketing statement is submitted within ten (10) days from the date hereof, the appeal shall be thereby reinstated without further order of the court.

Date

1/22/96

  
Michael D. Zimmerman  
Chief Justice

000006



FILED

FEB 07 1996

COURT OF APPEALS

IN THE UTAH COURT OF APPEALS

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|                             |   |                       |
|-----------------------------|---|-----------------------|
| Mario G. Beltran,           | ) |                       |
|                             | ) |                       |
| Plaintiff and Appellant,    | ) | SUA SPONTE MOTION FOR |
|                             | ) | SUMMARY DISPOSITION   |
| v.                          | ) |                       |
|                             | ) | Case No. 960079-CA    |
| Denise Allan; LDS Social    | ) |                       |
| Services, an agency of the  | ) |                       |
| Church of Jesus Christ of   | ) |                       |
| Latter Day Saints; and John | ) |                       |
| Does I through V,           | ) |                       |
|                             | ) |                       |
| Defendants and Appellees.   | ) |                       |

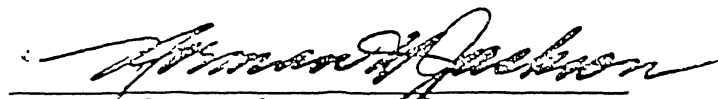
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TO THE ABOVE PARTIES AND THEIR ATTORNEYS:

A docketing statement has been filed with the Court of Appeals in the above-captioned case. This case is being considered for summary affirmance, pursuant to Utah Rules of Appellate Procedure 10(e), on the ground that the case is governed by In re Adoption of W, 275 Utah Adv. Rep. 20 (Utah App. 1995). In lieu of a brief, each party shall file a memorandum, not to exceed ten pages, explaining why summary disposition should, or should not, be granted by the court. Failure to respond may result in the granting of this motion.

An original and four copies of the memorandum should be filed with the clerk of the Utah Court of Appeals on or before February 20, 1996.

DATED this 7<sup>th</sup> day of February, 1996.

  
Norman H. Jackson, Judge

000007

FILED

IN THE UTAH COURT OF APPEALS

MAR 14 1996

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COURT OF APPEALS

Mario B. Beltran,  
Plaintiff and Appellant

v.

Denise Allan, LDS Social  
Services, an Agency of the  
Church of Jesus Christ of  
Latter-day Saints; and John  
Does I through V,

Defendants and Appellees.

ORDER

Case No. 960079-CA

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This matter is before the court on its own motion for summary disposition. Having reviewed and considered memoranda filed by the parties, IT IS HEREBY ORDERED that the motion for summary disposition is denied and that the issues raised by appellant are deferred until plenary presentation and consideration of the case. Appellant's opening brief shall be filed with the clerk of the court on or before April 30, 1996.

Dated this 14<sup>th</sup> day of March, 1996.

FOR THE COURT:

  
Judith M. Billings, Judge

000008

David M. McConkie (A2154)  
Merrill F. Nelson (A3841)  
KIRTON & McCONKIE  
Attorneys for Defendants  
Denise Allan and LDS Social Services  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111-1104  
Telephone: (801) 328-3600

IN THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR  
UTAH COUNTY, STATE OF UTAH

MARIO G. BELTRAN,

Plaintiff,

VS.

DENISE ALLAN; LDS SOCIAL SERVICES, an Agency of the Church of Jesus Christ of Latter-day Saints; and JOHN DOES I through V,

Defendants.

AFFIDAVIT OF DENISE ALLAN

Case No. 950400021

Judge Guy R. Burningham

STATE OF CALIFORNIA

)

:SS.

COUNTY OF LOS ANGELES

)

I, Denise Allan, hereby depose and affirm under oath as follows:

1. I am a defendant in the above-entitled action, and I have personal knowledge of the matters set forth herein.

2. I am 20 years of age, and I have never been married. I was residing with my parents in the State of California when I began dating Mario G. Beltran in 1993.

3. In March 1994, I informed Mario that I was approximately one-month pregnant and that he was the father. I subsequently learned and informed Mario that the baby was due in approximately November 1994. On multiple occasions after learning of my pregnancy, we discussed our options, including adoption. After careful consideration of all the circumstances, I decided that adoption in an established two-parent family would be best for the baby.

4. In approximately May 1994, I stopped dating Mario and informed him that I had decided to place the baby for adoption. After that time, in frequent discussions with Mario regarding the planned adoption, I reaffirmed my adoption plan and never told Mario that I would not place the baby for adoption.

5. In approximately June 1994, I contacted LDS Social Services in California regarding placing my baby for adoption in Utah. In July 1994, I requested Mario to complete a background information form given to me by LDS Social Services to be used in placing the baby for adoption. He completed the form, and I later delivered the form

to LDS Social Services in Utah. A true and correct copy of that completed form is attached hereto as Exhibit A.

6. On or about August 15, 1994, I left the State of California to reside with my aunt in Provo, Utah, where I planned to complete my pregnancy and place the baby for adoption. After arriving in Utah, I contacted the Provo office of LDS Social Services ("Agency") to plan and arrange for the adoptive placement of my baby. My counselor was Beverly R. Bekker. I identified Mario G. Beltran as the father of my baby.

7. Prior to leaving California, I informed Mario that I was going to Utah to complete my pregnancy and place the baby for adoption. He accused me of being selfish and of leaving because I was embarrassed to be carrying his baby, which was not true.

8. Around the first part of October 1994, I called Mario by phone from Utah to obtain his mailing address so I could mail a letter to his mother. I told him that I was living with my aunt in Provo, Utah. I thereafter sent a letter to Mario's mother regarding my progress and adoption plan. While in Utah, prior to the birth, I received two letters from Mario's mother at my Provo, Utah address. A true and correct copy of the October 17, 1994 letter is attached hereto as Exhibit B.

9. On November 7, 1994, I received a copy of Mario's California paternity complaint and related documents by certified mail addressed to me at my Utah address. A true and correct copy of those documents is attached hereto as Exhibit C.

10. Upon receiving the California complaint from Mario, I called Mario by phone and expressed to him that I was surprised and disappointed by his action. I reaffirmed my decision that adoption was best for the baby and told him that I had selected an adoptive family and was proceeding with the adoption.

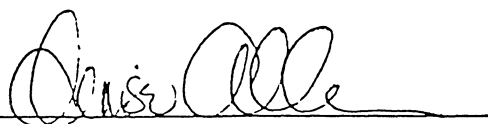
11. On November 14, 1994, I gave birth to a baby girl in a Utah County hospital. This is the baby that is the subject of this action.

12. On November 17, 1994, I signed a Relinquishment and Consent to Adoption, transferring legal custody of the baby to the Agency for the purpose of placing the baby for adoption. A true and correct copy of this document is attached hereto as Exhibit D.

13. On or about November 25, 1994, I returned to California, where I presently reside with my parents and attend college.

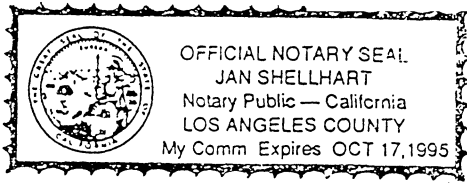
14. I still desire that my baby be adopted by the family with whom she was placed by the Agency. However, if for any reason the adoption is not permitted to be completed, I desire to retain custody of the child.

DATED this 21<sup>st</sup> day of September, 1995.

  
Denise Allan

ACKNOWLEDGMENT

On this 21<sup>st</sup> day of September, 1995, before me, the undersigned notary,  
personally appeared DENISE ALLAN, who signed the preceding document in my  
presence and who swore or affirmed to me that the signature is voluntary and the  
document truthful.



Jan Shellhart  
NOTARY PUBLIC  
Residing at Res. Hill, Ca.

My Commission Expires:

10-17-95

**BACKGROUND INFORMATION**  
(Birth Father)

**EXHIBIT A**

This BACKGROUND INFORMATION form is designed to provide you and us with a tool wherein significant social and medical information about your child's heritage is collected. If you plan adoption for your child, the identifying information you supply will be kept confidential. General information will be shared with your child's new family. If you have chosen to raise this child, you may wish to use this form to preserve information about yourself and the child's mother for future use.

You will notice that various types of information are included in this form. The agency will need some of this material in choosing the most suitable home for your child and to share background information with the child's new family. The medical information, in particular, is asked for the purpose of early awareness, identification and treatment of future conditions your child may develop. We urge you to keep the agency informed of health problems you, your parents, your brothers or sisters, or your future children might develop.

Perhaps the most important purpose of this information will be to answer questions your child may have about you. We have included questions of physical appearance, interests, talents and education. Questions have been included to help your child understand your placement decision. Please feel free to include additional information that you may feel is important. Some of the specific facts asked may not be available or known.

This BACKGROUND INFORMATION is limited in many ways. It indicates a sketch of you at this time. Changes that may be of major importance to your child will occur to you in the future; therefore, additional information can be added at any future time by contacting your adoption agency or your worker.

The accuracy and care that you use in completing this form will be greatly appreciated by your child, the new family, and the agency. Thank you for your help.

**IDENTIFYING INFORMATION**

(Information in shaded area will not be released)

|                      |  |                 |        |           |
|----------------------|--|-----------------|--------|-----------|
| Name of Father:      |  |                 |        |           |
| MARIO GARCIA BELTRAN |  |                 |        |           |
| Date of Birth:       |  | Place of Birth: |        |           |
| 11-20-74             |  | Panorama City   |        |           |
| Present Address:     |  | City            | County | State Zip |
| 21827 CENTURION WAY  |  | SAUGUS          | LA     | CA 91350  |
| Permanent Address:   |  | City            | County | State Zip |
| 21827 CENTURION WAY  |  | SAUGUS          | LA     | CA 91350  |

000014



# NON-IDENTIFYING BACKGROUND INFORMATION

(Please use black ink)

Child's birth date or due date: \_\_\_\_\_ Sex of child (if known): FEMALE

Information Provided by: \_\_\_\_\_ Date: \_\_\_\_\_  
(State relationship to child only, i.e. mother, father, etc)

Nationality Background (e.g., German, English, etc.): HISPANIC

Racial Background(s), (e.g., white, black, etc.): BROWN

Is Native American (Indian), what Tribe(s): \_\_\_\_\_

Where enrolled: \_\_\_\_\_

## DESCRIPTION:

Height: 5-10 Usual weight: 160 Hair color: BROWN Eye Color: BROWN

Complexion: Fair \_\_\_\_\_ Medium \_\_\_\_\_ Olive \_\_\_\_\_ Dark X Right/left handed Right

Physical features (e.g., big/small boned, long/short limbed, muscular, etc.): medium build

What are your interests/talents/hobbies: BASEBALL, FOOTBALL,

Which of the following describe your personality (check all that apply):

|  |  |   |   |   |
|--|--|---|---|---|
| <input checked="" type="checkbox"/> Aggressive | <input checked="" type="checkbox"/> Friendly | <input checked="" type="checkbox"/> Nervous | <input type="checkbox"/> Self-confident | <input type="checkbox"/> Stubborn           |
| <input type="checkbox"/> Calm                  | <input checked="" type="checkbox"/> Happy    | <input type="checkbox"/> Outgoing           | <input type="checkbox"/> Serious        | <input type="checkbox"/> Temperamental      |
| <input checked="" type="checkbox"/> Emotional  | <input type="checkbox"/> Irresponsible       | <input type="checkbox"/> Rebellious         | <input type="checkbox"/> Shy            | <input checked="" type="checkbox"/> Unhappy |

## EDUCATION:

Highest grade completed: 12 Presently in school: Yes ☐ No ☒ Avg. grades: C OR ABOVE

Future plans for schooling: \_\_\_\_\_

Subjects interested in: Undercover work for police, OR medical field

Extracurricular activities: \_\_\_\_\_

Any school-related problems or challenges: NONE

Additional training: NONE

## EMPLOYMENT HISTORY:

Current occupation: Pepsi Cola Bottling Company Previous occupation: TARGET Floor SALES

Military service: Yes ☐ No ☒ Branch of service: \_\_\_\_\_

000015

| Medical Condition | No | Yes (Self) | Yes-Relative (Specify) | Comments   |
|-------------------|----|------------|------------------------|--|
| gates:            |    | X          | SELF                   | DRUGS - COCAINE, HEROINE, SPEED  |
| fever             | X  |            |                        |  |
| ma                | X  | X          | COUSINE                |  |
| s/Eczema          | X  |            |                        |  |
| s (specify)       |    | X          | Uncle                  |  |
| l (specify)       | X  |            |                        |  |
| (specify)         | X  |            |                        |  |
| s:                |    | X          | GRAND FATHER           |  |
| ffects:           | X  |            |                        |  |
| p/cleft palate    | X  |            |                        |  |
| oot               | X  |            |                        |  |
| ital heart        | X  |            |                        |  |
| specify)          | X  |            |                        |  |
|                   | X  |            |                        | What kind? Age at onset? Part of body?   |
| Dependency/Abuse  | X  |            |                        | How long used? How often?  |
|                   |    | X          | GRAND FATHER           | COCAINE - 2 to 3 years - at least 2 times a week<br>HEROINE - 1 to 2 years - at least 2 times a week |
|                   | X  |            |                        |  |
|                   | X  |            |                        |  |
| s                 | X  |            |                        |  |
| nines             | X  |            |                        |  |
| genics            | X  |            |                        |  |
|                   |    | X          |                        |  |
|                   |    | X          | uncle                  |  |
| pills             | X  |            |                        |  |
| rs                | X  |            |                        |  |
|                   | X  |            |                        |  |
| ms:               | X  |            |                        | Specify type:  |
|                   |    | X          | GRAND FATHER           | Specify type; age at diagnosis; medications:<br>NEEDS SUPPLY, 35, INJECTIONS                         |
| ital Illness:     | X  |            |                        | Age at onset? Treatment? Hospitalization?  |
|                   | X  |            |                        |  |
|                   | X  |            |                        |  |
| sion              | X  |            |                        |  |
| sion              | X  |            |                        |  |
|                   | X  |            |                        |  |
| lsions:           | X  |            |                        | Age at onset? Frequency? Treatment?  |
| ments:            | X  |            |                        | Specify mild, moderate, severe; type and age at onset:   |

000016

| Medical Condition                       | No | Y | Yes-Relative (specify) | Comments                                   |
|---|----|---|------------------------|--|
| Heart Disease:                          | X  |   |                        | Age and outcome:                           |
| -Heart murmur                           | X  |   |                        | Hyphicco - needed to stop drinking         |
| -High blood pressure                    |    | X | GRAND FATHER           | Alcohol                                    |
| -Stroke                                 |    | X | GRAND FATHER           | Stroke - Died                              |
| -Heart attack                           | X  |   |                        |  |
| -Other (specify)                        | X  |   |                        |  |
| Hereditary Diseases                     |    |   |                        |  |
| -Cystic Fibrosis                        | X  |   |                        |  |
| -Hemophilia                             | X  |   |                        |  |
| -Hypothyroidism                         | X  |   |                        |  |
| -Galactosemia                           | X  |   |                        |  |
| -Huntington's Disease                   | X  |   |                        |  |
| -Obesity                                | X  |   |                        |  |
| -Sickle Cell Anemia                     | X  |   |                        |  |
| -Other (specify)                        | X  |   |                        |  |
| Hyperactivity/Learning Disabilities:    | X  |   |                        | Type of education? Medication?             |
| Kidney Disease:                         | X  |   |                        |  |
| Liver Disorders:                        | X  |   |                        | Specify type:                              |
| Lung Disease:                           | X  |   |                        | Specify type:                              |
| Mental Retardation:                     | X  |   |                        | Any diagnosis or cause? Hospitalized?      |
| Multiple Births:                        | X  |   |                        |  |
| Neurological Disorders:                 | X  |   |                        | What part of body? Both sides? How severe? |
| -Muscular Dystrophy                     | X  |   |                        | Leg - lost from knee down                  |
| -Multiple Sclerosis                     | X  |   |                        |  |
| -Cerebral Palsy                         | X  |   |                        |  |
| -Other paralysis or crippling disorders |    | X | GRAND FATHER           |  |
| Rheumatic Fever:                        | X  |   |                        | Did heart murmur result?                   |
| Sexually Transmitted Diseases:          | X  |   |                        |  |
| -Gonorrhea                              | X  |   |                        | Aunt - near sighted                        |
| -Syphilis                               | X  |   |                        |  |
| -Herpes Progenitalis                    | X  |   |                        |  |
| -HIV/AIDS                               | X  |   |                        |  |
| -Other (specify)                        | X  |   |                        |  |
| Visual Disorders                        |    |   |                        |  |
| -Blindness                              | X  |   |                        |  |
| -Far/near sighted? astigmatism?         |    | X | AUNT                   |  |
| -Color blindness                        | X  |   |                        |  |
| -Other (specify)                        | X  |   |                        |  |

you wish to add a more detailed bio. apt sketch of yourself in the file, please feel free to do so at anytime. This would be information shared with your child and the adoptive parents of your child. It would give them a more personal understanding of you as a person. (Please use back of form if you need additional space.)

Earliest recollections/memories or experiences from your growing up years.

Well why I was growing up I was the oldest so it was kind of hard. I had to experience everything the hard way. That meant dealing with my parents, but I always got spoiled by my grandparents. Most memories are going with my friends and partying, or playing sports and being noticed by everyone that I was one of the best. Also I remember going camping with → Describe your childhood and feelings about parents, brother and sisters. How do you think your earlier life has helped make you the person you are?

When I was young my Dad would ~~hit~~ me with the belt but he would always apologize, he said he did it to make me learn to be a good kid, and I think it did but I don't agree with getting hit. When my brother was born I was 2 when I got to be about eleven I would babysit my brother and sister.

Accomplishments during your life (include school, church or other events you are proud of):

One accomplishment is playing baseball all four years in high school. Another is getting jobs and being able to keep them. Also being responsible and paying for my car and clothes myself.

Goals or hopes for the future:

One goal is to get the best job I can to support my baby and to give her everything she wants.

I hope the mother of our baby decides to stay with her baby and does not give up and try to give her away.

Do you have any health concerns you would specifically wish to explain in detail?

None

Briefly describe your work or school, sharing the enjoyment you derive from it and importance it has in your life. If you have not decided or you are not yet working toward a career goal, describe your thoughts about working.

Well I work for Pepsi Cola and I'm doing pretty good starting to move up in the company. I have not yet started at a school but in August I will go ~~back~~ back to college and shoot for the top.

What are your feelings about religion (religious preference, church activity, positions held, etc.)?

I believe in God but I don't go to church.

000018

3. Describe how you see yourself and how others see you.

I Describe myself AS AN outgoing individual at work but when I come home or talk to other I am some time to quiet or to kick back. I think others see me AS A pretty nice guy I mean I have enemys but not A lot.

4. What is the most important thing, either positive or negative, that you have had to handle in your life? What was the impact of it on your life and did it affect your present outlook on life?

I think the most important thing I have had to handle is taking care of myself and my family. I have the trust of others so it makes me think I did good in my life

5. What is your current relationship with your child's birth mother?

well we are arguing but friends now because she wants to give the baby up and I want to keep it. ~~the~~ the mother thinks it will ruin her life. But I think different. the mother said she needs a family but what am I and my family to the baby, we are a family.

6. Indicate below your reasons for making a placement plan for your child.

I have not

7. Indicate below your preferences, if any, regarding the selection of an adoptive family.

none

#### ADDITIONAL INFORMATION:

8. List any geographic areas to avoid in placing the child for adoption:

9. Are there any non-identifying information you do not want shared with the adoptive family or child/adult?

10. I understand that non-identifying information, other than what I have stated above, may be shared with the adoptive family or child/adult. (If form was not completed by birth father, sign and indicate your relationship to the birth father)

(Signature)

(Date)

BF-BKGND FRM

000019

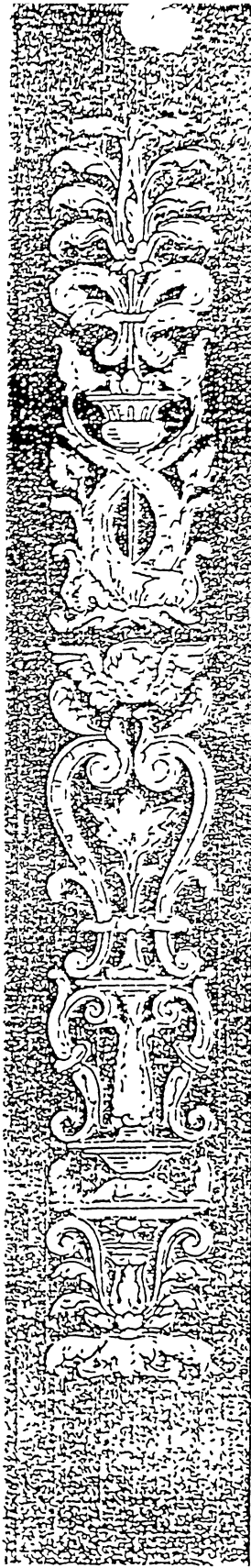
EXHIBIT D | 10-17-74

Dear Denise,

I was really glad to hear from you. You wrote a beautiful letter. I wish I could put things that are in my head as well as you can.

I have mixed feelings about your thoughts on the hard thing. You say you love your baby, if you truly feel that way you would be willing to give more of your life. If the baby is Mario's he is willing to give his life for her/baby to raise her, to love her - be there as she grows up. We will be there for him + the baby. That's if the baby

000020



Are you going to have the  
baby tested to see who the  
real father is?

I wish I could see you + we  
could talk face to face

I think alot of other people  
would have alot of bad feelings  
for you because of what you  
did to Mario. But I can't  
feel that way about you.

I've always liked you + I  
probably will always ~~love~~ <sup>love</sup>!

I wish things would of  
worked out different. I wish  
you happiness in your life.

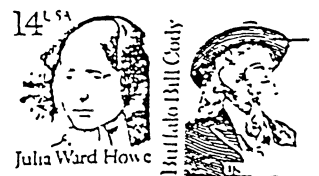
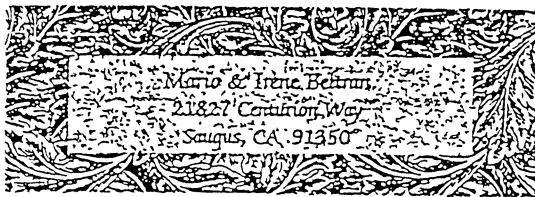
If you have any thoughts  
about what I wrote write me  
back. Even if you don't  
write me + keep me posted  
on you + the baby.

I hope I haven't said anything  
to hurt you, that wasn't my  
intention.  
(over)

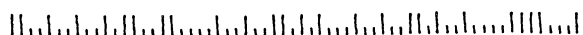
Write anyway Hope to  
hear from you soon.

Hopefully your friend  
always  
Lore

Sorry about  
my writing ☺



Denise Allan  
281 E. 2950 N.  
Provo, UT. 84604



000022



JR LEGAL SECRETARY  
43770 N. 43770 15TH. ST. E  
LANCASTER, CA 93534

EXHIBIT C 1

November 3, 1994

Denise Allan  
281 East 2950 North  
Provo, UT 84604

Re: Complaint to Establish a Paternal Relationship  
Los Angeles County Superior Court Case No. PF000505

Dear Ms. Allan:

Please find enclosed a copy of the Complaint to Establish a Paternal Relationship that Mr. Beltran has filed in this action wherein he is requesting custody of the child not yet born.

Please be advised that the summons states that you must file an answer in the Court here within 30 days from date of service, or Mr. Beltran will get his judgment of paternity by default.


Please find enclosed a Notice of Acknowledgment and Receipt that you need to sign and return to my office so that it may be filed with the court.

By signing the "Notice of Acknowledgment and Receipt" you are not agreeing to anything, you are just saying that you received the paperwork and that a marshall or process server does not have to serve you.

Please return the "Notice of Acknowledgment and Receipt" signed and dated where indicated by the x's in the enclosed, self-addressed envelope.

I am not an attorney. I do not represent Mario, and am acting only as a typing service in this matter. Mario has consulted with an attorney and is going to pursue his legal rights regarding the child.

Sincerely,

  
Carol Pauley

enc. as stated

000023

|   |                                |   |
|---|--------------------------------|---|
| Y OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS)<br>O G. BELTRAN<br>7 CENTURION WAY<br>US, CA 91350   | TELEPHONE NO<br>(805) 296-1070 | FOR COURT USE ONLY<br><br><b>ORIGINAL FILED</b><br><br>OCT 26 1994<br>LOS ANGELES, COUNTY CLERK |
| Y FOR (NAME) PLAINTIFF IN PRO PER<br>IOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES<br>TREET ADDRESS 911 FIRST STREET<br>ILING ADDRESS SAME<br>Y AND ZIP CODE SAN FERNANDO, CA 91340<br>BRANCH NAME NORTH VALLEY DISTRICT |                                |   |
| PLAINTIFF: MARIO G. BELTRAN<br><br>DEFENDANT: DENISE ALLAN  |                                |   |
| COMPLAINT TO ESTABLISH PARENTAL RELATIONSHIP<br>(Uniform Parentage Act)<br>REQUEST FOR ORDER FOR <input checked="" type="checkbox"/> CHILD CUSTODY AND VISITATION<br><input type="checkbox"/> CHILD SUPPORT               |                                | CASE NUMBER<br>PF0000505  |

Plaintiff (Name): MARIO G. BELTRAN  
Defendant (Name): DENISE ALLAN

requests the court to make the determinations indicated below.

PARENT-CHILD RELATIONSHIP

- ☒ Defendant ☒ Plaintiff is the parent of the children listed in item 1.  
☐ Other (specify):

☐ CHILD CUSTODY AND VISITATION

- a. ☒ Custody I request the following custody orders (specify):

Sole legal and physical custody of the minor child if tests determine the child is his biological child.

- b. ☐ Visitation (Name): should have the right to visit the children as follows:  
(1) ☐ none. (2) ☐ reasonable visitation. (3) ☐ visitation with the following restrictions (specify):

- c. Facts in support of the requested custody and visitation orders are (specify):

☐ contained in the attached declaration.  
The Plaintiff herein has moved to Utah and plans to release the child for adoption. She is planning on moving back here as soon as the child has been placed. Plaintiff requests DNA/blood tests.

- d. ☐ I request mediation to work out a parenting plan.

request an order for child support or attorney fees, attach a completed Income and Expense Declaration (Family Law).

☐ CHILD SUPPORT

- a. ☐ Public assistance is being provided the children.  
☐ (Name): should be ordered to pay reimbursement for public assistance to the children in the amount of: \$ as of (date): , and up to the time of trial.

- b. ☐ (Name): should be ordered to pay support as specified:  
Child's name Birthdate Monthly amount Payable to

- ☐ and pay arrearages for support of the children from the date of filing this complaint up to time of trial.  
c. ☐ A wage assignment for child support ☐ and arrearages should be ordered.

☐ NAME CHANGE. I request an order changing the children's names, pursuant to Family Code section 7638, as follows (specify):

☐ FEES AND COSTS OF LITIGATION Plaintiff requests that the court order defendant to pay for

- a. ☐ attorney fees  
b. expert fees, guardian ad litem fees, and other costs of the action or pretrial proceedings.

under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

/25/94

G. BELTRAN  
(TYPE OR PRINT NAME)

X Mario G Beltran  
(SIGNATURE OF PLAINTIFF)

Answer - Complaint to Establish Parental Relationship form must be served on the defendant with this complaint.

NOTICE TO DEFENDANT

If you cannot afford an attorney and desire to have one, ask the court to appoint an attorney to represent you.

AVISO AL ACUSADO

Si usted no puede pagarle a un abogado, y quiere que un abogado lo represente, podrá pedirle a la corte que le nombre

# SUMMONS

(CITACION JUDICIAL)

NOTICE TO DEFENDANT: (Aviso a Acusado)  
DENISE ALLAN

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

YOU ARE BEING SUED BY PLAINTIFF:  
(Ud. le esta demandando)  
MARIO G. BELTRAN

You have 30 CALENDAR DAYS after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de 30 DÍAS CALENDARIOS para presentar una respuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: (El nombre y dirección de la corte es)  
SUPERIOR COURT OF CALIFORNIA

111 FIRST STREET  
NORTH VALLEY DISTRICT  
SAN FERNANDO, CALIFORNIA 91340  
NORTH VALLEY DISTRICT

NORTH VALLEY DISTRICT  
120 North MacLay Street  
San Fernando, California 91340

CASE NUMBER (Número del Caso)

PF0010505

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)

MARIO G. BELTRAN  
21827 CENTURION WAY  
SAUGUS, CA 91350

(805) 296-1070

DATE: OCT 26 1994

EDWARD M. KRITZMAN

Clerk, by  
(Actuario)

Deputy  
(Delegado)

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

- ☒ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):
- ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (individual)  
☐ other:

- ☐ by personal delivery on (date):

000026

**STANDARD RESTRAINING ORDER - Uniform Parentage Act**  
**PROHIBICION JUDICIAL ESTANDARE - Ley Uniforme de Paternidad**

**STANDARD UNIFORM PARENTAGE ACT RESTRAINING ORDER**

and the other party are restrained from

visiting the minor child or children for whom this action seeks to establish a parent-child relationship from the  
without the prior written consent of the other or an order of the court.

These restraining orders are effective against petitioner upon filing a petition and against respondent on personal service of the summons and petition or on waiver and acceptance of service by respondent.

These orders are effective until the final decree is entered, the petition is dismissed, or the court makes a further order.

These orders are enforceable anywhere in California by any law enforcement officer who has received or seen a copy of this order.

**PROHIBICIONES JUDICIALES ESTANDARES - LEY UNIFORME DE PATERNIDAD**

A partir de este momento, a usted y a la otra parte se les prohíbe

visitar al hijo o hijos menores de las partes, para quienes esta acción judicial procura establecer una relación entre hijo y padres, sin el consentimiento previo por escrito de la otra parte o sin una orden de la corte.

Estas prohibiciones judiciales entrarán en vigencia para el demandante una vez presentada la petición, y para el demandado una vez que éste reciba la notificación personal de la citación judicial y petición, o una vez que renuncie a recibir dicha notificación y se dé por notificado.

Estas órdenes permanecerán en vigencia hasta que se dicte la decisión final, la petición sea rechazada o la corte expida instrucciones al respecto.

Estas órdenes serán hechas cumplir en cualquier parte de California por cualquier agente del orden público que las haya recibido o haya visto una copia de ellas.

**- NOTICE -**

This court shall attach this restraining order to the original civil summons and all copies issued in a proceeding under the Uniform Parentage Act. Proof of its service shall be shown on the proof of service filed with the court.

**000027**

NAME AND ADDRESS OF SENDER:

TELEPHONE NO: (805) 296-1070

For Court Use Only:

MARIO G. BELTRAN  
1827 CENTURION WAY  
AUGUS, CA 91350

Insert name of court, judicial district or branch court, if any, and Post Office and Street Address

SUPERIOR COURT OF CALIFORNIA  
20 NORTH MACLAY STREET  
SANTA ANA  
SANTA ANA FERNANDO, CA 91340

PLAINTIFF: MARIO G. BELTRAN

DEFENDANT: DENISE ALLAN

NOTICE AND ACKNOWLEDGMENT OF RECEIPT

Case Number:

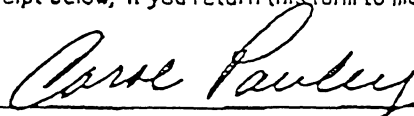
PF000505

TO: DENISE ALLEN . . . . .  
(Insert name of individual being served)

This summons and other document(s) indicated below are being served pursuant to Section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it to me within 20 days may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. Section 415.30 provides that this summons and other document(s) are deemed served on the date you sign the Acknowledgment of Receipt below, if you return this form to me.

Dated: November 03, 1994 . . . . .

  
(Signature of sender)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of: (To be completed by sender before mailing)

1. ☐ A copy of the summons and of the complaint.
2. ☐ A copy of the summons and of the Petition (Marriage) and:
  - ☐ Blank Confidential Counseling Statement (Marriage)
  - ☐ Order to Show Cause (Marriage)
  - ☐ Blank Responsive Declaration
  - ☐ Blank Financial Declaration
  - ☒ Other: (Specify) A copy of the Summons, Standard Restraining Orders, Complaint to Establish a Paternal Relationship, Certificate of Assignment and blank Answer

(To be completed by recipient)

Date of receipt: . . . . .

(Signature of person acknowledging receipt, with title if acknowledgment is made on behalf of another person)

Date this form is signed: . . . . .

DENISE ALLEN

(Type or print your name and name of entity, if any, on whose behalf this form is signed)

000028

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

CASE TITLE **BELTRAN vs. ALLAN**

CASE NUMBER

**PF0000505**

## CERTIFICATE OF ASSIGNMENT

**File this certificate with all cases presented for filing in all districts of the Los Angeles Superior Court.**

The undersigned declares that the above entitled matter is filed for proceedings in the NORTH VALLEY District of the Los Angeles Superior Court under Section 392 et seq., Code of Civil Procedure and Rule 2 (c) and (d) of this court for the reasons checked below. The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above designated district is (not required for non-tort cases filed in Central District):

|   |                      |                            |  |  |  |
|---|----------------------|----------------------------|--|--|--|
| NAME: (INDICATE TITLE OR OTHER QUALIFYING FACTOR)<br><b>PLAINTIFF</b> |                      |                            | ADDRESS:<br><b>21827 CENTURION WAY</b> |  |  |
| (CITY)<br><b>SAUGUS</b>   | (STATE)<br><b>CA</b> | (ZIP CODE)<br><b>91350</b> |  |  |  |

JURY TRIAL

☒ NON-JURY TRIAL

TIME ESTIMATED FOR TRIAL \_\_\_\_\_

☐ HOURS ☐ DAYS.

### CHECK ONLY ONE NATURE OF ACTION

| JRE OF ACTION   | GROUND  | NATURE OF ACTION   | GROUND   |
|---|---|--|--|
| A7100 Vehicle Accident<br>A7210 Med Malpractice<br>A7200 Other Personal Inj.<br>A7220 Product Liability<br>A8050 Other Malpractice<br>A8012 Collection/Note<br>A8040 Injunct Relief<br>A8030 Declar Relief<br>A8170 Late Claim Relief<br>A8000 Other Compl.<br>(ity): _____ | The cause of action arose within the district.<br><br>or<br><br>One or more defendants resides within the district.<br><br>or<br><br>Rule 2 allows filing in Central District (non-torts only). | <input type="checkbox"/> A5520 Regular Dissolution<br><input type="checkbox"/> A5525 Summary Dissolution<br><input type="checkbox"/> A5530 Nullity<br><input type="checkbox"/> A6510 Legal Separation<br><input type="checkbox"/> A6135 Foreign Support<br><input type="checkbox"/> A6136 Foreign Custody<br><input type="checkbox"/> A6122 Domestic Violence<br><input type="checkbox"/> A6130 Family Law Complaint-Other<br><br><input checked="" type="checkbox"/> A6132 Paternity<br><input type="checkbox"/> A6131 DA Paternity (DA use only)<br><input type="checkbox"/> A6133 DA Agreement (DA use only)  | One or more of the party filigants resides within the district.**<br><br><br><br><br><br><br><br><br><br>(Not a requirement for filing in Central District - Rule 2)<br><br><br>Child resides or deceased father's probate would be filed in the district.** |
| A6011 Contract<br><br>A7300 Eminent Domain<br>A6020 Landlord/Tenant<br>A6060 Real Property Rights   | Performance in the district is expressly provided for.**<br><br>The property is located within the district.**  | <input type="checkbox"/> A6101 Agency Adoption<br><input type="checkbox"/> A6102 Independent Adoption<br><input type="checkbox"/> A6104 Stepparent Adoption<br><input type="checkbox"/> A6103 Adult Adoption<br><input type="checkbox"/> A6106 Sole Custody Petition<br><input type="checkbox"/> A6105 Abandonment   | Petitioner resides within the district.**<br><br>or<br><br>Consent to out-of-state adoption, consenter resides within the district.**  |
| A6140 Admin Award<br><br>A6160 Abstract<br>A6141 Sister State Judgment  | The administrative tribunal is located within the district.**<br><br>The judgment debtor holds property within the district.**  | <input type="checkbox"/> A6210 Probate W/Letters Testamentary<br><input type="checkbox"/> A6211 Probate W/Letters Administration<br><input type="checkbox"/> A6212 Letters of Administration<br><input type="checkbox"/> A6213 Letters of Special Administration<br><input type="checkbox"/> A6215 Spousal Property<br><input type="checkbox"/> A6216 Succession to Real Property<br><input type="checkbox"/> A6217 Summary Probate<br><input type="checkbox"/> A6218 Small Estate (13200 PC)<br><input type="checkbox"/> A6230 Conservatorship P & E<br><input type="checkbox"/> A6231 Conservatorship Person<br><input type="checkbox"/> A6232 Conservatorship Estate<br><input type="checkbox"/> A6233 Medical Treatment without Consent<br><input type="checkbox"/> A6240 Guardianship P & E<br><input type="checkbox"/> A6241 Guardianship Person<br><input type="checkbox"/> A6242 Guardianship Estate<br><input type="checkbox"/> A6243 Spouse Lacks Capacity<br><input type="checkbox"/> A6254 Trust Proceedings<br><input type="checkbox"/> A6200 Probate Other<br>(Specify): _____ | Decedent resided within the district.**<br><br>or<br><br>Decedent resided out of the district, but held property within the district.**<br><br>or<br><br>Petitioner, conservator or ward resides within this district.**                                     |
| A7221 Asbestos<br>A6134 R.E.S.L.<br>A6111 Minor's Contract<br>A6190 Election Contest<br><br>A6110 Name Change<br>A6121 Civil Harassment<br>A6100 Other Petition<br>(ity): _____   | Must be filed in the Central District<br><br><br><br><br>One or more of the party filigants resides within the district.**  | <input type="checkbox"/> A6151 Mandamus<br><input type="checkbox"/> A6152 Prohibition<br><input type="checkbox"/> A6150 Other Writ<br>(ity): _____   |  |
| A6600 H.C. Family Law   | Child is held within the District**   | <input type="checkbox"/> A6260 Comp Minor's Claim  |  |

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and this declaration was executed on 10-25-94

ANCASTER, California

Or, Rule 2 allows optional filing in Central District.

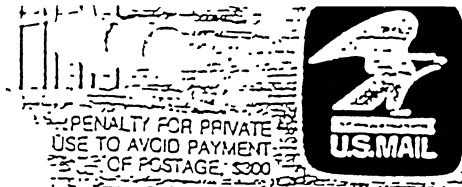
*X-Maria B. Betts*

(SIGNATURE OF ATTORNEY/FILING PARTY)

Coactive writs concerning a court of inferior jurisdiction shall be filed in Central District. IN PRO PER

000029

Official Business



Print your name, address and ZIP Code here

M Beltran  
21827 Centurion Way  
Saugus CA 91350

P 319 140 323



Receipt for  
Certified Mail

No Insurance Coverage Provided  
Do not use for International Mail  
See Reverse

|  |                 |
|--|-----------------|
| Sent to<br><i>Alonso, Allan</i>                  |                 |
| Street and<br><i>218 E 2950 N</i>                |                 |
| P.O. Box and ZIP Code<br><i>Provo, UT 84604</i>  |                 |
| Postage  | \$ <i>15</i>    |
| Certified Fee                                    | \$ <i>1.50</i>  |
| Special Delivery Fee                             |                 |
| Restricted Delivery                              | \$ <i>1.50</i>  |
| Return Receipt, showing to whom & date delivered | \$ <i>1.50</i>  |
| Return Receipt, showing to whom & date delivered |                 |
| TOTAL Postage & Fees                             | \$ <i>23.50</i> |
| Postmark or Date<br><i>Beltran</i>               |                 |

PS Form 3800, June 1991

000030

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the manila piece or on the back if space does not permit.
- Write "Return Receipt requested" on the manila piece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

*Alonso, Allan*  
*218 E 2950 N*  
*Provo, UT 84604*

4a. Article Number:

*P 319 140 323*

4b. Service Type

- ☒ Registered ☒ Insured  
☒ Certified ☒ COD  
☒ Express Mail ☒ Return Receipt for Merchandise

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address  
2. ☒ Restricted Delivery

Consult postmaster for fee.

ADDRESS completed on the reverse side

Return Receipt Service



RELINQUISHMENT AND CONSENT TO ADOPTION  
(BIRTH MOTHER-UTAH)

STATE OF UTAH )

EXHIBIT D

COUNTY OF UTAH )  
:SS

I, Denise Allan being first duly sworn on oath, depose and say:

1. I am the mother of a F (male/female) child, who was born at 3:36am (time) on the 14 day of November, 19 94, at Provo City, Utah County, State of Utah.

2. Because I feel that it is in this child's best interests to be placed for adoption, I hereby release and relinquish this child to the care, custody and control of LDS Social Services, for placement for adoption.

3. I fully understand that by signing this Relinquishment and Consent to Adoption I am giving up all of my parental rights to this child, and that my decision to place this child for adoption with LDS Social Services is final and I cannot change my mind.

4. I consent to the legal adoption of this child by any persons with whom LDS Social Services places this child for adoption. I understand that LDS Social Services will use its best efforts to place this child with the adoptive parents I may have selected in consultation with LDS Social Services. I understand and agree that if I have not selected adoptive parents or if LDS Social Services, in its sole and absolute discretion, decides that this child should be placed with other adoptive parents or that it is not in the child's best interest for the adoptive parents I have selected to complete the adoption, LDS Social Services may place this child for adoption with any adoptive parents LDS Social Services selects.

5. I understand and agree that LDS Social Services may, in its sole discretion, release its custody, and control over this child to another licensed child placing agency for adoptive placement within said other agency's sole discretion.

6. I waive the right to notice of any and all legal proceedings which may be held in courts of the State of Utah, or elsewhere, in connection with the adoption of this child.

7. I have read the foregoing Relinquishment and Consent to Adoption and I fully understand its terms and conditions. My decision to relinquish this child to LDS Social Services and to consent to the adoption of this child has been made voluntarily and of my own free will and choice. I am signing this Relinquishment and Consent to Adoption freely and voluntarily, without any coercion, force or duress and without any payment or promise to pay any money or other thing of value for the purpose of inducing me to place this child for adoption, consent to an adoption, or cooperate in the completion of an adoption.

8. I agree that this Relinquishment and Consent to Adoption shall be executed and interpreted according to the laws of the State of Utah, and I agree to submit myself to the jurisdiction of the State of Utah with regard to the subject matter of this Relinquishment and Consent to Adoption.

Date: 11/17/94

Denise Allan  
Signature of Mother

Time: 5:07

CERTIFICATION

I, Rebecca K. Bickel, hereby declare that:

1. I am a representative of LDS Social Services, a licensed child-placing agency, and I have been authorized to take relinquishments and consents to adoption.

2. I certify that, to the best of my information and belief, the person executing the foregoing Relinquishment and Consent to Adoption has read and understands said Relinquishment and Consent and has signed it freely and voluntarily.

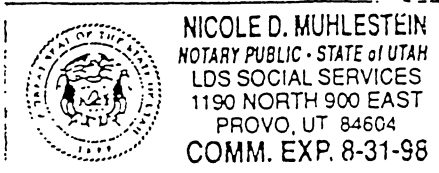
LDS SOCIAL SERVICES

By Rebecca K. Bickel

NOTARIZATION

STATE OF UTAH )  
COUNTY OF Utah )  
:SS

On the 14 day of November, 19 94, personally appeared  
before me Denise Allan, who signed the foregoing document in my  
(Birth mother)  
presence and who swore or affirmed to me that her signature is voluntary and the document truthful.



Nicole Muhlestein  
Notary Public

Residing at Orem

My Commission Expires: 8.31.98

WITNESSES

We, Val Umphress and Todd Corelli, are witnesses  
to the foregoing Relinquishment and Consent to Adoption signed by  
Denise Allan  
(Birth mother)

We do each hereby declare as follows:

1. I am not affiliated with LDS Social Services and I am not a member of the birth mother's family.
2. The birth mother has stated that she has read and understands the foregoing Relinquishment and Consent to Adoption and that the document is truthful.
3. To the best of my information and belief, the birth mother signed this document freely and voluntarily.

Date: 11/17/94

Val Umphress  
Witness

Date: 11/17/94

Todd Corelli  
Witness

Revised 9/93  
Forms\Consent.FRM

000032

David M. McConkie (A2154)  
Merrill F. Nelson (A3841)  
KIRTON & McCONKIE  
Attorneys for Defendants  
Denise Allan and LDS Social Services  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111-1104  
Telephone: (801) 328-3600

---

IN THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR  
UTAH COUNTY, STATE OF UTAH

---

|  |   |                         |
|--|---|-------------------------|
| MARIO G. BELTRAN,                      | : |                         |
|  | : | AFFIDAVIT OF BEVERLY R. |
| Plaintiff,                             | : | BEKKER                  |
| vs.                                    | : |                         |
|  | : |                         |
| DENISE ALLAN; LDS SOCIAL               | : | Case No. 950400021      |
| SERVICES, an Agency of the Church of   | : |                         |
| Jesus Christ of Latter-day Saints; and | : |                         |
| JOHN DOES I through V,                 | : | Judge Guy R. Burningham |
|  | : |                         |
| Defendants.                            | : |                         |
|  | : |                         |

---

STATE OF UTAH                    )  
                                      :ss.  
COUNTY OF UTAH                )

I, Beverly R. Bekker, hereby depose and affirm under oath as follows:

1. I am a licensed clinical social worker in the employ of LDS Social Services ("Agency"), a licensed child placement agency. I work in the Provo, Utah office of the Agency.

2. In the latter part of August 1994, I met with Denise Allan in my office. Denise was expecting a child in November 1994 and requested the assistance of the Agency in placing her child for adoption. Denise identified Mario G. Beltran, a California resident, as the father.

3. On October 27, 1994, I sent a certified letter to Mario G. Beltran at his California address informing Mr. Beltran that Denise was in Utah, that her baby was due in November 1994, that she intended to place her baby for adoption, and that she had identified him as a possible father of the child. A true and correct copy of the letter is attached hereto as Exhibit A.

4. On or about November 8, 1994, I received a letter from Mr. Beltran regarding his filing of a California legal action to establish his paternity of Denise's baby. A true and correct copy of the letter is attached hereto as Exhibit B.

5. On November 14, 1994, Denise gave birth to a baby girl in a Utah County hospital.

6. On November 17, 1994, Denise signed a relinquishment and consent to adoption, transferring custody of her child to the Agency for the purpose of placing the

child for adoption. A true and correct copy of this document is attached hereto as Exhibit C.

7. On November 17, 1994, immediately following Denise's relinquishment, the Agency placed her baby for adoption with the adoptive parents, with whom the baby has continuously resided since that date.

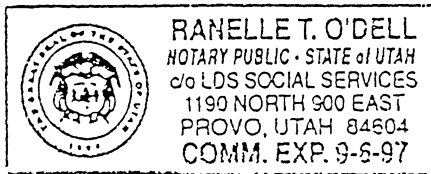
8. On November 16, 1994, prior to the relinquishment, the Agency inquired of the Bureau of Vital Statistics to determine whether an acknowledgment of paternity had been filed with regard to Denise's baby. No acknowledgment was on file, and a certificate to that effect was issued. A true and correct copy of that certificate is attached hereto as Exhibit D.

DATED this 22<sup>ND</sup> day of September, 1995.

  
Beverly R. Bekker

## ACKNOWLEDGMENT

On this 22<sup>nd</sup> day of September, 1995, before me, the undersigned notary, personally appeared BEVERLY R. BEKKER, who signed the preceding document in my presence and who swore or affirmed to me that the signature is voluntary and the document truthful.



Ranilla L. O'Neil  
NOTARY PUBLIC  
Residing at Provo Utah

My Commission Expires:

9-6-97

# Utah Social Services

UTAH PROVO AGENCY  
1190 North 900 East  
Provo, Utah 84604

# COPY

EXHIBIT A

October 27, 1994

Mr. Mario Beltran  
21827 Centorion Way  
Sangus, CA 91350

Dear Mario:

This letter is to inform you that Denise Allen is being assisted by this agency in making an adoption plan for her child which is due to be delivered the end of November 1994. She has named you as a possible father of her unborn child.

Her decision is to place the baby for adoption in a family that can provide stability and a socially, emotionally safe environment. She desires this child to have all the things the child needs at this time that she is not able to provide.

Thank you for the background information you have already completed. It would be helpful if you could complete the family history pages and the *WAIVER* (in duplicate) signed in the presence of a notary. A self-addressed stamped envelope is enclosed for your convenience.

Sincerely,

*Beverly R. Bekker*  
Beverly R. Bekker, LCSW

nm

|   |  |   |  |
|---|--|---|--|
| <b>SENDER:</b><br>• Complete items 1 and/or 2 for additional services.<br>• Complete items 3, and 4a & b.<br>• Print your name and address on the reverse of this form so that we can return this card to you.<br>• Attach this form to the front of the mailpiece, or on the back if space does not permit.<br>• Write "Return Receipt Requested" on the mailpiece below the article number.<br>• The Return Receipt will show to whom the article was delivered and the date delivered. |  | I also wish to receive the following services (for an extra fee):<br>1. <input type="checkbox"/> Addressee's Address<br>2. <input checked="" type="checkbox"/> Restricted Delivery<br>Consult postmaster for fee.   |  |
|   |  | 3. Article Addressed to:<br><br>Mr. Mario Beltran<br>21827 Centorion Way<br>Sangus, CA 91350  |  |
| 4a. Article Number<br>P 177 132 291   |  | 4b. Service Type<br><input type="checkbox"/> Registered <input type="checkbox"/> Insured<br><input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD<br><input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise |  |
| 5. Signature (Addressee)<br><i>Mario Beltran</i>  |  | 7. Date of Delivery   |  |
| 6. Signature (Agent)  |  | 8. Addressee's Address (Only if requested and fee is paid)  |  |

MARIO G. BELTRAN  
21227 CENTURIAN WAY  
SAUGUS, CA 91350

EXHIBIT 2

November 3, 1994

Beverly R. Bekker, LCSW  
L D S Social Services  
Utah Provo Agency  
1190 North 900 East  
Provo, Utah 94604

Dear Ms. Bekker:

Please be advised that I have filed a Complaint to Establish a Paternal Relationship requesting custody of our unborn child in the Superior Court of California, Case No. PF000605.

I do not intend to give up any of my paternal rights to this child, and, after blood testing, if the child proves to be mine, I intend to pursue custody of my child as vigoursly as possible.

I am enclosing a copy of the action filed here on October 26, 1994, and Denise Allen will be served with this action as quickly as that can be arranged.

If you have any questions, please contact me.

Yours truly,

Mario G. Beltran

MGB/cp  
Enclosures as stated.

000038



RELINQUISHMENT AND CONSENT TO ADOPTION  
(BIRTH MOTHER-UTAH)

STATE OF UTAH )

COUNTY OF UTAH )

EXHIBIT C 1

I, Derise Allan being first duly sworn on oath, depose and say:

1. I am the mother of a F (male/female) child, who was born at 3:36am (time) on the 14 day of November, 19 94, at Provo City, Utah County, State of Utah.

2. Because I feel that it is in this child's best interests to be placed for adoption, I hereby release and relinquish this child to the care, custody and control of LDS Social Services, for placement for adoption.

3. I fully understand that by signing this Relinquishment and Consent to Adoption I am giving up all of my parental rights to this child, and that my decision to place this child for adoption with LDS Social Services is final and I cannot change my mind.

4. I consent to the legal adoption of this child by any persons with whom LDS Social Services places this child for adoption. I understand that LDS Social Services will use its best efforts to place this child with the adoptive parents I may have selected in consultation with LDS Social Services. I understand and agree that if I have not selected adoptive parents or if LDS Social Services, in its sole and absolute discretion, decides that this child should be placed with other adoptive parents or that it is not in the child's best interest for the adoptive parents I have selected to complete the adoption, LDS Social Services may place this child for adoption with any adoptive parents LDS Social Services selects.

5. I understand and agree that LDS Social Services may, in its sole discretion, release its custody, and control over this child to another licensed child placing agency for adoptive placement within said other agency's sole discretion.

6. I waive the right to notice of any and all legal proceedings which may be held in courts of the State of Utah, or elsewhere, in connection with the adoption of this child.

7. I have read the foregoing Relinquishment and Consent to Adoption and I fully understand its terms and conditions. My decision to relinquish this child to LDS Social Services and to consent to the adoption of this child has been made voluntarily and of my own free will and choice. I am signing this Relinquishment and Consent to Adoption freely and voluntarily, without any coercion, force or duress and without any payment or promise to pay any money or other thing of value for the purpose of inducing me to place this child for adoption, consent to an adoption, or cooperate in the completion of an adoption.

8. I agree that this Relinquishment and Consent to Adoption shall be executed and interpreted according to the laws of the State of Utah, and I agree to submit myself to the jurisdiction of the State of Utah with regard to the subject matter of this Relinquishment and Consent to Adoption.

Date: 11/17/94

Time: 5:07

[Signature]  
Signature of Mother

CERTIFICATION

I, Reilly K. Bicker, hereby declare that:

1. I am a representative of LDS Social Services, a licensed child-placing agency, and I have been authorized to take relinquishments and consents to adoption.

2. I certify that, to the best of my information and belief, the person executing the foregoing Relinquishment and Consent to Adoption has read and understands said Relinquishment and Consent and has signed it freely and voluntarily.

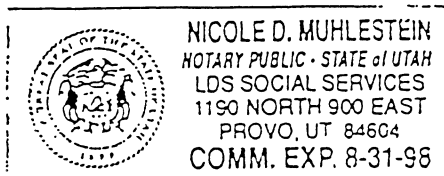
LDS SOCIAL SERVICES

By [Signature]

NOTARIZATION

STATE OF UTAH )  
COUNTY OF Litch )  
:SS

On the 14 day of November, 19 '94, personally appeared  
before me Denise Allan who signed the foregoing document in my  
(Birth mother)  
presence and who swore or affirmed to me that her signature is voluntary and the document truthful.



Nicole Muhlestein  
Notary Public

Residing at Orem

My Commission Expires: 8-31-98

WITNESSES

We, Val Umphress and Todd Corelli, are witnesses  
to the foregoing Relinquishment and Consent to Adoption signed by  
Denise Allan  
(Birth mother)

We do each hereby declare as follows:

1. I am not affiliated with LDS Social Services and I am not a member of the birth mother's family.
2. The birth mother has stated that she has read and understands the foregoing Relinquishment and Consent to Adoption and that the document is truthful.
3. To the best of my information and belief, the birth mother signed this document freely and voluntarily.

Date: 11/17/94

Val Umphress  
Witness

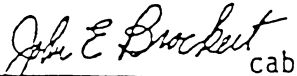
Date: 11/17/94

Todd Corelli  
Witness

Revised 9/93  
Forms\Consent.FRM

EXHIBIT D

UTAH STATE DEPARTMENT OF HEALTH  
CERTIFICATE OF SEARCH  
FOR ACKNOWLEDGMENT OF PATERNITY BY FATHER

|   |  |   |
|---|--|---|
| Name of Mother<br>Denise Allan  |  |   |
| Place of Child's Birth<br>Provo, UT   | Date of Child's Birth<br>Nov. 14, 1994 | Sex of Child<br>Female  |
| This is to certify that a search has been made of the records of ACKNOWLEDGMENT OF PATERNITY BY FATHER filed with the State Office of Vital Statistics and no record was found to be on file. |  |   |
| 1:50 pm   | Nov. 16, 1994<br>DATE OF SEARCH        | <br>cab<br>DIRECTOR OF HEALTH STATISTICS |
| If an Acknowledgment of Paternity by Father is found on file, a certified copy will be issued. If no record is on file, a CERTIFICATE OF SEARCH is issued.                                    |  |   |

UTAH STATE DEPARTMENT OF HEALTH  
BUREAU OF HEALTH STATISTICS

SDH-BHS-23

9/79

000041

Name, Address and Telephone No. of Attorney(s)

Space Below for Use of Court Clerk Only

a C. Grillo, Esq.  
4 Lyons Avenue, Suite 403  
a Clarita, California 91321-2534  
a Bar 92673  
l 259-0527  
3

Attorney(s) for MARIO G. BELTRAN, .....  
Plaintiff

ORIGINAL FILED  
JUN 20 1995  
LOS ANGELES  
SUPERIOR COURT

COPY

REC'D JUN 19 1995

COURT OF CALIFORNIA, COUNTY OF LOS ANGELES, .....  
(SUPERIOR, MUNICIPAL, or JUSTICE)

NORTH VALLEY DISTRICT .....  
(Name of Municipal or Justice Court District or of branch court, if any)

Plaintiff(s): MARIO G. BELTRAN

CASE NUMBER PF 000 505

Defendants(s): DENISE ALLAN

REQUEST FOR DISMISSAL  
TYPE OF ACTION

- ☐ Personal Injury, Property Damage and Wrongful Death  
☐ Motor Vehicle ☐ Other  
☒ Domestic Relations ☐ Eminent Domain  
☒ Other: (Specify) Complaint to Establish .....  
Paternity

(Abbreviated Title)

TO THE CLERK: Please dismiss this action as follows: (Check applicable boxes.)

1. ☐ With prejudice ☒ Without prejudice  
2. ☒ Entire action ☐ Complaint only ☐ Petition only ☐ Cross-complaint only  
☐ Other: (Specify)\*

Dated: June 16, 1995 .....

\*If dismissal requested is of specified parties only, of specified causes of action only or of specified cross-complaints only, so state and identify the parties, causes of action or cross-complaints to be dismissed.

LAW OFFICES OF LINDA C. GRILLO

*Linda C. Grillo*

Attorney(s) for MARIO G. BELTRAN, Plaintiff

Linda C. Grillo, Esq.

(Type or print attorney(s) name(s))

TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

THOMPSON, WHITE, KING & FRENCH

Dated: June 22, 1995 .....

\*\*When a cross-complaint (or Response (Damage) seeking affirmative relief) is on file, the attorney(s) for the cross-complainant (respondent) must sign this consent when required by CCP §§1(1), (2) or (5).

*Mark T. Petersen*  
Attorney(s) for DENISE ALLAN, Defendant

Mark T. Petersen, Esq.

(Type or print attorney(s) name(s))

To be completed by clerk)

- ☒ Dismissal entered as requested on 6-23-95 .....  
☐ Dismissal entered on ..... as to only .....  
☐ Dismissal not entered as requested for the following reason(s), and attorney(s) notified on .....

Dated 6-23-95 ..... By S. Habelmann ..... Clerk  
Deputy

through (4) as present Subsections (3) through (5), respectively, and making related grammatical, stylistic, and reference changes; added the language beginning "witnessed by two individuals" at the end of Subsection (1)(b); and inserted for the relinquishment of a birth mother or adoptee and substituted "it shall be signed and confirmed under oath before" for "by" in the introductory language of present Subsection (2).

#### 78-30-4.8. Filing requirements — Children born outside of marriage.

(1) (a) Any person who is the father or claims to be the father of a child born outside of marriage may file notice of his claim of paternity and of his willingness and intent to support the child to the best of his ability with the state registrar of vital statistics in the Department of Health.

(b) The Department of Health shall provide forms for the purpose of filing the notices of paternity described in this section. Forms shall be made available by the department, in the office of the county clerk in each county, in every hospital, as defined in Subsections 26-21-2(8) and (13), and in every licensed child placing agency.

(2) The notice may be filed prior to the birth of the child but must be filed prior to the time the child is relinquished to a licensed child placing agency or prior to the filing of a petition by a person with whom the mother has placed the child for adoption. The notice shall be signed by the person filing and shall include his name and address, the name and last-known address of the birth mother, and either the birthdate of the child or the probable month and year of the expected birth of the child. The person who files a notice under this section shall notify the registrar of vital statistics of any change of his address. The Department of Health shall maintain a confidential registry for this purpose.

(3) The Legislature finds that a certain degree of finality is necessary in order to facilitate the state's interest in expediting the adoption of young children and in protecting the rights and interests of the child, the birth mother, and the adoptive parents. Therefore, any putative father who fails to file his notice of paternity is barred from thereafter bringing or maintaining any action to assert any interest in the child unless he proves by clear and convincing evidence that:

(a) it was not possible for him to file a notice of paternity within the period of time specified in Subsection (2);

(b) his failure to file a notice of paternity was through no fault of his own; and

(c) he filed a notice of paternity within 10 days after it became possible for him to file.

(4) Except as provided in Subsection 78-30-4.1(4), failure to file a timely notice of paternity shall be deemed to be a waiver and surrender of any right to notice of any hearing in any judicial proceeding for adoption of the child, and the consent of that person to the adoption of the child is not required.

(5) In any adoption proceeding pertaining to a child born outside of marriage, if there is no showing that a putative father has consented to or waived his rights regarding the proposed adoption, it shall be necessary to file with the court, prior to its entering a final decree of adoption, a certificate from the Department of Health, signed by the state registrar of vital statistics, stating that a diligent search has been made of the registry of notices from putative fathers of children born outside of marriage and that no filing has been found pertaining to the father of the child in question.