

1997

Katherine A. Thrash v. James L. Thrash : Petition for Rehearing

Utah Court of Appeals

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Jon J. Bunderson; Bunderson & Baron; Attorney for Defendant/Respondent.

J. Val Roberts; David County Title XX Legal Aid; Attorney for Plaintiff/Appellant.

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UTAH COURT OF APPEALS
BRIEF

UTAH
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DOCKET NO. 970204-CA

IN THE UTAH COURT OF APPEALS

KATHERINE A. THRASH,)
)
Plaintiff/Appellant,) Case No. 970204-CA
)
vs.)
)
JAMES L. THRASH,)
)
Defendant/Respondent,)
)
STATE OF UTAH, Office of)
Recovery Services,)
)
Intervenor.)

PETITION FOR RE-HEARING

Appeal from the Second Judicial District Court,
Davis County, State of Utah,
The Honorable Michael G. Allphin, Presiding

J. Val Roberts, Attorney (02772)
Davis County Title XX Legal Aid
P. O. Box 666
Centerville, Utah 84014

Attorney for Plaintiff/Appellant
Katherine A. Thrash

Jon J. Bunderson, Attorney (0487)
Bunderson & Baron
45 North First East
Brigham City, Utah 84302

Attorney for Defendant/Respondent
James L. Thrash

FILED
Court of Appeals
7 1998

Ms. D'Alessandro
of the Court

IN THE UTAH COURT OF APPEALS

KATHERINE A. THRASH,)	
)	
Plaintiff/Appellant,)	Case No. 970204-CA
)	
vs.)	
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JAMES L. THRASH,)	
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Defendant/Respondent,)	
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STATE OF UTAH, Office of)	
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Centerville, Utah 84014
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IN THE UTAH COURT OF APPEALS

KATHERINE A. THRASH,)	
)	PETITION FOR RE-HEARING
Plaintiff/Appellant,)	
vs.)	
)	
JAMES L. THRASH,)	
)	Case No. <u>970204-CA</u>
Defendant/Respondent,)	
)	Before Judges Wilkins,
STATE OF UTAH, Office of)	Jackson, and Orme
Recovery Services,)	
)	WILKINS, Associate
Intervenor.)	Presiding Judge

STATEMENT OF ISSUES ON RE-HEARING

TRIAL COURT has denied Appellant's State and Federal constitutional right to equal protection.

ISSUE #1. Newly discovered evidence shows that the Utah Office of Recovery Services has an administrative policy that outlines the conduct of paternity interviews with welfare mothers who have born a child during a period of separation from their husbands.

As a condition of continued Aid for Dependent Children, the mothers who have born a child by a male other than their husbands are required to identify the out-of-wedlock child's biological father.

The Utah Attorney General implements the affidavit bastardizing a child born to a welfare mother by first administering DNA tests to the husband/legal father, the after-born child, and the mother.

When the husband has been excluded as the biological father of the child bastardized by the mother's affidavit, the Attorney General's office next files a paternity action against the mother and the biological father identified in her paternity interview affidavit. A court order is obtained for additional DNA tests on the biological father, the mother, and the child; and an order for support is entered based on the 99% or more probability that the biological father is the legal father.

There are some TWENTY (20) Assistant Attorneys General doing paternity cases in the various district courts of this State. It is estimated that each Assistant Attorney General does at least TWO (2) cases per calendar year where a husband is first excluded and then a biological father identified by DNA testing for an estimated total of FORTY (40) or more cases per year in the district courts of Utah. The denial of the Appellant's right to equal protection does not rest on an isolated incident as the Court of Appeals must have supposed when the opinion failed to address Appellant's right to raise the "relevant fact" of paternity by affidavit in the court below. (See Exhibit "A" here and Appellant's Brief at Tab No. 1.) (ORS case #C000221598 also Second District Paternity Action Civil #974700047PA.) (See also ORS Administrative Policy #168, Exhibit "B" herein.)

ISSUE #2. The Court's mere testimony rule forbidding both the mother's testimony on the "relevant fact" of paternity of her child and forbidding the Lower Court's recognition of her affidavit raising the "relevant fact of paternity" in her civil action for divorce while simultaneously claiming that a failure to amend her Verified Complaint defeats her right under Section 78-25-18 to raise the relevant fact, and should be reversed.

ARGUMENT

The broad language of the statute does not require that the "relevant fact" of a person's parentage be placed at issue in the traditional legal sense either by amendment to the complaint, amendment to the answer, if any, by affidavit of either party, or by stipulation of all of the parties as in the BUSCH matter.

It is an unauthorized limitation of the Appellant's statutory right to hold that failure to follow any particular means of raising the "relevant fact" of a person's parentage be the only or exclusive method as set out in the Court of Appeal's opinion in the case at bar, and the case must be thoughtfully reconsidered.

It is no more helpful to the doing of the people's business to allege that any of the issues were not adequately briefed than it is for counsel to observe that the conflict between the opinion and the statute should have been resolved without the necessity of a petition for reconsideration.

It requires the good will and cooperation of all persons and agencies dealing with the sacred but unwritten constitutional rights of parents relating to their children which is imposed by the United States Supreme Court case of Santosky v. Kramer, 455 U.S. 745 (1982) (USSC+) 1987 cited with approval 1998.)

A paternity interview by the Office of Recovery Services caseworker always gives rise to a sworn statement bastardizing the child either from the mother or the father. From 40 to 100 or more such sworn statements are routinely accepted yearly by the district courts.

There is no definition or explanation of how, in the case at bar, the Trial Court could refuse the sworn testimony of Appellant at default hearing and accept the same testimony in the form of a verified amended complaint before the default hearing.

ISSUE #3. The issue of the deliberate falsification of the Trial Court record by someone in the office of the Trial Judge by removing Appellant's Findings and Decree which conformed to the evidence at trial was not addressed by the opinion.

So far as counsel knows, there is no case law precedent for the loss of documents sent to the Trial Judge's chambers but never returned to the file. (See Docket, Exhibit "C.")

ISSUE #4. Regardless of when or how or by whom the "relevant fact" of paternity is raised, the DNA test is a mandatory obligation of the Trial Court.

"In any civil action or in bastardy proceedings in which the parentage of a person is a relevant fact, the court shall order the child and the alleged parents to

submit to blood tests." (78-25-18 UCA 1953
as amended 1955. Emphasis supplied.)

ARGUMENT

It is both Hornbook Law and junior college English composition that in statutory interpretation, the words "in any civil action" are all-inclusive meaning in every civil action. It is likewise universally understood that the conjunction "or" is disjunctive setting what follows it apart in this case from all civil actions. Bastardy proceedings being both civil and criminal are recognized by the disjunctive conjunction as being partly civil and partly criminal historically, and require blood tests by statute whenever the "relevant fact" of a person's parentage is raised.

The English language has contained both the passive permissive forms, and both forms can be found in the Utah Code. When a statute contains the language, "the court may," which is the passive permissive form meaning the Legislature has conferred discretion upon the judge. The mandatory imperative form set out in 78-25-18 UCA by the language, "the court shall order the child and the alleged parents to submit to blood tests," means that the court has no discretion and must order blood tests whenever the "relevant fact" of the paternity of any person is raised in any civil or bastardy action regardless of how the fact is raised.

What remains of Lord Mansfield's Rule after the 1955 enactment of the statute cited above in full text can only be preserved if the Court here reconsiders its ruling that the

mother's testimony, the mother's affidavit, and the father's uncontroverted but unsworn statement, "She has told you I am not the father," are held not to bastardize the child, but merely to raise the "relevant fact" of paternity in a form that then mandates blood or DNA testing.

Issue #5. Evidence newly discovered since oral argument, and only made available to Appellant's counsel on May 3, 1998, illustrates that the Busch v. Busch stipulation cited in Appellant's Brief at Tab No. 1, and Exhibit "A" here, as the basis for establishing that Appellant has been denied equal protection of the law thereby violating her State and Federal constitutional rights is not the isolated incident which must have been supposed by the Court of Appeals when it failed to address the argument as briefed. The following analysis clearly illustrates that only the Appellant herein has been denied the right to raise the "relevant fact" of her child's parentage since at least the year 1987 to date.

ARGUMENT

ANALYSIS OF NEWLY DISCOVERED EVIDENCE AND ARGUMENT THEREUPON

ORS Administrative Rule, "Establishment of Paternity," CS 168 Legal Father 4/87, Revised 9/97.

1. General.

What remains of Lord Mansfield's Rule is recognized even though the mother states her husband is not the child's natural father.

2. Judicial Order Excludes Legal Father.

"**Further, the marriage is voided on a finding that the
Mr. Doe is not the father."

The language of Appellant's Findings of Fact, which
were reportedly removed from the record by someone on the
District Court staff, is on all fours with this language. (See
Tab #5, Appellant's Brief on Appeal at paragraph #5.)

ARGUMENT

The Trial Court has denied Appellant's State and Federal
right to equal protection of the law afforded other welfare
mother's by both the Office of Recovery Services, CR 101 and by
not signing Appellant's Findings and Decree timely as provided by
the Utah Rules of Court Practice for the Trial Court, Rule Number
4-504. (See Trial Record Docket Sheet. Duplicates supplied here
under Exhibit C.) On December 20, 1996, Appellant's Findings
and Decree were taken to Judge Michael J. Elphinstone, CR 101
whose initials are DEL, but were never returned to the District
Court file and have not been accounted for by the clerk's office
to this date.)

By December 19th, when Respondent's counsel filed his Entry
of Appearance and his Objections to the Proposed Findings and
Decree, his documents were already one day too late under the
Rule of Practice for the Trial Court as stated herebefore.

In order for the Appellant to be assured of her rights of
procedural due process, the only thing the Court had an option to

do under the statutes controlling "relevant facts" on the parentage of any child was either to sign Appellant's Findings and Decree which had been taken into his chambers by his clerk, or to order DNA tests as provided by law and then sign the Appellant's Findings and Decree.

Counsel for Appellant knows of no standard by which the disappearance of documents listed in the docket record by the clerk from the Court's official file can be briefed, but it cannot be reasonably disputed that the Lower Court's actions, after losing the Appellant's Findings and Decree, could not be justified then and cannot be justified now. Because of the Lower Court's actions, the Appellant's most sacred constitutional rights as to the parentage of her child have been breached.

3. Judicial Order Silent.

"However, if all parties agree that the legal father is not, in fact, the father, consult the attorney (Utah Attorney General Deputy) about having the parties stipulate to a judicial paternity and child support against the natural father."

ARGUMENT

In the case at bar, a similarly situated natural mother, RAQUEL BUSCH, was afforded this means of "raising a relevant fact" as provided by 78-25-18 UCA 1953 as amended 1955. The Trial Court violated Appellant's right to equal protection of both the statute and the Statewide administrative procedure under ORS Policy #168 when it failed to recognize that the silence of

Defendant at the default hearing as well as his uncontroverted denial of paternity. The Respondent consented to a judicial order for DNA testing at minimum. The Lower Court deliberately concealed from counsel and appellant his intent to make a sterile husband into the father that the child would need someday by ruling at the default hearing that the Court would grant the "relief sought in the complaint" while ignoring that the Appellant's complaint alleged that the primary "relevant fact" as to her child's paternity. The Court likewise ignored the fact that the Respondent, by his failure to plead or to appear at the default hearing, had given his consent to the Appellant's raising the fact that he was not the father. The controlling Latin maxim is, "Silence of a party gives that party consent." "Consentire videtur." (Ballentine's Law Dictionary, Third Edition, at page 1011.)

4. No Judicial Order. (Analysis of ORS Administrative Rule Continued.)

"If the mother***does not believe that the husband is the natural father but the natural father will not cooperate in establishing paternity, serve the husband father with notice of agency action. The husband father***not refer the case to himself by***refer the case to the attorney to join the legal action. If appropriate, the attorney may establish a temporary support order against the (husband) legal father."

ARGUMENT

The Utah Attorney General has intervened in the case at bar at the Lower Court level. No support order was ever entered against the sterile legal father. At the Spouse Abuse Protective Order hearing, the Respondent denied paternity and proclaimed his sterility in an unsworn statement off the record. Appellant admitted to her counsel that her Verified Complaint was false on the "relevant fact" of paternity; whereupon, counsel notified the Court that no support order should be entered, and that paternity would be an issue in the divorce. Such notice meets the requirement of 78-25-18 UCA 1953 as amended 1995.

The Attorney General has not followed ORS Administrative Rule #168 even though intervention has been requested and ordered in that no support has ever been sought against either the husband legal father or the biological father from the time the Complaint was filed on June 10, 1996, until 18 months later when the Respondent's Findings and Decree were signed by the Court on January 28, 1998.

The Utah Attorney General, by silence on the issue of paternity, has assisted Respondent in denying Appellant's right to the protection of statutory law and administrative due process of law by its failure to pursue the legal father, respondent, and the natural father identified by the Appellant both by testimony and by affidavit of Appellant as required by the non-judicial order provisions of CS 168 ORS Administrative Regulations, Book II. (See Exhibit "B.")

The fact that in Busch v. Busch a similarly situated welfare mother was assisted by the Utah Attorney General to raise a "relevant fact" by an affidavit (Exhibit "D") on a paternity action is not an isolated incident as may have been thought by this Court in its April 23, 1998, Ruling which failed entirely to address the equal protection argument as briefed. Busch was also permitted to stipulate in a civil action that the child was not the issue of the legal father. (Exhibit "A.")

All tax supported lawyers have a duty to all citizens as well as to their respective agencies to do justice. The failure of Family Support Division, Utah Attorney General's Office, to file a brief disclosing a policy that has existed since 1987 but was not applied by them to benefit a natural mother who seeks to raise the "relevant fact" of paternity is both forbidden by the 1987 United States Supreme Court case of Santosky v. Kramer on the issue of the public duty of official government agencies and a default in the duty of the Utah Attorney General to protect the Appellant's constitutional rights to equal protection and due process of law under Federal and State constitutions.

CONCLUSIONS

Only by recognizing that this Court misunderstood the record when it alleged that Appellant had not raised the statutory "relevant fact of parentage" by amending her complaint instead of attempting to bastardize her child by her testimony or affidavit can the Appellant's all important family rights be protected and what remains of Lord Mansfield's Rule preserved. The case must

be remanded to the Lower Court for DNA testing of the legal and the biological fathers. (See ORS Policy 168, Exhibit "B.")

In 1998, the delivery of sufficient viable sperm to fertilize a live ovum no longer requires penal penetration or access. The female's ovum is today impregnated in a petri dish, and need not be re-implanted in the donor female to produce a live offspring. Previously impregnated ovum can be returned to the natural mother long after the death of the legal and biological father. The question of which this Court should take judicial notice is that the resulting child has been determined to be entitled to social security survivor's benefits, according to national news accounts. This is access from another world.

Sterility must be treated as being the physical equivalent of being in another country under ORS Administrative Rule 168, (see Exhibit "B"), and is physiologically the equivalent of non-access under what remains of Lord Mansfield's Rule. Appellant urges a stipulation of the State, the Appellant, and Respondent requiring that the matter be remanded to the Lower Court to determine access by DNA testing during the six-hour period critical to conception, and that paternity abide the result.

Unless the 28 salaried law clerks of the Court of Appeals and the 20 additional Assistant Attorneys General who prosecute cases like the one at bar in the State district courts can become imbued with the natural law mandate to do justice based on the relevant facts in family law cases such as this one, the United States Supreme Court must inevitably arrive at the conclusion

that the State of Utah is not capable of following its mandate in Santosky v. Kramer. (Supra). The High Court then can be expected to require not only that the states pay for transcripts in indigent cases such as was recently done in South Carolina, but that the State must also provide indigent families a number of law-trained personnel equal to the number employed by the State so as to assure that cases involving these sacred issues of family will not be disposed of because they are "not adequately briefed." On remand, the Lower Court should be required to order the production of non-testimonial DNA evidence by the parents and child as mandated in the applicable statute. Paternity should follow the outcome of DNA testing.

I certify that this petition is not filed for purposes of delay.

Dated this 6th day of May, 1998.



J. VAL ROBERTS
Attorney for Plaintiff/Appellant

CERTIFICATE OF MAILING

I certify that I mailed a true and correct copy of the foregoing PETITION FOR RE-HEARING, postage prepaid, on the 7th day of May, 1998, to the following: Jon J. Bunderson, Attorney, Bunderson & Baron, 45 North First East, ~~Brigham~~ City, Utah 84302.

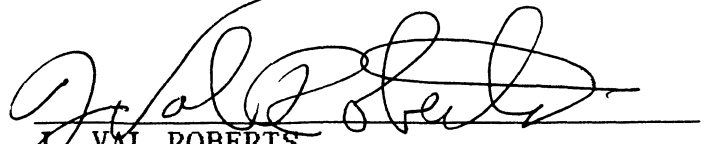

J. VAL ROBERTS
Attorney at Law

Exhibit A

Exhibit "A"

FILED IN CLERK'S OFFICE

APR 9 10 53 AM '97

CLERK, 2ND JUDICIAL COURT

BY _____

DIUMENTI & LEWIS
George S. Diument II #0888
Attorney for Plaintiff
505 South Main Street
Bountiful, Utah 84010
Telephone: 292-0447

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

RAQUEL BUSCH,	:	
Plaintiff,	:	STIPULATION AND AGREEMENT
vs.	:	
STEVEN BUSCH,	:	Case No. 944700971
Defendant,	:	
STATE OF UTAH, Department of Human Services,	:	
Intervenor.	:	

Come now the plaintiff and defendant above named and hereby stipulate and agree, subject to the approval of the Court, as follows:

1. That the parties have experienced irreconcilable differences during the course of their marriage, and each should be granted a divorce from the other.

2. That there have been 3 children born issue of this marriage to wit:

Ian Busch, born March 17, 1986; His Defendant ^{RB}

Sean Busch, born July 28, 1988; Her Defendant ^{RB}

Stevie Busch, born December 9, 1989 His Defendant ^{RB}

Kezzeniah Busch Her Defendant ^{RB} (NOT ISSUE OF MARRIAGE)

3. That plaintiff is a fit and proper parent and should be awarded the sole care, custody and control of the parties' minor children, with reasonable and generous visitation reserved in the defendant as prescribed by the Minimum Visitation Guidelines, a copy of which is attached hereto and incorporated herein.

4. That the defendant should pay child support to the plaintiff in the amount of ^{P 418 =} ~~\$166.92~~ per month in accordance with the Uniform Child Support Schedule, based upon plaintiff's income at \$730.00 per month and the defendant's income at \$619.00 per month.

5. ~~That in the event that the defendant is current on his~~ ^{PB} child support obligation he shall have the right to claim the minor ^{PB} children as dependents for income tax purposes. ^{IT2 Old & New 16 August 1980}

6. That both parties maintain medical, dental and optical insurance for the benefit of the minor children if it is available through their employer at a reasonable cost.

7. That defendant shall pay one-half of work related child care expenses subject to plaintiff's proof of such claims, e.g., receipts, bills, etc.

8. That both parties shall pay one-half of non-covered medical, dental and optical expenses.

8. That both parties waive any and all rights to alimony.

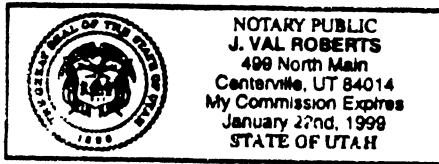
9. That defendant shall relinquish any and all claims attendant the real property and mobile home located at 1296 Governor Circle, Woods Cross, Utah, subject to plaintiff's assumption of all obligations attendant the real property and mobile home, including but not limited to all costs attendant

maintenance, mortgage payments, taxes and insurance thereon.

10. That the debts incurred during the course of the parties' marriage be divided equally between them, and the parties shall each be responsible for all debts incurred since their separation, holding the other harmless thereon.

11. That each party shall be responsible for their own costs and attorney's fees attendant this divorce action, and hold the other blameless thereon.

Dated this 28 day of August, 1996.



Raquel Busch
Raquel Busch
Plaintiff


STATE OF UTAH)
COUNTY OF Davis) ss.

Subscribed and sworn to before me this 28 day of
August, 1996.

J. Val Roberts
Notary Public
Residing at:

My Commission Expires:


Dated this 9th day of April, 1996.


Steven Busch
Defendant

STATE OF UTAH)
COUNTY OF Davis) ss.

Subscribed and sworn to before me this 9th day of
April, 1996.




Notary Public
Residing at: St. George

My Commission Expires:

Approved as to form:

Richard A. Hummel
Assistant Attorney General
Intervenor

J. Val Roberts
Attorney for Plaintiff
Davis County Title XX Legal Aid

Exhibit B

Exhibit "B"

CS 168

ESTABLISHMENT OF PATERNITY
CS 168 Legal Father 4/87 Revised 9/97**GENERAL**

If the child was conceived or born during the obligee's marriage, the legal father (by marriage) is responsible for child support and medical expenses until a court order or other legal document, such as a voluntary declaration of paternity, indicates otherwise, even though the obligee states that the husband is not the child's natural father.

JUDICIAL ORDER EXCLUDES LEGAL FATHER

If the divorce decree or findings of facts has a paragraph such as "During the marriage, a child was born to Mrs. Doe. Mr. Doe is not the father of the child because he was residing in another country at the time of conception;" or "during the marriage, a child was born to Mrs. Doe. Mr. Doe is not the father of that child" or "There were no children born as issue of the marriage and none are expected;" you may generally presume that the legal father has been judicially excluded as the father of the child. Proceed to establish paternity against the alleged father. Consult with your attorney if you are unsure if the judicial order excludes the legal father.

JUDICIAL ORDER SILENT

If the divorce decree is silent regarding the child in question, the legal father has **not** been excluded. However, if all parties agree that the legal father is in fact not the father, consult with your attorney about the possibility of having the parties stipulate to a judicial paternity and child support order against the natural father.

If all parties do not agree, refer the case to the attorney to modify the existing support order to include a support amount against the legal father for the child in question. Do not proceed administratively against the legal father. If paternity of the child becomes an issue in the court proceedings, the court may order genetic tests that may result in an exclusion on the legal father. Should this occur, proceed to establish paternity against the alleged father.

NO JUDICIAL ORDER

If there is no court order between the obligee and the obligor, such as in a separation case, any child born during the marriage is legally the obligor's responsibility, even though the obligee may name another man as the natural father of the child. However, if the mother, the natural father, and the legal father all agree, have them sign the voluntary declaration form. The child must have been born in Utah. Refer to CS 159, Voluntary Declaration of Paternity by Parents section of policy. In signing the declaration, the legal father consents to the natural father's voluntary declaration of paternity. After the declaration form is signed, proceed to establish an administrative support obligation against the obligor.

If the legal father cannot be located and the mother and natural father are willing to sign a judicial voluntary acknowledgment forms, you may be able to obtain a judicial order establishing paternity on the natural father. Consult with your attorney if you have such a case.

If the mother believes the legal father is the natural father, or the mother does not believe the

legal father is the natural father but the natural father will not cooperate in establishing paternity, serve the obligor (legal father) with an administrative Notice of Agency Action. If the obligor raises the issue of paternity after he has been served, inform the obligor that he must exclude himself by court order, such as a divorce order. If the obligor does not exclude himself or has not filed a legal action in the district court, proceed to establish an administrative order. If a legal action has been filed and is pending, such as a divorce action, dismiss the administrative action and refer the case to your attorney to join in the action. If appropriate, the attorney may establish a temporary support order against the legal father.

LEGAL FATHER RESPONSIBILITY

It is generally the responsibility of the legal father to begin the action to exclude himself. The legal father must retain his own legal counsel for this purpose. Refer the case to the appropriate attorney once you receive notification that the legal father is beginning exclusion efforts.

You may help the legal father arrange for genetic tests if the case meets the following criteria:

1. the legal father agrees to go through the testing laboratory ORS contracts with;
2. the mother has named an alleged father; and,
3. the alleged father has been located.

The legal father should pay for the tests for all parties involved in the exclusion process in advance. Create and post the funds to the genetic test debt.

If the obligee has named the legal father as the natural father, do not initiate non-cooperation proceedings against the obligee if she does not cooperate with the legal father's efforts to exclude himself. You may initiate non-cooperation proceedings against the obligee if she has named another man as the natural father but will not cooperate with the genetic tests.

If the legal father is excluded, do not add the excluded father's testing costs to the biological father's testing costs.

If the legal father made child support payments to ORS before he was excluded and now wants ORS to refund the payments to him, consult with your manager and attorney. ORS will usually only refund support payments in these cases if the original support order was by default, and a court has ordered ORS to repay the money. Refer to CS 177, the Paternity Set Aside section of policy for more information.

Exhibit C

2nd District - Farmington Dept

WEDNESDAY MARCH 19, 1997

3:16 PM

Case.....: 964700883 DA Divorce/Annulment

Filing Date: 06/10/96

Case Title:

Judge: MICHAEL G ALLPHIN

THRASH, KATHERINE A VS THRASH, JAMES L

Party...: ATP Atty for Plaintiff

Name....:

Work Phone.: (801) 295-9003

ROBERTS, J. VAL

P.O. BOX 666

CENTERVILLE

UT 840140000

Party...: ATD Atty for Defendant

Name....:

BUNDERSON, JON J.

45 NORTH 1ST EAST

BRIGHAM CITY

UT 843020000

06/10/96	Case filed on 06/10/96 ==> Divorce/Annulment	EXT
	CHILDREN	EXT
	VERIFIED COMPLAINT FOR DIVORCE	EXT
	CHILD SUPPORT OBLIGATION WORKSHEET	EXT
	NOTICE OF DIV.ED.CLASS REQ.	EXT
	AFFIDAVIT OF IMP.	EXT
I 06/14/96	*D *CONFIDENTIAL LETTER	KHB
I 06/19/96	*D *SUMMONS/RETURN 6-18-96 ON JAMES	SAS
10/10/96	DEF scheduled for 10/24/96 at 9:00 A in room E with MGA	KHB
	VAL ROBERTS CALLED TO SCHEDULE DEFAULT, NOTICED IT SAID THERE	KHB
	ARE CHILDREN, HE SAID SHE IS GOING TO TESTIFY THAT THE CHILD IS	KHB
	NOT DEFENDANTS	KHB
10/24/96	DEF rescheduled to 10/31/96 at 9:00 A in room E with MGA	EXT
	DEF RESCHEDULED AT COUNTER PER MR ROBERTS	EXT
11/05/96	962140004 Copy fee	5.00 LAW
	COPIES	LAW
I	*D *M.E. 10-31-96	KF
12/11/96	962380017 Copy fee	.25 LAW
	COPY	LAW
12/19/96	*****OBJECTION REC*****	LWW
	*D *OBJECTION TO PROPOSED FINDINGS AND DECREE	LWW
I	*D *ENTRY OF APPEARANCE	KF
I	*D *MTN TO DENY SIGNING & ENTRY OF PLA'S	KF
I	PROPOSED FINDINGS, DECREE & MEMO OR MTN	KF
I	TO SET ASIDE DEFAULT	KF
12/20/96	FF & DD TO MGA	DEL
12/27/96	Accepted distribution TF \$ 8.00 from Misc. Payments screen	LAW

Case.....: 964700883 DA Divorce/Annulment
Case Title:

Filing Date: 06/10/96
Judge: MICHAEL G ALLPHIN

THRASH, KATHERINE A VS THRASH, JAMES L

01/08/97 *****OBJECTION REC'D***** LMA
*D *OBJECTIONS TO THE DEF'S SUPP MEMO AND NOT TO SUBMIT LMA
FOR DECISION LMA
NOTICE TO SUBMIT/FILE TO RSP PAM
I 01/09/97 *D *RULING KF
I *D *NOTICE TO SUBMIT FOR DECISION KF
I *D *SUPPLEMENTAL MEMORANDUM KF
I 01/17/97 *D *MOTION FOR RECONSIDERATION AND TO SET KHB
I ASIDE DEFAULT JUDGMENT KHB
I *D *REQUEST FOR HEARING AND FOR ORAL KHB
I ARGUMENT KHB
I *D *PLAINTIFFS AFFIDAVIT IN SUPPORT OF KHB
I MOTION FOR RECONSIDERATION AND MOTION TO KHB
I SFT ASIDE DEFAULT KHB
I 01/29/97 *D *AMENDED MAILING CERTIFICATE KF
01/31/97 NOTICE TO SUBMIT, FF AND DD RETURNED TO BUNDERSON FOR NON LWL
COMPLIANCE LWL
I *D *DIVORCES BY AFFIDAVIT CHECKLIST KHB
02/04/97 ATTY BUNDERSON CALLED & STATED HE HAD RECEIVED HIS RESPONSE KWE
TO PLAINTIFF'S MOTION BACK IN THE MAIL WITH A LETTER FOR KWE
NON-COMPLIANCE. KWE
I 02/05/97 *D *REPLY TO THE DEFENDANTS OBJECTIONS TO KHB
I PLAINTIFFS MOTION FOR RECONSIDERATION KHB
I AND MOTION TO DISQUALIFY DEFENDANTS KHB
I COUNSEL FOR CONFLICT OF INTEREST KHB
I 02/10/97 *D *LETTER FROM VAI ROBERTS TO JON BUNDERSON KF
I *D *RESPONSE TO MTN FOR DISQUALIFICATION KF
02/28/97 Judge ID changed from RSP to MGA KHB
Commissioner ID changed from DSD to KHB
Case judgment is Default - Judge KHB
Case disposition is Closed KHB
*NOTICE TO SUBMIT KHB
*LETTER FROM JON J. BUNDERSON, DATED 1-28-97 KHB
*RESPONSE TO MOTION FOR RECONSIDERATION KHB
*FINDINGS OF FACT AND CONCLUSIONS OF LAW KHB
*DECREE OF DIVORCE (4:22 PM) KHB
JAMES IS TO PAY \$200.00 LEGAL AID AND \$82.00 KHB
COSTS 2-28-97 MGA KHB
I *D *REQUEST TO SIGN FF & DD SAS
I *D *RULING SAS
03/05/97 OSC scheduled for 3/27/97 at 3:30 P in room E with MGA IMC
I 03/07/97 *D *AFFIDAVIT IN SUPPORT OF OTSC KHB
I *D *OTSC KHB

End of the docket report for this case.

D O C K E T

Page 1

2nd District - Farmington Dept

WEDNESDAY MARCH 19, 1997

3:16 PM

Case.....: 964700883 DA Divorce/Annulment

Filing Date: 06/10/96

Case Title:

Judge: MICHAEL G ALLPHIN

THRASH, KATHERINE A VS THRASH, JAMES L

Cause of Action:

Amount of Suit.: \$.00

Return Date....:

Judgment.....: DJ Default - Judge

Date: 02/28/97

Amt:

\$.00

Disposition.....: CL Closed

Date: 02/28/97

Court Set: UNCONTESTED DIVORCE

on 10/31/96 at 0900 A in room E with MGA

ORDER TO SHOW CAUSE

on 03/27/97 at 0330 P in room E with MGA

No Tracking Activity.

No Accounts Payable Activity.

Transaction:	Date:	Cash-in	Check-in	Check-out	Total
Civil File Fee	06/10/96	.00	.00	.00	.00
Civil File Fee	11/05/96	5.00	.00	.00	5.00
Civil File Fee	12/11/96	.25	.00	.00	.25
Misc Revenue	12/27/96	.00	8.00	.00	8.00

Party...: PLA Plaintiff

Name....:

THRASH, KATHERINE A

Party...: DEF Defendant

Name....:

THRASH, JAMES L

Exhibit D

Exhibit "D"

STATE OF UTAH
COUNTY OF DAVIS
THE UNDERSIGNED CLERK OF THE DISTRICT COURT
DAVIS COUNTY, UTAH, DO HEREBY CERTIFY THAT
THE ANNEXED AND FOREGOING IS A TRUE AND FULL
COPY OF AN ORIGINAL DOCUMENT ON FILE IN MY
OFFICE AS SUCH CLERK
OF
WITNESS MY HAND AND SEAL OF SAID OFFICE
THIS 27 DAY OF April, 1998
ALYSON E. BROWN, CLERK

AFFIDAVIT

STATE OF UTAH)
: ss.
COUNTY OF DAVIS)

I, Raquel Leigh Busch, being first duly sworn upon oath depose and say:

1. I am a resident of Davis County, State of Utah.
2. I am the mother of Kezzekiah Talene Busch, born to me out of wedlock on May 30, 1996.
3. Between the months of August October, 1995 and September, 1995, I had sexual intercourse with David Scott

Simonsen and that intercourse took place in the State of Utah.

4. During the probable time of conception of Kezzekiah Talene Busch, I had sexual intercourse with no male other than David Scott Simonsen.

5. Upon my best knowledge and understanding, I believe David Scott Simonsen to be the father of Kezzekiah Talene Busch.

6. I have made application with the Department for child support services and/or I have received public assistance (AFDC) from the State of Utah Department of Human Services and have assigned my child support rights to the Department.

7. I understand that the Department intends to bring suit against David Scott Simonsen under the provisions of U.C.A. §§ 78-45a-1, et seq., and that I will cooperate with the Department in the prosecution of said suit.

Raquel Leigh Busch
Raquel Leigh Busch

Subscribed and sworn to before me this 10 day of December, 1996.

Marilyn Petty
NOTARY PUBLIC

Residing at: Davis County, Utah

My Commission Expires: 5-1-98

✓ ORS Case No. C000221598

EXHIBIT "A"

