

TM 4–1 Kinds of Agreements

Exhibit 4.1 Kinds of Agreements		
Kind	Definition	Example
Cohabitation Agreement	A contract made by two individuals who intend to stay unmarried indefinitely that covers financial and related matters while living together, upon separation, or upon the death of one of them.	Ed and Claire meet at a bank where they work. After dating several years, they decide to live together. Although they give birth to a child, they do not want to be married. They enter an agreement that specifies what property is separately owned and how they will divide property purchased with joint funds in the event of a separation.
Premarital Agreement (also called prenuptial agreement (a “prenup”) or antenuptial agreement)	A contract made by two individuals who are about to be married that covers spousal support, property division, and related matters in the event of the separation of the parties, the death of one of them, or the dissolution of the marriage by divorce or annulment.	Jim and Mary want to marry. Each has a child from a prior marriage. Before the wedding, they enter an agreement that specifies the property each brings to the marriage as separate property. The agreement states that neither will have any rights in this property; it will go to the children from their prior marriages. In addition, the agreement states that all income earned by a party during the marriage shall be the separate property of that party rather than marital or community property.
Postnuptial Agreement (“postnup”; also called a midmarriage or midnuptial agreement)	A contract made by two individuals while they are married that covers financial and related matters. The parties may have no intention of separating. If they have this intention, the agreement is called a separation agreement.	While happily married, George and Helen enter an agreement whereby George lends Helen \$5,000 at 5% interest. She is to make monthly payments of \$300. (To make this loan, George uses money he recently inherited from his mother.)
Separation Agreement	A contract made by two married individuals who have separated or are about to separate that covers support, custody, property division, and other terms of their separation.	Sam and Jessica have separated. In anticipation of their divorce, they enter an agreement that specifies how their marital property will be divided, who will have custody of their children, and what their support obligations will be. Later they will ask the divorce court to approve this agreement.

TM 5-3 Common Law Marriage

Exhibit 5.3 Common Law Marriage			
State	Valid in State?	State	Valid in State?
Alabama	Yes	Nebraska	Not after 1923
Alaska	Not after 1/1/64	Nevada	Not after 3/29/43
Arizona	No	New Hampshire	Yes (but only for inheritance or to claim death benefits)
Arkansas	No		
California	Not after 1895	New Jersey	Not after 1/12/39
Colorado	Yes	New Mexico	No
Connecticut	No	New York	Not after 4/29/33
Delaware	No	North Carolina	No
District of Columbia	Yes	North Dakota	No
Florida	Not after 1/1/68	Ohio	Not after 10/10/91
Georgia	Not after 1/1/97	Oklahoma	Yes
Hawaii	No	Oregon	No
Idaho	Not after 1/1/96	Pennsylvania	Yes
Illinois	Not after 6/30/05	Rhode Island	Yes
Indiana	Not after 1/1/58	South Carolina	Yes
Iowa	Yes	South Dakota	Not after 7/1/59
Kansas	Yes	Tennessee	No
Kentucky	No	Texas	Yes
Louisiana	No	Utah	Yes
Maine	No	Vermont	No
Maryland	No	Virginia	No
Massachusetts	No	Washington	No
Michigan	Not after 1/1/57	West Virginia	No
Minnesota	Not after 4/26/41	Wisconsin	Not after 1913
Mississippi	Not after 4/5/56	Wyoming	No
Missouri	Not after 3/3/21		
Montana	Yes		

Source: U.S. Department of Labor, Women's Bureau.

TM 5-4 Declaration of Domestic Partnership



State of California
Bill Jones
Secretary of State

FILE NO: _____

DECLARATION OF DOMESTIC PARTNERSHIP
(Family Code Section 298)

Instructions:

1. Complete and mail to: Secretary of State, P.O. Box 944225, Sacramento, CA 94244-2250 (916) 653-4984
2. Include filing fee of \$10.00

We the undersigned, do declare that we meet the requirements of Section 297 at this time:

(Office Use Only)

We share a common residence;
 We agree to be jointly responsible for each other's basic living expenses incurred during our domestic partnership;
 Neither of us is married or a member of another domestic partnership;
 We are not related by blood in a way that would prevent us from being married to each other in this state;
 We are both at least 18 years of age;
 We are both members of the same sex or we are both over the age of 62 and meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C Section 1381 for aged individuals;
 We are both capable of consenting to the domestic partnership;
 Neither of us has previously filed a Declaration of Domestic Partnership with the Secretary of State pursuant to Division 2.5 of the Family Code that has not been terminated under Section 299 of the Family Code.

The representations herein are true, correct and contain no material omissions of fact to our best knowledge and belief. Sign and print complete name (if not printed legibly, application will be rejected.) Signatures of both partners must be notarized.

 Signature (Last) (First) (Middle)

 Signature (Last) (First) (Middle)

 Common Residence Address City State Zip Code

 Mailing Address City State Zip Code

NOTARIZATION IS REQUIRED

State of California
 County of _____

On _____, before me, _____, personally
 appeared _____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) executed the instrument.

 Signature of Notary Public

[PLACE NOTARY SEAL HERE]

TM 5-6 Vermont License and Certificate of Civil Union

**DEPARTMENT OF HEALTH
VERMONT LICENSE AND CERTIFICATE
OF CIVIL UNION**

LOCAL FILE NUMBER STATE FILE NUMBER

PARTY A

1. NAME (First, Middle, Last) 1b. MAIDEN SURNAME (If Applicable) 1c. DATE OF BIRTH (Month, Day, Year)

2. SEX 3. MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code)

4a. USUAL RESIDENCE - STATE 4b. CITY OR TOWN 5. BIRTHPLACE (State or Foreign Country)

6a. FATHER'S NAME (First, Middle, Last) 6b. BIRTHPLACE (State or Foreign Country) 7a. MOTHER'S NAME (First, Middle, Maiden Surname) 7b. Birthplace (State or Foreign Country)

PARTY B

8a. NAME (First, Middle, Last) 8b. MAIDEN SURNAME (If Applicable) 8c. DATE OF BIRTH (Month, Day, Year)

9. SEX 10. MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code)

11a. USUAL RESIDENCE - STATE 11b. CITY OR TOWN 12. BIRTHPLACE (State or Foreign Country)

13a. FATHER'S NAME (First, Middle, Last) 13b. BIRTHPLACE (State or Foreign Country) 14a. MOTHER'S NAME (First, Middle, Maiden Surname) 14b. Birthplace (State or Foreign Country)

APPLICANTS

We hereby certify that the information provided is correct to the best of our knowledge and belief and that we are free to form a civil union under the laws of Vermont.

15a. SIGNATURE 15b. DATE SIGNED 15c. SIGNATURE 15d. DATE SIGNED

CERTIFICATION **OFFICIANT** (See instructions on back)

I hereby certify that the above named persons have made oath to the truth of the facts stated in the foregoing declaration and complied with the civil union laws of the State of Vermont.

16a. DATE ON WHICH LICENSE WAS ISSUED (Month, Day, Year)

16b. TOWN CLERK (Signature)

16c. TOWN OR CITY

16d. THIS LICENSE IS VALID FROM _____ (DATE)
TO _____ (DATE) UNLESS WAIVED BY A VERMONT COURT

This license authorizes the establishment of a civil union IN VERMONT ONLY of the above named parties by any person duly authorized to certify a civil union.

17a. I CERTIFY THAT THE ABOVE PERSONS ESTABLISHED A CIVIL UNION ON (Month, Day, Year) 17b. IN THE CITY OR TOWN OF

DATE >

17c. SIGNATURE OF OFFICIANT

17d. NAME (Type/Print) 17e. TITLE

17f. ADDRESS OF OFFICIANT (Street and Number or Rural Route Number, City or Town, State, Zip Code)

REGISTRATION

18a. CLERK'S SIGNATURE 18b. DATE RECEIVED BY LOCAL REGISTRAR

19a. TRUE COPY - (Clerk's Signature) (To be signed by Registrar on copy only) 19b. TOWN 19c. DATE

Attest:

CONFIDENTIAL INFORMATION. THE INFORMATION BELOW MUST BE COMPLETED. IT WILL NOT APPEAR ON CERTIFIED COPIES OF THE RECORD.

PARTY A

20. NAME IF PREVIOUSLY MARRIED OR IN A CIVIL UNION EDUCATION (Specify only highest grade completed)

LAST MARRIAGE OR CIVIL UNION ENDED BY DATE Elementary or Secondary (0-12) College (1-4 OR 5+)

21. RACE - White, Black, American Indian, etc. (Specify) 22. TOTAL NO. OF CIVIL UNIONS OR MARRIAGES INCLUDING THIS ONE MONTH YEAR

DEATH DISSOLUTION DIVORCE ANNULMENT

23a. 23b. 24.

PARTY B

25. NAME IF PREVIOUSLY MARRIED OR IN A CIVIL UNION EDUCATION (Specify only highest grade completed)

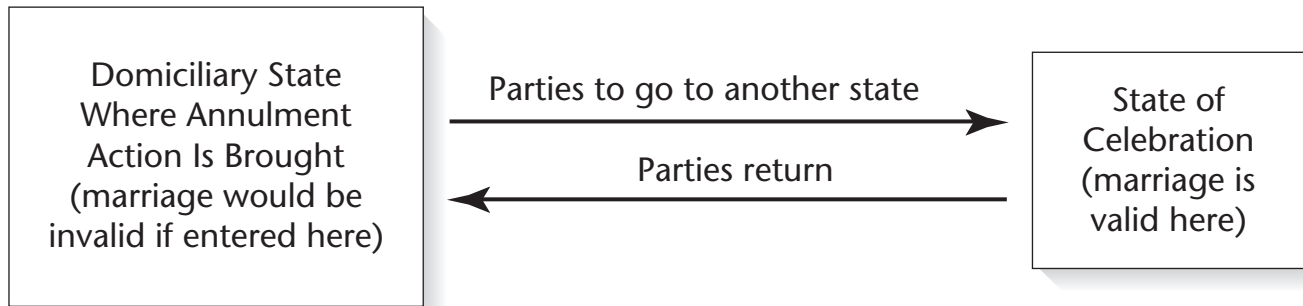
LAST MARRIAGE OR CIVIL UNION ENDED BY DATE Elementary or Secondary (0-12) College (1-4 OR 5+)

26. RACE - White, Black, American Indian, etc. (Specify) 27. TOTAL NO. OF CIVIL UNIONS OR MARRIAGES INCLUDING THIS ONE MONTH YEAR

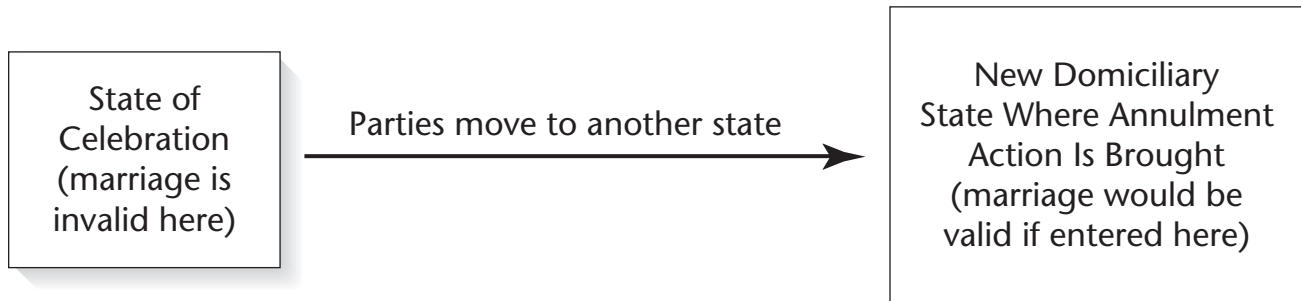
DEATH DISSOLUTION DIVORCE ANNULMENT

28a. 28b. 29.

TM 6-1 Marriages Valid in State of Celebration



TM 6-2 Marriages Invalid in State of Celebration



TM 7-1 Divorce Rate

Exhibit 7.1 Divorce Rate		
Year	Number of Divorces	Rate/1000 Total Population
1998	1,135,000	4.2
1997	1,142,000	4.3
1996	1,158,000	4.4
1990	1,175,000	4.7
1980	1,182,000	5.2
1970	773,000	3.7
1960	393,000	2.2
1950	385,000	2.6
1940	293,000	2.2

Source: Monthly Vital Statistics Report, Vol. 47, No. 21; National Center for Health Statistics <<http://www.cdc.gov/nchs/fastats/divorce.htm>>; F. Cox, *Human Intimacy* 484 (8th ed. 1999).

TM 7-3 Kinds of Divorce Jurisdiction

Exhibit 7.3 Kinds of Divorce Jurisdiction		
KIND OF JURISDICTION A COURT CAN HAVE	HOW THIS KIND OF JURISDICTION IS ACQUIRED	POWER THIS KIND OF JURISDICTION GIVES THE COURT
Subject matter jurisdiction	A state statute or constitutional provision gives the court the power to hear cases involving the subject matter of divorce.	The court can hear divorce cases.
In rem jurisdiction	One or both of the spouses are domiciled in the state.	The court can dissolve the marriage.
Personal jurisdiction	Process is personally delivered to the defendant—service of process. (Alternatives may include substituted service, the long-arm statute, etc.)	The court can order the defendant to comply with alimony, child-support, or property division obligations.

(The special problems involved in acquiring jurisdiction to render child-custody decisions are discussed in chapter 9.)

TM 7-4 Basic Structure of a Divorce Complaint

Exhibit 7.4 Basic Structure of a Divorce Complaint	
STATE OF _____ COUNTY OF _____ FAMILY COURT BRANCH Mary Smith, Plaintiff v. Fred Smith, Defendant	<i>Caption</i>
Civil Action No. _____ COMPLAINT FOR ABSOLUTE DIVORCE	<i>Commencement</i>
The plaintiff, through her attorney, alleges: (1) The jurisdiction of this court is based upon section _____, title _____ of the State Code (1978). (2) The plaintiff is fifty years old. (3) The plaintiff is a resident of the State of _____, County of _____. She has resided here for five years immediately preceding the filing of this complaint. (4) The parties were married on March 13, 1983, in the State of _____, County of _____. (5) There are no children born of this marriage. (6) The plaintiff and defendant lived and cohabitated together from the date of their marriage until February 2, 1999, at which time they both agreed to separate because of mutual incompatibility. This separation has continued voluntarily and without cohabitation for more than two years until the present time. (7) Since the separation, the plaintiff has resided at _____, and the defendant has resided at _____. (8) There is no reasonable likelihood of reconciliation.	<i>Body</i>
WHEREFORE, the plaintiff PRAYS: (1) For an absolute divorce. (2) For alimony and a division of property. (3) For restoration of her maiden name. (4) For reasonable attorney's fees and costs. (5) For such other relief as this Court may deem just and proper.	<i>Prayer for Relief</i>
_____ Linda Stout Attorney for Plaintiff 234 Main St. _____, _____ 07237	_____ Mary Smith, Plaintiff
STATE of _____ COUNTY of _____ Mary Smith, being first duly sworn on oath according to law, deposes and says that she has read the foregoing complaint by her subscribed and that the matters stated therein are true to the best of her knowledge, information, and belief.	<i>Verification</i>
_____ Mary Smith Subscribed and sworn to before me on this _____ day of _____, 20 ____	_____ Notary Public
My commission expires _____	

TM 8-1 Characteristics of an Effective Separation Agreement**Exhibit 8.1** Characteristics of an Effective Separation Agreement

- 1. Comprehensive.** It covers all major matters. Should a problem arise months or years later, the parties will not have to say, "We never thought of that when we drafted the agreement."
- 2. Fair.** If the agreement is not fair to both sides, it may be unworkable, which will force the parties into expensive and potentially bitter litigation. Hence the worst kind of legal assistance a law office can provide is to "outsmart" the other side into "giving up" almost everything. Little is accomplished by winning the war, but losing the peace. "You gain no advantage in depriving your ex-spouse of what he/she is entitled to. Remember, your ex-spouse has the ability to make your life miserable." Mississippi State Bar, Family Law Section, Consumers Guide to Divorce 4 (1990).
- 3. Accurate.** The agreement should accurately reflect the intentions of the parties. What they orally agreed to do in formal or informal bargaining sessions should be stated in the written agreement. No clause in the agreement should ever prompt one of the parties to exclaim, "That's not what we agreed to do!"
- 4. Legal.** Certain things can and cannot be done in a separation agreement; the agreement must not attempt to do anything that is illegal.
- 5. Readable.** The agreement should be written in language that the parties can understand without having to hire or rehire an attorney every time a question arises.

TM 8-3 Sample Introductory Clauses in a Separation Agreement

Exhibit 8.3 Sample Introductory Clauses in a Separation Agreement

Separation Agreement

THIS AGREEMENT is entered on this _____ day of _____, 20____, by Fred Jones (referred to in this agreement as the Husband), residing at _____, and by Linda Jones (referred to in this agreement as the Wife), residing at _____.

Witnesseth:

WHEREAS, the parties were married on _____, 19____ in the state of _____, city of _____, and

WHEREAS, _____ children were born of this marriage: (here list each child with dates of birth)

WHEREAS, as a result of irreconcilable marital disputes, the parties have been voluntarily living apart since _____, 20____ which both parties feel is in their own best interests and that of their children, and

WHEREAS, both parties wish to enter this agreement for the purpose of settling all custody, support, and property rights between them, and any other matter pertaining to their marriage relationship, and

WHEREAS, both parties acknowledge that they have had separate and independent legal advice from counsel of their own choosing on the advisability of entering this agreement, that they have not been coerced or pressured into entering the agreement, and that they voluntarily decide to enter it.

NOW THEREFORE, in consideration of the promises and the mutual commitments contained in this agreement, the parties agree as follows:

[the full text of the agreement goes here in numbered paragraphs; sample clauses are found at the end of this chapter.]

TM 8-4 Alimony and Property Division Terms of a Separation Agreement

Exhibit 8.4 Alimony and Property Division Terms of a Separation Agreement	
Effect of Bankruptcy	
Alimony	Property Division
If the spouse with the obligation to pay alimony goes into bankruptcy, his or her obligation to pay alimony is <i>not</i> discharged. All unpaid or delinquent alimony debts are still owed.	Under certain circumstances, a spouse may be able to discharge his or her property division debt through bankruptcy.
Effect of Remarriage and Death	
Alimony	Property Division
<p>If the person receiving alimony (the payee) remarries, the alimony payments stop unless the separation agreement specifically provides otherwise.</p> <p>If the person paying alimony (the payor) remarries, the alimony payments to the first spouse must continue unless a court provides otherwise.</p> <p>If the payee or the payor dies, alimony payments cease unless the separation agreement specifically provides otherwise.</p>	The remarriage or death of either party does not affect the terms of the property division. All remaining obligations under the property division must be fulfilled regardless of who remarries or dies.
Availability of Contempt	
Alimony	Property Division
If a party fails to fulfill an alimony obligation and falls into arrears, the power of the court to punish for contempt can be used as an enforcement device if the separation agreement has been incorporated and merged into a later divorce decree.	If either party fails to fulfill the obligations under the property division, states differ on whether the contempt power of the court can be used as an enforcement device. Many states say that they cannot, except for violation of a court order to transfer property.
The Court's Power to Modify Terms	
Alimony	Property Division
A court may have the power to modify the alimony term of a separation agreement if there has been a substantial change of circumstances of a continuing nature.	If either party later becomes dissatisfied with the terms of an otherwise valid property division, the court will rarely, if ever, modify those terms.
Federal Income Tax Treatment	
Alimony	Property Division
Alimony payments are includible in the gross income of the payee and are deductible for the payor. (See chapter 11.)	Transfers of property incident to a divorce are not reportable as income by the transferee or deductible by the transferor. The basis of the property in the hands of the transferee is the same as the transferor's basis.

TM 8-5 Property Division upon Divorce

Exhibit 8.5 Property Division upon Divorce		
Kind of Property	Distribution in Common Law Property States	Distribution in Community Property States
Property acquired before marriage	This is separate property. In most states, all of it goes to the spouse who acquired it unless he or she agrees otherwise.	This is separate property. All of it goes to the spouse who acquired it unless he or she agrees otherwise.
Property acquired by one spouse during marriage by gift, will, or intestate succession	This is separate property. In most states, all of it goes to the spouse who acquired it unless he or she agrees otherwise.	This is separate property. All of it goes to the spouse who acquired it unless he or she agrees otherwise.
Property acquired or earned by either spouse during the marriage (other than what only one spouse received by gift, will, or intestate succession)	If the spouses cannot agree, each gets a fair (equitable) share, which may or may not be equal.	Property is split fifty/fifty between the spouses unless they agree otherwise.
Increased value (appreciation) of separate or marital property that occurs during marriage	If the spouses cannot agree, each gets a fair (equitable) share of the amount of the appreciation, which may or may not be equal.	Appreciation is split fifty/fifty between the spouses unless they agree otherwise.

TM 9-1 Example of Computer-Assisted Custody and Visitation Planning

**CHILD CUSTODY AND VISITATION CALENDAR
DECEMBER**

Proposal No. 3
April 23, 1999

John Q. Attorney
Bartholomew, Wasznicky & Molinaro LLP
William O'Brien

Father 
Mother 
AC 

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday						
			2:30 pm				Mic					
			2:30 pm				Ste					
7:30 am			2:30 pm				Cla					
7:30 am							Ric					
1	2	3	4	Ste B-Day	5	6	7					
7:30 am				5:30 pm 7:30 pm			Mic					
7:30 am				5:30 pm 7:30 pm			Ste					
7:30 am				5:30 pm 7:30 pm			Cla					
							Ric					
8	9	10	11	12	13	14						
			2:30 pm				Mic					
			2:30 pm				Ste					
		7:30 am					Cla					
					5:15 pm		Ric					
15	16	17	18	19	20	21						
				12:00 pm			Mic					
				12:00 pm			Ste					
				7:30 am			Cla					
				12:00 pm			Ric					
22	23	Hannukkah	24	Christmas Hannukkah	25	Hannukkah	26	Hannukkah	27	Hannukkah	28	
							7:30 am				Mic	
							7:30 am				Ste	
							7:30 am				Cla	
							7:30 am				Ric	
Hannukkah	29	Hannukkah	30	31								

TM 10-3 Amnesty Ad in Sports Section of Local Newspaper**Exhibit 10.3** Amnesty Ad Placed in Sports Section of Local Newspaper**DO YOU OWE CHILD SUPPORT?****—Has your luck run out?—**

Beginning Monday morning, December 6, a substantial number of Kansas City area parents who have failed to make their court-ordered child support payments will be arrested, jailed, and prosecuted. Could you be one of those parents?

Rather than gamble, you can receive amnesty from criminal prosecution by coming in person to the child support enforcement office at 1805 Grand Avenue in Kansas City and making immediate payment arrangements. You only have until this Friday at 5 p.m. Next Monday, you may be in jail, and then it will be too late.

Come in—let's talk.

Missouri Division of Child Support Enforcement
1805 Grand Ave., Suite 300
Kansas City, MO

TM 10-4 Notice of Collection of Income Tax Fund

Exhibit 10.4 Notice of Collection of Income Tax Refund

Department of the Treasury
Internal Revenue Service

Sam Jones
999 Peachtree Street
Doraville, CO 99999

If you have any questions, refer to this information:

Date of This Notice: January 4, 2003
Social Security Number: 215-32-2726
Document Locator Number:
Form Tax Year Ended: 2001

Call:

or

Write: Chief, Taxpayer Assistance Section
Internal Revenue Service Center

If you write, be sure to attach this notice.

THIS IS TO INFORM YOU THAT THE AGENCY NAMED BELOW HAS CONTACTED US REGARDING AN OUTSTANDING DEBT YOU HAVE WITH THEM.

UNDER AUTHORITY OF SECTION 6402(c) OF THE INTERNAL REVENUE CODE, ANY OVERPAYMENT OF YOUR FEDERAL INCOME TAX WILL BE APPLIED TO THAT OBLIGATION BEFORE ANY AMOUNT CAN BE REFUNDED OR APPLIED TO ESTIMATED TAX. IF YOU HAVE ANY QUESTIONS ABOUT THE OBLIGATION OR BELIEVE IT IS IN ERROR, YOU SHOULD CONTACT THAT AGENCY IMMEDIATELY.

NAME OF AGENCY

DEPT. OF SOCIAL SERVICES
DIV. OF INCOME AND SUPPORT
CHILD SUPPORT ENFORCEMENT
1575 OBLIGATION STREET
TIMBUKTU, CO 92037

CONTACT: CHILD SUPPORT
PHONE: 619-456-9103

TM 11-2 Requirements for Deductible Alimony**Exhibit 11.2** Requirements for Deductible Alimony

A payment qualifies as alimony when:

1. The payment is to a spouse or former spouse under a divorce decree or separation agreement.
2. The parties do not file a joint tax return with each other.
3. The parties are not members of the same household when the payment is made. (This third requirement applies only if the parties are legally separated under a decree of divorce or separate maintenance.)
4. The payment is in cash.
5. There is no obligation to make any payment (in cash or other property) after the death of the recipient.
6. The payment is not improperly disguised child support.
7. The parties have not exercised the option of treating qualifying alimony payments as nonalimony.

TM 11-4 Tax Treatment of Payments and Transfers Pursuant to Divorce Agreements and Decrees

Exhibit 11.4 Tax Treatment of Payments and Transfers Pursuant to Divorce Agreements and Decrees

	Payor	Recipient
Alimony	Deduction from income.	Included in income.
Alimony recapture	Included in income in the third year	Deducted from income in the third year.
Child support	Not deductible.	Not includible in income.
Property settlement	Not included in income. Not deductible.	Not included in income. Not deductible; basis for the property is the same as the transferor's adjusted basis if the transfer is incident to a divorce.

Source: West's Federal Taxation: Individual Income Taxes, 4-22 (1994).

TM 13-2 Paternity Petition

Exhibit 13.2 Paternity Petition

FAMILY COURT OF
COUNTY OF

.....
In the Matter of a Paternity Proceeding

_____ Petitioner,
—against—
_____ Respondent,
.....

Docket No.
PATERNITY PETITION
(Parent)

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. Petitioner resides at _____.
2. Petitioner had sexual intercourse with the above named Respondent (on several occasions covering a period of time beginning on or about the _____ day of _____, 20_____, and ending on or about the _____ day of _____, 20_____, and as a result thereof (Petitioner) became pregnant.
3. *(a) (Petitioner) gave birth to a (male) (female) child out of wedlock on the _____ day of _____, 20_____, at _____.
*(b) (Petitioner) is now pregnant with a child who is likely to be born out of wedlock.
4. (Respondent) who resides at _____ is the father of the child.
5. (Respondent) (has acknowledged) (acknowledges) paternity of the child (in writing) (and) (by furnishing support).
6. No previous application has been made to any court or judge for the relief sought herein (except _____.)

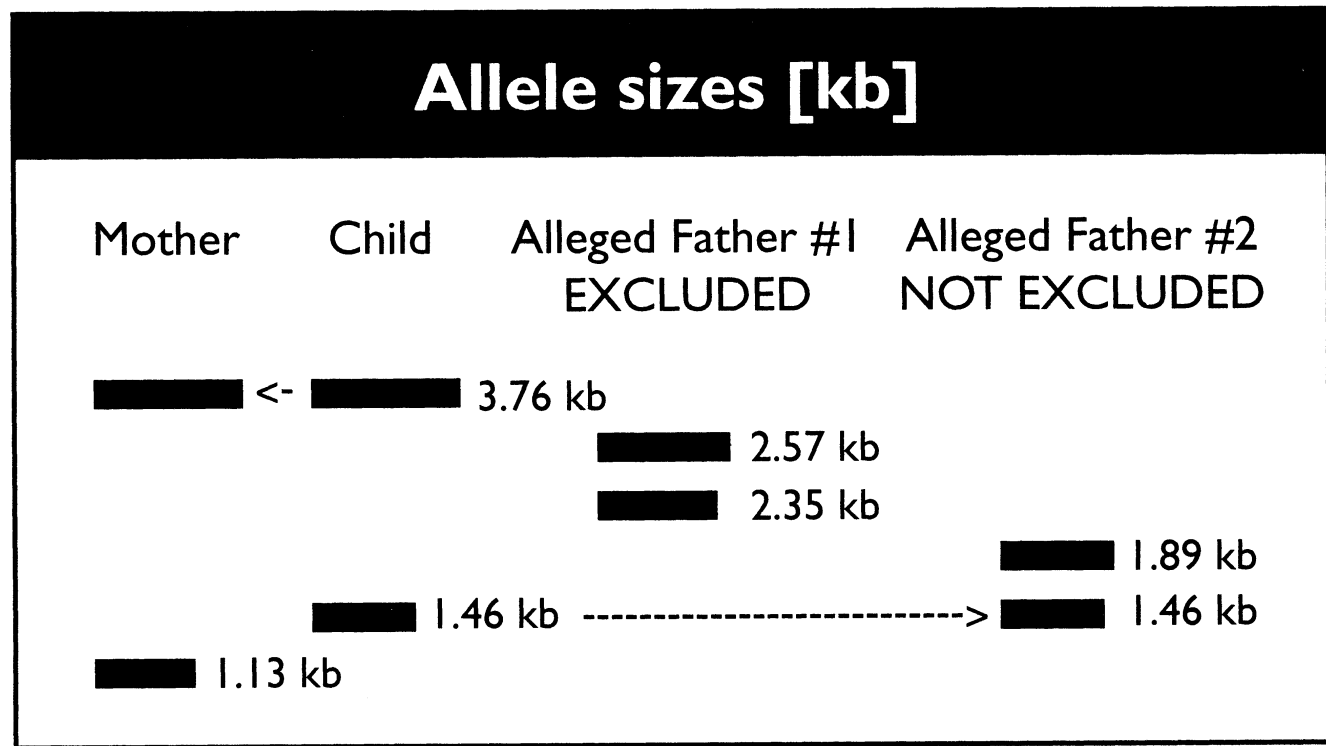
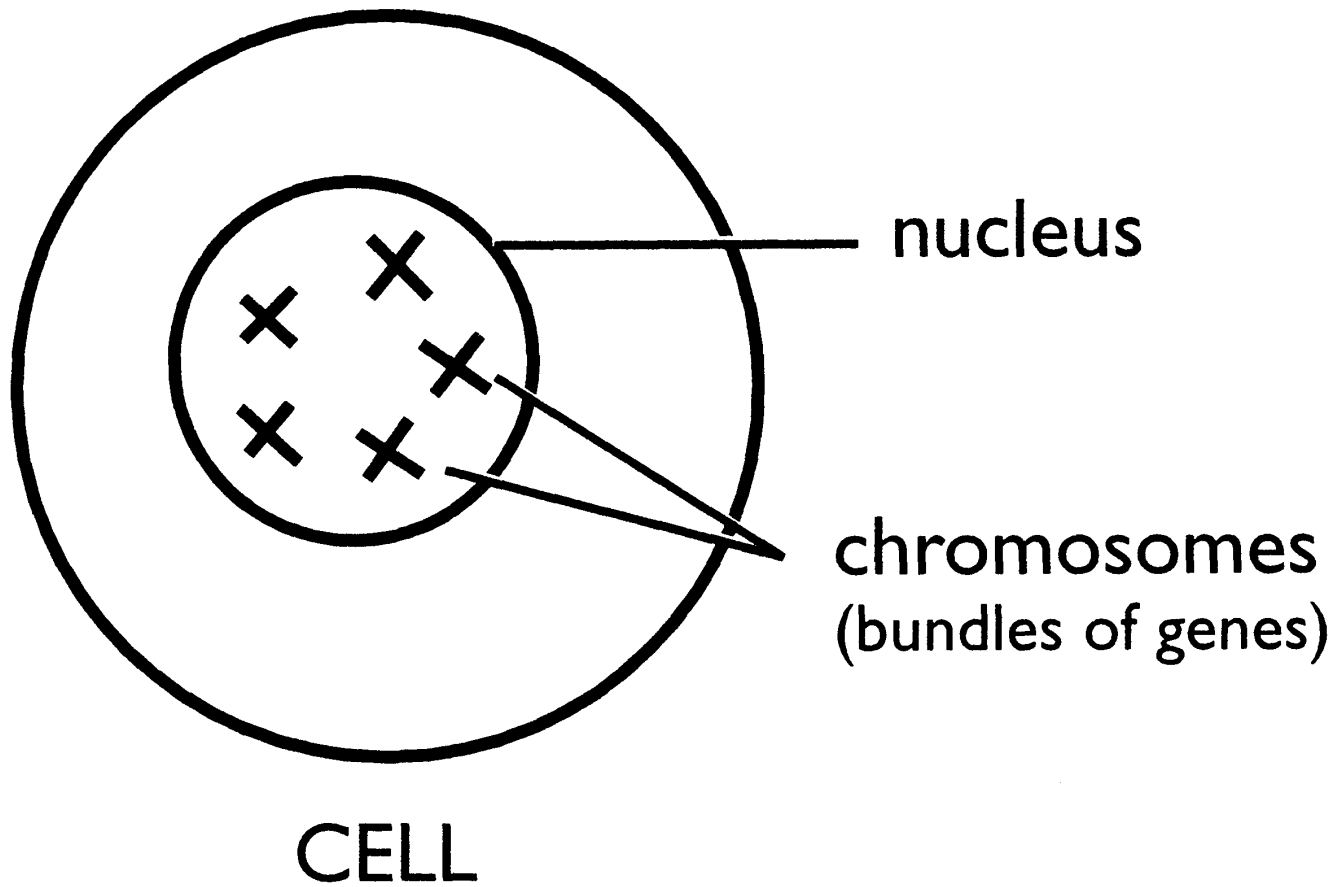
WHEREFORE, Petitioner prays that this Court issue a summons or warrant requiring the Respondent to show cause why the Court should not enter a declaration of paternity, an order of support, and such other and further relief as may be appropriate under the circumstances.

Petitioner

Dated: _____, 20_____.

*Alternative allegations.

TM 13-3 How DNA Identity Testing Works



TM 13-4 Sample DNA Report

the GENETICA DNA Test™

No. 87237 4321	MOTHER	CHILD	ALLEGED FATHER
Patient Name	XXXXX	XXXXX	XXXXX
Date of Birth	7/2/1974	7/12/2000	3/18/1973
Race	Caucasian		Caucasian
Date Collected	1/1/2001	1/1/2001	1/1/2001
Test Number	87237-1	87237-2	87237-3
Genetic Systems Tested	Allele Sizes (kilobases)	Allele Sizes (kilobases)	Allele Sizes (kilobases)
D2S44 SLI106 - Hae III PI 16.10	2.35 2.24	3.21 2.35	3.21 1.35
D4S163 SLI604 - Hae III PI 8.70	6.02 4.52	6.02 4.88	8.26 4.88
D6S132 SLI1090 - Hae III PI 6.68	4.49 3.31	4.49 1.88	3.78 1.88
D7S467 SLI989 - Hae III PI 74.00	5.18 4.67	4.67 2.68	4.36 2.68
D10S28 SLI917 - Hae III PI 24.60	3.81 1.80	3.81 1.68	1.68 1.59

Interpretation: Combined Parentage Index 1,703,289 Probability of Parentage 99.9999%

The alleged father, XXXXX, cannot be excluded as the biological father of the child named XXXXX. Based on testing results obtained from analyses of 5 different DNA probes, the probability of paternity is 99.9999%. This probability of paternity is calculated by comparing to an untested, unrelated man of the North American Caucasian population (assumes prior probability equals .50). The GENETICA DNA Test excluded greater than 99.99% of the male population from the possibility of being the biological father of the tested child.

COURT/ADMIN Case No.: **XXXX-XX** Report Date **1/3/2001**

Subscribed and sworn before me on 5/10/2001, I, Elizabeth Panke, M.D., Ph.D., verify that the interpretation of results is correct as reported, and the above testing was conducted in accordance with the recommended guidelines for DNA testing set forth by AABB.

TM 13-5 Voluntary Recognition of Parentage

Voluntary Recognition of Parentage

For use of State Registrar Only

Instructions: Fill this out in blue or black ink. Press hard, using a ballpoint pen. Do not cross out words or make corrections.

Complete all Requested Information Before Signing this Form

Child and Parents' Information

Important: Use the same name that is on your child's birth certificate. If you want to change your child's last name to the father's last name, mark this box.

- Form Completed at:
- Hospital
 - County Office
 - State Registrar
 - State Human Ser. Off.
 - Other

Child's Name (first)	Middle	Last	Date of Birth (month/day/year)
Place of Birth (city/county/state/country)			

Father's Name (first/middle/last)	
Date of Birth (month/day/year)	Place of Birth (state)
Address	
City/State/Zip	
Social Security Number	Over 18 <input type="checkbox"/> yes <input type="checkbox"/> No

Mother's Name (first/middle/last)	
Date of Birth (month/day/year)	Place of Birth (state)
Address	
City/State/Zip	
Social Security Number	Over 18 <input type="checkbox"/> yes <input type="checkbox"/> No

Parent's Statement:

Under oath, I state that:

- I have been told about the Recognition of Parentage and understand my rights and responsibilities created and waived by signing this form.
- I have a copy of *Being a Legal Father: Parentage Information for Mothers and Fathers*. I read the booklet or had someone else read it to me, and viewed the videotape.
- I acknowledge that we are the biological parents of the child named in this Recognition of Parentage.
- I understand that this Recognition of Parentage does not give custody or visitation to the legal father. However, this Recognition of Parentage gives the father the right to ask the court for custody or visitation.
- I accept responsibility to provide financial support for my child. I understand that financial support can include payments for child support, medical support, and child care support starting from my child's birth until a court order for support ends.
- I understand that both parents have the right to all notices of any adoption proceedings.
- I understand that this is a legal document. If we are both age 18 or older when we sign this form, this Recognition of

Parentage is the same as a court order determining the legal relationship between a father and child.

- I understand that if either of us is under age 18 when we sign this form, this Recognition of Parentage is only a presumption of paternity. I understand that this Recognition of Parentage will be the same as a court order determining the legal relationship between a father and child six months after the youngest of us turns 18. If I want to stop this Recognition of Parentage from becoming a legal document, I understand that I must take legal action before the six months ends.
- I understand that either of us can cancel this Recognition of Parentage by stating in writing that, "I am revoking the Recognition of Parentage." I understand that I must sign the Revocation in front of a Notary Public and that I must file the Revocation with the Office of the State Registrar within 60 days after I complete this Recognition of Parentage form. If I have not filed a Revocation within 60 days and still want to cancel this Recognition of Parentage, I understand that I will need to take legal action to request a change to any of the information in this Recognition of Parentage.
- To the best of my knowledge, the above information is true.
- I am signing this form voluntarily. No one forced me to sign this Recognition of Parentage.

Signature of Father
X
Subscribed and sworn to before me this _____ day of _____, 20_____
Notary Public Signature
My commission expires:

Signature of Mother
X
Subscribed and sworn to before me this _____ day of _____, 20_____
Notary Public Signature
My commission expires:

Husband's Non-Paternity Statement Attached

TM 13-5 (continued)

Important Information

Waiver of Rights

Important: By signing this Recognition of Parentage form, you give up rights listed below:

- The right to have blood or genetic testing to prove that the man is the biological father of the child.
- The right to have an attorney represent you. The court will provide an attorney for parents who meet income standards and cannot afford to pay an attorney.
- The right to a trial to determine if the man is the biological father of the child.
- The right to cross-examine witnesses at a trial.
- The right to testify about who is the biological father of the child.

Custody Issues

When a child is born to parents who are not married to each other the law gives custody of the child to the mother. If the father wants a different custody arrangement, he must go to court. If the parents cannot agree about visitation, the father will need to go to court. If you have any questions, please contact an attorney.

TM 15-1 Adoption Statistics

Exhibit 15.1 Adoption Statistics

Number of adopted children in the country: approximately 1 million

Number of children adopted in 1992 (the last year for which complete statistics are available): 127,441

- 42% were stepparent or relative adoptions
- 15.5% were adoptions of children in foster care
- 5% were adoptions of foreign children
- 8% were transracial adoptions
- 37.5% were adoptions handled by private agencies or independent practitioners such as attorneys

Ages of the children adopted:

- under 1 year: 2%
- 1–5 years: 46%
- 6–10 years: 37%
- 11–15 years: 14%
- 16–18 years: 2%

Categories of families adopting:

- married couples: 66%
- unmarried couples: 2%
- single females: 30%
- single males: 2%

Couples seeking to adopt:

- for every actual adoption, there are approximately 5 to 6 couples seeking to adopt
- over 1 million couples compete for 30,000 white infants each year (adoption agencies sometimes refer to such children born in this country as DWIs—domestic white infants)

Waiting time to adopt:

- healthy infant: 1 to 7 years
- international: 6 to 18 months

Adoption expenses (general):

- domestic public agency adoption: \$0 to \$4,000
- domestic private agency adoption: \$4,000 to \$30,000
- domestic independent adoption: \$8,000 to \$30,000+
- international adoption (private agency or independent): \$7,000 to \$25,000+

Adoption expenses (specifics):

- attorney fees: \$1,200 to \$2,500
- maternity home-care during third trimester and postdelivery: \$6,000
- prenatal and hospital care (normal delivery): \$6,000
- prenatal and hospital care (Caesarean Section): \$9,000
- prenatal and hospital care (major complications): \$100,000
- preadoption foster care if infant does not go directly from hospital to adoptive parents: \$650
- home study and post-placement evaluation visits: \$2,500
- other costs (travel, phone, insurance): \$2,000 to \$6,000
- additional costs of international adoption: \$7,000 to \$10,000

Number of children adopted from other countries:

- 1990: 7,093
- 1995: 9,679
- 1999: 16,396 (the largest numbers came from Russia, 4,348; China, 4,101; Korea, 2,008; and Guatemala, 1,002)

Percentage of unmarried women who place their babies for adoption:

- 1998: under 2%
- before 1973 (the year abortion was legalized): 9%

Women who place their babies for adoption:

- 19% of white women (from 1965 to 1972)
- 1.7% of white women (from 1989 to 1995)
- under 1% of black women (a number that has remained constant)
- under 2% of Latina women (a number that has remained constant)

Foster care children in 1999:

- total number: 547,000
- number needing adoptive families: 117,000
- number of children in foster care adopted by a single adoptive parent: 34%
- length of wait for adoptive families: between 3.5 and 5.5 years
- average (mean) age of children in foster care: 9 years
- average (mean) time in foster care: 33 months

Federal tax credit for expenses to adopt an eligible child:

- up to \$5,000
- for a child with special needs: \$6,000

Percentage of public and private agency adoptions in 1991 in which the birth parent(s) met with the adoptive couple: 69%

Number of adopted adults who search for their biological parents: between 2% to 4%

Sources: National Adoption Information Clearinghouse; U.S. Department of Health and Human Services; North American Council on Adoptable Children; Voluntary Cooperative Information System; U.S. Immigration and Naturalization Service; U.S. Department of State; National Center for Health Statistics; Adoptive Families of America; National Endowment for Financial Education; National Council for Adoption; Evan B. Donaldson Adoption Institute, <http://www.adoptioninstitute.org/research/ressta.html>.

TM 15–2 Adoption Petition

Exhibit 15.2 Adoption Petition

FAMILY COURT OF THE STATE OF _____
 COUNTY OF _____

In the Matter of the Adoption by _____ of _____
 a minor having the first name of _____

Index No. _____

PETITION (Agency)

whose last name is contained in the Schedule annexed to the Petition herein.

TO THE FAMILY COURT:

1. (a) The name and place of residence of the petitioning adoptive mother is:
 Name:
 Address:
 She is (of full age) (a minor), born on _____
 She is (unmarried) (married to _____ and they are living together as husband and wife).
 Her religious faith is _____
 Her occupation is _____
 and her approximate annual income is \$ _____
- (b) The name and place of residence of the petitioning adoptive father is:
 Name:
 Address:
 He is (of full age) (a minor), born on _____
 He is (unmarried) (married to _____ and they are living together as husband and wife).
 His religious faith is _____
 His occupation is _____
 and his approximate annual income is \$ _____
2. As nearly as can be ascertained, the full name, date and place of birth of the (male) (female) adoptive child are set forth in the Schedule annexed to this Petition and verified by a duly constituted official of an authorized agency.
3. (a) As nearly as can be ascertained, the religious faith of the adoptive child is _____
 (b) As nearly as can be ascertained, the religious faith of the natural parents of the adoptive child is _____
4. The manner in which the adoptive parents obtained the adoptive child is as follows: _____
5. The adoptive child has resided continuously with the adoptive parents since _____
6. The name by which the adoptive child is to be known is _____
7. The consent of the above-mentioned authorized agency has been duly executed and is filed herewith. The consent of the natural parents of the adoptive child is not required because _____
8. No previous application has been made to any court or judge for the relief sought herein.
9. The adoptive child has not been previously adopted.
10. To the best of petitioners' information and belief, there are no persons other than those hereinbefore mentioned interested in this proceeding.
11. WHEREFORE, your petitioners pray for an order approving the adoption of the aforesaid adoptive child by the above named adoptive parents and directing that the said adoptive child shall be regarded and treated in all respects as the child of the said adoptive parents and directing that the name of the said adoptive child be changed as specified in paragraph 6 above and that henceforth (s)he shall be known by that name.

Source: 1 Guide to American Law 103 (1983).

TM 15-3 Consent Form

Exhibit 15.3 Consent Form

CONSENT TO ADOPTION

We, the undersigned, being the father and mother, respectively, of _____, who was born on _____, 20____, in _____ County, California, and being the persons entitled to the sole custody of said child do hereby give our full and free consent to the adoption of said child by _____ and _____, his wife, and do hereby relinquish to said persons forever all of our rights to the care, custody, control, services, and earnings of said child.

Each of us hereby promises that, as soon as adoption proceedings are commenced in the state of _____, we will properly execute any further instruments or papers necessary to effectuate the adoption of said child by said persons.

Each of us hereby authorizes said persons, or either of them, to procure and provide any and all medical, hospital, dental, and other care needed for said child, it being understood by us that said persons have agreed to, and will pay, such expenses without seeking reimbursement from us prior to the adoption of said child.

Each of us fully understands that, upon the signing of this instrument, we have irrevocably relinquished and waived all right to withdraw the consent and authority herein given.

DATED: _____, 20____.

[Name and Signature of Party]

[Name and Signature of Party]

Witnesses:

Notary Public: _____ (SEAL)

My commission expires _____

Source: D. Adams, California Code Forms (1960).

TM 15-5 Putative Father Registry

Exhibit 15.5 Putative Father Registry

The **Putative Father Registry** is a confidential file maintained in Albany to register fathers of children born out of wedlock.

PURPOSE

The Putative Father Registry was developed to ensure that, if an individual has registered (or has been registered by a court) as the father of a particular child, he will receive legal notice if that child is to be adopted. Additionally, registration provides such a child the right of inheritance in the event of the death of an out of wedlock father. A father may be registered for both purposes provided he follows the instructions in this leaflet.

REGISTRATION

The attached form, called "An Instrument to Acknowledge Paternity of An Out of Wedlock Child," must be filled out in the presence of a witness and signed and notarized before it is returned to the address indicated. Once it is received it will be filed in the Putative Father Registry. The New York State Department of Social Services shall, upon request from any court or authorized agency, provide the names and addresses of persons listed with the registry. The department will not divulge this information to any other party.

The mother and other legal guardian of the child, (if any) will be contacted by registered mail to notify her (them) that a registration has been received.

INSTRUMENT TO ACKNOWLEDGE PATERNITY OF AN OUT OF WEDLOCK CHILD
(pursuant to Section 4-1.2 of New York Estates, Powers and Trust Law)

COMPLETE THIS SECTION

I _____, residing at _____
NAME OF FATHER ADDRESS

_____ hereby acknowledge that I am the natural father of
TOWN STATE ZIP CODE

_____ born on _____ in _____
NAME OF CHILD DATE OF BIRTH TOWN STATE ZIP CODE

The natural mother of the child _____ is _____ who resides
CHILD'S NAME NAME OF NATURAL MOTHER

at _____

Witness _____
SIGNATURE

_____ NATURAL FATHER (SIGNATURE)

_____ ADDRESS

_____ TOWN STATE ZIP CODE

STATE OF NEW YORK
COUNTY OF _____

On the _____ day of _____, before me came
DAY MONTH YEAR

_____ to me known to be the individual described herein and who executed the
NATURAL FATHER

foregoing instrument, and acknowledges to me that he executed same.

NOTARY PUBLIC

STATE OF NEW YORK
COUNTY OF _____

This instrument must be filed with the New York State Department of Social Services, Putative Father Register, 40 North Pearl Street, Albany, New York 12243, within sixty days after it is completed. The natural mother indicated on this instrument will be sent notification of this acknowledgement within seven days after its filing.

TM 16–1 Terminology: The Biology of Reproduction

Exhibit 16.1 Terminology: The Biology of Reproduction

cervix The narrow, outer end of the uterus; the part of the uterus that protrudes into the cavity of the vagina.

cryopreservation Freezing embryos for transfer or implantation at a later time.

conception Fertilization; the union of a sperm and an ovum; the formation of a viable zygote by the union of a sperm and an ovum.

egg An unfertilized female reproductive cell; also called an *ovum* or *oocyte*.

embryo An egg that has been fertilized by a sperm in the early stage of development; the product of conception from the second to the eighth week of pregnancy.

fallopian tube The passageway for the eggs from the ovary to the uterus; also called *uterine tube* or *oviduct*.

fertilization Conception; the initial union of a sperm and an ovum (egg) that becomes an embryo.

fetus A developing organism—the unborn offspring—from the eighth week after conception until birth.

gamete A reproductive cell, either a sperm or an egg; a reproductive cell with a specified number of chromosomes; a mature sperm or egg that is capable of fusing with the gamete of the opposite sex to produce a fertilized egg.

gene A hereditary unit on a chromosome; an element of the germ plasm that has a specific hereditary function determined by a DNA sequence.

genetic Pertaining to genes.

gestation Pregnancy; the period of development in the uterus from conception to birth.

gonad A gland that produces gametes. Gonads include an ovary and a testis.

oocyte The female reproductive cell, also called an *egg*.

ovum An egg; a female reproductive cell. (Plural, *ova*.)

ovary One of the two female sex or reproductive glands that produce eggs; female sex cells.

ovulation The release of a mature egg from the ovary.

ovum A female gamete or reproductive cell.

pregnancy The period of development of the fetus from conception to birth.

preembryo (pre-embryo) The four to eight-cell stage of a developing fertilized egg. (“The term ‘pre-embryo’ refers to that period of development from the end of the process of fertilization until the appearance of a single primitive streak, a period that lasts approximately fourteen days.” Howard Jones, *And Just What Is a Pre-Embryo?*, 52 *Fertility & Sterility* 189, 190 (1989).)

pre-zygote An egg that has been penetrated by sperm but has not yet joined genetic material; also called a *preembryo*. The embryo proper develops only after implantation.

procreate To reproduce, to bring forth offspring.

semen Sperm and other secretions expelled through the male reproductive tract.

sperm The male gamete or reproductive cell; a mature male germ cell.

uterus A hollow, pear-shaped organ that holds a fertilized ovum during pregnancy.

viable Able to live outside the womb indefinitely; able to live outside the womb indefinitely by natural or artificial means.

zygote A cell formed by the union of a male sex cell and a female sex cell.

TM 17–1 Intrafamily Torts**Exhibit 17.1 Intrafamily Torts****Spouse against Spouse**

1. In most states, spouses can sue each other for intentional or negligent injury to their property (e.g., negligence, trespass, conversion).
2. In some states, spouses cannot sue each other for intentional or negligent injury to their person—a personal tort action (e.g., negligence, assault, battery).
3. Some states will permit personal tort actions if the man and woman are divorced or if the tort is covered by liability insurance.
4. Some states will permit intentional tort actions against the person to be brought by spouses against each other, but continue to forbid negligence actions for injury to the person.

Child against Parent(s)

1. In all states, a child can sue the parent for intentional or negligent injury caused by the parent to the child's property (e.g., negligence, trespass, conversion).
2. In many states, a child cannot sue a parent for intentional or negligent injury caused by the parent to the child's person (e.g., negligence, assault, battery), particularly in cases where the parent was disciplining the child. Parents have a privilege to discipline their children.
3. If the child is emancipated (e.g., married, member of the armed forces, self-supporting), the child in all states can sue the parent for intentional or negligent injury caused by the parent to the child's person (e.g., negligence, assault, battery).
4. Some states will permit any child (emancipated or not) to sue the parent for intentional torts causing injury to the person, but continue to forbid actions for negligence causing injury to the person.
5. A few states allow the child to sue the parent for all intentional torts causing injury to the person, except where a tort arises out of the parent's exercise of discipline over the child.

Other Related Persons

Brothers and sisters, aunts and uncles, grandparents and grandchildren, and other relatives can sue each other in tort. The restrictions imposed on spouse suits and child suits do not apply to tort actions involving other relatives.