CLASP

CENTER FOR LAW AND SOCIAL POLICY

MEMORANDUM

TO: Interested Parties

FROM: Paula Roberts

DATE: June 30, 2006

RE: Paternity Disestablishment in 2006

In 2003, CLASP published a series of articles on paternity disestablishment called *Truth and Consequences, Parts I, II, and III*. The original series can be found on the CLASP website (http://www.clasp.org) in the Child Support and Low-Income Fathers section for 2003. It can also be found in volume 57 of *Family Law Quarterly*, pages 35-103 (Spring 2003). The first two articles analyzed then-recent statutory and case law on this important issue while the third looked at the fiscal implications of disestablishment. The original articles were supplemented several times, most recently in December 2004 and June 2005. These supplements describe case law developments in late 2003, 2004, and the early part of 2005. Those interested in the analysis and case summaries can view these documents in the Child Support and Low-Income Fathers section of the CLASP website, as noted above.

This memo supplements those documents with case summaries from late 2005 and early 2006. It also updates the state-by-state case tables found in previous documents. In addition, it highlights an emerging issue in the case law: how courts deal with the legal significance of paternity acknowledgments entered into without the benefit of genetic testing.

Disestablishment when Paternity has Been Established through Voluntary Acknowledgment without the Benefit of Genetic Testing[1]

In order to draw down substantial federal funding for their child support programs, states must operate a voluntary paternity acknowledgment program that meets basic federal standards [42 USC § 666(a)(5)]. Using this method, the mother and the alleged father

[1] A more detailed summary of each of the cases cited herein as well as the full case citation for each is found in Appendix 1.

sign a standardized form and receive basic information about the rights and responsibilities that flow from the acknowledgment. They are told about the availability of genetic testing and given an opportunity to obtain such testing before they sign. However, they are not required to undergo testing. Typically, they will sign a waiver stating that they understand that they have the right to be tested and that they waive that right. Thereafter, the established parents have 60 days in which to rescind the acknowledgment and thereby disestablish the child's paternity. At the expiration of the 60-day period, the acknowledgment is the equivalent of a judicial order and can be challenged only on the basis of fraud, duress, or material mistake of fact.

In most states, a parent seeking to disestablish paternity after the sixty-day period must do so within a statutorily prescribed time (for example, two years) or a "reasonable time." Thus, timeliness **and**, as noted above, a specific allegation of fraud, duress, or material mistake of fact are key to disestablishment. Three recent cases underscore this point:

- In *Koos v. Wilson*, an acknowledged father successfully defeated an action to disestablish his paternity brought by the mother and the biological father. The appellate court held that the biological father had waited too long (five years) to assert his claim. Lack of timeliness alone was enough to defeat the biological father's claim.

- In *Hill v. Blevins*, the mother and a man who was not the child's biological father established paternity through the acknowledgment process. Six years later, the biological father attempted to establish his paternity alleging that the acknowledging couple had committed fraud. Again the court declined to overturn the acknowledgment for reasons of timeliness, even though a colorable claim of fraud had been pled, and likely could have been proven.

- In *Williams v. Carlson,* an acknowledged father also fought off a challenge by the mother. Again, the court invoked timeliness and also noted that, even though genetic tests showed that the acknowledged father was not the biological father, no allegations of fraud, duress, or material mistake of fact had been pled or proved. In the absence of such allegations, no disestablishment action is possible.

When such allegations are made, courts may proceed in a case that is filed in a timely manner. There is some concern, however, about the legal meaning of material mistake of fact. Certainly, the fact that one is not the biological father is a factual mistake. However, in law, one can plead a mistake of fact only if the mistake was not caused by neglect of a legal duty on the part of the person making the mistake (see Black's Law Dictionary, 4th ed.). If a man has been told of the right to genetic tests and declines to exercise that right, then his misidentification as the child's father is a result of his own neglect. However, not all courts feel this way. In *Department of Human Services v. Chisum,* an appellate-level court allowed an acknowledged father to dispute his paternity based on genetic test results, finding that he was under no legal obligation to seek genetic testing before signing the acknowledgment. Since he did not have to obtain tests, he could raise the mistake of fact issue at a later time.

Some states also have specific statutes that must be consulted. For example, under Illinois law, an *adjudicated* father has the right to challenge his paternity based on genetic test results. Since an acknowledgment is the equivalent of an adjudication, can a father who signed an acknowledgment use that statute? According to the Illinois Supreme Court, he cannot (*People ex. rel. Department of Public Aid v. Smith).* While an acknowledgment and an adjudication give similar results, the process is different. Parents using the voluntary acknowledgment process are active participants who help create a conclusive presumption that the man in question is the biological parent of the child. Illinois law is clear that such parents can challenge the acknowledgment only through the timely filing of an action alleging fraud, duress, or material mistake of fact. Simply offering genetic test results does not meet this standard.

Things become difficult when these basic rules are not followed—for example, when a child support agency or court allows genetic testing to proceed where there is a valid acknowledgment and no allegation of fraud, duress, or material mistake of fact. This was the case in *In Re KLO.* O's paternity had been established through the voluntary acknowledgment process in 1992. Ten years later, the mother brought an action to establish that another man was the child's biological father. The trial court properly dismissed that suit because the child had an acknowledged father. The mother then brought a paternity suit against O. The court should have dismissed that suit, as O was already the child's legal father. Instead, it let the suit proceed and ordered genetic testing. The tests revealed that O was not the biological father. So the court dismissed the suit. The mother again filed a paternity action against the man she believed was the biological father. The alleged biological father again moved to dismiss because the child already had a legally acknowledged father. The trial court denied the motion, but the appellate court granted an interlocutory appeal. The appellate court held that O was the child's father pursuant to the acknowledgment. That acknowledgment had never been rescinded or challenged on the basis of fraud, duress, or material mistake of fact. While a trial court had dismissed the mother's paternity suit against O, that dismissal had no affect on the acknowledgment. Attacks based on genetic test results are not allowed unless accompanied by allegations of fraud, duress, or material mistake of fact.

Similarly, in *Williams v. Carlson, supra,* paternity had been established through acknowledgment. The father eventually filed for custody and the mother sought to "establish paternity" in that action. The court allowed that action and ordered genetic tests. Before the test results were in, the court awarded custody to the father. The results then came back and showed that the acknowledged father was not the child's biological father. The mother then appealed the custody determination. The Court of Appeals found that genetic testing should never have been ordered. The paternity acknowledgment was the equivalent of a legal determination of parentage so the child's parentage was beyond question unless a timely suit was brought alleging fraud, duress, or material mistake of fact. Since such allegations had not been made, genetic testing should not have been allowed. The acknowledged father is the child's legal father and entitled to seek custody.

If courts limited challenges to situations where a timely action with proper allegations of fraud, duress, or material mistake of fact has been filed, they would save themselves and the parents and children involved a good deal of time, expense, and grief.

Other Trends of Note

Courts and legislatures are continuing to struggle with some basic issues including:

- Can a child have two fathers? A small—but growing—number of cases suggest that courts may be becoming more comfortable with the notion that a child can have more than one father. The child may have a legal/ biological father (who plays a limited role in his or her life) and a non-biological father who plays a strong role (both financially and emotionally) in his or her life. In addition to the cases cited in the June 2005 memo, see *Department of Revenue v. Ryan*, 816 N.E. 2d 1020 (Mass. App. 2004).

- Is there a need for standardization? One model is the Uniform Parentage Act (2002). Seven states have adopted this approach with Oklahoma being the latest addition in 2006.

APPENDIX 1
Case Summaries of Cases Discussed in the Memo

Illinois

People ex. rel. the Department of Public Aid v. Smith, 797 N.E.2d 172 (Ill. 2004). A couple executed a voluntary paternity acknowledgment two days after the child's birth. The acknowledgment form clearly said that the parents had the right to genetic testing and that they waived that right. About six months later, the child support agency obtained a support order requiring both cash and medical support. Four years later, the man filed an action to declare the non-existence of a parent/child relationship pursuant to 750 Ill. Comp. Stat 45/7(b-5). This statute gives *adjudicated* fathers the right to bring a termination proceeding based on DNA test results. The man attached such results, indicating that he was not the child's biological father, to the pleadings.

The circuit court granted the state's motion to dismiss, finding that the terms of the voluntary acknowledgment statute made acknowledgments binding after 60 days unless fraud, duress, or material mistake of fact was raised. 750 Ill. Comp. Stat 45/5(b) and 45/6(d). Since the man had not acted within this time or raised these issues, he was not entitled to relief. The appellate court reversed, finding that the acknowledgment was the legal equivalent of an adjudication and therefore the statute allowing post-adjudication challenges based on DNA testing applied.

The Illinois Supreme Court reversed the appellate court. Applying traditional rules of statutory construction to harmonize the two statutes and consulting the legislative history of both enactments, the Court found that the statute allowing a disestablishment action based on genetic test results was meant to apply to fathers whose paternity had been adjudicated, not to those who had signed voluntary acknowledgments. Fathers who have established their paternity through a voluntary acknowledgment have created a conclusive presumption that they are the biological parent, and the only way to undo this is to act within 60 days or make out a case of fraud, duress, or material mistake of fact.

Indiana

In re KLO, 816 N.E. 2d 906 (Ind. App. 2004). Overholser established his paternity of KLO in 1992 by executing a paternity acknowledgment. Ten years later, KLO's mother brought an action (based on genetic test results showing a 99.99995% probability of paternity) to establish that Lakins was the child's biological father. Lakins sought a dismissal on the grounds that the child's paternity had already been established through a valid acknowledgment. Moreover, he argued the acknowledged father was the legal father and was thus a necessary party and should have been joined in the suit. The trial court agreed and dismissed the action. The mother then filed a suit to establish that Overholser was the legal father. Based on a mutual motion of the parties, the court ordered genetic testing which revealed that Overholser was not the child's biological father. On that basis, the paternity proceeding was dismissed. The mother then filed a second paternity suit on the child's behalf naming Lakins as the father. Lakins again

moved to dismiss based on the acknowledgment and the failure to join Overholser. His motion was denied. The appellate court took the case on an interlocutory appeal.

The Court of Appeals agreed that Overholser was a necessary party. He was and continues to be the child's legal father based on the acknowledgment. Since the acknowledgment has not been rescinded or challenged based on fraud, duress, or material mistake of fact, it is still valid. While a trial court did dismiss a paternity action against Overholser, that action did not involve allegations of fraud, duress, or material mistake of fact and therefore had no effect on the validity of the acknowledgment. The child has a legal father (Overholser), that father is a necessary party to this action.

Iowa

Koos v. Wilson (2005 Iowa App.); LEXIS 243 (March 31, 2005). Koos established his paternity of Brayde by acknowledgment in 1997. His name appeared on the child's birth certificate. He was involved with the child, paid support, and ultimately became the custodial parent when the mother went to prison. Upon her release, the mother tried to regain custody and Koos opposed her. The mother then questioned his paternity. Another man (Benes) then intervened in the action claiming he was the child's biological father. Genetic tests bore Benes out and the court established him as the father and disestablished Koos' paternity. Koos appealed.

The appellate court reversed. It held that the genetic tests were not properly admitted because state guidelines were not followed. Moreover, even if the guidelines had been followed, Benes had waived his right to assert paternity. On the facts, Benes knew he was possibly the child's father. However, he had waited five years before asserting his claim. While he has a constitutionally protected liberty interest in parenthood, he waived that right by waiting too long to act on it.

Minnesota

Williams v. Carlson, 701 N.W. 2d 274 (Minn. App. 2005). A couple parented a child and shared custody for some time. The male partner acknowledged his paternity and that acknowledgment was never revoked. When the child was 2 years old, the acknowledged father filed for custody and the mother admitted his paternity but nonetheless sought genetic tests to "establish paternity." The court ordered the tests, but the results did not come in until after the hearing. The results showed that the acknowledged father was not the biological father. Nonetheless, the court gave him custody (based on the best interests of the child) and the mother appealed.

The Court of Appeals found that genetic tests should not have been ordered. The acknowledgment was the equivalent of a judgment, had never been challenged, and the mother had not filed the affidavit required by statute alleging the lack of requisite sexual contact. Moreover, the only way to challenge the acknowledgment under Minnesota law was to file an action within one year (or six months from the receipt of the test results)

and fraud, duress, or material mistake of fact must be proven. In this case, there was no allegation of any of these elements and the time for filing has expired.

Oklahoma

Department of Human Services v. Chisum, 85 P.3d 860 (Ok. App. 2004). On the day the child was born, Chisum executed a voluntary acknowledgment of paternity. Seven months later, he agreed to the entry of an administrative child support order, which recited that he had acknowledged paternity. This order was then entered in the district court. Several months later, he began to suspect that he was not the child's biological father and had private DNA tests done. The tests showed he was not the biological father and he then moved to vacate the child support order and the paternity acknowledgment. The trial court ordered genetic tests, which again showed Chisum was not the biological father. It then granted his motion, finding that the acknowledgment was based on a material mistake of fact.

DHS appealed, arguing that (1) principles of *res judicata* precluded the challenge; (2) the state paternity statute in effect when Chisum signed the acknowledgment did not allow a challenge after 60 days, and that period had expired before the motion was filed; (3) even if the amended statute (giving the parties two years to challenge on the basis of fraud, duress, or material mistake of fact) applied, there was no material mistake of fact, as Chisum had not availed himself of paternity tests; and (4) the best interest of the child should have been considered.

The appellate court disagreed. It held that the amended statute became effective three days after Chisum signed the acknowledgment and gave him the right to challenge his paternity during the two-year period. The statute overrode *res judicata.* The court also said that Chisum could raise the mistake of fact issue as he was under no legal obligation to seek genetic tests before signing the acknowledgment. Finally, citing *Barber v. Barber, 77 P.3d 576* (Okla. 2003), the court said it was not able to apply equitable principles (including the "best interests" standard) in paternity cases involving a man who is not the biological father.

Hill v. Blevins, 109 P.3d 332 (Ok. 2005). A co-habiting couple agreed to have a child together. A pregnancy test conducted in late December 1996 indicated that the woman was pregnant. Four months later the couple separated and subsequently she gave birth to a daughter. At that point, she named someone else as the biological father and that man established his paternity via the paternity acknowledgment process. Six years later, the original boyfriend brought an action to establish his paternity. The trial court dismissed the action as time barred, but the appellate court reversed. The Oklahoma Supreme Court then granted certiorari.

The Supreme Court agreed with the trial court that the action was barred by the statute of limitations. It noted that the paternity acknowledgment was the equivalent of a judgment and could only be attacked based on fraud, duress, or material mistake of fact within two years of filing of the affidavit. Even assuming that fraud had been committed, the

boyfriend was on notice that his girlfriend was pregnant and was going to give birth. He could have raised the issue at that time or within the subsequent two years. He did not. Since he had the means of discovering the fraud and failed to use those means, his current action is time-barred.

APPENDIX 2
Other Recent Cases[2]

Disestablishment and Marital Children

Florida

Dept. of Revenue ex. rel. Preston v. Cumming, 871 So. 2d 1055 (Fla. App. 2004), review granted 895 So. 2d 405 (2005). In six now-consolidated cases, the child support program attempted to establish paternity and obtain child support for children who were born during a marriage. In each case, the agency pursued an alleged biological father who was not the husband. In none of the cases was the husband joined as a party. The trial court refused to proceed without the husband and the state appealed.

The Court of Appeals upheld the trial court. It found that each of the actions was tantamount to disestablishing the paternity of the husband. The husband is a necessary party to such proceedings. The case has been appealed to the state's Supreme Court.

Lander v. Smith, 906 So.2d 1130 (Fla. App. 2005), review granted 919 So. 2d 436 (2006). A married couple separated and during the period of separation, the woman had an affair. She told the boyfriend that her marriage was over and that she was in the process of obtaining a divorce. However, she eventually returned to her husband, and, several months later, gave birth to a son. Despite the fact that this was a marital child, the boyfriend's name appears as the father on the child's birth certificate. He also established a relationship with the child and paid support. He then sued to establish his paternity of the child and the husband and wife objected. The trial court dismissed the paternity action because of the strong presumption in Florida law that a child born during a marriage is a child of the marriage.

The Court of Appeals reversed. While acknowledging the strong marital presumption, the court held that the best interests of the child also had to be considered. Here the child had a relationship with his biological father, but not the husband. The boyfriend had acted as a father both emotionally and financially. He had also relied on the mother's representations that she had ended her marriage. On that set of facts, the boyfriend ought to be allowed to proceed. The Florida Supreme Court has granted review.

Indiana

Richard v. Richard, 812 N.E.2d 222 (Ind. App. 2004). A child was born within 300 days of a divorce. The mother sued to establish her ex-husband's paternity and sought support for the child. The ex-husband then filed a Third Party Complaint to establish that his identical twin brother was the biological father. The identical twin admitted paternity and offered to pay $25 per week in support. Genetic testing revealed that each brother had a 99.999% probability of paternity. The trial court conducted a hearing and found the

[2] This section supplements the case summaries found in the June 2005 paternity disestablishment memo found at www.clasp.org in the Child Support and Low-Income Fathers section.

ex-husband to be the father. The court ruled that he had not introduced sufficient evidence to overcome the marital presumption.

The Court of Appeals agreed. It found the ex-husband's mere assertion that he had not had access to his ex-wife during the probable period of conception was not sufficient to overcome the marital presumption. The testimony of the identical twin brother was neither coherent nor reliable. Therefore, the testimonial burden had not been met.

In re B.M.W. 826 N.E, 2d 706 (Ind. App. 2005). A child was born four months after the marriage occurred. The husband's name appeared on the boy's birth certificate as the father. Nine years later, the parties divorced and the order required the ex-husband to support the child. Two years later, the ex-husband successfully filed a Petition to Vacate Child Support based on genetic test results. Two years after that, a petition was filed to establish that Bradley was the child's biological father. Bradley moved for dismissal on the grounds that the husband was named as the child's father on his birth certificate. Moreover, he argued, the nearly fourteen year lapse of time meant he had no chance for a significant relationship with the boy. The trial court agreed and dismissed the petition.

The Court of Appeals disagreed. Noting that it strongly disapproved of the granting of the husband's petition to disestablish paternity, the appellate court held that once that was done; the child was left with no father. If the child could not pursue his biological father, he would be permanently fatherless and this contravened Indiana public policy.

Sutton v. Boes, 829 N.E.2d 157 (Ind. App. 2005). A baby was born during the marriage and the husband and wife are listed as parents on the birth certificate. Both parents are now deceased and the maternal grandmother has custody of the child. The maternal grandmother filed a petition on the child's behalf to disestablish the husband's paternity and requested genetic testing. The deceased husband's estate filed a motion to dismiss and this motion was granted. The maternal grandmother appealed.

The Court of Appeals agreed with the lower court finding that there is no provision in the Indiana Code for disestablishment of paternity *per se*. There is case law allowing a man to attempt to establish his paternity even if the child in question was born to a woman married to someone else. However, that is a different situation: there the child ends up with a father to whom he/she is biologically related. Here there is no other father waiting in the wings. Thus, as a matter of public policy, courts should decline to disestablish paternity (whether the husband is alive or deceased) unless paternity has been established in another man.

Massachusetts

Department of Revenue v. Ryan, 816 N.E. 2d 1020 (Mass. App. 2004). A child was born during the marriage and the husband's name appears on his birth certificate. Both parties knew the child was not the husband's biological offspring. When they divorced, the judgment acknowledged this. However, the court found the ex-husband was a *de facto parent*, provided visitation, and ordered support. Thereafter, the IVD agency filed a

paternity action against the alleged biological father. He made a number of claims, including arguing that since the child was born during a marriage, he was a marital child. Therefore, the probate court had no subject matter jurisdiction since that court could only address the paternity of non-marital children.

The Appeals Court disagreed. It held that a child is "born out of wedlock" even if born during a marriage if the mother claims that the husband is not the biological father and the husband does not assert his paternity.

APPENDIX 3
Case Law on Paternity Disestablishment for Non-Marital Children: 1997 - 2005

State	Major Cases
Alaska	*Ferguson v. Dept. of Revenue*, 977 P.2d 95 (1999) *State, Dept. of Revenue, CSED v. Button*, 7 P.3d 74 (2000)
Arizona	*Stephenson v. Nastro*, 967 P.2d 616 (1998)
Arkansas	*Littles v. Fleming*, 970 S.W.2d 259 (1998)
California	*In re Nicholas H.*, 46 P.3d 932 (2002) *McBride v. Boughton*, Cal. App. No. A 103456 (Cal. App. October 21, 2004)
Florida	*Fla. Dept. of Revenue ex rel. R.A.E. v. M.L.S.*, 756 So.2d 125 (Fla. App. 2000) *Fla. Dept. of Revenue ex rel. Sparks v. Edden*, 761 So.2d 436 (Fla. App. 2000) *Magwood v. Tate*, 835 So.2d 1241 (Fla. App. 2003)
Georgia	*Davis v. LeBrec*, 549 S.E.2d 76 (2001)
Illinois	*Donath v. Buckley*, 744 N.E.2d 385 (Ill. App. 2001) *People ex. Rel. Dept. of Public Aid v. Smith* , 797 N.E.2d 172 (2004)
Indiana	*Nickels v. York*, 725 N.E.2d 997 (Ind. App. 2000) *In re KLO*, 816 N.E.2d 906 (Ind. App. 2004)
Iowa	*Koos v. Wilson*, 2005 Iowa App. LEXIS 243 (March 31, 2005)
Louisiana	*Rousseve v. Jones*, 704 So.2d 229 (1997) *Faucheux v. Faucheux*, 772 So. 237 (La. App. 2000)

Maine	*Dept. of Human Services. V. Blaisdell*, 816 A.2d 55 (2002), 847 A.2d 404 (2004) *Bouchard v. Frost*, 840 A.2d 109 (2004)
Maryland	*Langston v. Riffe*, 754 A.2d 389 (2000) *Walter v. Gunter*, 788 A.2d 609 (2002)
Massachusetts	*In re Paternity of Cheryl*, 746 N.E.2d 488 (2001)
Michigan	*Van v. Zahorik*, 597 N.W.2d 15 (1999)
Minnesota	*Turner v. Suggs*, 653 N.W.2d 458 (Minn. App. 2002) *Williams v. Carlson*, 701 N.W. 2d 274 (Minn. App. 2005)
New Hampshire	*In the Matter of Haller*, 839 A.2d 18 (2003)
New Jersey	*F.B. v. A.L.G.*, 821 A.2d 1157 (2003) *Christensen v. Christensen*, 868 A. 2d 1143 (App. Div. 2005)
New York	*Cleophus P. v. Latrice M.R.*, 299 A.2d 936 (App. Div. 2003) *Sarah S. v. James T.*, 299 A.2d 785 (App. Div. 2003) *Ellis v. Griffin*, 764 N.Y.S.2d 120 (App. Div. 2003) *Enrique G. v. Lisbet E.*, 769 N.Y.S. 2d 533 (App. Div. 2004)
North Carolina	*Price v. Howard*, 484 S.E.2d 528 (1997)
North Dakota	*Rydberg v. Rydberg*, 678 N.W. 2d 534 (2004)
Ohio	*Cuyahoga Support Enforcement Agency v. Guthrie*, 705 N.E.2d 318 (1999)
Oklahoma	*Dept. of Human Services v. Chisum*, 85 P.3d 860 (Ok. App. 2004) *Hill v. Blevins*, 109 P.3d 332 (2005)

Pennsylvania	*McConnell v. Berkheimer*, 781 A.2d 206 (Pa. Super. 2001) *In re Adoption of MTJ*, 814 A.2d 225 (Pa. Super. 2003) *Warfield v. Warfield*, 815 A.2d 1073 (Pa. Super. 2003)
Texas	*Texas Dept. Protective &Regulatory Services v. Sherry*, 46 S.W.3d 857 (2001) *In re Shockley*, 123 S.W.3d 642 (Tex. App. 2003)
West Virginia	*State ex rel. West Va. Department of Health and Human Resources, Child Support Div. V. Michael George K.* , 531 S.E.2d 669 (2000)
Wisconsin	*In re A.Y.*, 677 N.W.2d 684 (Wis. App. 2004)
Wyoming	*D.M.M. v. D.F.H*, 954 P. 2d 976 (1998) *M.A.M v. State of Wyoming, Dept. of Family Services*, 99 P.3d 982 (2004) *J.G. v. State of Wyoming, Dept. of Social Services*, 84 P. 3d 1268 (2004)

APPENDIX 4
Case Law on Paternity Disestablishment Issues for Marital Children: 1997 - 2005

State	Major Cases
Alabama	*Jenkins ex rel. J.B. v. M.A.B.*, 723 So.2d 649 (1998) *Conway v. Dept. of Human Resources*, 720 So.2d 889 (1998)
Alaska	*T.P.D. v. A.C.D.*, 981 P.2d 116 (1999) *B.E.B v. R.L.B.*, 979 P.2d 514 (1999) *Rubright v. Arnold*, 973 P.2d 580 (1999) *Dixon v. Pouncy*, 979 P.2d 520 (1999)
Arkansas	*Office of Child Support Enforcement v. Williams*, 995 S.W.2d 338 (1999) *Graves v. Stevison*, 98 S.W.3d 848, (Ark. App. 2003)
Arizona	*Worcester v. Reidy*, 960 P.2d 624 (1998)
California	*Dawn D. Superior Court of Riverside County*, 952 P.2d 1139 (1998) *Brian C. v. Ginger K.*, 92 Cal. Rptr. 2d 294 (Cal. App. 2000) *In re Marriage of Pedregon*, 107 Cal. App. 4th 1284 (Cal. App. 2003) *In re Jesusa V.*, 85 P.3d 2 (2004)
Colorado	*N.A.H. v. S.L.S.*, 9 P.3d 354 (2000)
Connecticut	*Serrano v. Serrano*, 566 A.2d 413 (Conn. Super. 2000) *W. v. W.*, 779 A.2d 716 (2001)
Florida	*Anderson v. Anderson*, 845 So.2d 870 (2003) *Lander v. Smith*, 906 So. 2d 1130 (2005), rev. granted 919 So. 2d 436 (2006) *Dept. of revenue ex rel Preston v. Cummings*, 871 So. 2d 1055 (Fla. App. 2004), rev. granted 895 So.2d 405 (2005)

Georgia	*Baker v. Baker*, 582 S.E.2d 102 (2003)
Hawaii	*Doe v. Doe*, 52 P.3d 255 (2002)
Illinois	*In re Parentage of Griesmeyer*, 707 N.E.2d 72 (Ill. App. 1998) *In re Parentage of John M.* , 817 N.W.2d 500 (2004)
Indiana	*Cochran v. Cochran*, 717 N.E.2d 892 (Ind. App. 1999) *Driskill v. Driskill*, 739 N.E.2d 161 (Ind. App. 2000) *In re Estate of Long*, 804 N.E. 2d 1176 (Ind. App. 2004) *Richard v. Richard*, 812 N.E. 2d 222 (Ind. App. 2004) *In re BMW*, 826 N.E. 2d 706 (Ind. App. 2005) *Sutton v. Boes*, 829 N.E. 2d 157 (Ind. App. 2005)
Iowa	*Treimer v. Lett*, 587 N.W.2d 622 (1999) Callendar v. Skiles, 623 N.W.2d 852 (2001)
Kansas	*Ferguson v. Winston*, 996 P.2d 841 (Kan. App. 2000) *In re Marriage of Phillips*, 58 P.3d 680 (2002)
Kentucky	*Moore v. Cabinet for Human Resources*, 954 S.W.2d 317 (1997)
Louisiana	*State v. Walker*, 700 So.2d 496 (1997) *T.D. v. M.M.M*., 730 So.2d 873 (1999) *Leger v. Leger*, 829 So.2d 1101 (La. App. 2002) *Gallo v. Gallo*, 861 S.2d 168 (2003)
Maine	*Stitham v. Henderson*, 768 A.2d 598 (Me. 2000)
Maryland	*Stubbs v. Calendra*, 841 A.2d 361 (Md. App. 2004) *Evans v. Wilson*, 856 A.2d 679 (2004)

Massachusetts	*Dept. of Revenue v. Ryan*, 816 N.E. 2d 1020 (Mass. App. 2004)
Michigan	*Aichele v. Hodge*, 673 N.W. 2d 452 (Mich. App. 2003) *In the Matter of C.A.W.*, 665 N.W. 2d (475) (2003), on remand 673 N.W. 2d 470 (Mich. App. 2003) *In re K.H.*, 677 N.W.2d 800 (2004)
Minnesota	*G.A.W. v D.M.W.*, 596 N.W.2d 284 (Minn. App. 1999) *Witso v. Overby*, 627 N.W.2d 63 (2001)
Mississippi	*R.E. v. C.E.W.*, 752 So.2d 1019 (1999) *W.H.W. v. J.J.*, 735 So.2d 990 (1999) *Griffith v. Pell*, 881 So.2d 184 (2004)
Missouri	*W.B. v. M.G.R.*, 955 S.W.2d 935 (1997) *Div. of Child Support Enforcement v. T.J.*, 981 S.W.2d 149 (1998)
Nebraska	*Day v. Heller*, 639 N.W.2d 158 (Neb. App. 2002)
Nevada	*Love v. Love*, 959 P.2d 523 (1998)
New Mexico	*Tedford v. Gregory*, 959 P.2d 540 (N.M. App. 1998)
New York	*John P. v. Vito C.*, 6 Misc.3d 1099 (Fam. Ct. 2004)
North Dakota	*Rydberg v. Rydberg*, 678 N.W. 2d 534 (2004)
Ohio	*Van Dusen v. Van Dusen*, 784 N.E.2d 750 (Ohio App. 2003) *Poskarbiewicz v. Poskarbiewicz*, 787 N.E.2d 688 (Ohio App. 2003)
Oklahoma	*Miller v. Miller*, 956 P.2d 887 (1998) *Cornelius v. Cornelius*, 15 P.3d 528 (Okla. App. 2000) *Barber v. Barber*, 77 P.3d 576 (2003) *Hill v. Blevins*, 109 P.3d 332 (2005)

Oregon	*In re Marriage of Moore*, 328 Ore. 513 (1999) *In the Matter of Sleeper*, 929 P.2d 1028, (Ore Ct. App. 1996)aff'd on other grounds 982 P.2d 1126 (Ore.1999)
Pennsylvania	*Brinkley v. King*, 701 A.2d 176 (Pa. Super. 1997) *Strauser v. Starr*, 726 A.2d 1052 (1998) *Fish v. Behrs*, 741 A.2d 721 (1999) *Sekol v. Delsantro*, 763 A.2d 405 (Pa. Super. 2000) *Weidman v. Weidman*, 808 A.2d 576 (Pa. Super. 2002) *JC formerly known as JA v. JS*, 826 A.2d 1 (Pa. Super. 2003)
Rhode Island	*Pacquette v. Trottier*, 723 A.2d 794 (R.I. 1998)
South Carolina	*Douglass v. Boyce*, 542 S.E.2d 715 (2001)
South Dakota	*Culhane v. Michels*, 615 N.W.2d 580 (2000)
Vermont	*Godin v. Godin*, 725 A.2d 904 (1998) *Jones v. Murphy*, 772 A.2d 502 (2001)
West Virginia	*William L. v. Cindy E.L.*, 495 S.E.2d 836 (1997)
Wisconsin	*Randy A.J. v Norma I.J.*, 677 N.W.2d 630 (2004)
Wyoming	*R.W.R. v E.K.B. and J.D.B.*, 35 P.2d 1224 (2001) *GDK v. State Dept. of Family Services*, 92 P. 2d 834 (2004)