



Divorce Digest

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Greetings! In this month's newsletter, we have included articles written by attorneys Kale K. Heiman, Lovette T. Mioni, and James P. Reape regarding civil claims for infidelity within a marriage, alternatives to the public courtroom, and child support add ons. Ms. Heiman's article provides information regarding authority under which civil suits may or may not be allowed for infidelity within the marriage, while Mr. Reape's article discusses cost effective and efficient means of obtaining results in a dissolution of marriage without the use of the public courtroom. Ms. Mioni's article touches on the meaning and importance of child support add ons. We hope you find these articles informative and we encourage you to visit our website, www.divorcedigest.com to review other articles written by attorneys at The Reape - Rickett Law Firm. You can also find our articles in The Magazine of Santa Clarita and periodically in The Signal's "It's the Law" section.

Sincerely,
James Reape and David Rickett
The Reape-Rickett Law Firm

Can You Sue Your Spouse for Having an Affair?



by Kale K. Heiman, Esq.

Most people believe that when you enter into a marriage, you

Staff Spotlight



Jessica Zaura paralegal, has worked for the firm since June 2009. Ms. Zaura graduated from William S. Hart High School in 2005

and unwavering commitment. So what do you do if your spouse breaches this agreement by cheating, lying, or otherwise betraying the vows you took? In some states, such as North Carolina, a spouse can bring a lawsuit for adultery and other deceitful conduct which may occur within a marriage. These types of civil actions are classified into a group called the "amatory torts" and have been in existence since the mid 1800s.

There are four main causes of action for which a jilted spouse can sue in the states which permit such suits. These are: alienation of affection, criminal conversation, seduction of a person over the age of legal consent, and breach of promise of marriage. They are defined as follows:

Alienation of Affection is a civil action against a third party lover for that lover's conduct that deprived the plaintiff of the love and affection that previously existed between the plaintiff and his or her spouse. The third party named in an alienation of affection claim may also be anyone who encouraged divorce, such as a friend, colleague, or clergyman. The essence of the claim is that the 3rd party did something to prevent the marriage from sustaining.

Criminal Conversation is a civil action brought for adultery. When a spouse has sexual relations with a 3rd party lover that lover has then committed criminal conversation and damages may be sought.

Seduction of a person over the age of legal consent occurs when a person uses various arts or persuasions to entice another to engage in illicit sexual intercourse that the coerced person would not have otherwise consented to. Breach of promise of marriage includes a fraudulent promise to marry or to cohabit after marriage.

In California, and in most states these amatory claims are considered antiquated and against public policy. Courts generally do not want to decide these matters and try to refrain from interfering with the love and affection which exists within a marriage. Thus, the majority of states have created legislation to do away with these suits. These statutes are referred to as the "Anti-Heart Balm Legislation". In California, the Civil Code Section which bars amatory claims is Section 43.5. The statute provides that "no cause of action arises for: a) alienation of affection b) criminal conversation c) seduction of a person over the age of legal consent d) breach of promise of marriage." Thus, it appears that in California, you can't sue your spouse for having an affair or your mother-in-law for driving a wedge between you and your spouse or otherwise

of the Canyons. She is among one of the first graduating classes from College of the Canyons with a degree in Paralegal Studies. With her growing interest in the legal field, Ms. Zaura continues her education at California State University Northridge, where she is working towards her Bachelor's degree in Business Law.

Hot Topics on the Interactive Forum

View the hot topics, ask a question, or voice your opinion on The Reape-Rickett Law Firm's [Divorce Digest Message Forum](#).

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*Testimonial of the Month Comment from a current client:

"Jim Reape is quite frankly the BEST Divorce (Family Law) attorney out there. His knowledge and performance while in and out of court was spectacular.. Any father who wants more time or even custody of their minor children needs to

remember that the amatory torts have been abolished in most states for a reason. We live in a society in which equality and privacy are constitutionally protected rights. Litigating sexual conduct and other matters of the heart can greatly inhibit these rights. The liberal writer Jacob Appell has called these lawsuits "vestiges of legal codes that also prohibited divorce and criminalized premarital sex." He claims they use the "judicial system as a mechanism for personal vengeance." It seems the Supreme Court agrees with Mr. Appell as it has established a right to privacy which includes sexual privacy and the acts of consenting adults whether inside or outside the marriage contract.

at Law!! Thank you for all of your help. You and your staff are the BEST!!
"

*This testimonial does not constitute a guarantee, warranty, or prediction regarding the outcome of your legal matter.

Child Support Add-Ons

By Lovette T. Mioni, Esq.



Child support is governed by the formula in the Statewide Uniform Guidelines For Child Support. However, it is possible to get more than guideline support in some instances. There are two mandatory add ons for child support and a couple add ons that are discretionary. The algebraic formula used to calculate child support is set forth in Family Code Section 4055 and is "presumptively correct in all cases". Nevertheless, there is a way to get additional support on top of the guideline support awarded. Family Code Section 4062 specifies two types of additional child support: mandatory ("the court shall order") and discretionary ("the court may order").

Mandatory additional child support is awarded for child care costs related to employment or necessary education. For instance, if both you and the child's other parent are working or in school and child care is necessary for you and the other parent to attend work or school, this is cause for a mandatory add on. Another mandatory add on is reasonable uninsured health care costs. These additional supports are on top of whatever guideline child support parent is already paying.

Discretionary additional child support may be awarded for

would be better educated in a private school or a child who needs tutoring or special aid, the court has to power to award extra support above guideline for these needs. The court can also award additional child support for visitation travel expenses.

If there is a need for the additional expenses listed in Family Code Section 4062, the expense shall be divided equally one half to each parent, unless either parent requests a different apportionment pursuant to subdivision (b) and presents documentation demonstrating that a different apportionment would be more appropriate.

Alternatives To The Public Courtroom

by James P. Reape, Esq.



Not always can a dispute be settled without some court intervention or other assistance from a third party. In some instances parties opt for mediation and appoint a third party to act in that role to help them through a settlement process. But for some, despite their efforts, they are unable to close the gap. Their option is to go to court, queue up and try to be heard by a judge who has an enormous case load and little time or staff to deal with the press of business. Another option is to hire a private or "rent a judge" The judge and the parties and the court all sign documents appointing the third party as a private judge. The judge is paid by the parties but because of the efficiency of that judge, money is saved over a court process that can drag for months to years.

One private judge relayed to me his experience is that each side saves \$2 or more for each dollar they spend on a private judge. That's because there's no waiting around for hours and hours, travel time is either zero or less than if you have to go to the courthouse (private trials are usually held in an attorney's conference room), there are no interruptions for

stipulation, which judges reward by giving them priority over whatever contested matter is being heard. If the attorneys can estimate correctly how much time a trial or big Order to Show Cause will take, the hearing or trial can be scheduled so that the matter can be heard to completion without having to break it up into bits and pieces; thus saving the client money because the lawyer doesn't have to keep re-preparing. Some private judges will even conduct a lot of hearings, both noticed and ex partes, telephonically, which saves even more time and money. You and the other side also choose who the judge will be.

While the single most valuable benefit to litigants is that it actually saves the parties money there are other benefits. Consider that a lot of the bumps along the way can be resolved quickly and cheaply through telephone conference calls. Consider the lawyers are in the middle of a deposition with a discovery dispute. That could result in the deposition being adjourned and the matter being briefed and presented to the court or call the private judge, tell him what it is, and get an answer.

With a private judge, you get orders that are legally identical in their effect to orders obtained from a judge in the courthouse. They are enforced exactly the same way. The parties have the same rights of appeal whether the order or judgment is issued by a private judge or by one sitting in the courthouse.

The Reape-Rickett Law Firm

Our mission is to provide Family Law legal services that are second to none. We conduct ourselves in accordance with the highest ethical standards and are committed to providing quality services.

Each firm member takes special care to understand the unique and individual concerns of our clients. Our team approach to each case ensures efficient and timely responses to simple or complex issues. We empower our clients with knowledge and information, enabling them to make reasoned and results-oriented decisions. The Reape-Rickett Law Firm is the firm of choice when results matter.

