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Child Support for Sperm Donors?

During the past few decades, there have been numerous advances in medical research regarding fertility. These advances are often a blessing for people who have been unable to have children, but they can also create complications for the family law courts. For example, can sperm donors be required to pay child support for the children created by their donation? The New Mexico courts have examined this very issue and the answer they have arrived at is perhaps yes, perhaps no, but always maybe.

Generally, the biological parents of a child are responsible for supporting that child. This obligation extends to biological fathers regardless of whether or not the father was ever married to the child's mother and regardless of whether or not he intended to conceive a child with the mother. The New Mexico court of appeals has ruled that when a woman is artificially inseminated by a licensed physician with the sperm of an anonymous donor, that donor will not be obligated to pay child support even though he is the biological father of the woman's child because such a case does not result in a true parent-child relationship.

However, the issue of sperm donor responsibility becomes substantially more complicated when parties privately conduct artificial insemination without the assistance of a doctor, or through a sexual encounter, with the understanding that the father is acting only as a sperm donor. Even when the parties agree in writing that the father is acting as a sperm donor and will not be obligated to pay child support, the court may find that the father/sperm donor is required to pay support if he engages in conduct that creates a parent-child relationship. A sperm donor may become a father when he acts like a father. This conduct can include things like acknowledging that he is the child's father. It can also include regular contact with the child. A regular visitation schedule will almost certainly result in a finding of paternity with consequent child support obligations. Any form of child custody would clearly indicate paternity and child support. Other acts by the sperm donor that create a father-child relationship may also result in finding by the court. The court will often look to the expectations of the child. As with all matters involving children in family court, it is the best interests of the child that are conclusive.

Thus, very simple acts, when taken together over time, can create a parent-child relationship in the eyes of the court. This is the case even when this may not have been the intention of the mother or the father. As such, anyone considering sperm donation, whether anonymous or not, should consult an attorney in order to fully understand the rights and responsibilities that come with such a donation. Then all behavior toward the child in the future should be consistent with the sperm donor's intentions.

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