Clerk of the Superior Court

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M. Cain, Deputy

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IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA IN AND FOR THE COUNTY OF MARICOPA

Petitioner,
and
CLAYTON ECHARD,

Respondent.

PETITIONER'S RESPONSE TO EXPEDITED MOTION TO EXTEND

DISMISSAL DATE ON INACTIVE CALENDAR AND SCHEDULE AN EVIDENTIARY HEARING

(The Honorable Julie Mata)

Case No.: FC2023-052114

Petitioner, Latenace S, asks this Court to deny Respondent's December 13, 2023 Motion to Extend in its entirety. In his Motion, Respondent requests (1) a 60-day continuance on the dismissal calendar; (2) a virtual evidentiary hearing on paternity/non-paternity, attorney's fees, and Rule 26 sanctions; and (3) an award of attorney's fees and costs pursuant to A.R.S. § 25-324. This Court should deny all Respondent's requests.

First and most importantly, Petitioner has concurrently filed a Motion to Dismiss her Petition to Establish, filed August 1, 2023. In that Motion, Petitioner concedes that she is no longer pregnant. Without minor children linking these unmarried parties, this Court does not have jurisdiction to proceed in a paternity establishment matter.

Second, Respondent's Motion is premature. The dismissal calendar deadline is not until February 2, 2024. It is not clear why Respondent—who adamantly denies he



From JusticeForClayton community on Reddit

impregnated Petitioner and has stated he wants nothing to do	with her—is seeking to
ensure this case is not dismissed long before the dismissal dea	dline. But, in any event,
one unavoidable fact remains: Petitioner acknowledges that she	is no longer pregnant with
Respondent's child, meaning there is no paternity to establish.	There is nothing left for
this Court to adjudicate, and this case should be dismissed.	

Third, given Petitioner's acknowledgment that she is no longer pregnant, the only remaining issue is Respondent's request for attorney's fees—attorney's fees that, upon information and belief, he did not personally incur. Respondent's request for Rule 26 sanctions against Petitioner is not viable, as Respondent did not satisfy any of Rule 26's prerequisite requirements. For instance, Respondent has attempted to shoehorn his request for sanctions into his proposed Amended Response and his Motion to Extend, even though Rule 26 clearly requires a motion for sanctions to "be made separately from any other motion," after a good faith consultation, which has not occurred. Ariz. R. Fam. L. P. 26(c)(3)(A).

WHEREFORE, Petitioner asks this Court to deny Respondent's Motion to Extend. Petitioner is not now pregnant. This is no longer a paternity establishment case, as there is no paternity to establish. This case is now moot, and for this reason Petitioner seeks to voluntarily dismiss this case. Petitioner has concurrently filed a Motion to Dismiss her case in full, and this Court should grant that motion and deny Respondent's request for an unnecessary hearing.

RESPECTFULLY SUBMITTED this 28th day of December 2023.

MODERN LAW

By: /s/ Alexis Lindvall
Alexis Lindvall
Attorney for Petitioner



Clerk of the Superior Court

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M. Cain, Deputy

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IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA IN AND FOR THE COUNTY OF MARICOPA

In Re the Matter of:



Petitioner,

and

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CLAYTON ECHARD,

Respondent.

Case No.: FC2023-052114

PETITIONER'S MOTION TO DISMISS PETITION TO ESTABLISH PATERNITY, LEGAL DECISION-MAKING, PARENTING TIME, AND CHILD SUPPORT WITH PREJUDICE

(The Honorable Julie Mata)

Petitioner, Legal Decision-Making Authority, Parenting Time, and Child Support, filed August 1, 2023. Petitioner is not now pregnant with Respondent's children. Under A.R.S. § 25-801, this Court has "jurisdiction...to establish maternity or paternity." Here, there is no paternity or maternity to establish, as Petitioner is no longer pregnant. Accordingly, this case must be dismissed.

I. FACTUAL BACKGROUND

The underlying Petition was filed on August 1, 2023. Respondent filed a Response on August 21, 2023. On December 27, 2023, Petitioner's counsel sent Respondent's counsel a draft Stipulated Motion to Dismiss with Prejudice. Respondent does not agree to the dismissal and instead seeks to utilize family court resources for a case that does not





27 to the dismissal and instead seeks to utilize family court resources for a case that does not



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involve a family.

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II. LEGAL ARGUMENT

Because Respondent has filed a Response to the Petition, this case may be dismissed only by party agreement or by a court order. See Ariz. R. Fam. L. P. 36(a)(1)(B)-(C). And because Respondent does not consent to a stipulated dismissal, Petitioner requests that the Court order dismissal pursuant to Rule 36(a).

a. The family court does not have jurisdiction to hear a case involving unmarried parties without a minor child.

A.R.S. § 25-801 grants this court "original jurisdiction in proceedings to establish maternity or paternity." Here, there is no maternity or paternity to establish, as Petitioner is no longer pregnant. Accordingly, this Court no longer has jurisdiction, and the underlying Petition must be dismissed.

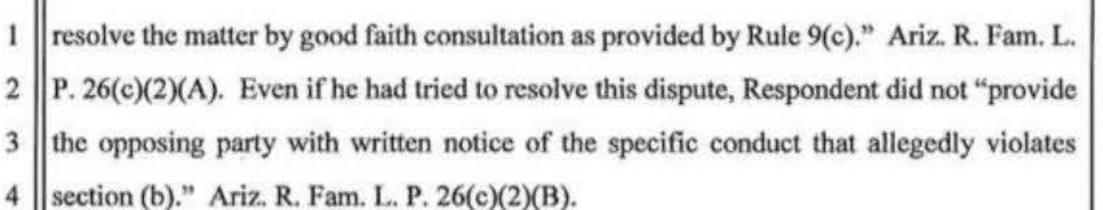
Additionally, it is well-established that courts cannot decide moot cases. Contempo-Tempe Mobile Home Owners Ass'n v. Steinert, 144 Ariz. 227, 229 (App. 1985). "A case is moot when it seeks to determine an abstract question which does not arise upon [the] existing facts..." Id. Because Petitioner is no longer pregnant, this case is now moot and there is no need for this case to proceed.

 Respondent's only potentially viable claim is for attorney's fees, which he did not personally incur.

On December 12th, Respondent filed a Motion for Leave to Amend his Response. The proposed Amended Response requests the following relief: (1) an order of non-paternity; (2) an order compelling Ravgen Inc., a non-party, to produce fetal DNA records; (3) Rule 26 sanctions against Petitioner; and (4) attorney's fees from Petitioner.

Items 1 and 2 are now moot because Petitioner is not now pregnant. Regarding item 2, the Request for Relief of a Response is not the appropriate place to request a Court to order discovery from a non-party. As to item 3, Respondent failed to comply with any of Rule 26(c)'s prerequisite requirements. Specifically, Respondent did not "attempt to









26 to order discovery from a non-party. As to item 3, Respondent failed to comply with any

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equisite requirements. Specifically, Respondent did not "attempt to

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26 27 resolve the matter by good faith consultation as provided by Rule 9(c)." Ariz. R. Fam. L. P. 26(c)(2)(A). Even if he had tried to resolve this dispute, Respondent did not "provide the opposing party with written notice of the specific conduct that allegedly violates section (b)." Ariz. R. Fam. L. P. 26(c)(2)(B).

Additionally, sanctions cannot be requested as part of a Response (or of any other pleading for that matter). Pursuant to Rule 26(c)(3)(A), a motion for sanctions must be made separately from any other motion. Respondent also failed to attach a Rule 9(c) good faith consultation certificate and/or "attach a copy of the written notice provided to the opposing party under subpart (c)(2)(B)." Ariz. R. Fam. L. P. 9(c)(3).

Accordingly, the *only* remaining viable claim in this entire case is Respondent's claim for attorney's fees from Petitioner. Respondent, however, crowd-sourced his attorney's fees through GoFundMe. Exhibit A, Mr. Echard's GoFundMe. Respondent did not personally incur attorney's fees and it is doubtful that he intends to reimburse all 331 people¹ who donated to his "cause." Respondent could easily have no attorney's fees moving forward if he agrees to the requested dismissal. Any fees incurred moving forward are a result of Respondent attempting to inappropriately utilize the family court's resources for a non-familial dispute.

WHEREFORE, Petitioner respectfully requests this Court dismiss her Petition to Establish Paternity with Prejudice because the family court does not have jurisdiction over any perceived remaining issues.

RESPECTFULLY SUBMITTED this 28th day of December 2023.

MODERN LAW

By: /s/ Alexis Lindvall
Alexis Lindvall
Attorney for Petitioner

Number of donors at the time of filing.

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Clayton Echard Legal Fund

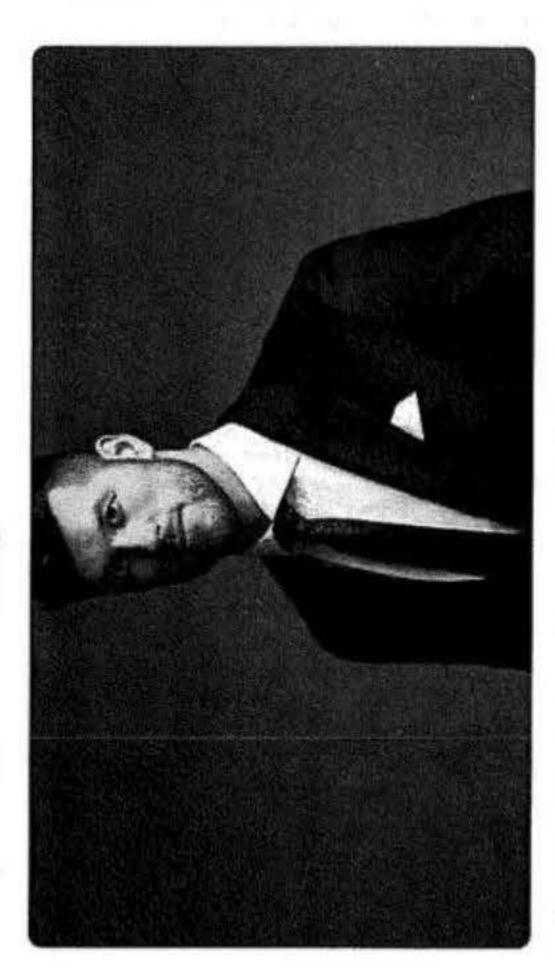
gofundme

Start a GoFundMe

Q. Search How it works <

\$8,080 mised of \$10,000 gost

331 donations



Donate now

Anonymous

\$25 - 3d

, Dave Neal is organizing this fundraiser on behalf of Clayton Echard.

Rachael Lurker

\$20 - 74

Anonymous

\$20 - 7d

Aronymous

Clayton Echard is facing several legal battles within the Arizons court system and could use a hand in hining a lawyer to properly represent him in court. I have spoken personally with Clayton and while he never wanted to ask for a handout, it is evident that he can use the help of friends and family that want a fair legal battle.

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