



Clerk of the Superior Court
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8 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

Case No.: FC2023-052114

In Re the Matter of:

9 [REDACTED]
10 [REDACTED]

Petitioner,

**PETITIONER'S RESPONSE TO
EXPEDITED MOTION TO EXTEND
DISMISSAL DATE ON INACTIVE
CALENDAR AND SCHEDULE AN
EVIDENTIARY HEARING**

and

(The Honorable Julie Mata)

CLAYTON ECHARD,

Respondent.

17 Petitioner, LA [REDACTED] S, asks this Court to deny Respondent's December 13,
18 2023 Motion to Extend in its entirety. In his Motion, Respondent requests (1) a 60-day
19 continuance on the dismissal calendar; (2) a virtual evidentiary hearing on paternity/non-
20 paternity, attorney's fees, and Rule 26 sanctions; and (3) an award of attorney's fees and
21 costs pursuant to A.R.S. § 25-324. This Court should deny all Respondent's requests.

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

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





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

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

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

21 **RESPECTFULLY SUBMITTED** this 28th day of December 2023.

22 **MODERN LAW**

23
24 By: */s/ Alexis Lindvall*
25 Alexis Lindvall
26 *Attorney for Petitioner*
27





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8 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 In Re the Matter of:

11 [REDACTED]

12 Petitioner,

13 and

14 **CLAYTON ECHARD,**

15 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)

16
17 Petitioner, [REDACTED], moves this Court to dismiss her Petition to Establish
18 Paternity, Legal Decision-Making Authority, Parenting Time, and Child Support, filed
19 August 1, 2023. Petitioner is not now pregnant with Respondent's children. Under
20 A.R.S. § 25-801, this Court has "jurisdiction...to establish maternity or paternity." Here,
21 there is no paternity or maternity to establish, as Petitioner is no longer pregnant.
22 Accordingly, this case must be dismissed.

23 **I. FACTUAL BACKGROUND**

24 The underlying Petition was filed on August 1, 2023. Respondent filed a Response
25 on August 21, 2023. On December 27, 2023, Petitioner's counsel sent Respondent's
26 counsel a draft Stipulated Motion to Dismiss with Prejudice. Respondent does not agree
27 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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1 involve a family.

2 **II. LEGAL ARGUMENT**

3 Because Respondent has filed a Response to the Petition, this case may be
4 dismissed only by party agreement or by a court order. See Ariz. R. Fam. L. P.
5 36(a)(1)(B)–(C). And because Respondent does not consent to a stipulated dismissal,
6 Petitioner requests that the Court order dismissal pursuant to Rule 36(a).

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

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

13 Additionally, it is well-established that courts cannot decide moot cases.
14 *Contempo-Tempe Mobile Home Owners Ass’n v. Steinert*, 144 Ariz. 227, 229 (App.
15 1985). “A case is moot when it seeks to determine an abstract question which does not
16 arise upon [the] existing facts...” *Id.* Because Petitioner is no longer pregnant, this case
17 is now moot and there is no need for this case to proceed.

18 **b. Respondent’s only potentially viable claim is for attorney’s fees, which**
19 **he did not personally incur.**

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

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

-2-

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





26 to order discovery from a non-party. As to item 3, Respondent failed to comply with any
equisite requirements. Specifically, Respondent did not “attempt to

6 of 9

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

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

10 Accordingly, the *only* remaining viable claim in this entire case is Respondent’s
11 claim for attorney’s fees from Petitioner. Respondent, however, crowd-sourced his
12 attorney’s fees through GoFundMe. Exhibit A, Mr. Echard’s GoFundMe. Respondent
13 did not personally incur attorney’s fees and it is doubtful that he intends to reimburse all
14 331 people¹ who donated to his “cause.” Respondent could easily have *no* attorney’s fees
15 moving forward if he agrees to the requested dismissal. Any fees incurred moving
16 forward are a result of Respondent attempting to inappropriately utilize the family court’s
17 resources for a non-familial dispute.

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

21 **RESPECTFULLY SUBMITTED** this 28th day of December 2023.

22 **MODERN LAW**

23
24 By: /s/ Alexis Lindvall
25 Alexis Lindvall
26 Attorney for Petitioner

27 ¹ Number of donors at the time of filing.

1 **ORIGINAL** of the foregoing eFiled
2 this 28th day of December 2023 with:
3 Clerk of the Superior Court
Maricopa County Superior Court





Clayton Echard Legal Fund



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

Clayton Echard is facing several legal battles within the Arizona court system and could use a hand in hiring 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.

Clayton is the only beneficiary of this fund. The funds will go directly to his attorney from



\$8,080 raised of \$10,000 goal

331 donations

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Anonymous \$25 · 3 d

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Rachael Lurker \$20 · 7 d

Anonymous \$50 · 8 d

Anonymous \$15 · 8 d

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