

My Two Dads

SPEAKERS



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Questions to consider:

- Child's perspective:
 - Who is my dad?
 - Who should be my dad?

The Issue

- When should the biological (genetic) father be the legal father?
- When should the non-biological (non-genetic) father be the legal father?

Ripped from the headlines

How DNA Testing is Changing
our Business



**“DNA Dilemma/Easy,
Inexpensive Paternity Tests
are Proving Increasingly
Popular and Raising
Tough Questions”**

St. Paul Pioneer Press

October 29, 1998

“Dad Blood: If DNA tests prove that you’re not your children’s father, do you still owe child support?”

Reason

November 2002

**“Push for Paternity
Testing Often Leaves
Children Suffering”**

St. Paul Pioneer Press

September 23, 2002

“Paternity Suit Raises Doubts about DNA Tests”

Washington Post
August 21, 2005

**“Who’s Your Daddy?
Answer’s at the
Drugstore”**

msnbc.com

May 23, 2008

**“Who’s Your Daddy? The
Answer May Be at the
Drugstore”**

Scientific American
November 14, 2008

**“Fathers to get £30
DNA paternity test
over the counter”**

Daily Mail (United Kingdom)

July 18, 2009

**“ ‘Who Knew I was not the
Father?’ How DNA Testing
is Changing Fatherhood”**

New York Times
November 22, 2009

**“N.J. legislator proposes
bill requiring genetic
testing for all
newborns, parents to
verify paternity”**

blog.nj.com

March 2012

Allegedly Stolen Sperm and Insemination

A Minnesota Psychic Experience

KDWB Radio - June 2012

“Unborn Genetic Test”

Fox News 26 Oregon

June 15, 2012

“Before Birth, Dad’s ID”

New York Times

June 19, 2012

“New Paternity Tests Work Early in Pregnancy”

Star Tribune
June 20, 2012

**“California Jury Urges
Death in Murders
Over Paternity”**

Star Tribune
August 10, 2012

**“ ‘Who’s Your Daddy’
Truck Rolls Through NYC,
Offers Answers with
DNA Tests’ ”**

CBS New York
August 15, 2012

Objective

- Provoke challenging thoughts
- Re-examine beliefs
- Provide resources

Basics

“Let’s start at the very beginning.
A very good place to start.”

Parent Child Relationship

- The parent and child relationship is defined by *Minn. Stat. § 257.52* as:
 - “the legal relationship existing between a child and the child’s **biological** or **adoptive parents** incident to which the law confers or imposes rights, privileges, duties, and obligations.” (Emphasis added)

Parent Child Relationship

- *Minn. Stat. § 257.54* provides that the parent and child relationship between a child and:

“(b) the **biological** father may be established under sections 257.51 to 257.74 [the Parentage Act] or 257.75 [Recognition of Parentage]; or
(c) the **adoptive** parent may be established by proof of adoption.” (Emphasis added)

Back to Basics

- Under Minnesota Statutes, a “parent” is:
 - a biological parent
- or
- an adoptive parent

Presumptions of Paternity

- What are they?
- What if they conflict or there is more than one?
- Why are/were they needed?
- Minnesota Supreme Court Perspective.

What are they?

- *Minn. Stat. § 257.55* – Presumptions of Paternity (Most common examples):
 - **Marriage** – He and child's biological mother have been married and child is *born during the marriage* or born within *280 days of dissolution being final*
 - **Holding Out** – While child is minor, he receives the child in his home and *holds himself out as the father*
 - **Genetic Tests** – *Genetic Tests* showing a 99% or higher probability create an evidentiary presumption

What if they conflict?

- *Minn. Stat. § 257.55, subd. 2*, further provides:
 - “If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls.” (Emphasis added)

Why are they needed?

- The presumptions:
 - are more social and political than legal
 - were created during the infancy of blood analysis and before DNA analysis
 - were an attempt to determine who should be the legal father when we could not determine who was the biological father

Minnesota Supreme Court Perspective

- *Benson v. LaBatte*, 288 N.W.2d 684, 686 (Minn. 1979)
 - “We again express our belief, however, that blood-test procedures provide the most accurate and efficient means of determining paternity, and we recommend that in the interests of justice the county attorneys of the state encourage their use in proceedings of this nature.” [Emphasis added]

Minnesota Supreme Court Perspective

- *County of Ramsey v. S.M.F.*, 298 N.W.2d 40 (Minn. 1980)
 - County brought a paternity action, which was dismissed for failure to answer interrogatories
 - The decision was reversed and Court took opportunity to note how the new paternity legislation should be applied

Minnesota Supreme Court Perspective

“We can imagine no situation in which it would not be in the interest of a paternity plaintiff, whether it be the county, the mother or the child, to have blood tests taken. When such reliable evidence is available, it is no longer sensible to rely solely on customary, less reliable evidentiary techniques. We therefore believe that in **every paternity case**, the party bringing the action **should request the court to order blood tests** as early as possible in the litigation.” (Emphasis added)

Minnesota Supreme Court Perspective

- *Kremlin v. Graham*, 318 N.W.2d 853 (Minn. 1982)
 - *Minn. Stat.* § 257.62 challenged as improper use of police power, violation of due process, and violation of right to privacy.
 - The court upheld the constitutionality of compulsory blood or genetic testing in paternity actions when requested by a party or the court.

Summary so far

- The paternity statute directs a determination of the biological father as the legal father
- The adoption statute directs a determination of non-biological father as the legal father
- However, because life is messy, the Minnesota Legislature and Courts must attempt to resolve the messy life situations

Who's the Dad?

- Itasca County
 - Identical twins had sexual intercourse with mom during period of conception
 - Jury Trial completed
 - Prior to jury verdict, former boyfriend twin agreed to be the legal father

Who's the Dad?

- Becker County
 - Identical twins had sexual intercourse with mom during period of conception
 - As a settlement, boyfriend twin agreed to be the legal father

Who's the Dad?

- Dakota County
 - Identical triplets, but only 2 had sexual intercourse with mom during period of conception
 - Immediately before jury trial, GAL and Court told the more stable of the 2 ALFs that things were looking his way, so he agreed to be the legal father

Issues

- Child's Rights
- Man's Rights
- Biological Father's Rights
- Mother's Rights
- Government's Interests

Child's Rights

“[E]stablishment of the parent-child relationship is the most fundamental right a child possesses to be equated in importance with personal liberty and the most basic constitutional rights.”

Johnson v. Hunter, 447 N.W.2d 871 (Minn. 1989)

Man's Rights

“The joinder of all presumptive fathers mandated by *Minn. Stat. § 257. 60* protects this [right for a presumptive father to bring a paternity action], and other, rights.”

County of Dakota and Victoria Louise Reily, a/k/a Darnell v. Edward Lee Blackwell, 809 N.W.2d 226, 229 (Minn. App. 2011)

Man's Rights

“Thus, no one presumption necessarily trumps another. While there are notable historic policy considerations emphasizing the importance of blood relationships, ‘the determination of paternity is no longer solely an issue of biological fact.’”

In Re the Custody of D.T.R., 2012 WL 1915085 (Minn. App.), citing

In Re the Welfare of C.M.G., 516 N.W.2d 555, 560 (Minn. App. 1994)

Biological Father's Rights

“Thus, when choosing between two conflicting presumptions of paternity, in addition to considering the best interests of the child, district courts must weigh ‘historic policy considerations on the importance of protecting the marriage relationship and the importance of blood relationships’.”

St. Louis County and Kelleen Joy Nyman v. Kevin James Thomas and Todd William Nyman, 584 N.W.2d 421, 424 (Minn. App. 1998)

Mother's Rights

“[A biological mother has a] direct interest in determining the primary question as to who is father of the child. The determination of [paternity] is a prerequisite to the order for support.”

State v. E.A.H., 75 N.W.2d 195, 199 (Minn. 1956)

Back to Basics Again

- Under Minnesota Statutes, a “parent” is:
 - a biological parentor
 - an adoptive parent
- But, after the fact, life is messy and the ultimate outcome of a case often turns on the facts

Government Interests

“The public authority is a real party in interest in any IV-D case where there has been an assignment of support. In all other IV-D cases, the public authority has a pecuniary interest, as well as an interest in the welfare of the children involved in those cases.”

Minn. Stat. § 518A.49(b)

“The public [authority]... is joined as a party in each case in which rights are assigned..., and in each case in which the public [authority] is providing services pursuant to an application for child support services.”

Minn. Stat. § 257.60

Paternity or Not!

- Establishing Paternity
- Disestablishing Paternity
 - Vacating the Paternity Adjudication
 - Action to Declare the Nonexistence of the father-child relationship
 - Vacating the Recognition of Parentage

Life is Messy!

- Non-Biological Father
 - Wants to be father
 - Does not want to be father
 - Wants to pay child support
 - Does not want to pay child support

Life is Messy!

- Biological Father
 - Wants to be father
 - Does not want to be father
 - Wants to pay child support
 - Does not want to pay child support

Life is Messy!

- Mother
 - Wants non-biological father to be father
 - Wants biological father to be father
 - Wants child support
 - Does not want child support

Life is Messy!

- Child
 - May be too young to voice a preference
 - May not want to voice a preference
 - Wants non-biological father to be father
 - Wants biological father to be father

Trends - Minnesota Law

- What is in the best interest of the child?
- Who wants to be Legal Father?
- If no one wants to be Legal Father, likely Biological Father will be Legal Father!

Balance of Presumptions

- *Kelleen Joy Nyman v. Kevin James Thomas and Todd William Nyman*, 584 N.W.2d 421 (Minn. App. 1998)
 - Mom had sexual relations with Thomas while married to Nyman
 - During dissolution 4 years after child's birth, paternity was questioned but parenting time ordered
 - County serves paternity complaints on both
 - Neither wants to be dad – both point to how the other should be dad
 - Biological father, Thomas, found to be the legal father

Balance of Presumptions

- *St. Louis County v. DEA and J.S.C.*, 2007 WL 1816471
 - Child born less than 280 days after divorce
 - Ex-husband wants to be the father
 - Ex-husband held himself out to be the father for all (9 years) of the child's life
 - Non-biological father does not want to be the father and actively evaded his responsibility
 - Ex-husband, non-biological father, determined to be the legal father
 - Best interests outweigh biology; unpublished case that distinguishes *Thomas* but on different facts

Balance of Presumptions

- *In re Custody of D.T.R.* A10-1098 (Unpublished May 29, 2012)
 - Mom has sexual intercourse with ALF while engaged to second ALF
 - Child born after marriage; bio ALF finds out 4 years later and petitions for custody and “disestablishment” of married ALF
 - Married ALF petitions for divorce
 - Competing presumptions
 - Non Bio ALF is Legal Dad

Back to Basics Once More

- Under Minnesota Statutes, a “parent” is:
 - a biological parentor
 - an adoptive parent
- But, after the fact, life is messy and the ultimate outcome of a case often turns on the facts

Best Interest of Child

- *Mulligan v. Corbett*, 2012 WL 1862009 (Md) (May 23, 2012)
 - Court of Appeals upheld the denial of request for genetic tests on grounds that the adjudicated father failed to demonstrate that it was in the child's best interests

A few words about the ROP

- Recognition of Parentage is a voluntary acknowledgment of paternity, required by the Federal Government
 - A good thing for some people, a not so good thing for others.
 - Signed outside of the court
 - Offered at the hospital in the height of emotion, maybe around family members
 - Inconsistent instructions depending on where you sign it
 - Parties used to circumvent the requirements of adoption law, and sometimes:
 - Both know ROP dad is not the biological father
 - Mom knows ROP dad, ROP dad doesn't know
 - Both mom and ROP dad are unsure

Then consider...

- Disestablishment of paternity
 - Vacating the Adjudication
 - Action to Declare the Nonexistence of the father-child relationship (a/k/a disestablishment in other states)
 - Vacating the Recognition of Parentage

Disestablishment of Paternity

- When considering genetic tests after paternity is established, consider:
 - Length of time before raising the issue?
 - Practical ability to raise the issue earlier?
 - Whether the mother lied and the father did not know that he was not the biological father?
 - Whether there is another known possible father?
 - Credibility of the parties?

Disestablishment of Paternity

- When considering genetic tests after paternity is established, consider:
 - Father's relationship with the child, both in quality and duration.
 - Was service of process on the original paternity proper? If proper was it abode service or service by publication?
 - Was this a poor man's adoption?
 - If a ROP was signed, are you prepared to revoke the ROP?

Disestablishment of Paternity

- Cases must be examined individually.
- Facts make a big difference.
- Pause. Consider. Consult. Decide.
Proceed in court.

Disestablishment of Paternity

- Vacating the Adjudication
- *Turner v. Suggs*, 653 N.W.2d 458 (Minn. Ct. App. 2003)
 - Motion to Vacate Paternity Adjudication under Rule 60 of the Minnesota Rules of Civil Procedure
 - Fraud and Newly Discovered Evidence

Disestablishment of Paternity

- Vacating the Adjudication
 - Turner stated in the paternity affidavit and in court that Suggs is the only possible father
 - Suggs makes an in-court waiver of GTs, an in-court waiver of counsel, and an in-court admission that he is the biological father of the child
 - Paternity later questioned by Suggs, but he continued to parent the child with Turner
 - Genetic testing (motherless testing arranged privately by Suggs) excluded Suggs as the biological father

Disestablishment of Paternity

- Vacating the Adjudication
 - Court held that genetic tests can be used to seek relief from a paternity adjudication on basis of newly discovered evidence and fraud under Rule 60
 - Newly Discovered Evidence – Genetic Tests
 - Fraud – Mom’s Statement that Suggs was the Father
 - Also, a child’s best interests *are not* part of the analysis used to determine whether to grant relief under Rule 60.02

Disestablishment of Paternity

- The Minnesota Court of Appeals vacated the adjudication of Suggs
 - Despite the in-court waivers and admissions
 - Without adding the child as a party or appointing a GAL
 - The “best interests” of the child is not a factor in Rule 60 Cases

Disestablishment of Paternity

- Action to declare the nonexistence of the father-child relationship
- *Minn. Stat. § 257.57, subd. 1(b)* provides that the action must be brought
 - Within 2 years of the person bringing the action believing the father is not the father
 - If child born within 280 days of dissolution
 - If the father did not know about the child, up to 1 year after the child reaches the age of majority, or
 - Within 1 year of reasonably knowing or when should have known he was not the father

Disestablishment of Paternity

- Action to declare the nonexistence of the father-child relationship
- *Minn. Stat. § 257.60*:
 - The child must be made a party
 - A GAL must be appointed
 - Best interests of the child

Disestablishment of Paternity

- Vacating the Recognition of Parentage
- Language of Recognition of Parentage
 - “I acknowledge that we are the **biological** parents of the child named in this ROP.”
 - “I understand that either of us can choose to have genetic testing done before we sign the ROP.”

(Emphasis added)

Disestablishment of Paternity

- Vacating the Recognition of Parentage
- *Minn. Stat. § 257.75, subd. 4*, provides:
 - If genetic tests establish that the man who executed the recognition is not the father the court **shall** vacate the recognition
 - No discretion
 - No GAL
 - No best interests

Disestablishment of Paternity

- Vacating the Recognition of Parentage
- Time limits to bringing action to vacate
 - Mother or Father – Within 6 months after receipt of genetic test results
 - Child – Within 6 months after receipt of genetic test results or 1 year after reaching majority
 - Public Authority - There does not appear to be a time limit for the Public Authority to bring a motion to vacate

Disestablishment of Paternity

- Effects of disestablishment of paternity
 - What about the ongoing child support order?
 - What about the past support paid?
 - What about the arrears (past support) not paid?

Disestablishment of Paternity

- Effects of disestablishment of paternity
 - *State v. Button*, 7 P.3d 74 (Alaska 2000)
 - Genetic tests showed Button was not the biological father
 - The court disestablished paternity and relieved Button of ongoing and past support

Disestablishment of Paternity

- Effects of disestablishment of paternity
 - *Wesley v. Hall*, 289 S.W.3d 143 (Ark.Ct.App. 2008)
 - Genetic tests showed Hall was not the biological father
 - The court disestablished paternity and relieved Hall of ongoing and past support, and specifically ordered no refund for the amounts of child support already paid

Disestablishment of Paternity

- Effects of disestablishment of paternity
 - Repayment of Child Support
 - *Ramsey County and Milligan v. Fulford*, District Court File No. PF1-00-05924 (Jan. 15, 2004)
 - Genetic tests showed Fulford was not the biological father
 - The court disestablished paternity and relieved Fulford of current and past support
 - Plaintiff Milligan ordered to repay monies paid to her by Defendant Fulford

Minnesota Legislature and Court Perspectives

- The Paternity Statute seeks the Biological Father as the Legal Father
- The Adoption Statute seeks the Non-Biological Father as the Legal Father
- Life is Messy
- Courts do not like Messy

Ramsey County Genetic Testing Policy

- In all paternity cases petitioned to Court, Ramsey County will request genetic tests
 - Every good policy has exceptions, and there are exceptions made
 - It is pure folk lore that Ramsey County does not allow ROPs to be signed

Ramsey County Genetic Testing Policy Process

- Parties are offered ROPs in the hospital
- If parties come into the office, they are offered ROPs
 - Only exception is that if the parties identify to our staff that they have reason to believe that the ALF is not the father or might not be the father

Ramsey County Genetic Testing Policy Process

- If the mother and ALF do not sign a ROP and Ramsey County petitions the court for a paternity adjudication, several opportunities are provided to voluntarily do the genetic tests:
 - First voluntarily, sometimes before service of the pleadings, sometimes after depending on how cooperative they are before the petition (serve and swab too)
 - Second, by motion
 - Third, by OSC if motion resulted in a genetic test order
 - But, while being served with OSC, offered a genetic test

Ramsey County Genetic Testing Policy Process

- If no genetic tests, OSC hearing is held
 - Show up, court decides
 - No show, court issues a writ
 - Picked up on writ, offered a voluntary genetic test:
 - If done, released
 - If not done, writ hearing

Ramsey County Genetic Testing Policy

- Policy adopted in **2003**
- Since **2004**, the average exclusion rate per year is **18.71**
- This is lower than the national average

Genetic Testing Exclusion Rate

- According to the AABB 2010 Annual Report, there was a 24.87% exclusion rate in paternity genetic testing
 - The median exclusion rate was 21.53% with a range of 8.52% to 30.73%
 - The average was 20.44% with a standard deviation of 6.62

Genetic Testing Exclusion Rate

- In an article stating that the new “push” for genetic testing to determine paternity is harmful to children, the columnist stated:
“So far, there’s little evidence of a ‘growing epidemic’ of paternity fraud... Studies by the American Association of Blood Banks show that while more tests are now being performed, the percentage who discover that the child isn’t theirs has remained steady, at between 25 percent and 30 percent – meaning that around two-thirds spend several hundred dollars for nothing.”

Jane Eisner, Syndicated Columnist,
St. Paul Pioneer Press, September 23, 2002

Genetic Testing Exclusion Rate

- Whether there is an epidemic of paternity fraud is beside the point
- More than 1 out of 5 men nationally who are alleged and are tested end up not being the biological father
- These are not good results

Reasons Not to Test

- Let the family decide
- Family relationship
- After the adjudication:
 - Finality of judgments
 - Waived genetic testing – no two bites at apple
 - Unless you are willing to vacate the ROP or adjudication, testing is risky

Not to Test Cases Other Jurisdictions

“[The] policy in favor of paternity judgments means that a prior adjudication should not be subject to the relitigation in the basis of truly compelling circumstances.”

Ex Parte State ex re. J.Z., 668 So.2d 566, 569 (Ala. 1995)

Not to Test Cases Other Jurisdictions

A parent's "belated and self-serving concern over a child's biological origins" will not justify subjecting a child to a procedure designed to strip away his legal right to support.

Godin v. Godin, 725 A2d 904, 910 (Vt. 1998)

Not to Test Cases Other Jurisdictions

The attempt to disestablish paternity “is potentially devastating to a child who has considered the man to be [his] father.”

In re Paternity of Cheryl, 746 N.E.2d 488, 495-96 (Mass. 2001)

Reasons to Test

- Scientific Truth - All uncertainty is removed from the beginning
- Genetic Testing is readily available, inexpensive and very accurate
- Child's right to know valuable genetic information
- Cleans unclean hands (whether the hands are unclean intentionally or not)
- Children should not be lied to or kept in the dark about something as important as parentage

To Test Cases

Other jurisdictions

“[T]he original reasons for the conclusive presumption of paternity are out of place in a world in which blood tests can prove virtually beyond a shadow of a doubt who sired a particular child.”

Michael H. v. Gerald D., 491 U.S. 110, 140 (1989) (Brennan J., dissenting)

To Test Cases Other Jurisdictions

“[T]hat the biological mother, for whatever reason, has chosen to engage in sexual relations outside of marriage is proof itself that the integrity and solemnity of the family unit has been damaged at least to some degree. Resolution of these difficulties by the husband and wife does not, we feel, give license to the state to perpetuate the myth of ‘presumption of paternity’ so as to deprive the biological father of at least a chance to being able to exercise those rights, duties, privileges, and responsibilities that all civilized societies have recognized to be fundamentally ingrained in the concept of parenthood.”

In the Interest of J.W.T., 872 S.W.2d 189, 197 (Tex. 1994)

To Test Cases Other Jurisdictions

“The legal determination of parentage is a hollow one where the accoutrements do not inure to a child’s benefit.”

K.E.M. v. P.C.S., 38 A.3d 798, 809 (Pa. 2012)

“All things being equal in this regard, we conclude that the responsibility for fatherhood should lie with the biological father.”

K.E.M., 38 A.3d at 810

TV Mirroring Life

- “My Two Dads” (1987 – 1990)
 - Mother dies leaving child in custody of two fathers she had never met
 - Wild Artist Dad (Greg Evigan) and Serious Successful Dad (Paul Reiser)



TV Mirroring Life

- Judge orders joint custody to the two fathers based on the mother's wishes, and frequently visits the "family" as their landlord and mentor to the daughter, Nicole.
- After the two dads have a fight, they do genetic tests against Nicole's wishes, but she destroys the tests after showing them to the Judge; Judge knows, but does not reveal who the biological father is.

TV Mirroring Life

- “Days of Our Lives” – NBC
 - Like Sands through the Hour Glass, so are the Many Marriages of Samantha Brady-Reed-Walker-Roberts-DiMera-Hernandez



TV Mirroring Life

- Samantha's Children:
 - Will – Lucas is the father
 - Wanted Austin to be the father, switched genetic tests at the hospital, Austin believed he was the father
 - Austin found out
 - Twins John and Aly – E.J is the father of John and Lucas is the father of Aly (Superfecundation)
 - Tried to deny she was pregnant at all, then tried to convince all that Lucas was the father of the twins, bribed someone to fake the genetic tests
 - E.J. demanded genetic tests
 - Sydney - E.J. is the father

TV Mirroring Life

- “Brothers and Sisters” - ABC
 - Same sex couple, Kevin and Scotty, ask a female friend, who just went through a bad breakup, to be a surrogate so they can have a baby
 - Both fathers’ sperm is used so that they won’t know who the biological father is; donor egg



TV Mirroring Life

- Baby Daniel
 - Kevin is an attorney and draws up the Artificial Reproductive Technology papers
 - Surrogate lives with them, but then gets back together with her “loser” boyfriend, lies and says she had a miscarriage and moves away
 - Kevin and Scotty adopt an older daughter
 - Much drama, but then the baby comes back into their lives
 - Series cancelled

Considerations in Paternity Adjudication

- Political and Social Policies
- Finality
- Accountability
- Fairness
- Interests of Children

**Life is Messy and so are
the Court Decisions**

Messy MN Examples

- The Psychic Case
 - Married ALF
 - Stolen Sperm or Regretted Encounter?
 - Psychic Predictions – “Judge will laugh you know at this... I think you will win, in other words... and I believe he will have to pay child support, that’s what happens.”
- *Jevning v. Cichos*, 499 N.W.2d 515 (Minn. App. 1993)
 - NCP alleges statutory rape as basis to avoid paternity declaration
 - Court finds action against CP *not* child
 - NCP remains the legal father

Resources

- Center for Law and Social Policy – CLASP
 - June 10, 2005 – Paula Roberts Memo
 - Found at www.clasp.org
 - June 30, 2006 – Paula Roberts Memo
 - December 11, 2006 – Voluntary Paternity Acknowledgement: An Update of State Law

Resources

- Center for Law and Social Policy – CLASP
 - December 30, 2004 – Paternity Disestablishment in 2004: The year in Review
 - June 17, 2004 – Paula Roberts Memo
 - Truth and Consequences: Part I, II, and III
 - Found at www.clasp.org

Resources

- Law Reviews
 - *When Daddy Doesn't Want to be Daddy Anymore: An Argument Against Paternity Fraud Claims,*
16 *Yale J.L. & Feminism* 193 (2004)
 - *Little White Lies that Destroy Children's Lives-
Recreating Paternity Fraud Laws to Protect
Children's Interests,*
6 *J.L. & Family Studies* 237 (2004)

Conclusion

“The law is clearly not of one mind when it comes to weighing the respective claims of blood, marriage, caregiving, and voluntary assumption of parental duty in defining the basis of parenthood.”

David D. Meyer, *Parenthood in a Time of Transition: Tensions Between Legal, Biological, and Social Conceptions of Parenthood*, 54 AM J. COMP. L. 125, 137 (2006)

Conclusion

- The Paternity Statute seeks the Biological Father as the Legal Father
- The Adoption Statute seeks the Non-Biological Father as the Legal Father
- Life is Messy

Conclusion

- When life is messy, the courts must decide:
 - Who wants to be the Legal Father?
 - Who should be the Legal Father?
 - What is in the best interest of the child?
 - If no one wants to be the Legal Father, likely Biological Father will be the Legal Father!

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Sampling of Parentage Genetic Testing Case Law in Minnesota

Year/Court	Case	Type of Action	Rule of Law	Motivating Facts	Outcome
2012 Minn. App.	<i>D.T.R.</i> Not Reported in N.W.2d, 2012 WL 1914058	Paternity action between two presumptive fathers	<ul style="list-style-type: none"> • Weightier consideration of policy and logic when competing presumptions • Court must examine and weigh several factors, including blood relationship, child's existing relationships, and BI of child • Gave great weight to preexisting relationship, noting biology is not conclusive in adjudicating paternity 	<ul style="list-style-type: none"> • Non-bio dad wants to be dad • Bio dad also wants to be dad • Mom wants bio dad to be dad 	Non-bio dad wins—he is adjudicated the father
2012 Minn. App.	<i>Thies v. Kramp</i> Not Reported in N.W.2d, 2012 WL 1070114	Motion to Set Aside Judgment and to Declare Non-Paternity	<ul style="list-style-type: none"> • A ROP may be vacated based on mom's misrepresentations and fraud, with no exceptions, timelines, or doctrine of res judicata or mootness • The statute does not preclude a petition to vacate a ROP based on test results if filed outside one year 	<ul style="list-style-type: none"> • No bio dad • Non-bio dad doesn't want to be dad • Non-bio dad wants ROP to be vacated, wants a declaration that he is not the father, and wants judgment against mom for child support • GAL motion to dismiss for failure to state a claim for which relief can be granted 	GAL's motion to dismiss fails—non-bio dad is entitled to seek vacation
2011 Minn. App.	<i>Blackwell</i> 809 N.W.2d 226	Dad appealed paternity action, arguing DC should have joined a third party presumed father to suit	<ul style="list-style-type: none"> • All presumptive fathers and alleged biological father are required to be joined as parties to the paternity action 	<ul style="list-style-type: none"> • Mom had child while married to husband • Appellant declared to be bio dad by GTs • Appellant sought to have husband joined to paternity suit, which DC denied 	DC erred by denying appellant's motion to join husband
2011 Minn.	<i>D.T.R.</i> 796 N.W.2d 509	Mom's appeal of DC decision to adjudicate her husband over bio dad	<ul style="list-style-type: none"> • Bio mother had standing to appeal determination of paternity as an aggrieved party on grounds that the determination of paternity directly impacts her responsibility and rights as related to child support and custody 	<ul style="list-style-type: none"> • Bio dad brought petition seeking joint custody and parenting time • When DC adjudicated mom's husband as the legal father, bio dad's petition was dismissed • Bio mom appealed DC's determination on grounds that the decision directly impacts her responsibility and rights 	Mom has standing to appeal as an aggrieved party to DC's determination of paternity
2009 Minn. App.	<i>Graber</i> 760 N.W.2d 1	Mom challenges DC's order that respondent had standing to bring action for paternity	<ul style="list-style-type: none"> • Man can establish that he is presumed father by alleging that he received child into home and held out child as bio child—does not need to be proven by clear and convincing evidence 	<ul style="list-style-type: none"> • Mom had sexual relationship with respondent, but was married to different man at the time • Respondent commenced paternity action, claiming that he brought child into home and held out as child • Mom argues that respondent must overcome ex-husband (whom she was married to at time of conception) in order to gain standing in paternity action 	Mom's challenge fails Court holds that respondent had standing to bring paternity action as a presumed father

Sampling of Parentage Genetic Testing Case Law in Minnesota

Year/Court	Case	Type of Action	Rule of Law	Motivating Facts	Outcome
2007 Minn. App.	DEA Not Reported in N.W.2d, 2007 WL 1816471	Paternity action between 2 presumptive fathers	<ul style="list-style-type: none"> • Weightier considerations of policy and logic when competing presumptions • BI of child is a valid policy factor 	<ul style="list-style-type: none"> • Non-bio dad wants to be dad • Bio dad doesn't want to be dad • Mom wants bio dad to be dad 	Non-bio dad wins – he is adjudicated the father
2005 Minn. App.	Williams 701 N.W.2d 274	Paternity action where ROP previously executed and court ordered GTs later excluded ROP dad	<ul style="list-style-type: none"> • Once the ROP has been executed and if there are no competing presumptions of paternity, the court may not allow further action to determine parentage • A party must bring action to vacate ROP within one year or 6 months after genetic testing, proving fraud, duress, or material mistake of fact • Once paternity is established through ROP, a father may petition for rights of custody and parenting time 	<ul style="list-style-type: none"> • Non-bio dad wants to be dad • No other man claiming to be dad 	Non-bio dad wins – he is adjudicated the father and is allowed to petition for subsequent rights
2005 Minn. App.	Edwards Not Reported in N.W.2d, 2005 WL 89420	Request for GTs in dissolution	<ul style="list-style-type: none"> • Dad must allege facts sufficient to raise doubts that he is the child's father 	<ul style="list-style-type: none"> • ROP already executed • Timeline = birth, ROP, marriage, dissolution • Current dad is child's only known father • Dad's affidavit doesn't raise sufficient bio doubt 	Request for GTs denied
2003 Minn. App.	Dorman 666 N.W.2d 409	Cty's action to establish pat/support 2 years after dissolution – husband where child born during the marriage v. another alleged father.	<ul style="list-style-type: none"> • Another ALF can be compelled to submit to GT even though presumed father exists • Marital presumption not weightier - all pat presumptions weighed equally 	<ul style="list-style-type: none"> • Neither ALF wants to be dad • Husband questioned paternity and had private GTs showing he's not bio dad • J&D did not declare nonexistence of father-child relationship 	Both ALFs must submit to GTs
2003 Minn. App.	Maestas Not Reported in N.W.2d, 2003 WL 21694575	Default adjudication	<ul style="list-style-type: none"> • DC did not abuse discretion by ordering judgment in default, though because of the consequences of adjudication, GTs have been ordered 	<ul style="list-style-type: none"> • ALF petitions to be adjudicated the father, Mom doesn't respond but appears to say he is not the father • Court gives Mom opportunity to vacate judgment, but denied her motion and granted ALF paternity and awarded him physical custody 	Remanded with instructions for Court to order blood tests sufficient to determine paternity to a reasonable degree of medical certainty

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2002 Minn. App.	Frieson 653 N.W.2d 199	Request for GTs in paternity action between putative father and husband of wife who signed ROP	<ul style="list-style-type: none"> Once ALF establishes a reasonable possibility there was sexual contact, court must order blood or GT to determine paternity GT can't be denied because court finds ALF's affidavit not credible or GT not in child's best interests 	<ul style="list-style-type: none"> ALF files paternity petition and wants to be dad Mom and Husband married after child's birth and then executed a ROP 	ALF (non-ROP dad) wins – he is entitled to blood tests to determine paternity
2002 Minn. App.	Suggs 653 N.W.2d 458	Rule 60 Motion to Vacate paternity adjudication	<ul style="list-style-type: none"> Rule 60 motion different than motion to vacate paternity under 257.57 or to declare nonexistence of the father-child relationship under 257.55 Where non-bio dad seeks to adjudicate under Rule 60 based the falsehood of mom's sworn statements, the child's best interests are not considered by the court 	<ul style="list-style-type: none"> No bio dad Non-bio dad doesn't want to be dad Non-bio adjudicated dad b/c he admitted paternity (waiving rights to counsel/GT) in reliance on mom's statements that he was bio dad. Later GTs by non-bio dad show he's non-bio 	Non-bio dad wins – paternity adjudication vacated
2001 Minn.	Witso 627 N.W.2d 63	Paternity action between putative father and Husband of mom	<ul style="list-style-type: none"> Putative father who is not a presumed father can bring action to compel mom and child to undergo blood/GT after establishing a reasonable possibility that he could be the bio dad of a child who already has a presumed father 	<ul style="list-style-type: none"> Putative father wants to be dad and claims he is bio dad Mom says husband is bio dad Husband wants putative father's paternity action dismissed 	Putative father gets GTs Child made a party and GAL appointed Distinguished in <i>Palmer</i> (658 N.W.2d 197) based on intestacy, not on GT
2001 Minn. App.	CJP Not Reported in N.W.2d, 2001 WL 1464625	Paternity action initiated by non-bio dad who is presumed to be dad by holding out presumption	<ul style="list-style-type: none"> Purpose of paternity action is to legally determine a biological parent of a child 	<ul style="list-style-type: none"> Non-bio dad, who is presumed dad wants to be dad GTs rebut presumption that non-bio dad is dad No mention of bio dad 	Non-bio dad loses – he is not adjudicated the father Because GT exclude non-bio dad, don't need to address child's BI
1999 Minn. App.	Lelonek Not Reported in N.W.2d, 1999 WL 107755	Post dissolution contest of paternity – Ex-Husband of Mom brings action to establish nonpaternity	<ul style="list-style-type: none"> Res judicata does not prevent reopening of paternity determination when that determination has been the product of fraud 	<ul style="list-style-type: none"> BTs exclude ex-Husband Ex-husband moves to vacate portion of dissolution decree re: paternity & CS Ex-husband neither developed nor intends to develop any relationship with child (slight BI analysis even though no competing presumptions) 	Ex-husband wins - Paternity/CS portions of J&D vacated

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1999 Minn. App.	Coleman 596 N.W.2d 689	Contempt action arising from a default paternity adjudication NCP requests BTs and challenges default adjudication on grounds of no personal matter jurisdiction (PMJ)	<ul style="list-style-type: none"> • If waive PMJ by requesting BTs of court, waive it prospectively • Not banned from making argument that earlier adjudication is void when do nothing to indicate you accept default judgment w/o challenge 	<ul style="list-style-type: none"> • OSC hearing for failure to pay CS • NCP requests BTs • BTs show 99% inclusion and NCP concedes he is dad but also argues default pat adjudication should be vacated for lack of PMJ 	NCP wins – default paternity adjudication vacated
1998 Minn. App.	Thomas 584 N.W.2d 421	Paternity action between two presumptive fathers (one presumed by marriage & holding out, and the other presumed by GT)	<ul style="list-style-type: none"> • When presumptions conflict, look at best interests of the child and historic policy of protecting blood relationships 	<ul style="list-style-type: none"> • Neither presumed dad wants to be dad • Husband of mom had visitation and is the only father the child knows • Child young enough to develop relationship with bio dad and policy of not impairing blood relationships 	Bio dad wins – he is adjudicated the father Distinguished by <i>DEA</i> (2007 WL 1816471) based on the fact that no man in <i>Thomas</i> wanted to be father, which was not the case in <i>DEA</i>
1998 Minn. App.	BJH 573 N.W.2d 99	Paternity action between two presumptive fathers (one presumed by marriage & other presumed by GT)	<ul style="list-style-type: none"> • Importance of maintaining blood relationships 	<ul style="list-style-type: none"> • Bio dad and non-bio dad both want to be dad • Bio dad brings action to establish paternity • GAL appted and recommends bio dad • Both bio and non-bio dad have relationship with child. Non-bio supports child financially and cares for as his own 	Bio dad wins – he is adjudicated the father Distinguished by <i>Thomas</i> 584 N.W.2d 421), in this case the best interest of the child is more clear because both fathers are fighting for the right to raise the child, rather than where neither father wants to be adjudicated, as in <i>Thomas</i> Distinguished by <i>D.E.A.</i> (2007 WL 1816471), in this case parents wanted to be adjudicated Distinguished by <i>DTR</i> (2012 WL 1914058), in this case the father became involved in the child's life at a young age, unlike <i>DTR</i>

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1998 Minn. App.	Losoya 584 N.W.2d 425	Contempt action where blood tests requested and results exclude NCP. NCP then moves to vacate default paternity adjudication	<ul style="list-style-type: none"> • Bad faith and abuse of process to hold someone as father and obligate him to pay CS when everyone now admits the child of the action is not his • “Given the emphasis courts today place on accurate paternity determinations, given the ct’y’s acquiescence in the motion for blood tests, and given the incontrovertibility of this blood test, there should be no further proceedings in this case against [NCP].” • Quote from U.S. Supreme Ct (Little v. Streater) re: importance of familial bonds and huge emphasis on procedural fairness when both terminating and imposing them 	<ul style="list-style-type: none"> • Pre-default adjud., BT ordered, but NCP failed to appear for testing • County didn’t oppose GTs when NCP requested them in contempt action, so it can’t now argue that NCP can’t move to vacate based on his lateness • No bio dad • Non-bio dad (NCP) does not want to be dad 	Non-bio dad (NCP) wins - default paternity adjudication is vacated
1997 Minn. App.	Korder Not Reported in N.W.2d, 1997 WL 396235	Appealing summary judgment in favor of adjudication of bio dad Public authority involved	<ul style="list-style-type: none"> • Where GT result show a likelihood of parenthood, ALF must demonstrate a genuine issue of fact exists to support an allegation that mom had sexual intercourse with other men, thus calling into question the GT results 	<ul style="list-style-type: none"> • Bio dad doesn’t want to be dad • No non-bio dad • 99.736% likelihood that bio dad is dad 	Summary judgment correctly granted – bio dad adjudicated & CS obligation imposed
1997 Minn. App.	Myers 560 N.W.2d 752	Paternity action	<ul style="list-style-type: none"> • Purpose of paternity action is not to punish father, but to impose duty on father to support child, to ensure mom doesn’t bear full financial responsibility for child and to protect public by preventing child from being public charge • Father can’t avoid CS liability by claiming a child’s conception resulted from mother’s fraud 	<ul style="list-style-type: none"> • Mom told bio dad that she was sterilized when she wasn’t • Bio dad doesn’t want to be dad • No non-bio dad 	Bio dad adjudicated and CS obligation imposed Distinguished by <i>Suggs</i> (653 N.W.2d 458), stating that where biological relationship is being considered, the child’s BI is not a consideration <i>unless</i> it is a case with a unique procedural posture, like <i>Murphy</i>
1996 Minn. App.	McGinnis Not Reported in N.W.2d, 1996 WL 509864	Paternity action with competing presumptions (marriage and GT)	<ul style="list-style-type: none"> • Apply best interests analysis when competing presumptions 	<ul style="list-style-type: none"> • Neither presumed dad wants to be dad and neither has a relationship w/child • Bio dad has ability to support financially • Adjudicating bio dad will not threaten the family unit (marriage already dissolved and never lived together as family) 	Bio dad adjudicated
1996 Minn. App.	Nicholson Not Reported in N.W.2d, 1996 WL 523787	Dismissal of paternity action	<ul style="list-style-type: none"> • After the appeal time expires, the doctrine of res judicata bars the paternity action mom brought on her own behalf 	<ul style="list-style-type: none"> • Dissolution decree states child as issue of marriage • Years later, mom brings pat action seeking blood tests and saying 2 other men could be dad • Mom’s unclean motive 	Paternity action dismissed Res judicata as to mom, but child could bring action (thus far, child’s interests not adequately represented)

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1996 Minn. App.	Pierce Not Reported in N.W.2d, 1996 WL 5822	Paternity action with competing presumptions Husband adjudicated, but appeals	<ul style="list-style-type: none"> Apply best interests analysis when competing presumptions 	<ul style="list-style-type: none"> Bio dad was adjudicated – vacated and action initiated naming both presumed dads Blood tests excluded husband of mom Husband (non-bio) adjudicated, but now appeals 	Remanded for BI analysis and consideration of statutory standards
1995 Minn. App.	LJB Not Reported in N.W.2d, 1995 WL 520785	Cty seeking paternity action against bio dad after vacation of adjudication for non-bio dad	<ul style="list-style-type: none"> When an adjudication has been vacated, it is not res judicata for the child and cty to later pursue a paternity action against another man 	<ul style="list-style-type: none"> Non-bio dad adjudicated based on in-court admission When cty sought CS, non-bio dad moved to vacate and requested BTs Mom and child agreed to BTs and non-bio dad was excluded by BTs BTs pursued for other ALFs – objection is made as to res judicata 	Child & Cty allowed to pursue paternity action against other ALFs
1995 Minn. App.	RB v. CS 536 N.W.2d 634	Putative father wants blood tests and paternity action	<ul style="list-style-type: none"> Child who is not represented in an adjudication of her paternity may bring a subsequent paternity action pursuant to the MN Parentage Act & results of earlier adjudication are not determinative as to her 	<ul style="list-style-type: none"> DOP and adjudication of paternity already exist Child has standing to bring paternity action and request BT 	<p>Putative father does not have standing to bring paternity action and compel BTs b/c he is not a presumed father</p> <p>Distinguished by <i>Witso</i> (609 N.W.2d 618), which stated that although in <i>RB</i>, the court denied the putative father GTs, it was because there was an earlier adjudication of paternity—no such adjudication existed in <i>Witso</i></p> <p>Distinguished by <i>Graves</i> (611 N.W.2d 366), whereby a child may bring a subsequent action only where their interests were not previously represented—in <i>RB</i>, the child had standing to bring action because interested were never represented</p>

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1995 Minn. App.	DeGrande 529 N.W.2d 340	Non-bio dad's motion to vacate paternity (after requesting and getting BTs at MTM hearing)	<ul style="list-style-type: none"> • DOP becomes conclusive if not challenged within three years of DOP 	<ul style="list-style-type: none"> • DOP executed – creates presumption • PA placed – and Cty initiated pat action • Non-bio (DOP) dad admits he's dad and waives rights to counsel/BTs • MTM hearing and BTs requested • BTs exclude • No mention of bio dad • Non-bio dad moves to vacate and refund of all CS paid – 4 years after DOP 	<p>Non-bio dad's motion to vacate is denied</p> <p>Distinguished by <i>Hartry</i> (2007 WL 4564186), which applied a right recognized by common law and not by statute, like in <i>DeGrande</i></p>
1994 Minn. App.	Howie 514 N.W.2d 822	Directed verdict in paternity action	<ul style="list-style-type: none"> • Adjudicating dad is improper where BTs are greater than 99% likelihood that dad is bio dad & ALF denies ever having sex with mom • State bears burden to prove by C&C evidence 	<ul style="list-style-type: none"> • Despite GT results, putative father testified that he did not have sexual intercourse with mom during period of conception 	Reversed directed verdict and remanded
1994 Minn. App.	Casey Not Reported in N.W.2d, 1994 WL 49596	Ordering BTs in paternity action	<ul style="list-style-type: none"> • No BI analysis necessary before ordering BTs in a paternity action 	<ul style="list-style-type: none"> • ALF is a convicted 1st degree murderer 	Proceed with BTs and paternity action even when doing so could result in the adjudication of a not so good father
1994 Minn. App.	CMG 516 N.W.2d 555	Paternity action with competing presumptions (DOP/holding out and GT)	<ul style="list-style-type: none"> • Apply best interests analysis when competing presumptions • Action to declare the existence of paternal relationship as opposed to action to declare the nonexistence – important for statute of limitations (SOL) considerations 	<ul style="list-style-type: none"> • Bio dad doesn't want to be dad • Non-bio dad wants to be dad (willing and able to support & bonded with the child – stability and existence of relationship) • Child raised to believe non-bio dad is dad 	<p>Non-bio dad wins – he is adjudicated the father</p> <p>Distinguished by <i>Thomas</i> (584 N.W.2d 421), where bio dad is not hoping to be adjudicated the father</p> <p>Distinguished by <i>Suggs</i>, which held that the BI analysis does not apply, like it did in <i>CMG</i>, because the multiple presumed fathers in <i>Suggs</i> did not want to be adjudicated</p>
1992 Minn. App.	Pitzen 488 N.W.2d 8,	JNOV in paternity action	<ul style="list-style-type: none"> • GTs create presumption that can only be rebutted by clear and convincing evidence that the alleged father is not the parent of the child 	<ul style="list-style-type: none"> • Presumption that bio dad is dad (GTs) • Bio dad presents evidence of other men mom had contact with during conception period • Jury finds bio dad not dad • Ct grants JNOV 	JNOV – no reasonable jury could find that bio dad is not dad here

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1992 Minn. App.	Platto Not Reported in N.W.2d, 1992 WL 174683	Child/GAL bring paternity action to determine existence of father-child relationship	<ul style="list-style-type: none"> • GTs create presumption that can only be rebutted by clear and convincing evidence that the alleged father is not the parent of the child 	<ul style="list-style-type: none"> • No competing presumptions – marriage presumption rebutted by J&D stating child not issue of marriage • Only presumption exists as to GTs • Neither ex-husband nor bio dad wants to be dad 	Bio dad adjudicated
1989 Minn.	Johnson v. Hunter 447 N.W.2d 871	Putative daughter appeals from dismissal of her action based on res judicata from a prior dismissal w/ prejudice of her mother's paternity action	<ul style="list-style-type: none"> • The parent-child relationship is traditionally excluded from privity notions for res judicata purposes • A separate cause of action is available to a child unless the child's specific interests on paternity are addressed on the merits in a prior action 	<ul style="list-style-type: none"> • Appellant Child's mother brought a paternity action in 1969 that was dismissed with prejudice when mother failed to appear for trial • DC denied the County's 1988 motion to vacate the dismissal and reinstate the action or to vacate dismissal with prejudice and enter a dismissal without prejudice 	The putative child was not barred by the dismissal with prejudice of her mother's action from bringing a separate paternity action
1988 Minn.	Voss 425 N.W.2d 828	Paternity action	<ul style="list-style-type: none"> • Paternity action does not survive against a father and siblings of deceased putative father – can't be made parties to paternity action and can't be ordered to submit to BTs 	<ul style="list-style-type: none"> • Motion was brought in paternity action to compel relatives of deceased putative father to submit to blood tests 	BTs not ordered Paternity action did not survive death of putative father
1986 Minn. App.	Hagen 382 N.W.2d 556	Paternity action	<ul style="list-style-type: none"> • BTs/GTs are not absolutely certain w/respect to paternity • Paternity adjudication boils down to a credibility determination when there is conflicting evidence 	<ul style="list-style-type: none"> • BTs/GTs 99.62% • Mom saying bio dad had access and she didn't have sex with any other man • Bio dad contradicts & doesn't want to be dad • No mention of other non-bio dads • Jury finds bio dad did not have access during conception period 	Bio dad wins – he is not adjudicated the father
1985 Minn.	Brinkman 378 N.W.2d 790	Paternity action with default adjudication for failure to comply with BT order	<ul style="list-style-type: none"> • ALF can be held in contempt for not submitting to BTs/GTs • Ct can default paternity when ALF refuses to appear for BT, but must (if ALF requests) conduct hearing verifying allegations in complaint • Waiver of right to hearing verifying complaint allegations & default judgment stand unless adjud dad submits BT results w/in 90 days to disprove parentage 	<ul style="list-style-type: none"> • Paternity suit was brought • Court entered default judgment against putative father for failure to comply with BTs • Putative father appealed 	Default judgment reinstated unless adjud dad submits BT results disproving parentage w/in 90 days Distinguished by <i>Brown-Wilbert</i> (732 N.W.2d 209), based on meaning of the work "pending"

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1982 Minn.	Berrisford 322 N.W.2d 742	Dissolution – request for BT	<ul style="list-style-type: none"> Perjury is no reason to foreclose use of BTs, instead it underscores the need for it “We have stressed the reliability of BTs and have urged their use in paternity actions” Estoppel – reliance by a child on husband’s representations – some cts say estoppel should be invoked if evidence establishes that husband represented to the child that he was the father, that husband intended the representation to be accepted and acted upon by the child, child did in fact rely on the representation and treated husband as father, and child’s ignorant of the true facts Requiring further reliable evidence on issue whether husband is child’s bio dad is in child’s best interest 	<ul style="list-style-type: none"> Dissolution papers w/sworn statements from both husband and wife that child was born of the marriage At trial, husband and wife both admit child is not born of the marriage Husband requests BTs – Court denies, adjudicates and orders CS Husband assumed parental role during relatively short period parties lived together Child so young could not have given thought to the nature of her relationship with husband Husband did not adopt the child 	Husband entitled to BT Distinguished by <i>W v. W</i> and <i>STD v. TLB</i> based on estoppels from denying paternity
1982 Minn.	Kremin v. Graham 318 N.W.2d 853	Appeal from DC decision holding that blood tests in paternity actions are compulsory	<ul style="list-style-type: none"> Minn. Stat. § 257.62 (1980) making blood or genetic testing mandatory when requested by a party is not an unconstitutional exercise of police powers The statute does not violate due process as it relates to privacy 	<ul style="list-style-type: none"> Putative fathers challenged DC orders requiring them to submit to blood tests in paternity actions Appellants argued the statute was not a proper police power, an invasion of privacy, and violated due process 	Orders requiring blood testing upheld The statute was upheld as constitutional
1980 Minn.	SMF 298 N.W.2d 40	Appeal from dismissal for Cty/CP’s failure to answer overbroad interrogatories	<ul style="list-style-type: none"> “We can imagine no situation in which it would not be in the interest of a paternity plaintiff, whether it be the cty, the mother or the child, to have blood tests taken. When such reliable evidence is available, it is no longer sensible to rely solely on customary, less reliable evidentiary techniques. We therefore believe that in every paternity case, the party bringing the action should request the court to order blood tests as early as possible in the litigation. If the party fails to make such a request, the trial ct. should order such tests at an early stage on its own motion.” 	<ul style="list-style-type: none"> Cty brought pat action Judge dismissed for failure of Cty to answer certain interrogatories Cty appealed 	Remanded and took opportunity to specify how the new legislation concerning BTs/GTs should be applied
1979 Minn.	Benson v. LaBatte 288 N.W.2d 684	Paternity Action	<ul style="list-style-type: none"> “Blood-test procedures provide the most accurate and efficient means of determining paternity, and we recommend that in the interests of justice the county attorneys of the state encourage their use in proceeding of this nature.” 	<ul style="list-style-type: none"> Paternity action was brought and defendant was determined to be the father Defendant challenged the sufficiency of the evidence 	Paternity adjudication upheld in face of contradictory and conflicting testimony

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1979 Minn.	<i>Wessels v. Swanson</i> 289 N.W.2d 469	Paternity action where NCP defaulted and then appealed default	<ul style="list-style-type: none"> • Adj. of paternity must be based on most reliable kind of evidence available • Blood test evidence would be sufficient to provide NCP with relief from paternity judgment 	<ul style="list-style-type: none"> • NCP failed to make adequate showing to sustain relief from default judgment • Because blood-tests are so valuable NCP granted 90 days to provide test results or prove he is pursuing them 	NCP granted 90 days to present blood test or prove he is pursuing blood tests in claim for relief from default
1979 Minn.	<i>Ortloff</i> 277 N.W.2d 205	Paternity action where NCP contested question on cross-x about whether he had ever requested blood test	<ul style="list-style-type: none"> • Questioning about blood tests permissible • Ruling based on “our belief that blood-test procedures provide the most reliable means for making the determination of paternity more accurate and efficient” • Court encouraged legislature to consider blood testing in the context of paternity actions 	<ul style="list-style-type: none"> • The questioning about blood test was relevant and the court sustained the NCP’s objection to the question thus it was not prejudicial to NCP 	<p>Question about blood test not prejudicial</p> <p>More importantly declared the importance and relevance of blood testing in paternity actions</p>
1956 Minn.	<i>E.A.H.</i> 75 N.W.2d 195	Mother appeals DC denial of County’s motion for new trial	<ul style="list-style-type: none"> • A child’s mother has sufficient pecuniary interest in paternity action to appeal a DC that defendant is not biological father even if child support is not an issue in the paternity action 	<ul style="list-style-type: none"> • Mother filed a complaint to have defendant adjudicated • Defendant found “not guilty” and was not adjudicated • The County’s motion for new trial was denied and mother appealed 	<p>Mother had standing to appeal</p> <p>Court upheld DC denial of motion for new hearing</p>