

## What are the Rights of an Unwed Father?

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**We often discuss issues of custody in terms of a divorcing couple, but what about couples that are not married and expecting a child when trouble arises in their relationship?**

In *Plotnick v. DeLuccia*, the couple dated and became engaged shortly after it was discovered that the Defendant was pregnant. In the summer of 2013, the defendant ended the engagement. In November 2013, the Plaintiff filed an order to show cause which included a temporary injunction that required:

1. he be notified when Defendant enters labor;
2. he be present at the time of delivery;
3. he be able to sign the child's birth certificate;
4. the child carry Plaintiff's surname; and
5. a parenting-time schedule be ordered.

The court held that although the Plaintiff would suffer irreparable harm if he was not notified when the Defendant went into labor or if he was not present at the time of delivery, the mother's rights outweighed the father's, even more so since the couple was unwed. Relying on the U.S. Supreme Court case, *Planned Parenthood v. Casey*, it would also be an undue burden on the Defendant to notify the Plaintiff or have him present in the delivery room because the order invades the mother's privacy and puts her in a more stressful position which could possibly complicate the pregnancy. Therefore, the Plaintiff's requested relief to be notified of the child's birth or to be present in the delivery room was denied.

The court also held that the Plaintiff's ability to sign the child's birth certificate and that the child carry his last name at the time of birth does not constitute immediate, irreparable harm and such relief was denied. Lastly, the court held that the parenting-time schedule was not ripe for review since parenting-time is based on the best interests of the child which cannot be determined until the child is born. The court further noted that such relief is non-emergent and would not have been granted.

If you have a question or wish to discuss this topic with one of our family lawyers, please give Joe a call at **(732) 352-9871**.

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