

***HANDBOOK FOR PATERNITY CASES***

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This handbook is designed to help you as our client. Many clients ask the same questions when they begin a paternity case, so we've gathered some basic information regarding our firm and information you may need to know as we work together on your case.

This handbook contains the following sections:

- 1. General Information You Should Know**
- 2. Fee Policy of Adrian & Pankratz, P.A.**
- 3. Most Frequently Asked Questions with Answers**
- 4. Glossary of Terms**
- 5. Fact Sheet**

## **General Information You Should Know**

### **A. Information About Our Firm**

Office Hours. Our office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. After-hours or weekend appointments may be arranged.

Staff Member: A legal assistant is assigned to your case and is available to work with you in regard to any questions you may have. Kansas law does not permit legal assistants to answer legal questions or to give legal advice; however, if the legal assistant is unable to answer your question, she will refer your question to your attorney and you will be contacted with an answer or response to your concern. We try to respond promptly.

Fee Arrangements. Fees will be explained during the initial interview according to the attached Fee Policy Statement. You will also receive a letter after your case is opened which outlines in greater detail how we determine fees. If you have questions at that time, or at any time during your divorce proceeding, feel free to ask about any aspect of the fee policy.

Keeping Costs Down. It is our goal to provide effective and quality legal service to you and to protect your interests throughout the case. Feel free to call us or consult with us at any time. We want to be available to help you; however, you will be charged for the time you spend talking to your attorney or legal assistant. You will need to decide what issues are important, and how much time (and expense) you want spend on those issues. Obviously, any matter that can be resolved during the course of the case, will result in less time spent with your attorney, and less expense incurred by you. We want to work with you; however, we want you to use our services carefully and wisely.

Monthly Statements. You will receive monthly statements detailing legal services, the charges, and the amount drawn from your initial retainer deposit. If you have questions about your statement, please call us immediately after receiving your bill.

Telephone Conferences. Your attorney will take your telephone calls during business hours. If he or she is unavailable, a staff member will help you.

Correspondence. Please read all correspondence, and keep it in a folder we will provide for future use and reference. To help keep you informed of the progress in the case, we will provide you with copies of all pleadings and correspondence throughout your case. It is a good idea to read over this information immediately after it is received, and then contact us if you have questions.

B. Miscellaneous Information about Your Case

Court. The attorneys in this office represent clients in Harvey County, McPherson County and Marion County. The name and address of these courts are listed below:

Harvey County Courthouse  
800 North Main Street  
Newton, Kansas 67114-1880

Marion County Courthouse  
200 South 3<sup>rd</sup> Street  
Marion, Kansas 66861-1656

McPherson County Courthouse  
117 North Maple Street  
McPherson, Kansas 67460-4211

Court Trustee and Kansas Payment Center. Child support will be ordered. These orders, when final, are signed by the judge and are to be followed according to the terms set forth in the order. In Harvey County, the Kansas Payment Center (1-877-KPC-KPPC [1-877-572-5722]) will be notified when orders regarding support have been made. You may check the Kansas Payment Center's record by either calling the payment center, or by checking their web site at [www.kspaycenter.com](http://www.kspaycenter.com). You will need to have your court case number available to access your records. The Trustee will then be responsible for enforcing final court orders, and you may work directly with the Trustee. Harold Schorn is the Harvey County Deputy District Court Trustee, and may be reached by telephone at 283-6547. His address is 713 North Main Street, P.O. Box 111, Newton, Kansas. There is a fee charged by the Court Trustee and they will provide you with this information.

Court Services. Harvey and McPherson Counties utilize Court Services, an organization of employees of the district court who assist the judge in gathering information relating to child custody and parenting time. In most cases, Court Services is utilized after mediation has failed, or is not a feasible option.

Mediation. This is a service that is used to resolve parenting time and/or child custody issues. It is provided, at additional cost, by professionals trained to mediate. Normally, a judge will not hear a parenting time or child custody dispute until mediation has been attempted. In Harvey County, your case will be referred to the Community Mediation Center, 2515 College Avenue, P.O. Box A, North Newton, Kansas. If your combined annual income is below \$40,000.00, your case will qualify for mediation services on a sliding-scale basis.

Child Impact Class. If your case is filed in Harvey or McPherson County, you may be required to attend an Education Class at Prairie View in Newton or McPherson. Normally the class is held on the first Tuesday of every month with the occasional exception of November and December in Newton; or the second Wednesday of the month in McPherson.

## **Fee Policy of Adrian & Pankratz, P.A.**

### **General Statement**

You have consulted us and we have agreed to represent you with regard to your paternity case. We will prepare and file the necessary documents, represent you in any court proceedings related to the case and provide general legal counsel.

### **Rates and Expenses**

Clients often ask if we charge a “flat rate.” We do not. You will be charged for the time spent on your case. Currently, our billing rates are \$210.00 per hour for Tom Adrian, Randy Pankratz, Tim Hodge and Dave Stucky; \$95.00 per hour for legal assistants and \$80.00 per hour for clerical staff. All time expended in services for you will be included in the monthly billing. The statements you receive will be a composite of the time devoted to your case by your lawyer and staff.

We also charge for certain expenses that we incur on your behalf which includes mileage. Those costs will be set out on the statement.

### **Estimated Range of Fees**

We will provide an estimate for legal services in this matter, and we agree not to exceed the maximum amount stated without first obtaining your approval.

### **Retainer Provisions**

We may require a retainer as we begin work on your file. This is an advance payment of the fees and expenses and will be applied to the amount due on your statement. The initial retainer may be expended in fairly short order, due to the fact that family law matters require a good deal of legal work at the beginning of the case. When the unused portion of the retainer reaches \$100, we will contact you and will request an additional retainer to be deposited with our firm. That amount is to be paid within 10 days of the day of request. The additional retainer will be handled in the same matter as the original retainer.

## **Most Frequently Asked Questions**

Many clients share the same fears, questions, and beliefs about child custody and parenting time and child support. Even though the names and faces may change, the questions and concerns are very similar. This section lists some of the questions clients ask.

### **1. How long will it take before the case is over?**

That depends upon how quickly or whether we can reach agreements. If custody is contested, Harvey County and McPherson County will order a Child Custody Investigation. Those investigations typically take 90 to 120 days to complete and the court hearing would not be scheduled until the investigation is completed and a report is filed.

### **2. How is child support figured?**

Child support is figured based upon Guidelines from the Kansas Supreme Court and is based upon gross income of both father and mother and the number and ages of the child/children. This schedule is mandatory but may be varied when circumstances justify. The amount paid by either party for health or dental insurance and for work-related daycare costs are also considered.

### **3. Why do I need to provide all of this information?**

The information is required for the following reasons:

- (a) Some is required by the Division of Vital Statistics of the State of Kansas.
- (b) Some is required by court.
- (c) Most of it is needed by your lawyer so that your lawyer can adequately and competently represent you.

### **4. Can I take the child out of the state?**

Unless the judge has specifically prohibited you from removing the child from the state, you may temporarily travel outside the boundaries of the state.

### **5. I may be taking a new job and moving out of state. What do I need to do?**

The general answer to this question varies greatly with each circumstance; there is no simple answer. If you have a minor child and intend to move anywhere, the other parent must be notified of your intended move. You also must recognize that you may be making trips back to the state for purposes of resolving the case.

The notice required is to be written and must be given by restricted mail, return receipt requested, to the last known address, not less than 30 days prior to: (1) Changing the residence of the child; or (2) removing the child from this state for a period of time exceeding 90 days.

**6. What do I do if the child support payments are late?**

The Kansas Payment Center is responsible for the collection of child support. If your child support is late, the court trustee will know. He or she is vested with the responsibility to make reasonable efforts to collect those payments, but will only collect on final orders of the court, usually not on temporary orders. If your payment is more than 1 month late, you should contact the Court Trustee at the phone number listed on page 4, and discuss the possibility of doing an Income Withholding Order.

**7. Once the child support level is established, can it ever be changed?**

The court will maintain jurisdiction of matters relating to the children until they reach the age of 18 and support will continue until the child is 18 and has graduated from high school. To obtain an increase or decrease in the amount of child support a motion must be filed with the Court explaining that there has been a “change of circumstances” (i.e., significant change in income levels) asking the Court to review the level of child support. The Court Trustee may file a motion to increase or decrease support.

**8. What do I do if the other parent does not abide by the parenting time guidelines? For instance, what do I do if he or she does not bring the kids back at the agreed upon time?**

Failure to follow the Court’s orders with regard to parenting time is a basis for a request that the judge find the other parent in contempt of court. Although the other parent may not be fined or jailed, the Court can, when appropriate, limit or stop all parenting time based on failure to abide by the Court’s orders. If your parenting time order is very specific, the police *may* be able to assist you in getting the child back at the end of a parenting time period.

**9. What do I wear to the hearing? What will it be like?**

While there is no “dress code,” you should wear clothing appropriate for a job interview or other setting in which you want to make a favorable impression. You should be tastefully and neatly dressed.

**10. Can I take someone along with me to the hearing?**

You are welcome to bring a friend or family member with you. If the hearing takes place in the judge’s office, your friend or family member may not feel comfortable going in the office with you. If the hearing is in the courtroom, your friend or family member will be seated at the back of the courtroom to observe.

**11. Does the other parent have to pay my attorney fees?**

The Court may order the other parent to pay your attorney fees, but as a general rule, the Court does not order one party to pay the attorney fees of another.

**12. How much will this cost?**

Currently, our billing rates are \$210.00 per hour for Tom Adrian, Randy Pankratz, Tim Hodge and Dave Stucky; \$95.00 per hour for legal assistants and \$80.00 per hour for clerical staff. All time expended in services for you will be included in the monthly billing. The statements you receive will be a composite of the time devoted to your case by your lawyer and staff.

We also charge for certain expenses that we incur on your behalf, including mileage. Those costs will be set out on the statement.

The cost will vary according to the time spent on your case. You can expect to pay a minimum of approximately \$2,500.00, but the cost can easily rise to \$8,000.00 to \$10,000.00 or more if custody issues cannot be resolved without a court hearing.

**13. Do I and the other parent both need to hire an attorney?**

One attorney cannot represent both of you; however, one attorney can prepare all necessary documents if there are not disputed issues. The parent who is not represented may wish to consult an attorney at least for the purpose of reviewing any proposed Agreement.

**14. What if the other person denies paternity?**

Blood testing will be ordered by the Court to determine paternity. Blood testing is not necessary and will not be required if both parties agree as to who fathered the child.

## **Glossary of Terms**



Every organization or business has their own unique language and we want you to understand the terms that are being used in your case. For example, in some settings, a journal entry refers to a debit or credit and is written on a journal voucher. Here, it refers to an order of the court. The following is a list of the most commonly used terms.

**Action:** The legal term for a lawsuit.

**Affidavit:** A written statement of facts made under oath and signed before a notary public.

**Answer:** The second pleading in an action which is served in response to the petition for determination of paternity and which admits or denies the petition's allegations and may also make claims against the other party.

**Appearance:** The respondent's formal method of telling the court that he or she submits to the court's jurisdiction.

**Child Support:** Support for a child. Child support is not taxable to the recipient or deductible to the payer.

**Contempt of Court:** The willful and intentional failure to comply with a court order, judgment, or decree by a party to the action, which may be punishable in a variety of ways.

**Contested Case:** Any case in which the court must decide one or more issues on which the parties have not agreed.

**Court Order:** A written document issued by the court which becomes effective only when signed by a judge.

**Custody:**

**Joint legal custody:** The parents have equal rights to make decisions in the best interest of the child. This has nothing to do with where the child lives.

**Sole legal custody:** One parent has the right to make decisions in the best interest of the child. The award of sole legal custody to one parent shall not deprive the other parent of access to information regarding the child unless the court shall so order. Sole legal custody is only awarded in extreme cases, and your attorney can answer questions on the criteria of being granted sole legal custody.

**Primary residential custody:** The children live with one parent most of the time and have "parenting time" with the other parent.

**Shared residential custody:** The children live with both parents on a schedule that is approximately equal.

**Defendant (Respondent):** The person who is sued.

**Deposition:** The testimony of a witness taken out of court under oath and in writing.

**Disclosure, Discovery, or Production of Documents:** Procedures used by lawyers to get information about of the opposing party's claim and his or her financial status.

**Evidence:** Documents, testimony, or other material offered to the court to prove or disprove allegations.

**File Stamped Copy:** An official copy of a pleading document. When a pleading document is filed with the court, the clerk date-stamps the original and several copies, and returns the file stamped copy to the attorney.

**Filing Fee:** The cost the court assesses to file the petition. Currently the filing fee is \$173.50. The petitioner pays the filing fee. The filing fee is usually the only court cost.

**Hearing:** Any proceeding before the court for the purpose of resolving disputed issues through presentation of testimony and argument.

**Interrogatories:** A series of written questions served on the opposing party to discover certain facts. The answers to interrogatories must be given under oath and served within a prescribed period of time.

**Jurisdiction:** The authority of the court to rule on issues relating to the parties, their child, or their property.

**Legal Assistant:** Also referred to as a paralegal.

**Motion:** A written application to the court for some particular relief, such as temporary support.

**Motion to Modify:** A formal written request to the court to change a prior order regarding custody, child support, or any other order that the court may change by law.

**Notice of Hearing:** A paper that is served on the opposing lawyer or other parent listing the date and place of a hearing, and the motion or motions that will be heard by the court.

**Order:** The court's ruling on a motion requiring the parties to do certain things or setting forth their rights and responsibilities. An order is reduced to writing, signed by the judge, and filed with the court.

**Party:** The persons directly involved in the case.

**Petition:** The first pleading in an action.

**Petitioner:** The party who files the petition.

**Pleading:** Documents filed with the court. Pleadings include petitions, answers, counterclaims, motions and orders.

**Pleading File:** A permanent record maintained at the attorney's office of all pleadings that were filed with the court.

**Pretrial Conference:** Often considered a "get organized" meeting between the parties, their attorneys, and the judge before trial. At the pretrial conference, unresolved issues are listed and a time is set for final hearing.

**Relief:** Whatever a party to a divorce proceeding asks the court to do: dissolve the marriage, award support, enforce a prior court order or decree, divide property, enjoin certain behavior, etc.

**Respondent:** The one who defends the suit brought by another.

**Request for Production of Documents:** Documents and/or other information to be produced in response to a request from the other party.

**Settlement:** The agreement resolution of disputed issues.

**Summons:** A written notification that legal action has commenced requiring a response within a specified time period.

**Temporary Order:** The order of the court which is to be followed by the parties until the time the final order is issued. The Temporary Order is usually filed when the petition is filed.

**Transcript:** A typewritten record of testimony taken by a court reporter during court proceedings or a deposition.

**Trial:** A formal court hearing to decide disputed issues raised by the pleadings.

## **Fact Sheet**

Before we begin, we need information from you. We have prepared a questionnaire based on the data we need to complete court documents. In many cases, our clients complete this questionnaire at home and then return it to our office. Once we receive the fact sheet from you, the answers you provide will be used to prepare the court pleadings. These pleadings will be reviewed in court and by the opposing attorney, so we may ask for documentation to support your answers. The more complete your answers, the better we will be able to represent you.

Answering the questions may take significant time and may require you to look through your personal records and make several telephone calls. If you have questions, don't hesitate to make a note in the margin of that page. When you return the fact sheet, we will work with you in completing any unanswered questions. Also, we will make copies of any information (i.e. deed, wage statement, bank statement) that was requested in the Fact Sheet.