



**How to Prepare for A Paternity Case  
Before You See a Lawyer or Go to Court**

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## INTRODUCTION AND DISCLAIMER

The information presented in this whitepaper is simply that, information; it is not legal advice of any kind. You should **not** rely on this information to resolve any legal issues or problems you may have; but, instead, you should seek the assistance of an attorney in your area to give you specific advice for your circumstances.

**Reading or accessing this information will not create an attorney-client relationship between you and me.**

Paternity cases are those cases that involve a couple who is not married but have one or more children from that relationship.

A paternity case can be confusing to a non-lawyer because some of the divorce statutes and case law apply to a paternity case when it comes to questions of time-sharing (visitation) and child support.

The information I provide in this whitepaper is the result of over twenty years of practicing, particularly in the areas of divorce and paternity in Florida.

The things I will talk about in here are things to think about before you even get into court.

These things include:

- The one thing you need to do to help you preserve your rights and set your obligation to children.
- How what you agree to or what the Judge orders will affect what you can do later if you have to go back to court for any reason.
- How to decide if you need a lawyer to help you with your paternity case.
- How to prepare yourself to meet with a paternity lawyer.
- If you need a lawyer, how can you best pay for those services.

## #1 – The First Step in Preserving Your Rights and Setting Your Financial Obligation to Children

**If you have downloaded this whitepaper**, then you probably have questions about your rights and obligations to children from your relationship with someone to whom you are not married.

**With children born outside of marriage, one thing is to be the biological father** of a child and quite another is to be the legal father of that child. Being recognized as the legal father of a child grants privileges or rights to have a say in the upbringing of that child, and it also carries a financial obligation along with those rights and privileges.

**Questions about right and obligations to children** born outside of a marriage are decided through a paternity action in court. As with any other legal action, getting information and preparing is the smart way to approach a paternity action and the process of establishing parental rights.

**The good news is that** by getting this whitepaper you have started to take what I consider the key, first step in preparing for a paternity action.

**That first step is** to educate yourself in a general way about the rights granted by law to parents who have children outside of marriage. Parental obligation is also set by law—most people know about the financial obligation known as child support; but there are other obligations imposed besides that one.

**There are several reasons for educating yourself** in a general way about paternity, even before you see a lawyer:

- First, it helps you to put your own problems in perspective in the legal arena.
- Second, it helps you focus on the particular questions relevant to your circumstances.
- Third, since it provides you perspective from a legal standpoint on your own circumstances, it helps you prepare questions to ask a divorce lawyer when you meet with him or her.
- Finally, it will help you work with your lawyer in looking for solutions that will help you and your family in the long run.

**Online websites like my own and sites from the State** can offer you basic information about divorce, paternity, and domestic violence in Florida. The Florida Bar provides information and guides you can download free of charge, and this includes information on divorce, adoption, paternity, guardianships. Visit their [Consumer Information Page](#).

**Keep in mind, however,** that nothing will substitute for specific legal advice that applies the law to provide you likely solutions for all the issues that may be present in your particular case.



### Things To Watch Out For: Legal Advice from Non-Lawyers.

**You will have friends and family who have gone through a similar experience,** and will try to help you by telling you about their results in court. As friends and family, they mean well when they try to share their experience in family court.

**The problem with** this is that the laws that may have applied during their case may no longer be good law. In addition, their fact situation and the problems they had may be different than yours, which may result in a different outcome for your case. Your situation is as unique as you and the person with whom you had a relationship and children.

**If you need a professional to help you in resolving the problem,** get help from a Florida lawyer who practices in the areas of divorce, paternity and domestic violence. An experienced family attorney keeps up to date with the law, and can provide you a legal opinion as to a likely outcome for your situation.

**Family attorneys can also provide you alternatives** to resolving legal problems, even in the middle of a contested or litigated case. These alternatives may not necessarily involve a long process in the courts.

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## #2 – What Happens in Your Case Will Determine What You Can Do Later If You Have to Go Back For Any Reason

**It is common for people who have established their paternity in a court case to have to go back to family court** to get things changed. This is called a modification action.

**What most people do not realize is that the paternity decree issued** by the court will create a standard that will dictate what can be changed, when it can be changed, etc. This is the case whether the paternity decree is one issued by the judge after a full-blown trial or one that just incorporates the agreements made by the parties as a result of a mediation or settlement.

**These modifications are, in essence, a new legal action**, and can be as litigious or friendly as any initial court case. But the difference is that what you are able to do may be limited by the paternity decree and the law applicable to the particular thing you want to change.

**This is why it is extremely important** to make sure that your original paternity action is one in which:

- **you have clearly understood what is happening,**
- **have fully participated in reaching an agreement,** and
- **understand the legal consequences** of that agreement if there is no trial.
- **And if there is to be a trial,** that you understand what it is you will face at a trial—including the evidence you will have to present and how much it will cost to present that evidence--- and what you may have to do if you do not like the judge’s decision after that trial is finished.



**Things To Watch Out For: Signing Agreements or Other Papers Without Knowing The Legal Meaning or Consequences of What You Are Signing**

**Most people are aware of the** saying that “Ignorance of the law is no excuse.” In the context of a court case, this means that just because you don’t know what it meant to sign something doesn’t mean you will not be held responsible for what you agreed to do. It doesn’t matter if a paper you sign is formally titled “Agreement” or has no title whatsoever.

**The bottom line is** that it will be assumed that you knew what you were agreeing to when you signed a document, even if you in fact did not know what it meant in a legal sense.

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### #3 - How To Decide If You Need A Lawyer Or If You Can Do Your Own Paternity

**The law lets you represent** yourself in court.

**But it's been my experience that** the question most people should ask themselves is: can I afford NOT to use a lawyer for my paternity action?

**Keep in mind that not using a lawyer means** you are making decisions without the benefit of information about rights and obligations which later you may wish you had.

**The decision to represent yourself and not use a lawyer** is usually made on the perception that you cannot afford a lawyer.

**There are at least three good reasons** to use a paternity lawyer, even if your case is an uncontested or friendly one.

- **First, it can take longer to do your own** case than if you use a lawyer who knows the steps to follow to get the case done in an orderly manner, from beginning to end.
- **Second, a lawyer can help you by** pointing out things you might not have thought about but that need to be resolved within the case.
- **Third, a lawyer can answer all the questions** you have to help you decide which way to go in a friendly or uncontested case. But, more importantly, a lawyer can help you watch out for things that may turn into a contested question between you and the other parent if not properly discussed before an agreement is made.



#### Things To Watch Out For: Relying For Legal Advice On Non-Lawyers And Those Who Fill Out Legal Forms

**Once you have told your friends and** family that you may be headed for court, you will have well-meaning friends and family members who will try to help you with all kinds of advice, as I mentioned before.

**You will also have access to people with businesses** who are allowed by law to help you fill out the forms you may need to get a family done, especially if you have the perception that you cannot afford a lawyer.

**In addition to these businesses you may have access to the self-help centers** that many courts provide. The staff at these centers is training to help you fill out forms.

**What your friends, family, form businesses and self-help center all have in common is that they cannot provide you legal advice.** The reason for this is that none of these people are trained as lawyers with the knowledge of the legal system and the particular law that may apply to a problem you may have which is not taken care of by the forms you are trying to use to do your own case.

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#### #4- How to Prepare Yourself to Meet With a Paternity Lawyer

**Consultations with attorneys**, free or for a fee, will most likely have very little or limited value to you unless you know what questions you need answered.

**But to know what questions you need answered** you first need to have some information so you can ask questions within the context of your problem and the law. The first step that I wrote about in here is a good way to start. There is no substitute for having information that is meaningful to you because it sheds light on the things you need to think about to resolve problems, avoid problems along the way and after the paternity decree is final.

**As you find out information**, write down any questions that come up about your situation. As the old cliché goes, there are no stupid question only unasked question.

**When you meet with a family attorney**, take your list of questions with you. Ask each and every one of those questions; and any follow-up questions that you think of during your meeting with the attorney.



#### Things To Watch Out For: Meeting With an Attorney When YOU Are Totally Unprepared For The Meeting

**Lawyers are just a few of the people who may be involved in your case**; and who will help you along the way. But nothing will substitute for your own interest and involvement in your own case.

**It makes sense, then, to be prepared when you first meet with a lawyer** about your case. This means preparing for that first meeting as if you were meeting with a doctor about a health problem. Only with adequate preparation will you be able to tell the

lawyer about your relationship with the other parent, including all about concerns about issues related to children.

**Being prepared** means known all the basic facts, thinking about where you and the other parent are financially and emotionally; thinking about what you want to do in the future and considering whether that will be impacted by the case. It also includes anticipating any problems in being able to bring up your children together with the other parent after the decree is entered.

**You will get as much out of this meeting as you put in.** If you put little effort by being unprepared and not having with you information that will be important to get an answer to your questions, chances are you will get a general opinion that may be of little use to you in evaluating your options, possible solutions, and how to best proceed.

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#### #5 - If You Need a Family Lawyer, How Can You Best Pay For Services?

**Legal services are traditionally provided at an hourly rate**, which often leads to the perception that legal representation is only for the wealthy among us.

**But there is an alternative to hourly fees for legal services.** A flat-fee arrangement may work for you as an affordable way to get your family problem resolved.

**Regardless of how you decide to pay for your fees**, you need to understand how your attorney bills for her or his time in working with you and for your case. You also need to address the issue of costs that have nothing to do with your attorney's services. Understanding the billing arrangement will avoid nasty surprises later.

**If you cannot afford an attorney**, contact a legal aid organization in your area or the self-help centers usually provided by the individual Circuit Courts in Florida.



**Things To Watch Out For: Not Understanding How You are Being Billed for Legal Services How to Use the Services of a Lawyer**

**Whether you hire a lawyer based on a flat-fee or billing by the hour**, you must understand what are the exact services being provided, when payment will be due, and what is included besides the services of the lawyer.



**It is common for people in the middle of a court case** to call the lawyer for what is essentially advice of an emotional nature. As lawyers we are aware that a family cases can be traumatic and carries a heavy emotional burden; we are also aware that many decisions having legal impact may be made to relieve emotional pressures. But your lawyer is a legal adviser not a therapist. Particularly with agreements where you will be billed by the hour for legal services, keep this in mind so as to use your financial resources efficiently.

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### WHAT TO DO NEXT

**If you anticipate having to file a paternity case to safeguard your rights to children and establish a child support**, do not wait until the case is filed to begin preparing for it.

**With children** it is important that you begin to consider how to best approach telling them about what is going on. If you don't know, then consider seeing a child therapist to find out how to approach telling the children, and what you can do in the middle of a case, and even after the decree is final, to help your children with any questions they may have.

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### FURTHER READING RESOURCES

#### Amazon Kindle Books:

[Divorce: Why Fighting in Court Will Only Make You BOTH Poorer](#): This is a case study from one of my actual litigated cases. It gives an example of how much money is spent on a divorce.

[Divorce Negotiations: 5 Principles to Help You Succeed \(Sensible Divorce Series\)](#): Put them to use to resolve your divorce in a civilized way, to navigate sticky situations; and move you along to achieve a better outcome than the alternative warring scenario. They will reduce a lot of the stress found in divorce because they provide you a saner way to approach a resolution.

[Doing Your Own Divorce: 8 Steps & Tips to Prepare Yourself](#): Even as a pro se litigant, there are things you can do to prepare for hearings and trials. There is no substitute for being prepared; and not all preparation requires a legal degree.

**Comment and Suggestions About This Whitepaper**

**I hope this material is helpful to you.** If you have any comments about the content of this whitepaper, please send me an email to [viviancrodriguez@gmail.com](mailto:viviancrodriguez@gmail.com) with your comments and/or suggestions to improve it; they are all welcome and I will personally read them.

**A little bit about me:** I have been practicing in Miami, Florida for over 20 years. Family law lets me provide a service to help people solve their divorce, paternity and domestic violence problems. If you want to know more about me visit <http://www.viviancrodriguez.com/aboutus/>.

**Following is the Bonus information I promised** on the “5 Most Common Mistakes People Make In Family Court”. Actually, these are mistakes people make in addition to those mistakes I warn you against making in the information you just read in this whitepaper.

I think this too will be helpful to you.

All the best,

*VRodriguez*

Vivian C. Rodriguez, Esq.

**“5 Most Common Mistakes People Make In Family Court”**

**As a divorce lawyer, I get to go to** court for my own hearings before judges as well as I sometimes get to see the hearings of other lawyers and pro se people—pro se people are those who do their own case without a lawyer.

**Whether you have a lawyer representing you, or you do your case on your own,** avoiding these mistakes will go a long way in your case. They are not in any particular order; they are all important.

**Mistake #1 – Not Being Prepared**

**You may think this is obvious but you would be surprised** at how many people show up to court as if this were some Sunday morning stroll. Being prepared means

knowing what the exact topic of the hearing is going to be, and having all of your papers ready to deal with what the hearing will be about.

**If you don't have a lawyer**, you must not only be prepared about the subject that will be discussed, but also make sure that you have all of your papers in some order. It has been a painful experience for me just to watch: they show up in front of the judge, argue with the judge about a paper or something else that they can prove, only to start looking among their papers like chickens scratching around to find a worm. The end result is usually that the judge loses patience because they have so many cases to deal with just on that same day, and the hearing may not go well.

**But if you are represented by a divorce lawyer, you are not excused from preparing.** You too should be prepared' but in your case, the preparation for that hearing should have been done with your lawyer, whether at the lawyer's office or via telephone with the lawyer. The bulk of the work will be done by your lawyer.

### **Mistake #2 – Speaking Out of Turn**

**All hearings in court have an orderly** process to present evidence and testimony to the judge so that he or she can make a decision; and there is a particular way of doing it.

**Hearings are not social events.** If you are represented by a lawyer, you answer only when you are asked a question directly by your lawyer, the other lawyer or the judge. Sometimes, a judge will ask questions directly of the parties even when they have lawyers; and, of course, you should answer. But if you must say something to your lawyer in the middle of a hearing and there is no question pending for you to answer, then whisper it to your lawyer or write it on a paper and pass it on to her or him.

If you are not represented by a lawyer, and are not sure of what to do at a hearing, then try to find out what the order of the hearing will be. But regardless, before you should not shout answers to questions that are not put to you; better to ask permission of the court to say something.

### **Mistake #3 – Not Dressing Appropriately**

**If it were up to me**, I would work in jeans and comfortable shoes; but there is a formality to court that I, as a lawyer, need to observe.

**But guess what? Even you should observe some formality, regardless of whether you represent yourself or have a lawyer helping you.** This doesn't mean you have to go out and get expensive clothes (lucky you though).

**What it does mean is that you should** come with clean clothes with no holes or stains. Leave your fashion-sense at home. For men this means no pants below the waist where we are all treated to a peak of your underwear (no one cares and it makes you look shoddy and unkempt). For women, this means no spaghetti straps or revealing clothes (chances are you will find no potential mates here, and I say that without any regard for political correctness because in the “serious” environment of a courthouse, this is just out of place and it looks like you ended up at the wrong place).

#### **Mistake #4 – Not Taking a Judge’s Offers For You to Look for a Lawyer**

**Every so often**, I am present in court where one of the parties in a hearing doesn’t have a lawyer yet the judge stops the hearing, and tells that party to consider getting a lawyer.

**If a judge tells you this, take the opportunity he or she is giving you**, even if you think there is no way you can afford a lawyer. **Why?** Because you buy yourself some time to try and understand what is going on that you should get a lawyer. And because you may be able to get a lawyer to look over your papers without necessarily hiring her or him to represent you at the later hearing.

#### **Mistake #5 – Not Being Truthful**

**At every hearing where you will provide testimony**, you will be sworn to tell the truth.

**Putting aside for a moment the fact that failure to tell the truth after you have sworn to do so is perjury (which is a criminal offense)**, at the very least you want to be truthful because if the judge thinks you are being less than so or trying to be cute, your side of the case may suffer—the judge may not believe anything you say after that.

**I don’t know of any one who has lied to a judge** who can later make that judge think that what they say afterwards is the truth...so think twice, three times even before that happens. Your credibility before that judge will be shot for the remainder of that case!

So there you have it, 5 mistakes that I see people make in court...make sure you don’t.

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#### **If You Know People Who Will Be Helped By This Information...**

**Feel free to share it with them via email or whatever, but the only thing you cannot do with this free information is alter it and/ or post it on a public place like facebook or twitter or whatever. If you want to share it on any of these public places, please just reference the page that you used to get this report. You must send it “as is.”**