

STATE OF NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE __ CVD ____
IV-D _____

COUNTY OF _____,)
on behalf of _____,)
_____)
Plaintiff,)
)
v.)
)
_____)
Defendant.)

ORDER SETTING ASIDE
A PATERNITY ORDER

This matter came on to be heard and was heard by the undersigned Judge presiding over the District Court of _____ County, North Carolina on the ___ day of _____, 20__ upon motion of the Defendant.

_____, was present on behalf of the Plaintiff, the County of _____, through its agency, the _____ County Child Support Enforcement Agency (hereinafter referred to as “the agency”);

_____, custodial parent of the minor child(ren)***, was present;

_____, the Defendant was present;

_____, counsel for the Defendant, was present.

BASED ON THE EVIDENCE PRESENTED, THE COURT FINDS THE FOLLOWING FACTS:

1. The Defendant served the Plaintiff with his motion by _____ on or about _____.
2. This matter is before this Court on a motion filed by the Defendant pursuant to G.S. § 49-14/§ 110-132 on _____, 20__, to set aside a determination of paternity entered in file number __ CVD ____ on _____.
3. The underlying paternity order was determined by (consent order, voluntary support

*** In the event that there are multiple children, drafter will need multiple findings of ¶¶ 3-6. agreement, etc.) entered on _____, _____.

4. This determination of paternity naming this Plaintiff as the biological father of the minor child(ren) at issue here, _____, has not been previously set aside.

5. When the paternity order was entered certain acts were committed by the custodial parent which constituted fraud in that (s)he:

_____.

OR

When the paternity order was entered the Defendant signed the _____ under duress in that:

_____.

OR

When the paternity order was entered the custodial parent and the Defendant erred and committed mutual mistake in that

_____.

OR

When the paternity order was entered the Defendant erred by committing excusable neglect in that he:

_____.

6. The Defendant filed this motion on _____ **(date)** _____.

7. On _____, 20__, this Court entered an order that genetic testing be conducted of the custodial parent, the Defendant, and the minor child(ren).

8. The genetic test results were reviewed by this Court on _____, 20__.

9. The genetic test results excluded the Defendant from being the biological father of the minor child(ren).

OR

The genetic test results failed to exclude the Defendant from being the biological father of the minor child(ren) and established that the probability of parentage for the minor

child(ren) here at issue as _____%.

10. This Court finds by clear, cogent and convincing evidence that: _____(findings why the Court believes that the Defendant is not the biological father)

_____.

11. The Defendant acknowledged paternity of the minor child(ren) in that he:

_____.

12. However, at the time that the Defendant acknowledged paternity of the minor child(ren), he did not know that he was not the biological father of the child(ren) in that:

_____.

13. The Defendant has not adopted the minor child(ren) here at issue.

14. The Defendant has not legitimated the minor child(ren) here at issue.

15. The Defendant did not provide for the birth of the minor child(ren) by means of heterologous insemination in accordance with G.S. § 49A-1.

16. The Defendant has not prevented any other man from asserting his paternal rights in regard to the minor child(ren) here at issue.

BASED ON THE FOREGOING FINDINGS OF FACT, THE COURT MAKES THE FOLLOWING CONCLUSIONS OF LAW:

1. This Court has jurisdiction over the parties and the subject matter in this action.
2. Genetic test results excluded the Defendant from being the biological father of the minor child(ren).

OR

Genetic test results failed to exclude the Defendant from being the biological father of the minor child(ren) and established that the probability of parentage for the minor child(ren) here at issue as _____%.

3. This Court concludes by clear, cogent and convincing evidence that the Defendant is not the biological father of the minor child(ren) here at issue.
4. The paternity order in this matter was entered as a result of (Pick the appropriate one and place in the sentence - **fraud, duress, mutual mistake or excusable neglect**).
5. The Defendant's motion to set aside the underlying paternity determination entered on _____, _____ should be granted.

BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COURT ORDERS THE FOLLOWING:

1. The Defendant's motion requesting that the paternity order establishing the Defendant to be the father of the minor child _____ entered by the District Court of _____ County on _____ be set aside is hereby granted.
2. The Defendant is determined not to be the father of the minor child.
3. This effect of this order is to set aside the paternity order. Any separate orders involving the Defendant regarding the minor child, including, but not limited to, orders regarding the establishment and/or payments of child support and/or child support arrearage remain in full force and effect unless and until further orders issue from this Court or a court of competent jurisdiction after proper notice and motion.

This the ___ day of _____, 20__.

District Court Judge Presiding

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document, an Order Setting Aside A Paternity Order, on all parties to this action by depositing a copy of same in the United States mail, postage prepaid, addressed to (pick those that are applicable):

1. IV-D Attorney
On behalf of _____ County
Plaintiff

2. (Custodial parent, if a party)

3. Defendant/Defendant's Attorney

This the ___ day of _____, 20__.

IV-D Attorney
On behalf of _____ County
Plaintiff

OR
Defendant/Defendant's Attorney

