

Flying Solo: The Ex-Boyfriend and The Sperm Donor

By Jan Warner and Jan Collins

Question: My long-time boyfriend and I decided not to marry when we began living together six years ago since we both had rather messed-up lives. We signed a cohabitation agreement to keep our funds separate and pay our bills based on our respective incomes.

When we decided to have a baby, we again agreed not to marry. When we weren't able to conceive after more than a year, we went to a clinic where I was artificially inseminated by a donor. The clinic was not interested my boyfriend signing the agreement since we were not married. He and I shared the cost of the procedure, and I gave birth to a daughter just over a year ago.

Before she was born, he and I signed another agreement prepared by our lawyer that sets out our intention that he will be the father of the baby and have paternal rights and responsibilities, including the duty to support her, and that we would parent the child jointly.

My baby is now 16 months old, and my boyfriend and I have separated due to his womanizing, excessive drinking, and drug use. I have had to call the police several times because he has threatened me. He pulls out the agreement and shows the police, but since there is no court order, I haven't allowed him to visit the baby.

Now he's threatening to sue me to get custody and visitation. I went to the lawyer who handled everything for both of us, and he says he has a conflict of interest and can't represent either of us. Before I pay a lawyer, do you think my former boyfriend can claim to be the father? The more I think about it, I don't believe he has any legal relationship to my daughter.

Answer: While our limited research tells us you are probably right, you should still seek out a lawyer to explain how this complicated process will play out in your state of residence.

That said, it appears to us that you are the only parent of your daughter and, without a strong showing to a court by your former live-in, we don't believe the courts will interfere with your right to raise your daughter as a single parent. At the same time, we don't believe you will receive child support, either. The reason: Your agreement with your former live-in boyfriend about parenting is probably not worth the paper it's written on because he is legally a stranger to your daughter, and you have a constitutional right to raise your child as you deem fit.

Today, methods of artificial reproduction allow both married couples and unmarried individuals to conceive and bear children; however, when you begin to deal with non-traditional family units like you and your ex-boyfriend, the legal issues become very complicated, and state legislatures have been slow to address the many difficult problems.

Had you been inseminated with your former boyfriend's sperm, the result here would be much different. But your daughter was conceived by you and a donor, and since your former boyfriend is not the biological father, he is a stranger no matter what you and he agreed to.

Bottom Line: Statutory laws in this area shield sperm donors from paternity obligations, but don't vest live-ins and other non-traditional parents with fatherhood. And it will stay that way until state legislatures address the needs of children born into non-traditional families.