



The Weecks Quarterly©
The Law Office of Debbie Weecks
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**ADVANCED DIRECTIVES IN A PANDEMIC
(aired live July 31st on Money Radio)**

**Please visit <http://weeckslaw.com/in-the-news/>
to watch the July 31st, 2020 broadcast of Health Futures.**

**A PRIMER – ARIZONA’S NEW PROTECTIVE ORDER LANDSCAPE
Debbie Weecks © 11 June 2020, as published at Maricopa Lawyer**

**Please enjoy Ms. Weecks’ article by scrolling down underneath the videos at
<http://weeckslaw.com/in-the-news/>**

as published by the Maricopa County Bar Association’s *Maricopa Lawyer*

ARTIFICIAL INSEMINATION FOR GAY COUPLE & LATER PATERNITY ACTION

Arizona’s appellate division issued an important decision last week. In the case, a biological father sought custodial rights as a sperm donor, wherein the sperm was then successfully used to impregnate one of two women in a married couple. The appellate court found that the donor “*had agreed to donate his sperm ‘but not to take on any parental rights or responsibilities’*” *Doherty v. Leon*, 2 CA-CV 2019-0124-FC, ¶21 (App.Div.Two 28th July 2020). The appellate court found that the trial court properly denied the donor status as a legal parent.

Discussion included that the parties properly invoked statutory presumptions (the marital and genetic testing presumptions). The case is important for many propositions. First, it affirmed that A.R.S. §25-814(C) applies to a female partner even though the Arizona legislature did not change the “paternity” wording after the 2015 United States Supreme Court decision in *Obergefell v. Hodges*. Secondly, the appellate court stated that the trial court considered the child’s best interest in favoring the married couple over the sperm donor. But it also stated in its lengthy decision analyzing many fine legal points that “As to Ray’s argument that the trial court failed to make a best-interests finding, § 25-814(C) *does not expressly require one*. As previously noted, it states: ‘the presumption that the court determines, on the facts, is based on weightier considerations of policy and logic will control.’” *Doherty* ¶10. The donor’s arguments under a theory of “equitable estoppel” were also explored and failed.



Case of 1st impression – When Leave of Court Should be Granted for an INTERESTED PERSON TO FILE A FINANCIAL EXPLOITATION COMPLAINT

In a “case of first impression,” the Arizona Court of Appeals lay the groundwork this past week for permitting an interested person’s permission to file a complaint alleging vulnerable adult exploitation. In relevant part, redacted for brevity, that court included this passage:

“... we conclude, then, that when leave of court is sought to file a financial exploitation complaint, the court should determine whether the petitioner is an interested person under §§ 46-456(G) and 14-1201.”

Heguy v. Stephans, 2 CA-CV 2019-0102, ¶15, (App.Div.Two July 31st, 2020) . The former of those statutes (within title 46) in the Adult Protective Services Act addresses “Duty to a vulnerable adult; financial exploitation; civil penalties; exceptions; definitions” and includes that the “vulnerable adult or the duly appointed conservator or personal representative of the vulnerable adult's estate has priority to, and may file, a civil action under this section. If an action is not filed by the vulnerable adult or the duly appointed conservator or personal representative of the vulnerable adult's estate, any other interested person, as defined in section 14-1201, may petition the court for leave to file an action on behalf of the vulnerable adult or the vulnerable adult's estate.” The latter cite above (within title 14) contains definitions within the “Trusts, Estates and Protective Proceedings” portion of the statutes.

The *Heguy* court explained that if the petitioner is not determined to be such interested person, then the trial court may deny the petition. Further: “If the petitioner is an interested person under the statute, the court should determine whether another with priority to file an exploitation complaint— ‘the vulnerable adult or the duly appointed conservator or personal representative of the vulnerable adult’s estate’— has already filed or is likely to file such a complaint. § 46-456(G). If so, the court may summarily deny the petition. See *Darren T. Case et al.*, *supra* § 9:8. The court should not, as the trial court did here, address the merits ,...” of the proposed complaint at that stage. Continuing in part “... it should, solely for purposes of granting or denying leave to file the complaint under § 46-456(G), accept the factual allegations of the proposed complaint as true, and without regard to potential defenses. ... Even under such a procedure, the complaint remains subject to substantive examination.” *Heguy* ¶¶15-16.

ATTORNEYS RESPOND – THE HOTLINE – UPDATED STATS

The Law Office of Debbie Weecks continues to volunteer as a hotline operator.

Updated stats, May 20th through July 31st:

125 operators have fielded 1,149 calls,

of which housing is the top legal issue followed by employment & unemployment (16%).

**Statewide Legal Hotline: 866-611-6022, weekdays 9:00 am -3:00 pm.
For Covid-19 related legal issues. Language Interpretation Available.**

The Law Office of Debbie Weecks Remains Fully Operational.

La Oficina de la Abogada Debbie Weecks continúa sus operaciones.

Offering traditional and limited (discrete task) representation.

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