

# Marriage Law Digest

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Marriage Law Foundation

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## **FLYNN V. BIMBER**

**2005-Ohio-4667**

**Ohio Court of Appeals, Ninth Judicial  
District**

**September 7, 2005**

A surrogacy involving a sperm donor, egg donor and surrogate resulted in triplets. A custody dispute in Pennsylvania between the children's biological father and the surrogate was resolved in favor of the surrogate since the court held the surrogacy contract void as against public policy.

In Ohio, the biological mother (egg donor) sought parental right to children and a finding that the surrogate and the surrogate's husband had no parental rights. The biological father also claimed parental rights (neither biological parent opposed assertion of parental rights by the other although they are unrelated).

The court of appeals held that the Pennsylvania court judgement was not entitled to full faith and credit because it should have given the biological mother a chance to participate in its proceedings. The court also held that the biological father and mother were parents of the child but that the lower court needed to hold a hearing to determine if the biological parents had relinquished their parental rights.

## **BEECHAM V. HENDERSON COUNTY**

**No. 04-5845**

**United States Court of Appeal for the Sixth  
Circuit**

**September 9, 2005**

A married attorney proposed to a court employee working in the same building as the attorney's wife. The employer fired the fiancee partly based on her relationship with the attorney (because it resulted in tension in the workplace).

The Sixth Circuit panel rejected plaintiffs' intimate association claim, holding that even if the relationship were covered by the right of intimate association, the County's concern that the employee's relationship with the attorney was disruptive to her work environment was a rational basis for her discharge.

## **JONES V. BORING**

**No. A06-00-64229-C-19**

**Superior Court of Pennsylvania**

**September 26, 2005**

One partner in a same-sex couple conceived as a result of artificial insemination resulting in twins. Five years later, the couple separated and the biological mother was granted primary legal custody while the partner was granted standing in loco parentis to visit with the children. In time, the trial court judge concluded that the children's best interests required the non-parent partner to be the primary custodian.

On appeal, the court held that the relevant standard was that a person in loco parentis does not need to establish parental unfitness, only that a change of custody would be in the best interests of the child by clear and convincing evidence.

Here, the biological mother was not unfit, but the partner had demonstrated that

children would be better off with her by evidence such as the mother's attempts to exclude the partner from the child's life.

**NATIONAL PRIDE AT WORK, INC. V.  
GRANHOLM**

**Case No. 05-368-CZ**

**Michigan Circuit Court for the County of  
Ingham**

**September 27, 2005**

Public employees and advocacy groups challenged the Michigan Attorney General's interpretation of the state marriage amendment which would have precluded benefits for same-sex partners of public employees.

The court first held that "[h]ealth care benefits are not among the statutory rights or benefits of marriage. An individual does not receive health care benefits for his or her spouse as a matter of legal right upon getting married. . . . Health care benefits for a spouse are benefits of employment, not benefits of marriage." The court also held that employer benefits cannot create a "union" as proscribed by the amendment. The court finally concluded that employment benefits are not similar to marriage since they don't accord all of the many benefits that come with marital status.

Therefore, public employers could provide benefits to partners of public employees without violating Michigan's marriage amendment.