

News from the States

Innovative Application of Administrative Adjudication Paternity Determination in Georgia

By Lois Oakley¹

The Welfare Reform Act requires the states to utilize administrative procedures to expedite child support-related procedures. See 42 U.S.C. §§ 666(a) & (c) (2008). Georgia's child support statute grants the Georgia Office of State Administrative Hearings the authority to adjudicate the issue of paternity and establishes that an administrative determination has "the same force and effect as a judicial decree."

This legislative framework provides the authority for an innovative adjudication process within the jurisdiction of Georgia's central panel. The state Supreme Court has observed that "due process, unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances." *Nobin v. State Bar*, 273 GA 559, 560 (2001). This flexibility is evidenced in the design of an administrative adjudication process which is convenient to the parties, provides expeditious adjudications, and results in amicable resolutions.

The adjudication process is commenced by the tribunal's notification of the putative parent of a hearing for the determination of paternity before an administrative law judge. The putative parents are welcomed at the hearing site by a constellation of child support specialists who are prepared to resolve both the determination of paternity and the corollary support obligation in an expeditious manner. Present at the hearing location are genetic screeners and financial data intake specialists, as well as child support agents who are skilled at the mediation of support agreements. Assisting with the documentation of enforceable orders are staff attorneys from the Georgia Office of State Administrative Hearings. Those cases which are not resolved informally are determined at an evidentiary hearing by an administrative law judge.

The success of the administrative paternity determination process in Georgia is attributable to the flexibility inherent in state administrative adjudication. The statewide jurisdiction conferred upon a central panel is employed to avoid the delay involved when jurisdictional issues dictate a second filing in a judicial context. The administrative process provides the ability to site the adjudications in locations which allow the confluence of all necessary services. Experimentation with innovative scheduling techniques has resulted in the successful resolution of an unusually high volume of cases. The absence of filing fees for administrative adjudications and successful service of process by mail contributes to an inexpensive paternity determination procedure for the benefit of Georgia's children. The success of the process can also be measured by the relatively large number

of cases which are resolved amicably in advance of an administrative hearing. Annually, thousands of Georgia families are benefited by this innovative adjudication process.

The flexibility of administrative adjudication has been harnessed to provide a user-friendly forum for the expeditious and inexpensive adjudication of paternity and child support obligations throughout Georgia.

Private Due Process Goes to the Movies

By Michael Asimov²

When federal, state, or local government deprives you of liberty or property, the due process clauses of the 5th and 14th amendments require it to provide a hearing. However, if a *non-governmental actor* (like your boss) does the same thing, federal due process does not apply. In matters of administrative law, California is a maverick, and a long line of California common-law cases applies due process to decisions of powerful private sector decisionmakers.

For example, California law requires a private hospital to provide a hearing when it removes a physician from the staff. A private medical organization that controls access to practice must provide a hearing when it refuses to admit an applicant. Unions that control access to employment must do the same. In a major extension of private due process, the California Supreme Court required a health insurance company to provide a hearing when it kicked a doctor off the preferred provider panel because of too many malpractice claims. *Potvin v. Metro. Life Ins. Co.*, 95 Cal.Rptr.2d 496 (2000). The possibilities are endless.

Boh Yari was one of six credited producers of the Oscar winning best-film *Crash* but wasn't on the stage when the producers picked up their statuettes. Only three producers get to bask in the glory and give speeches thanking their pets. The choice of the top three is made by the Producers Guild and is accepted by a committee of the Motion Picture Academy which presents the award. Yari complained bitterly to the Guild and the Academy but got nowhere. They also refused to give him a hearing.

The California Court of Appeal refused to extend private due process to Yari's claim because the decision in question was not as important to Yari's life as those mentioned above. *Yari v. Producers Guild of America*, 73 Cal.Rptr.3d 805 (2008). The Guild's decision didn't prevent him from practicing his profession as a movie producer since the Guild doesn't control access to that profession. Instead, the decision was analytically similar to the Academy's decision as to what actor will win the Oscar—and the court was not about to extend a hearing right to the losers!

Nevertheless, private due process is an expanding concept, both in the US and around the world, especially in this era of privatization of government functions. Lawyers should watch for opportunities to extend the California precedents to their home states. ☺

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