
Amy Edwards
FAMILY LAW

Family Matters

e-Newsletter

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Merry Christmas!



Welcome to another issue of Family Matters e-Newsletter. This monthly divorce e-Newsletter is brought to you by Amy Edwards Family Law and Divorce Magazine. We hope you will find the information and articles useful. If you wish to be removed from our mailing list, please reply

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Legal Term of the Month

Lis Pendens

Latin for "pending lawsuit" a *lis pendens* is a document filed at the courthouse that gives legal notice to potential buyers of real estate. It states that the land could be subject to a lien or judgment depending on the outcome of the case.

Web Site of the Month

Military OneSource

This web site includes everything related to the military, including benefits, news, military lifestyle and support when service members are deployed.

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by the North Carolina State Bar Board of Legal Specialization**

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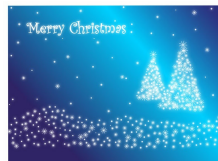
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Coming Next Month

In our next issue, we will feature part 2 of *All About Adoption*. Part 1 was included in our October e-Newsletter.

Our Legal Christmas Tree

North Carolina General Statute §145-25: The Fraser Fir (*Abies fraseri*) is adopted as the official Christmas tree of the State of North Carolina.



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Thou Shalt Not Bear False Witness Against Thy Neighbor (Or Thy Ex): Perjury in NC.

Tip of the Month

Child Support and US Passports

If you owe \$2,500.00 or more on back child support, you are ineligible for a passport. Read more on the web site for the web site of the [US State Department](#).

Did You Know?

NC Address Confidentiality Program.

This program essentially creates a substitute legal address for victims of domestic violence, sexual offense, stalking, or human trafficking. This new legal address is confidential and will not appear in public records.

See NC Gen. Stat. §15C-4

Suggestions For Future Newsletter Topics

Is there a topic you would like to see featured in a future newsletter?

Click Reply and send us an e-mail with your suggestion.

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What is an Oath?

Perjury is an intentional false statement under oath. An oath is a solemn promise made and "taken and administered with the utmost solemnity." NC Gen. Stat. §11-1 *et seq.* There are numerous types of oaths, including the oath of office. As the President is sworn to protect and uphold the Constitution, so too are attorneys.

What is Perjury?

Perjury was deemed illegal by inclusion in the Ten Commandments, the first legal system, in Exodus 20:16. According to the *Oxford Dictionary*, the word perjury comes from the Latin word *perjurium* meaning false oath. In our state, perjury is defined as an intentional false statement under oath in court, in a deposition, or in matters the law requires a witness to be sworn.

Swearing or Affirming (Administering Oaths)

The person testifying in court swears to "tell the truth . . . so help me God." Some people interpret the Bible as forbidding swearing. As an alternative to swearing to tell the truth, a witness may choose to be affirmed. The oath is given exactly the same except that the word "affirm" is substituted for the word "swear" and the words "so help me God" are deleted.



In our state, the law allows judges, clerks of court, notaries public and a few others to swear in or affirm a witness (*i.e.*, administer an oath).

When Does Perjury Happen?

Most people know that when they appear to testify in court, they must tell the truth, the whole truth and nothing but the truth, but what does the rest of this definition for perjury mean and what are the other types of perjury? In a deposition, a witness is subpoenaed to a location outside of court to give testimony that will be typed up by a court reporter. Such a report may be used in court, and is treated the same way as courtroom testimony when it comes to perjury. Another way someone commits perjury is when the law requires something to be sworn. Frequently, this is when a statement is made in writing that is signed under oath, administered by the notary public. For example, in a lawsuit for marital property division or alimony, the documents filed at the courthouse

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require a notarized signature. Each document of that nature functions as an affidavit because the person signing is taking an oath to tell the truth.

What Does This Have To Do With My Case?

The most important consequence of perjury is that it is a felony. NC Gen. Stat. §14-209. In fact, an attorney is an officer of the court who has taken an oath. When an attorney learns of the perjury, he or she has a legal duty to the court to immediately address it in court. The attorney may ask for a recess to speak to the client, or might have to make an emergency motion to withdraw as counsel, which indirectly tells the judge perjury is an issue. Aside from risking a felony conviction or your attorney making an emergency motion, your case is likely ruined.

People sometimes forget the judge hears testimony all day every day and is uniquely positioned to notice body language and other indirect or subtle signs of deception. Like judges, the attorney makes a living evaluating the truthfulness of a witness. He or she may cross examine you based on the lawsuit paperwork you have signed under oath.

Additionally, the attorney has spent time preparing evidence with the assumption that witnesses do testify untruthfully on occasion. There may be a document or other proof he or she may ask you to read on the stand that is proof you are not being truthful. One consequence of untruthful testimony is that you lose your credibility and the judge will give the other party the benefit of the doubt. You lose.

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Having an Affair with a Married Person? Three Big Reasons to Reconsider.

By Amy A. Edwards

If you are having a romantic relationship with someone who is married, you might not realize there is potential legal liability, aside from the typical moral or emotional fallout. We'll call it dating but it probably doesn't involve any dates because those who date risk being seen in public. If you are married, you risk a court ruling that you have committed marital fault, which has numerous financial consequences. Even if you are single, in North Carolina, dating someone who is married can cost you financially.



Reason #1

If you have an STD (sexually transmitted disease), you have a legal duty to warn the husband or wife of the person you are dating. If you are the cause of the spouse contracting the STD, he or she can sue you in civil court for financial damages.

Reason #2

If the spouse sues you for alienation of affection, you also face financial damages. In this context, alienating is "stealing" the wife or husband from the spouse, even if they reconcile, so long as it falls into the timeline required to sue you.

Reason #3

Having intercourse with a married person gives his or her spouse to sue you for "criminal conversation." This is a quaint way of saying the act of intercourse itself, regardless of whether you "steal" the spouse or merely "borrow" him or her.

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Sign on the Dotted Line:
Separation Agreements in North Carolina



Sign on the Dotted Line: Separation Agreements in North Carolina

By Amy A. Edwards

What is a Separation Agreement?

A separation agreement is a voluntary contract between a husband and wife (or ex-spouses). It may be signed no sooner than separation, and may be signed at some later date, even after the parties divorce. The parties can settle some or all of the issues, including child custody, spouse and/or child support, and marital property and debts. The laws are written to encourage settlement instead of litigation. Therefore, a properly drafted separation agreement is extremely difficult to change or void.

What Things Can We Include in the Agreement?

Because they are contracts mutually agreed upon, separation agreements can include just about anything. One of my favorite war stories involved a case where we agreed on horse custody and visitation. We even included terms for which farm the horses would stay and whether each . . . uh . . . horse parent would be entitled to allow future romantic partners to ride the horses. That type of outcome will never happen in court. In our state, horses are legally treated as personal property no different than a television or set of china.

Express Lane: Is There a Form I Can Use?

Even some attorneys who don't handle family law cases, or just dabble in family law, do not realize there is no "boiler plate" form. In fact, separation agreements are popular because they can be customized to whatever terms agreed upon by the parties. Imagine going to a mechanic and asking for "the standard repair." All cars have tires and a steering wheel, but a Corvette and a VW Bug don't call for the same repairs. It is no different with attorneys who draft separation agreements. Some are very complex, but others might not be.

While separation agreements do have certain magic words for the more

routine things, such as jurisdiction of the court to interpret the agreement for example, a good attorney will address dozens of other issues specifically. For instance, the agreement might include a disclosure paragraph that dictates whether the parties are obligated to tell each other about hidden assets, or address certain significant tax consequences by carefully categorizing a payment made in the settlement as support or property distribution.

Buyer's Remorse: Enforcement

Separation agreements can be written to spell out the types of enforcement mechanisms that will be used if it is violated. The agreement may be treated like a contract, which is enforced by a lawsuit based on breach of contract. Other times, the agreement may be drafted to become a court order at some later date, enforced directly by the court. The agreement can say that violations will trigger certain consequences. Or, it may dictate when and how child custody and/or support lawsuits can be filed at some later date. All of these enforcement options are another example of ways attorneys draft agreements based on each client's specific needs and priorities.

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Thank you for reading our newsletter.

Sincerely,

Amy A. Edwards

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