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Paternity

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In **In Re Paternity of J.C.**, 819 N.E.2d 525 (Ind. Ct. App. 2004), the Court reversed and remanded the trial court's order changing the child's surname to that of the Father. In September 1997, the trial court issued a Paternity Entry adopting the agreement of the parties which provided, among other things, that the child was to retain the Mother's maiden name. In February 2004, at a hearing on the Mother's Petition to Modify Support, the Father filed a motion to change the child's surname to the Father's because the Mother had gotten married and no longer had the child's current surname. The trial court granted the Father's motion and the Mother appealed.

It is well settled in Indiana that a biological father seeking to obtain the name change of his nonmarital child bears the burden of persuading the court that the change is in the best interest of the child. See, e.g., In re Paternity of Tibbitts, 668 N.E.2d 1266, 1267 (Ind. Ct. App. 1996); Paternity of M.O.B., 627 N.E.2d 1317, 1318 (Ind. Ct. App. 1994). The trial court granted the Father's motion because it was "unable to find any agreement by the Father to the child retaining [the Mother's surname] as a last name." The Court held that the trial court abused its discretion in ignoring the proper standard to be applied in deciding this question. The Court directed that, on remand, in determining whether retaining the Mother's name is in the best interest of the child, the trial court might properly consider, *inter alia*, (1) whether the child holds property under a given name; (2) whether the child is identified by public and private entities and community members by a particular name; (3) the degree of confusion likely to be occasioned by a name change; (4) (if the child is of sufficient maturity) the child's desires; and (5) the Father's particular concern with the Mother having a surname different from that of the child. J.C. at 528-29.

The Court declined the Mother's invitation to impose on the Father, on remand, the additional burden of demonstrating that the name change was warranted by a substantial change of circumstances since the trial court's 1997 determination. Id. at 528.