

Alienation of Affections and Criminal Conversation

Getting involved in a lover's quarrel could come with a hefty price tag. This is particularly true if the person you get involved with is still legally married. There have been numerous cases in which plaintiffs have been awarded substantial amounts of money for suing a third party member for allegedly breaking apart couples.

Alienation of Affections is a tort, with roots in the New York legislature that date back to the 1860s. Common law now defines alienation of affections as a "tort action brought by a deserted spouse against a third party alleged to be responsible for the failure of marriage" (wikipedia). The defendants in these cases are usually an adulterous lover, family member, therapist, or any other party that intervenes or destroys the marriage.

Examples of Alienation of Affections have been seen in North Carolina courtrooms as far back as 1926. That year, a guilty verdict was issued against a man for having extramarital relations with the plaintiff's wife. That relationship ended up costing the defendant \$12,000. But that figure is on the rise. In fact North Carolina juries have awarded spouses upwards of \$1 million in certain cases. A jury in Forsyth County in 1997, issued a verdict in the amount of \$1.2 million. In some cases, additional compensation could be awarded for criminal conversation claims.

Criminal Conversation is a type of civil lawsuit involving an injury to a person or individual due to sexual intercourse between a lover's spouse and a third party. It's similar to "strict liability tort" as the plaintiff has to prove the following: act of intercourse, existence of a valid marriage between the plaintiff and adulterous spouse, and emergence of the lawsuit within the statute of limitations. One probable defense for criminal conversation would be if the plaintiff and their partner were legally separated, with an intention to keep the separation permanent. Criminal Conversation can not be defended by the simple, "I didn't know he or she was married" excuse.

Since Alienation of Affection does not require proof of extramarital sex, it is more difficult to prove than criminal conversation. Criminal Conversation and alienation of affections have both been criticized by law officials. Some critics say the laws contribute to blackmail and in some cases forced settlements. Cases involving Criminal Conversation and alienation of affection are isolated to Illinois, Mississippi, New Hampshire, New Mexico, South Dakota, North Carolina, and Utah. However these issues have been most prevalent in North Carolina. There are forty-three states that have abolished such cause for action in cases of Alienation of Affections. The way each state deals with each issue varies due to differences in state laws. So the next time you think you're ready to say, "I do", make sure you are really ready. Depending on where you live, you might end up shelling out big bucks.

For More discussions please consult Allensspence

Criminal Conversation

Richard Bailey



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