

FOR IMMEDIATE RELEASE

FreeState Legal Appeals to Maryland's Highest Court for Equal Recognition of Same-Sex Parents

Baltimore — October 22, 2015 — In a case that impacts thousands of children in Maryland born into families headed by same-sex couples, FreeState Legal has asked Maryland's highest court, the Court of Appeals, to review a decision by lower courts denying legal parentage to a person who raised a child from birth with their same-sex spouse. In the case of *Conover v. Conover*, FreeState Legal represents Michael Conover, a transgender man. Before Conover's gender transition, he and his female partner had a child by artificial insemination of his partner. They married after marriage equality was legally recognized for same-sex couples, but the lower courts have refused to recognize Conover's parentage of their child. As a result, Conover has been unable to see his child for over two years.



"This heartbreaking case is about whether Maryland courts will give equal protection to the parent-child relationships of children born to same-sex couples, and whether marriages between same-sex couples are truly equal under Maryland law," said FreeState Legal's deputy director and managing attorney, Jer Welter, who represents Michael Conover. "For marriage equality to have real meaning, the families formed by same-sex married couples must have the same legal protection as the families formed by opposite-sex couples," Welter continued.

Pictured: Michael Conover, right, holding his son Jaxon. A higher-resolution copy of this photograph is available from FreeState Legal.

Before his gender transition, Michael Conover was in a committed same-sex relationship for nearly a decade with Brittany Eckel.¹ In 2009, before marriage equality for same-sex couples was recognized in Maryland or any nearby jurisdiction, Conover and Eckel decided to have a child together by artificial insemination. They chose an anonymous sperm donor on the basis of physical resemblance to

¹ The case is titled under the parties' former names, Michelle Conover and Brittany Conover. Brittany Eckel took Michael Conover's last name when they married, but resumed her original last name after their divorce. Conover legally changed his name to Michael after the litigation began.



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Conover, and when Eckel gave birth to their son Jaxon, the child was given Conover's last name. A few months later, Conover and Eckel married in nearby Washington D.C., where marriage between same-sex couples had become legally recognized. They parented Jaxon together for the first two years of his life, but later broke up. In their divorce case, Conover asked the court for visitation with their son, but Eckel claimed that they had no children together. The trial court ruled that Conover is a legal stranger to Jaxon because he lacks a biological or adoptive relationship to the child. In August 2015, Maryland's intermediate appeals court, the Court of Special Appeals, upheld the trial court's decision.

"Not being able to be with my son, to lead him, and watch him grow is a pain that I wish no one else would have to experience," said Conover. "Little kids don't understand genetics, they understand a parent's nurturing love. My love for my child is never going to go away."

A longstanding Maryland law provides that when a woman who is not married gives birth to a child, a person who then marries the mother and acknowledges their parentage of the child is considered the child's other legal parent. But the lower courts ruled that this parentage presumption statute did not require Conover's parent-child relationship with Jaxon to be legally recognized. Instead, the lower courts determined that the case is controlled by a pre-marriage-equality decision, *Janice M. v. Margaret K.*, in which the Court of Appeals held that when only one member of a same-sex couple adopted a child, she was the child's only legal parent even though the other member of the couple had been a "de facto parent" of the child. FreeState Legal has asked the state's highest court to review whether legal parentage presumptions apply in child custody cases involving same-sex couples, and whether the *Janice M.* decision should be reconsidered.

"The effect of the lower courts' ruling here is to deny a child a relationship with one of the only two parents he has ever known," said Welter. "We hope that the Court will hear this case and recognize that marriage equality has changed the landscape in Maryland, and will give the Conovers' legal marriage the same effect as the marriage of any other opposite-sex couple."

FreeState Legal's petition on Conover's behalf to the Court of Appeals, which was filed on October 14, 2015, can be read on FreeState Legal's website at: <https://freestatelegal.org/conover-v-conover/>

The Court of Appeals is expected to decide whether to hear the case in the next two months.

FreeState Legal is a statewide non-profit organization that serves the low-income lesbian, gay, bisexual, transgender, and queer (LGBTQ) community in Maryland through direct legal services, impact litigation, policy advocacy, and outreach and training activities. For more information, visit www.freestatelegal.org, call (410) 625-5428, or email info@freestatelegal.org.