

How to Prove False Allegations in Family Court



Table of Contents

Introduction and What is Family Court?.....	1
What is a False Allegation? and Examples of False Allegations.....	2
Motivation and Consequences Behind Making False Allegations.....	3
How to React to a False Allegation?.....	4
Honest Conversation & Gather Evidence.....	5
When CYFD Gets Involved.....	6
Conclusion & References.....	7

Introduction

Divorce, custody battles, and navigating the New Mexico Family Court can be difficult enough as it is, but can quickly grow more complicated and emotionally draining when the opposing party and your former partner make a false allegation against you. The legal process of getting a divorce, dividing your assets, and determining custody quickly gets put to the side to address this accusation, especially if it's as serious a claim as addiction, neglect, or even abuse.

While trying to prove your innocence and an allegation false may seem intimidating at first, having the right attorney by your side will help you sort through the emotions and create a practical strategy to defend yourself. In this guide, we will discuss what these types of accusations are and how to prove them false in New Mexico Family Court.

What is Family Court?

Before we dive into what false allegations are and how to prove them wrong, let's first talk about family court and why you might end up there. People most often find themselves in family court during a divorce; here the property belonging to both partners is divided and, if children are involved, topics like custody, child support, and visitation are covered. You can also find yourself in Family court if you were never married, but have children together; where issues of custody, time-sharing and child support are decided. Family court is generally meant to handle civil matters, but cases involving around domestic violence or child abuse can also be heard, however the actual criminal charges will still need to go to a separate criminal court.

In New Mexico, each district manages its own Family Court, so where you and your current/former partner live will decide where you will go and who will be your judge. Regardless of where you are in the state, it's highly recommended that you talk with an attorney about your situation before any formal proceedings or paperwork signing takes place.

What is a False Allegation?

Now that we know what Family Court is and why you might find yourself and your family there, let's define false allegations. A false allegation, also known as an accusation, is a claim someone makes against you saying that you have committed some kind of wrongdoing that is untrue and not supported by facts or evidence. The person making the false allegation typically has a goal of being deliberately deceitful to sway the opinion of a judge and get them to rule in their favor.

Your partner can make a false allegation intentionally, yes, but they can also do so unintentionally if there is a misunderstanding, if they misremember a situation, or if they have a mental illness that's affecting them or their memory recall. Either way, the lack of evidence or truth to the allegation is what makes it false.

Examples of False Allegations

A relationship between two people is complicated enough as it is before you add in children and shared property. During a divorce or custody hearing, all the tiny details and complexities that made up your relationship are suddenly all out in the open, and with that come accusations. Here are some examples of false allegations that could be made in Family Court:

- *Acts of child abuse*
- *Disposing of mutual assets*
- *Alcoholism, drug addiction, or substance abuse*
- *You were physically or sexually abusive during your relationship*
- *You intentionally destroyed assets or evidence necessary to the case*
- *You're not currently adhering to the rules of your custody arrangement*

New Mexico is known as a no-fault divorce state, meaning that acts of adultery or other misbehavior by either party have no legal bearing in Family Court, especially in the determination of property division. It may be relevant to issues of custody if the actions would harm the children, so this is something you would want to discuss with your attorney. So, while the other party's false allegation of an affair could be painful for you to hear, it's not something that would hold any weight in Family Court.

The Motivation Behind Making False Allegations

In many cases, the other party knowingly or unknowingly makes a false allegation as a desperate attempt to even the playing field or sway the court's opinion in their favor. Even if your relationship ended with no ill will on either your end or theirs, the other person can still use a false allegation as a way to get the better end of the deal in a divorce or more custody over your shared children. This sometimes happens when you start a new relationship or in other ways cause the former partner to become jealous.

Depending upon the circumstances of your separation, your former partner might also make up a story alleging abuse or you breaking custody rules out of a desire to get back at you for something that happened during the relationship or to limit or end your access to the children after divorce. It's important to remember that even if children are involved, the other party may decide to only look out for themselves, so you need to protect yourself and your best interests.

What Are the Consequences of Making False Allegations?

When it's found that one person made false allegations in Family Court, they not only face the personal repercussions with their family, friends, and the children they share with you, but they can also see legal consequences, too. Depending upon the allegation made and the severity of it, consequences can include:

- Financial sanctions and fines
- Limited custody and/or visitation time
- Total loss of visitation and/or child custody rights
- Criminal charges and potential jail time

Once everyone involved, including the court, is aware that the other party made a false allegation against you, as shown by evidence you provided, that person may no longer be seen as a fit parent. At the end of the day, the Family Court's highest priority is the safety and well-being of the child or children involved, so when an accusation is proven false, it's often believed that the accuser doesn't have the children's best interests at heart since they attempted to manipulate the court.

We often have clients ask us if they're able to seek financial compensation from the parent who made the false allegation. While it's possible to ask for them to pay for your attorneys' fees, it only happens on some occasions; your best-case scenario is proving the accusations false to clear your name and maintain your custody rights.

How to React to a False Allegation

When you first hear someone accuse you of something you know you didn't commit, it's natural to feel everything from anger and sadness to confusion and hurt. As powerful as those emotional responses may feel, remember that the court is a space that demands professional conduct, so maintaining your composure and discussing a practical, evidence-based approach with your attorney is your best bet at proving the allegations false.

Stay Calm & Take Time to Understand the Accusation

For most people, hearing their former partner make a false allegation against them is an emotionally and physically exhausting experience. While you may naturally want to speak up to defend yourself, if you do so without thinking, you may actually hurt your case rather than help it. For example, if your former partner falsely accuses you of physical abuse and you react angrily or irrationally in defending yourself, you will end up adding more validity to their allegation instead of dispelling it. Keep yourself calm and level-headed so you will have the headspace to act rationally and present yourself professionally.

When you maintain a calm composure in Family Court, you're giving yourself the ability to better hear the allegation made against you. With this information, you and your attorney will be able to figure out a strategy to defend yourself and prove the accusations false. When tempers rise, it's harder to accurately recall the memories and situations you need to document and prove your innocence. Also, sometimes the accusations made are so outrageous, the Court doesn't require a response from you or your attorney.

How to React to a False Allegation

Have an Honest Conversation with Your Attorney

In the state of New Mexico, many people work in the security industry or military sector, so an allegation made against you could be damaging enough to cost you your security clearance and—ultimately—your job. Whether or not this is your case, this shows how important it is that your attorney has all the information possible to prove the allegation false. This should include every detail you can remember surrounding the accusation, even if some of it doesn't paint you in the best light. Be completely honest about what is really going on in your case.

For instance, if you are being accused of abuse on a particular date, but you know their claim to be false because you were having an affair at that time, your complete honesty will only help. Even if you did things you're not proud of during your relationship, these actions are far less than what you're being accused of and hold no legal weight over your divorce or custody case. No matter how difficult it may be to discuss or how bad something may make you appear, your attorney must know all the facts to properly defend the accusations.

Gather Your Evidence

The most important aspect of proving a false allegation in Family Court, as with any other legal situation, is evidence. Once you and your attorney understand what you're being accused of, you need to go through your records so you can find information that proves your side of the story to be correct. This can include:

- Your own credible eye-witnesses
- Journals kept during the relationship
- Report cards and attendance records
- Communication records, i.e., texts, emails, call archives
- A PEth blood test to prove your or your accuser's alcohol level
- A hair-follicle test to prove the absence of the presence of drugs in your system
- Receipts or records showing air travel, hotel stays, doctors' appointments, or anything else that can prove your absence or alibi

Another action you can take to prove the allegation false is to turn the lens around on your accuser; proving them to be untrustworthy, mentally ill/unstable, or otherwise incompetent is also an effective tactic in defending yourself. While your end goal is to achieve a resolution that works in your best interests, you ultimately need to prove yourself fit to be a parent and the other party unfit to have custody of your child or children. Any evidence you can find that proves your account of the relationship and contracts the other party's claims is vital to your case.

How to React to a False Allegation

When CYFD Gets Involved

In the state of New Mexico, CYFD stands for “Children, Youth & Families Department” and they are the state agency that provides protective and rehabilitative services to children and their families. In Family Court, this department may get involved when an act of physical or sexual abuse or neglect of children is made and the custody of the children may need to go to other people than the parents. Ultimately, they are there to ensure your child or children are cared for, so welcome their presence in your case.

Conclusion

While every case that goes to Family Court is different and has its own complexities, this guide and all the strategies in it will help you defend yourself against false allegations made against you. Together with your attorney, you will have the tools you need to not only prove your innocence but also prove your former partner unfit to parent, giving you a better chance at full custody of your children. Whatever your goal may be, you have the opportunity to clear your name and return to normal life, putting your time in Family Court behind you.

If you are going through a divorce or need a professional to help you fight for custody of your children after a separation in New Mexico's Family Court, the experienced attorneys at the Law Office of Dorene A. Kuffer are ready to help. Our trusted attorneys have over 50 years of experience to help you understand what you're up against, so together we can find the best legal solution for your family, no matter how complex your situation may be.

Contact us to schedule a meeting today.

References

- 1) <https://www.nmcourts.gov/court-administration/about-the-courts/>
- 2) <https://digitalrepository.unm.edu/cgi/viewcontent.cgi?article=2070&context=nmlr>
- 3) <https://cyfd.org/>