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# You Stole My Heart, and You've Been Served

Jilted spouses in six states are permitted to sue for 'alienation of affections.'

By Randy Maniloff  
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On Valentine's Day people eagerly spend money to express love. But the price of lost love can be steep—and not only in cases of divorce.

In six states, there exists a legal right to force a person to fork over cash for "alienation of affections." In plain English, that means suing your spouse's lover for damaging your marriage.

This right stems from the anachronistic principle that a wife is her husband's property, so wooing her away is akin to theft. The tort has been abolished in most states. But it persists—and applies to both sexes—in Hawaii, Mississippi, New Mexico, North Carolina, South Dakota and Utah.

Some forlorn spouses have convinced juries that they are entitled to damages for their broken hearts. In *Fitch v. Valentine* (2007), Johnny Valentine, a plumber, sued Jerry Fitch, a millionaire businessman, for allegedly stealing away his wife. A jury awarded Mr. Valentine more than \$750,000. In upholding the award for alienation of affections, the Mississippi Supreme Court **concluded** that while the marriage might have been strained beforehand, it was the affair that ruined it.

In 1981, Joseph Hutelmyer wrote a poem for his wife, Dorothy, titled "Why I Love You." He penned a sequel in 1990: "Why I Love You II." Then, in May 1992, Mr. Hutelmyer's secretary, Margie Cox, separated from her husband and began wearing short skirts and low-cut blouses to the office. You can see where this is going. A North Carolina jury awarded Mrs. Hutelmyer \$1 million from Ms. Cox for breaking up her "fairy tale marriage." A state appeals court **affirmed** the award in *Hutelmyer v. Cox* (1999).

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One defense against these claims is that there was no affection left in the marriage to alienate. That's why the South Dakota Supreme Court in *Rumpca v. Brenner* (2012) had to decide if Kellie and Doug Rumpca had a loving marriage before Mrs. Rumpca began an affair.

She said no. But Mr. Rumpca presented evidence to the contrary, such as an anniversary card from his wife calling the previous 10 years the best of her life. In addition, Mrs. Rumpca underwent plastic surgery in an effort to be more attractive to her husband. Weighing the allegations, the South Dakota high court **concluded** that it would be up to a jury to decide if the marriage had been "loveless."

Homewreckers who want to avoid a lawsuit might consider crossing state lines. In *Dipasupil v. Neely* (2019), a North Carolina Court of Appeals judge pored over text messages, phone calls and rendezvous locations from an out-of-state affair. He **found** no evidence that "alienating conduct" transpired in the Tar Heel State.

These cases dredge up many a salacious detail, but they can still involve dry legal issues. In *King v. Huizar* (2019), a federal court in Texas concluded that even a bankruptcy discharge can't wipe out a judgment for alienation of affections.

"Love is not love / Which alters when it alteration finds." But when love ends, one might enlist some skillful legal minds.

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