**§1938. Effect of noncompliance; standard of review; remedies**

**1. Not enforceable.** Except as otherwise provided, a gestational carrier agreement that does not meet the requirements of this subchapter is not enforceable.
[PL 2015, c. 296, Pt. A, §1 (NEW); PL 2015, c. 296, Pt. D, §1 (AFF).]

**2. Standard of review.** In the event of noncompliance with the requirements of this subchapter or with a gestational carrier agreement, a court shall determine the respective rights and obligations of the parties to the gestational carrier agreement, including evidence of the intent of the parties at the time of execution.
[PL 2015, c. 296, Pt. A, §1 (NEW); PL 2015, c. 296, Pt. D, §1 (AFF).]

**3. Remedies.** Except as expressly provided in a gestational carrier agreement and in subsection 4, in the event of a breach of the gestational carrier agreement by the gestational carrier or the intended parent or parents, the gestational carrier or the intended parent or parents are entitled to all remedies available at law or in equity.
[PL 2015, c. 296, Pt. A, §1 (NEW); PL 2015, c. 296, Pt. D, §1 (AFF).]

**4. Genetic testing.** If the parentage of a child born to a gestational carrier is alleged to not be the result of assisted reproduction, and this question is relevant to the determination of parentage, the court may order genetic testing.
[PL 2015, c. 296, Pt. A, §1 (NEW); PL 2015, c. 296, Pt. D, §1 (AFF).]

**5. Specific performance.** Specific performance is not an available remedy for a breach by the gestational carrier of any term in a gestational carrier agreement that requires the gestational carrier to be impregnated or to terminate a pregnancy. Specific performance is an available remedy for a breach by the gestational carrier of any term that prevents the intended parent or parents from exercising the full rights of parentage immediately upon birth of the child.
[PL 2015, c. 296, Pt. A, §1 (NEW); PL 2015, c. 296, Pt. D, §1 (AFF).]

SECTION HISTORY

PL 2015, c. 296, Pt. A, §1 (NEW). PL 2015, c. 296, Pt. D, §1 (AFF).

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