

## Adoption Video Overview Outline<sup>1</sup>

### 5<sup>th</sup> Edition

(revised 1/1/2024)

- I. Introduction – Steve Kirsh
  - A. Meet the Kirsh Team
    - 1. Attorneys
      - a. Steve Kirsh
      - b. Joel Kirsh, Steve’s and Rob’s brother
      - c. Grant Kirsh, Steve’s son
      - d. Rob Kirsh, Steve’s and Joel’s brother
    - 2. Support Staff
      - a. Crystal – Interstate Adoption Paralegal
      - b. Rachel – Adoption Coordinator, Intrastate Adoption Paralegal
      - c. Olivia – Interstate Adoption Paralegal
      - d. Jill – Reconnections and Medicaid Coordinator
      - e. Annie – Bookkeeper (lives in Utah)(Steve’s, Joel’s, and Rob’s sister and Michelle’s mom)
      - f. Michelle<sup>2</sup> – Front Desk Coordinator
  - B. Kirsh & Kirsh, P.C. (“K&K”) practices adoption law throughout Indiana, including adoptions with other states.
  - C. Rob holds law licenses in Indiana, Tennessee, Mississippi, Kentucky, Michigan, and Illinois.
  - D. K&K is the largest adoption law practice in Indiana, the Midwest, and, perhaps, the US.
  
- II. Overview of What this Video will Cover – Grant Kirsh
  - A. Scope of Video
    - 1. How K&K handles adoptions
    - 2. Adoption procedures

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***<sup>1</sup>This outline is intended to be used in conjunction with watching the video. Reading it independently of the video can cause significant misunderstandings of the adoption process. Do NOT read or rely upon the outline without watching the video!!!***

<sup>2</sup>Since shooting the video, Konlie has left our team to further her education. As of this revision, has been admitted to a Chiropractic College to pursue her degree as a Chiropractor. We could not be more proud of her. Michelle, Steve’s, Joel’s, and Rob’s niece (Grant’s cousin) has moved into Konlie’s position as our Front Desk Coordinator.

3. How to find a baby to adopt
  4. Risks involved in adopting
  - B. Steve Kirsh's experience
    1. He has helped write nearly all adoption laws in Indiana since the middle 1980s.
    2. Recognized as an authority on adoption law by the Indiana General Assembly
    3. Recipient of U.S. Congress Angels in Adoption Award
    4. Designated as a Sagamore of the Wabash by Indiana's governor for his contributions to adoption in Indiana
  - C. Joel Kirsh also nationally recognized as an authority on Indiana adoption.
  - D. All K&K attorneys are fellows of the Academy of Adoption and Assisted Reproduction Attorneys ("AAAA").
    1. Steve is a past-president of AAAA.
    2. Rob is on the AAAA Board of Trustees.
- III. K&K is a Family Business – Rob Kirsh
- A. K&K attorneys, Jill, and Emley (Grant's wife) are Kirshes.
  - B. Others staff members are like family.
  - C. We<sup>3</sup> ***WANT*** you<sup>4</sup> to ask lots of questions.
- IV. Benefits of Working with K&K – Joel Kirsh
- A. K&K attorneys only practice adoption law.
  - B. We have considerable knowledge, skill, and experience in the area of adoption law.
  - C. The adoption attorney you hire needs to address 100s of details, missing any one of which could result in a tragic outcome.
  - D. "If you think it expensive to hire an expert<sup>5</sup>, try hiring an amateur."

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<sup>3</sup>"We," "us," "our," and "K&K" refer to Kirsh & Kirsh, P.C.

<sup>4</sup>"You" and "client" refer the adoptive parents or adoptive parent, if a single person is adopting. "Adoptive parents" should be read to include "adoptive parent," if a single person is adopting. We have done this to avoid the clumsiness of "adoptive parent(s), "are/is," and etc.

<sup>5</sup>***This quote is just an expression.*** The attorneys of K&K do not use the terminology, "experts," when referring to themselves, even though they have considerable knowledge, skill, and experience handling and arranging adoptions. The Rules of Professional Conduct do not allow attorneys to use the terminology, "experts."

- V. 30,000 Foot View – Steve Kirsh
- A. K&K is an adoption only law firm – not an adoption agency.
  - B. Indiana law allows Indiana attorneys to provide “adoption services.”
  - C. With the exception of performing homestudies and counseling expectant/birth mothers<sup>6</sup>, K&K provides nearly the same services as adoption agencies.
  - D. Notable difference between K&K and adoption agencies
    1. Adoption agencies say they represent the interests of all parties to the adoption, sometimes referred to as the “Adoption Triad.”
    2. K&K usually represents only the adoptive parents.
      - a. As attorneys, K&K cannot represent the adoptive parents and birth mother in the same adoption.
      - b. It is in the adoptive parents’ interests for K&K to attend, and be kind, to their expectant/birth mother.
    3. If an adoption becomes contested, adoptive parents would want K&K to be their advocates, rather decline to get involved as an adoption agency might.
  - E. Many new referrals of expectant/birth mothers to K&K come from birth mothers who previously worked with K&K.
- VI. Other Differences between K&K and Adoption Agencies – Joel Kirsh
- A. Boards of directors set policy for agencies. Agency staff handles adoptions in accordance with those policies. K&K tailors each adoption to meet the needs of the adoptive parents and the birth parents, to the extent possible.
  - B. Almost every tragic adoption story involves a mistake of law rather than social work. With more than 100 years<sup>7</sup> of combined legal experience handling adoptions, K&K is better equipped to protect the adoptive parents’ legal rights than a well-intentioned social worker.
  - C. K&K handles more adoptions each year than any adoption agency or attorney in Indiana, the Midwest, or, perhaps, the US.
- VII. Finding a Baby to Adopt – Steve Kirsh
- A. K&K offers 3 options
    1. Self-Directed Approach

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<sup>6</sup>Throughout this outline, K&K has used “expectant/birth mother.” “expectant mother,” and “birth mother” interchangeably even though an “expectant mother” has not yet given birth, and a “birth mother” has given birth.

<sup>7</sup> In 2023, our combined legal experienced rolled over to “over 100 years” from “over 90 years” mentioned in the video.

2. Self-Directed Plus Approach
  3. K&K Directed Approach
- B. Really only two options
1. Adoptive parents find a baby on their own – a Self-Directed, or Plus, strategy
  2. K&K finds the baby for them – the K&K Directed Approach
- C. Self-Directed Plus is not a middle ground – In practice, K&K almost never goes to the Self-Directed Plus list
- D. **Question:** Do you want to take responsibility for finding a baby to adopt or do you want K&K to take that responsibility?
1. If the former, chose Self-Directed Plus.
  2. If the latter, chose K&K Directed Approach. K&K will show your profile to as many expectant/birth mothers as necessary until you go home with a baby.
- E. Self-Directed Strategies to find a baby on your own
1. Let as many people as possible know of your interest in adopting
  2. Networking and advertising are two ways to spread the word of your interest. You can reach more people more quickly via advertising than networking. Networking is a labor-intensive.
  3. **BEWARE:** Indiana Code § 35-46-1-21 makes it a **felony** for non-Indiana residents to advertise their interest in adopting **in Indiana**. Other states may also prohibit advertising.
  4. Certain people in your network will have a greater chance of coming into contact with expectant mothers:
    - a. Teachers
    - b. Guidance counselors
    - c. Doctors
    - d. Clergy
    - e. Students
  5. Networking is based upon relationships. People with an interest in your success, like your parents, siblings, and best friends will take a more active role in helping you than a causal Facebook friend.
  6. Let K&K know of **ALL** leads on expectant/birth mothers.
    - a. We will provide further instructions at that time
    - b. If you cannot, or do not want to, adopt the baby you have identified but refer the expectant/birth mother to us, and she actually proceeds with an adoption through K&K, you will have a “Baby-in-the-Bank.”
      - (1) Babies are not interchangeable
      - (2) Baby-in-the-Bank allows you to preserve an opportunity to

- adopt another baby if the baby you identified will not work for you – it preserves your opportunity to adopt.
- (3) If you have Baby-in-the-Bank, we will let you know your options vis-a-vie the K&K Directed Approach, but you may save some or all of the K&K Directed Approach fees.
- c. If you refer an expectant/birth to us, we will not market other families to her unless you want us to show her other families in order to preserve your opportunity to adopt at another time.
- F. K&K Directed Approach. K&K will take the responsibility for identifying a baby for you to adopt and will continue to show your profile until you successfully go home with a baby.
1. Parent Finder will assist with the creation of your profile.
  2. Your profile is your letter of introduction.
  3. Your success depends on your profile, and your profile depends almost entirely on your photos. If an expectant mother does not like your photos, she will not read the words.
  4. Regarding the words, use words that show your personality. “Fluffy” words do not motivate. Example: “My wife will be a wonderful mother to your baby.” Nobody would say the opposite: “My wife hates kids. She is a terrible person. You would be an idiot to choose her to mother your child.” Instead, think about a chart listing “fun facts” about you or your favorites.
  5. Selecting photos – we will provide you our written suggestions for your photos, but here are the most important:
    - a. If you are not smiling, do not include the photo.
    - b. Do not include photos of children unless they are your children and if you have a child or children, choose photos of their oldest, most independent selves. If you include a photo of your 5-year-old as a newborn and as a 5-year-old, she may not realize the photos depict the same child.
    - c. The purpose of your photos is to show the expectant mother what her child’s life will be like with you as parents. You do not need a fancy, extravagant lifestyle.
    - d. Consider using professional photographer to take
      - (1) The first photo in your profile. The first photo should be the best casual photo ever taken of you, and it needs to be current.
      - (2) Candid photos of the two of you or you, if you are adopting as a single person.
- G. Which approach should you take?
1. Most of our clients opt for the K&K Directed Approach.

2. Nobody has a greater interest in your success than you.
3. If you live outside of Indiana, check with an attorney in your state to be sure that your state will not prevent you from hiring K&K under the K&K Directed Approach. New York is one such state. Checking with an attorney in your state is ***not*** necessary if you live in
  - a. Indiana
  - b. Tennessee
  - c. Mississippi
  - d. Kentucky
  - e. Michigan
  - f. Illinois
4. Okay to pursue both Self-Directed and K&K Directed Approaches simultaneously or to switch from a Self-Directed Approach to the K&K Directed Approach

H. Active vs. “On the List”

1. To be “On the List” you need only make the Initial Payments required by the Fee Agreement and Adoption Services Agreement.
2. To be Active you need
  - a. To have provided us with your homestudy and profile
  - b. Not to be matched with an expectant/birth mother
  - c. Not to have put yourself on-hold
3. Once you are matched, you become inactive. Your name stays “On the List” and you continue moving up the list, but we will not show your profile to other expectant/birth mothers until we know the outcome of the match.
4. K&K only shows profiles to expectant mothers of Active families.
5. The number of Active families is roughly half the number of total families “On the List.”
6. K&K shows profiles of families to expectant mothers based upon the family’s position on the Active list. We show profiles of families near the top of the list to expectant mothers due sooner and those toward the bottom of the list to those expectant mothers earlier in their pregnancies.
7. Roughly 30% to 50% of expectant mothers do not proceed with adoptions.

VIII. What to Expect in Working with K&K – Rachel and Steve

- A. How does K&K decide which profiles to show to an expectant mother?
  1. The adoptive parents position on the Active list
  2. If the expectant mother has a more challenging background such as drug use or a history of mental illness, we search the database forms submitted by our clients and show profiles of those families who indicated an

openness to those conditions.

3. We try to show 12 to 15 profiles to each expectant mother, if we have that many.
4. K&K does not distinguish between drug addicted and drug exposed babies.
5. If a family is open to Bipolar and/or drugs, the family should to let Rachel know.
6. Rachel will contact the family when an expectant/birth mother chooses them and ask the family if they want to be matched based upon limited, initial information.
7. K&K will try to show each family's profile, at least, once within 2 or 3 months of their becoming active.
8. Rachel will coordinate contact between adoptive parents and the expectant/birth mother.
9. We will not share adoptive parents' identifying information with birth mothers. We recommend that you also not share it with her until much later in your relationship, if at all. You cannot "un-ring the bell."
10. K&K expects prospective adoptive parents to agree to a match based upon the initial information the expectant mother shares with us.
  - a. If the 30 page background form or medical records reveals "deal-breaking"<sup>8</sup> information, the adoptive parents may inform K&K that they no longer want to be matched.
  - b. That rarely happens since ALL information about the birth mother comes from the birth mother either directly or indirectly.
  - c. K&K does not have an independent way to verify or gather information about a birth mother.
  - d. Even medical professionals get much of the information in the medical records from the birth mother.

#### IX. Billing – Annie Jackson

- A. Annie works from her home in Utah. You can contact her via email, [annie@kirsh.com](mailto:annie@kirsh.com), or by calling the main office number, 317-575-5555. She is available during regular business hours in the Eastern Time Zone (EST or EDT, depending on Daylight Savings Time).
- B. To hire K&K under the K&K Directed Approach, you will need to
  1. Sign the Fee Agreement and Adoption Services Agreement
  2. Make the Initial Payment required by each.

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<sup>8</sup>In the minds of the adoptive parents

- C. If you hire K&K under any other arrangement, Annie will invoice for the Initial Payment and send the appropriate fee agreement.
  - D. The Initial Payments are ***NOT*** retainers in the sense that the K&K attorneys bill against them. K&K deem those payments earned upon receipt but will issue refunds on a case-by-case basis.
  - E. Nearly all clients prefer to hire K&K on a flat fee basis. If you would like another billing arrangement, let Annie know.
  - F. When you are matched with an expectant/birth mother, Annie will invoice for Preliminary Fees and expenses.
  - G. All client monies have a separate computer account, which K&K refers to as a “Trust Account.”
    1. Any time you want to see an itemization of your account, let Annie know. It takes almost no effort, and she is happy to send it to you.
    2. If you have questions about your Trust Account or believe we have made a mistake, let Annie know ***immediately***.
    3. When clients make payments, those monies go into their Trust Account, and simultaneously, K&K transfers attorney fees out of the account as already earned monies. That portion of the monies for expenses, stay in the Trust Account, until the expenses are incurred.
  - H. Initial Payments and Preliminary Fees, under the K&K Directed Approach, are ***not*** monies “at risk” so long as you stay with K&K long enough to adopt through K&K.
- X.A Matching with an Expectant/Birth Mother – Rachel Paolini
- A. When you match with an expectant/birth mother, you become inactive. In other words, we will not show your profile to new expectant/birth mothers until we know the outcome of the match.
  - B. If your match falls through, we will automatically and immediately make you active again.
  - C. We ask expectant mothers to check in with us after each doctor’s appointment. Some are better than others in keeping us apprised of their pregnancies.
  - D. Rachel tries to contact each mother every couple of weeks.
  - E. Each mother is different in terms of amount of contact she wants with the prospective adoptive parents, but do not allow yourselves to become her support person. Try not to have much more contact with her prior to the birth than you are willing to have after placement but do not leave her wondering if you are still interested in adopting.
  - F. Consider a Google voice number or “pre-paid” cell phone to use in communicating with the expectant/birth mother.
  - G. We do not receive updated prenatal records after each appointment.



- H. If your medical advisor has concerns after reviewing medical records, please let us know what we can do to assist, but understand we cannot control the actions or decisions the doctor makes in caring for the expectant mother.
- I. ***Very importantly***, please confirm with your medical advisor that the best evidence of a baby's health is the examination of the baby after birth rather than any prenatal exam or testing.
- J. Usually takes 2 to 6 weeks for us to receive prenatal records
- K. Typically ultrasound photos included in the prenatal records appear in the records as black boxes. If the birth mother wants you to have the original ultrasound photos, she will give them to you.
- XI. Medicaid and Insurance – Jill Freeman
- A. We will confirm Medicaid but cannot verify insurance.
- B. Adoptive parents can hire Jill in her capacity as an Authorized Medicaid Representative, outside of services provided by K&K, to help a mother get Medicaid. Adoptive parents only pay Jill's fees if she successfully gets Medicaid.
- C. If the expectant/birth mother has Medicaid, the baby automatically qualifies regardless of the adoptive parents' earnings.
- D. An expectant/birth mother with Medicaid can disqualify herself from Medicaid coverage and K&K may not know until the medical providers submit their bills to Medicaid, Medicaid denies the claim, and the medical providers contact K&K seeking payment.
- E. As part of every adoption, K&K will obtain a court order setting the "date of placement" for insurance purposes as the baby's date of birth for the adoption of newborns. ***If you want the court to set a date later than the date of birth (for a newborn adoption), you will need to inform K&K, in writing, of your request.***
- F. Federal law requires "for profit" companies to provide employees coverage for adoptive children with the same terms as children born into the family, and the federal law mandates coverage from the "date of placement." Many non-profits offer the same coverage even though the federal law does not apply to them.
- XII. Living Expenses/Background Forms/Counseling/Social Media/ Labor & Delivery – Rachel Paolini
- A. Indiana law limits living expenses to \$4,000 for the pregnancy in total – not per month.
- B. Adoptive parents may provide more than \$4,000 in certain situations – which do not often occur, but
1. Nearly all birth mothers receive the full \$4,000
  2. ***Regardless when they match with adoptive parents***
- C. K&K advises adoptive parents not to provide more than \$2,000 prior to the birth

mother giving birth because they risk losing pre-birth living expenses if she does not to place the baby with them.

- D. Rather than paying providers, K&K usually divides the number of months left in the pregnancy into \$2,000 and gives the expectant mother that amount each month. As an example, if she has 4 months until she is due to deliver, we would send her \$500/month.
1. We have found that this simplifies the distribution of living expenses and makes expectant/mothers less likely to ask you for money every time they have a want or need.
  2. If she has less than a month or two until her delivery date, we will provide her less living expenses than the above formula would otherwise provide.
- E. We ask all expectant/birth mothers to complete a 30-page background form and a similar form for the father, if he is involved.
1. Not all birth parents complete the forms or do a good job completing them.
  2. **VERY IMPORTANTLY**, if K&K does not comment on a background form or medical records when we send them to you, you should **NOT** assume everything is okay. Carefully review whatever we send you and have them reviewed by your medical advisor, if you feel it appropriate.
- F. We encourage all expectant/birth mothers to participate in counseling, which is at the expense of the adoptive parents.
1. At the time of the match, Annie will invoice you \$2,000 for counseling expenses. If an expectant/birth mother uses less, we will refund or credit you with the unused portion.
  2. Counseling fees usually run between \$1,000 and \$2,500.
  3. Counseling expenses are **not** part of living expenses.
- G. Expectant/birth mothers' social media.
1. K&K does not monitor expectant/birth mothers' social media accounts.
  2. You should **NOT** become "friends" with your expectant/birth mother.
  3. If an expectant/birth mother catches you lurking on her social media, it could jeopardize the placement due to her feeling like you have invaded her personal space.
- H. Labor & Delivery
1. If possible, we will contact the hospital social worker prior to the expectant/birth mother's arrival at the hospital to let the hospital know of the possible adoption, the expectant/birth mother's requests for her hospital stay, and to ask that the hospital contact us upon her arrival.
  2. If she contacts you directly when she goes into labor and heads for the hospital, please let us know.
  3. We **DO NOT** contact the adoptive parents when we are notified that the

expectant mother is in labor.

4. If she wants you in L&D with her, please work out those arrangements directly with her and give her way of contacting you directly. This is where a Google voice number or “pre-paid” cell phone comes in handy.
5. When the adoptive parents go to the hospital depends on the expectant/birth mother’s wishes. If she does not want you there for the delivery, we will coordinate your arrival at the hospital after the birth.
6. Adoptive parents should not invite themselves into L&D.
7. If she requests your presence at the hospital, you should go but understand the risk that she might change her mind and decide to parent the baby.

#### I. Consent Signing

1. One of the Kirsh attorneys will go to the hospital usually the day after delivery for the consent signing. If time is tight, we may have her sign remotely via Zoom or a similar service.
2. After she signs the consent to adoption, we will attempt to have her confirm for the court her consent to adoption.
  - a. This usually happens within hours, if not minutes, of the consent signing and almost always by telephone.
  - b. The judge just wants to hear her say that she signed the consent freely and voluntarily. Often the judge reads from a script.
  - c. The hearing lasts 10 to 15 minutes.
3. The court will enter an order accepting her consent to adoption and issue an order authorizing the hospital to release the baby to the adoptive parents.
4. We file all of our adoptions in Hamilton County and can usually get into one of the Hamilton County Courts on short notice, but the courts close for weekends and holidays, which may delay the baby’s discharge from the hospital. Most hospital require a court order to discharge a baby to adoptive parents.

#### J. Final adoption hearings

1. Indiana adoptive parents will work with Rachel, who will schedule the final hearing on the adoption about 90 days from the consent signing.
2. If you live outside of Indiana, Crystal will handle the arrangements for the adoption which we will file in Indiana if you live, or the baby was born, in Indiana. The time to finalize the adoption is roughly the same as for Indiana families.

#### K. Birth mother’s time with the baby in the hospital.

1. The birth has “first dibs” on the baby while she and the baby are in the hospital, even if she has already consented to the adoption.
2. The adoptive parents will have the rest of their lives with the baby; the

birth mother will only have the time she is in the hospital.

- L. Naming the baby and a SSN for the baby. The birth mother will name the baby in the hospital and that name will appear on the baby's original, pre-adoption birth certificate.
1. The name she chooses is *irrelevant* in terms of the baby's post-adoption name. After the court grants the adoption, the baby will have whatever name the adoptive parents have chosen regardless of the name on the original birth certificate.
  2. Adoptive parents can use whatever name they have chosen for the baby prior to finalization for such things as doctor's appointments. They will not receive the post-adoption birth certificate for a few months after the final adoption hearing.
  3. Once you have received the post-adoption birth certificate from us, you can then apply for a social security number for the baby.
  4. If you need to file a tax return prior to receiving a SSN for the baby, go to [www.IRS.gov](http://www.IRS.gov) and search for "ATIN," adoption identification number, but do not wait until your tax return is due since it can take the IRS weeks to issue an ATIN.
- M. Estimated Expenses – Annie Jackson
1. Estimated Expenses include
    - a. Medical
      - (1) The amount listed is our estimate for an uncomplicated vaginal delivery.
      - (2) C-sections add 50% or more.
      - (3) Most expectant/birth mothers have Medicaid or insurance.
      - (4) The adoptive parents' insurance often covers some of the baby's medical expenses.
    - b. Counseling
      - (1) We try to always set an upper limit for counseling.
      - (2) We encourage all expectant/birth mothers to participate in counseling.
      - (3) It is in the adoptive parents' interests for the birth mother to come to peace with her decision. Counseling helps achieve that outcome and lessens the chance she will make a last-minute, emotional decision to parent the baby.
    - c. Legal Fees. We have explained K&K fees below. We encourage all expectant/birth mothers to take advantage of having their own attorney. This costs the adoptive parents \$500 to \$1,000 and is usually not "at risk" if the adoption does not proceed as planned.
    - d. Homestudy Costs – Adoptive parents arrange homestudies on their

own and pay the agency doing the homestudy directly. When watching the video, you may have already completed, and paid for, your homestudy.

- (1) What is a homestudy? – Rob Kirsh
  - (a) Very little to do with the study of your home.
  - (b) Two parts:
    - i) Investigation of you as prospective adoptive parents
      - a) Marital stability, if you are a married couple.
      - b) Financial security
      - c) Normal life expectancy
      - d) No criminal problems
    - ii) Counseling for you to help you understand what adoption entails
      - a) Want to be sure that the adoptive parents have come to terms with infertility and will see the child they adopt as their child – not second best to a child born into the family.
      - b) The importance of telling a child about being adopted at the earliest moment in the child’s life.
      - c) Appreciation of the birth mother’s love and sacrifice in making an adoption plan.
- (2) K&K does not perform homestudies. The homestudy will be done in your state of residence.

e. Living Expenses – Annie Jackson

f. Out-of-pocket expenses

- (1) Private investigators
- (2) Medical records
- (3) Cost of birth father service of notice
- (4) Out-of-office meeting expenses – the cost is the same whether we fly or drive to the meeting.

g. Payment of medical expenses – Steve Kirsh

- (1) Rarely do adoptive parents pay any medical expenses prior to the baby’s birth; therefore, medical expenses are ***not*** usually “at risk” if the adoption does not take place.
- (2) K&K imposes three conditions for the payment of medical

expenses after birth:

- (a) Birth mother consents to the adoption
  - (b) Baby is healthy or has a problem acceptable to the adoptive parents
  - (c) Adoptive parents receive custody of the baby from the hospital.
- (3) In most cases, the adoptive parents do not pay any medical expenses until after they receive custody of the baby from the hospital
- h. Monies “at risk” include:
- (1) Any expenses paid by adoptive parents prior to assuming custody of the baby after birth are monies “at risk.” In other words, if the adoption does not proceed, the adoptive parents lose those monies. Generally, K&K attorney fees and adoption services are *not* monies “at risk”.
  - (2) We will do what we can to minimize the adoptive parents’ monies “at risk”.
- i. Affidavit of Financial Disclosure. K&K has all birth mothers who receive living expenses sign an Affidavit of Financial Disclosure in which we disclose to the court the total amount of living expenses and the court signs the affidavit approving the payment. **DO NOT provide or promise any monies to an expectant/birth mother without informing K&K. Payment of unauthorized expenses is a crime and could jeopardize the adoption.**
- j. Approximately 6 months after the final adoption hearing, we will refund any monies left in your trust account, but feel free to request from Annie an accounting at any time.
- k. Attorney Fees and Adoption Services Fees.
- (1) You will need to make the Initial Payment under these agreements when you hire K&K. The Adoption Services Agreement only applies to clients pursuing the K&K Directed Approach.
  - (2) The next time you pay attorney fees occurs when you match with an expectant/birth mother. This payment constitutes the Preliminary Fees described in the fee agreements.
- l. Monies “at Risk” (continued)
- (1) Most of the larger amounts are *not* monies “at risk”
  - (2) The monies “at risk” of any significance are
    - (a) Living expenses
    - (b) Out-of-office meeting expense

## (c) Counseling expenses

## XIII. Meeting the Expectant/birth Mother – Joel Kirsh

- A. Initial meeting by phone
- B. Pre-Covid, K&K met nearly all expectant/birth mothers in person
- C. Since Covid, many of those meetings happen virtually. K&K will meet an expectant/birth mother in any manner comfortable to them.
- D. We want to provide her as much information about adoption as soon as possible.
- E. At the outset of the meeting, we explain
  - 1. Meeting us does not obligate her to proceed with an adoption
  - 2. We are not her attorneys. The significance of which is
    - a. What she tells us is not confidential
    - b. We cannot give her legal advice.
      - (1) We will arrange for her to speak with her own attorney. The expense to the adoptive parents is usually less than \$500 to \$1,000
      - (2) If birth mother has her own attorney, it makes it harder for her to contest the adoption.
- F. We review what she can expect to happen in the runup to the adoption.
  - 1. Even though K&K does not represent her, she can contact us 24/7/365 with questions or concerns.
  - 2. We will have her sign a consent to adoption 12 to 48 hours after birth
  - 3. We will not just show up at the hospital and will only come when she expects us.
  - 4. No foster care
  - 5. Medical authorizations
  - 6. She may write a letter and provide photos
  - 7. Adoption registry, which allows a birth mother to block the state board of health from disclosing information about her to the child.
  - 8. We gather information about her and ask her to complete a detailed background form.
  - 9. Hospital Request Form to let the hospital know her requests for her hospital stay, such as whether or not she wants to see and care for the baby in the hospital. Remember that the birth mother makes all decisions for the baby while she is in the hospital.

## XIV. Birth Fathers –Rob Kirsh

- A. We ask the expectant/birth mother about the birth father at the initial meeting with her.
- B. If she identifies the father and provides a way to contact him,
  - 1. We can ask the father to sign an irrevocable consent to adoption prior to

- the baby's birth.
2. We can serve him with pre-birth notice of the notice, if we can find him and actually place the notice in his hands. Failure of the alleged father to file a paternity action within 15<sup>9</sup> days of his receipt of the pre-birth notice results in an irrevocably implied consent to the adoption.
    - a. In most cases, we can also serve an alleged father, living outside of Indiana, with pre-birth notice.
    - b. Pre-birth notice may only be given to "putative" fathers – not "legal" fathers.
      - (1) A "legal" father includes the expectant/birth mother's husband or a man who has formally established paternity of the child.
      - (2) All other men are considered "putative fathers."
    - c. Even though we cannot serve a "legal" father with pre-birth notice, he may sign an irrevocable consent to adoption, before or after the baby's birth.
  3. Sometimes an expectant/birth mother does not know or be willing to identify the putative father of the baby. Sometimes, an expectant/birth mother misidentifies, either intentionally or mistakenly, the putative father. If the expectant/birth mother does not correctly identify the putative father and provide us his current address, in order to receive notice of the adoption, the putative father must register with the Putative Father Registry, if the expectant/birth mother conceived the child in state with a PFR.
    - a. Neither prospective adoptive parents nor birth fathers have to rely upon an expectant/birth mother correctly identifying the father for the father to receive notice of the adoption.
    - b. In registering, a man confirms that he wants to receive notice of any adoption involving the birth mother and provides the address at which he would like to receive the notice.
  - C. K&K must give either pre-birth notice or post-birth notice to any man whom the expectant/birth mother identifies and for whom she provides an address and to any putative father who registers with a PFR. K&K will try to provide pre-birth notice whenever possible.
  - D. A putative father must register in a "timely" manner.
    1. If an expectant/birth mother got pregnant in Indiana, a putative father has

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<sup>9</sup>Since shooting this video, the Indiana General Assembly shorten the time to 15 from 30 days, in an effort to make adoptions more secure for the adoptive parents and child.



from the moment of conception until the later of the filing of the petition for adoption and 30 days following the birth to register. **Note:** the 30 days only applies to the birth – **NOT** the filing of the petition for adoption.

2. If she got pregnant outside of Indiana, but in a state with a PFR, Indiana law affords the man the shorter of the time to register in that state and the 30 days from birth allowed in Indiana. Therefore, in no event does a man have more than 30 days from birth to register.<sup>10</sup>
3. Neither K&K nor the expectant/birth mother must inform the putative father that she got pregnant, gave birth, or proceeded with an adoption in order to implicate the PFR. The putative father must take the initiative himself to protect his parental rights.
4. K&K tries to check the PFR after we meet an expectant mother, she gives birth, and 31 days following the birth for a newborn adoption.
5. Failure of man to register with the PFR in a timely manner results in an irrevocably implied consent to adoption and bars a man from otherwise contesting the adoption.

- E. If a woman conceives a child in a state without a PFR, we will have to publish notice to the named father, whose address has not been provided, or unnamed father once a week for 3 consecutive weeks following the birth. The father then has 15<sup>11</sup> days from the last publication date to file a motion to contest the adoption.

#### XV. When the Baby is Born – Grant Kirsh

- A. We will contact the social worker at the hospital to have her confirm that the birth mother still intends to proceed with an adoption and when she would like us to come to the hospital.
- B. Sometimes, especially with a baby born out-of-state, we may conduct the consent signing via Zoom.
- C. We always offer an expectant/birth mother her own attorney. That attorney will try to speak the expectant/birth mother before she gives birth and will be present

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<sup>10</sup>Except in the case in which a petition for adoption is not filed within 30 days of the birth of the child. Because Indiana law allows a man to “timely” register the later of the filing of the petition for adoption and 30 days following the birth. In newborn adoptions filed in Indiana, K&K always files a petition for adoption within 30 days of birth, except in exceptional circumstances, which we would explain to you if the situation arises.

<sup>11</sup>Since shooting this video, the Indiana General Assembly shorten the time to 15 from 30 days, in an effort to make adoptions more secure for the adoptive parents and child.

in person or by telephone for the consent signing.

- D. We will first review the “unimportant” documents with her.
- E. We will then read the consent to adoption out loud and have her initial each paragraph confirming that she understands and agrees with each statement.
- F. We then have her confirm her consent for the court within hours, if not minutes, from when she signs the consent. Typically, this takes place by telephone which Indiana law specifically allows. The judge often reads from a script. The court will make a finding that she signed the consent freely and voluntarily and confirmed that she believed that adoption furthered the child’s best interests.

XVI. How Binding is an Indiana Consent to Adoption? – Steve Kirsh

- A. Indiana has very favorable adoption laws.
- B. Indiana gives a birth mother 15<sup>12</sup> days from the consent signing within which to file a petition to withdraw her consent with the court, ask the court for a hearing, and at that hearing prove that withdrawing her consent to adoption is in the child’s best interests.
  - 1. This is NOT the same as 15 days to change her mind.
  - 2. If she confirms her consent for the court, she does not have the 15 days to within which to file a petition with the court to withdraw her consent.
  - 3. We try to have every birth mother confirm her consent for the court.

XVII. Discharge of the Baby from the Hospital – Joel Kirsh

- A. Hospital staff will provide detailed baby care instructions
- B. Remember “4 Cs” when going to the hospital
  - 1. Car Seat
  - 2. Clothes for the baby
  - 3. Cards – Insurance and Driver’s license
  - 4. Camera
- C. Once you get home with the baby, your homestudy agency will make supervisory visits to your home and write a report recommending finalization of the adoption.
- D. The final adoption hearing takes place approximately 90 days after the birth, whether you reside in Indiana or not.
- E. We will apply for a post-adoption birth certificate, showing you as the parents of the baby and will send it to you upon receipt, which usually takes 3 or 4 months.

XVIII. Interstate Adoptions – Crystal Palmer

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<sup>12</sup>Since shooting this video, the Indiana General Assembly shorten the time to 15 from 30 days, in an effort to make adoptions more secure for the adoptive parents and child.

- A. Crystal has worked for K&K as a paralegal handling interstate adoptions for more than 26 years. She handles interstate adoptions which involve Indiana.
  - B. Olivia, Rob’s paralegal, handles interstate adoptions which do not involve Indiana as the “sending” or “receiving” state.
  - C. If the baby and adoptive parents do not reside in the same state, K&K will need to comply with the Interstate Compact on the Placement of Children (“ICPC”) before the child can leave the “sending” state with the adoptive parents.
  - D. The ICPC is not a federal law but rather a state law enacted by every state in the same form.
  - E. In order to comply with the ICPC, we must supply to the ICPC office of the “sending” state the documentation which it requires to approve the placement. After giving its approval, the “sending” state forwards the documentation to the “receiving” state for its approval. After both states’ ICPC offices have approved the placement, the adoptive parents can return home with the baby.
  - F. The ICPC approval process does not begin until after the birth mother signs her consent to adoption and the court issues an order of custody, which usually occurs within a day or two of the consent signing.
  - G. General ICPC required documentation
    1. Consents to adoption or termination of parental rights
    2. Adoptive parents’ homestudy
    3. Background forms
    4. Medical records for the baby
    5. Risk acknowledgments
  - H. **DO NOT** let your homestudy or criminal get more than 1 year old from the baby’s date of birth (for a newborn adoption). An expired homestudy or criminal checks will cause significant delay in getting ICPC approval.
  - I. The ICPC approval process usually takes 2 weeks or less, but K&K has no control over the process after the documentation leaves our office.
  - J. No way to track the progress of the ICPC process, but ICPC workers understand that adoptive parents are anxious to return home with their new babies.
  - K. The baby must remain in the “sending” state until we receive ICPC approval from both states. Violating the ICPC violates the laws of **BOTH** states and could jeopardize the adoption.
- XIX. The Reach of K&K – Grant Kirsh
- A. K&K directs marketing resources to those states in which at least one K&K attorney is licensed to practice law – Indiana, Tennessee, Mississippi, Kentucky, Michigan, and Illinois.
  - B. We need an Indiana connection to file an adoption in Indiana and use Indiana’s very favorable adoption laws – either the adoptive parents need to reside in

- Indiana or the baby needs to have been born in Indiana.
- C. Therefore, if the adoptive parents, pursuing the K&K Directed Approach, reside outside of Indiana, we will only match them with a baby to be born in Indiana.
  - D. Families living outside of Indiana, who pursue the K&K Directed Approach, are at a disadvantage to Indiana families, because Indiana residents can adopt a baby born in any state under the K&K Directed Approach.
- XX. The Difference between Adopting an Indiana Baby vs. a Baby from Another State – Rob Kirsh
- A. This generally only applies to Indiana families, since K&K would not match non-Indiana residents with a baby outside of Indiana.
  - B. Birth mother’s state is the “sending” state. The adoptive parents’ state is the “receiving” state.
  - C. Adoptions between states are “Interstate” adoptions.
  - D. Adoptions within a single state are “Intrastate” adoptions.
  - E. We file all adoptions in Indiana so long as there is an Indiana connection to the adoption.
  - F. Even though a birth occurs outside of Indiana, we would have the birth mother sign a consent to adoption the same as if she gave birth in an Indiana hospital.
  - G. Differences between an adoption involving an Indiana birth and a birth in another state
    1. The adoptive parents will need to travel to the “sending” state to assume custody of the baby.
    2. The adoptive parents will need to remain in the “sending” state awaiting ICPC approval from both states.
    3. If the state of conception does not have a PFR, we will need to publish notice of the adoption. This increases time the adoptive parents are at risk from the father ***but does not delay their return home with the baby.***
- XXI. ICPC (Continued) – Olivia Koeppel
- A. Adoptions between states must comply with the ICPC by submitting documentation to the “sending state.”
  - B. Baby must remain in the sending state until ICPC approval. If one of the adoptive parents need to return that is okay as long as the other adoptive parent stays with the baby in the “sending” state.
  - C. ICPC approval process can take up to 2 weeks, but we try our best to “under promise and over deliver.”
  - D. You do ***not*** have to stay in the city where the baby was born just within the state, but it may be easier to get medical attention for the baby in the hospital of birth rather than another hospital.

- E. Try to enjoy your alone time with the baby in the “sending” state. Think of it as an adventure.

## XXII. Updates for the Birth Mother – Konlie Westerfield

- A. Openness in an adoption is spectrum from completely closed or confidential to completely open including cooperative parenting of the baby.
  - 1. Very few adoptions happen at either end of the spectrum.
  - 2. “Open” and “Closed” do not have universally understood meanings.
- B. What to expect of an adoption handled by K&K.
  - 1. The expectant/birth mother will likely see you profile.
  - 2. You will likely speak with her by telephone, text with her, and/or meet her in person.
  - 3. You will send her updates on the child for 18 years.
  - 4. Most K&K adoptions do ***NOT*** involve post-placement visits between the birth mother and child.
- C. We set a fixed schedule for updates to avoid confusion about when the birth mother expects the updates rather than leaving it at “from time to time.” The schedule K&K recommends and which has worked well for years is for the adoptive parents to send updates immediately following the birth, at 1, 2, 3, 6, 9, 12, 18, and 24 months, and then annually to age 18.
- D. The updates are intended to assure the birth mother the baby is okay.
- E. We recommend sending updates through Child Connect.
  - 1. Michelle will create a Child Connect Account after the birth for the adoptive parents to upload the updates and for the birth mother to securely view them at times of her choosing.
  - 2. Adoptive parents may use any means they want to send the updates, but
    - a. We expect them to honor their promise to send updates
    - b. It is very important that the updates arrive on time or early to alleviate a birth mother’s fear that the adoptive parents will not send the promised updates
    - c. You can provide more updates but not less than the agreed upon schedule.
- F. More about the updates – Steve Kirsh
  - 1. Updates should be newsy.
  - 2. Lots of photos
  - 3. The birth mother will love having you brag about how wonderful the baby is.
  - 4. We have had more problems with birth mothers because of late or meager updates than those who receive detailed updates with lots of photos.
  - 5. Two other considerations:

- a. If you were in her position, you would want to receive the updates.
  - b. The “long view” is that if your child meets his or her birth mother years into the future, you would want the birth mother to say to your child: “Your parents were always so nice to me. They sent me updates letting me know how you were doing. Those updates meant the world to me.” You will not want to have to explain to your child why you would not send her updates.
6. Just send the updates. Everything will be fine.

### XXIII. Four Risks in Adopting – Steve Kirsh

- A. Risk of disappointment.
  1. Getting matched with an expectant/birth mother who disappears or decides not to place.
  2. A baby born with a horrible medical problem.
  3. You ***MUST*** hold onto the belief that you will adopt the baby you are ***supposed*** to have.
  4. No certainty about an adoption until the birth mother signs a consent to adoption – actually until we finalize the adoption, but the birth mother signing is the biggest hurdle.
  5. Don’t prepare a nursery until you bring the baby home.
- B. A birth mother who attempts to withdraw her consent to adoption
  1. Indiana law is very favorable adoptive parents.
  2. We try to arrange for a birth mother to confirm her consent for the court as soon as possible after she gives her consent.
- C. Birth fathers
  1. Bigger risk with the birth father is that the birth mother will seek out the birth father and use him as her puppet to accomplish what she cannot accomplish on her own.
  2. The other risk if the birth father is not involved is that you will not get any of his medical history.
- D. Health of a child
  1. You do not have to pursue the adoption of a baby with apparent medical problems.
  2. Not all problems are apparent at birth.
  3. If you have an interest in adopting a baby with a special needs, please let Rachel know.
  4. K&K has made it a practice never to walk away from a baby. If you feel that you do not have the resources – emotional, financial, or otherwise to care for a baby, let us know and we will find another home for the baby.

## XXIV. Success Factors – Steve Kirsh

- A. Low tolerance for disappointment. If you cannot tolerate any disappointments before you go home with a baby, this is not the approach for you. Our clients have a very good chance of successfully adopting, but they may have to weather some disappointments on their way to a successful adoption.
- B. Favorable attributes.
  - 1. Young, cute couples do better than old, ugly couples. (*Sorry to be so direct!*)
  - 2. Childless couples do better than couples with children.
  - 3. A friendly, outgoing personality helps.
  - 4. Nice, kind, sweet people make a more favorable impression than cold, standoffish people.
  - 5. *Reasonable expectations.* If you would be satisfied with a baby who appears healthy at birth, with no *KNOWN* issues of mental issues or drug or alcohol abuse, you have very good chance of success.
    - a. Adoptive parents cannot control an expectant/birth mother's actions during her pregnancy.
    - b. You will never have as much background information as you would like to have.
    - c. Medical providers do not perform regular/random drug tests.
    - d. Research drug and alcohol exposure to babies, including a report done by Karen Kuehn Howell, Ph.D., Emory University School of Medicine.
    - e. Drug and alcohol use is likely under-reported. In our experience, expectant/birth mothers are anxious, almost proud to tell us they or some member of their family is Bipolar, without a medical diagnosis.
    - f. The trade-off – when you adopt, you cannot control an expectant mother's actions during her pregnancy but if the baby suffers from an obvious problem at birth, you do not have to proceed with the adoption.

## XXV. How Long will it Take? – Grant Kirsh

- A. It depends upon
  - 1. Your appeal as prospective adoptive parents
  - 2. How many families are “On the List”
  - 3. How many expectant/birth mothers have contacted us
- B. Over the last 35+ years, K&K has seen ebbs and flows of adoptions, sometimes for no apparent reasons.
- C. 30% to 50% chance that an expectant/birth mother will change her mind. If

multiple expectant/birth mothers change their minds on a single family, the time to adopt will expand.

- D. We will provide you list of the current number of active families vs. total families
- E. At K&K we like to under promise and over deliver.

#### XXVI. Final Points – Steve Kirsh

- A. The adoption must be legal. K&K will not be involved otherwise
  - 1. Cannot promise anything that you cannot deliver
  - 2. Cannot misrepresent yourself
  - 3. Cannot offer an expectant/birth mother any kind of inducement
  - 4. Be very careful about money and expenses
  - 5. If you think you have done something wrong, let us know immediately. If possible, we will try to remedy the situation.
- B. Considerations in hiring an adoption attorney or agency
  - 1. ***Trust.*** You have to believe that everything will be handled with integrity, ethically, and in accordance with all adoption laws and procedures.
  - 2. ***Experience.*** Does the attorney or agency have the requisite experience handling adoptions? This is not an area in which you can afford for a mistake, particularly, a mistake of law to be made.
  - 3. ***Comfort.*** Do you feel personally comfortable with the adoption professional and comfortable having the adoption professional meet with an expectant/birth mother on your behalf?

A D O P T I O N S