

No. S-087449
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

OLIVIA PRATTEN

PLAINTIFF

AND:

**ATTORNEY GENERAL OF BRITISH COLUMBIA
and COLLEGE OF PHYSICIANS AND
SURGEONS OF BRITISH COLUMBIA**

DEFENDANTS

Brought under the Class Proceedings Act

ORDER

BEFORE) **THE HONOURABLE**) Tuesday, the
) **THE CHIEF JUSTICE**) 28th day of
)) October, 2008

THE APPLICATION of the Plaintiff, Olivia Pratten, coming on for hearing at Vancouver, British Columbia on October 28, 2008 and upon hearing Sean Hern, counsel for the Plaintiff, Craig Jones, Counsel for the Attorney General of British Columbia, and no one appearing for the College of Physicians and Surgeons of British Columbia, although duly served:

THIS COURT ORDERS THAT:

- (1) This Order applies to all persons who have notice of it.
- (2) In this Order, the following definitions apply:

“gamete” means a human egg or sperm.

“Gamete Donor” means a person, whether alive or deceased, who provided one or more gametes which were used in artificial insemination procedures and which resulted in the conception and birth of a child by a woman who is not the gamete donor’s spouse or sexual partner.

“social history” includes a person’s ancestry, culture, language, religion, race and ethnicity.

“Gamete Donor Records” means records created or maintained by persons who administered artificial insemination procedures which record:

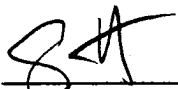
- (a) the identity, medical history and/or social history of Gamete Donors;
 - (b) the identity of patients who were impregnated through the use of gametes from Gamete Donors and the identity of the Gamete Donor from whom the gametes were received; and
 - (c) the identity of each child conceived from a specified Gamete Donor’s donated sperm or egg.
- (3) An interim injunction is hereby ordered, prohibiting the destruction, disposal, redaction or transfer out of British Columbia of Gamete Donor Records by any person until the motion for an interlocutory injunction attached hereto as Schedule A is heard and decided.
- (4) The Plaintiff’s motion for an interlocutory injunction is returnable 30 days from the date of this Order or on such other date as is agreed between the parties, but is not more than 60 days from the date of this Order.

BY THE COURT

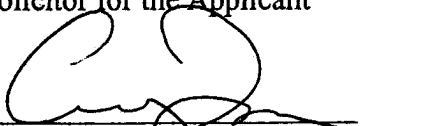


District Registrar

APPROVED AS TO FORM:



Solicitor for the Applicant



Solicitor for the Respondent,
Attorney General of British Columbia



No one appearing for the Respondent,
College of Physicians and Surgeons
British Columbia



SCHEDULE A

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NOTICE OF MOTION

TO: The Defendants

AND TO: Their Solicitors

TAKE NOTICE that an application will be made by the Plaintiff to the presiding judge at the courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia, at a date and time to be set for the following Orders:

- (1) These Orders apply to all persons who reasonably have notice of them.
- (2) In these Orders, the following definitions apply:

“gamete” means a human egg or sperm.

“Gamete Donor” means a person, whether alive or deceased, who provided one or more gametes which were used in artificial insemination procedures and which resulted in the conception and birth of a child by a woman who is not the gamete donor’s spouse or sexual partner.

“social history” includes a person’s ancestry, culture, language, religion, race and ethnicity.

“Gamete Donor Records” means records created or maintained by persons who administered artificial insemination procedures which record:

- (a) the identity, medical history and/or social history of Gamete Donors;
 - (b) the identity of patients who were impregnated through the use of gametes from Gamete Donors and the identity of the Gamete Donor from whom the gametes were received; and
 - (c) the identity of each child conceived from a specified Gamete Donor’s donated sperm or egg.
- (3) An interlocutory injunction prohibiting the destruction, disposal, redaction or transfer out of British Columbia of Gamete Donor Records by any person until the conclusion of this proceeding or further order of the Court.
- (4) An interlocutory mandatory injunction requiring the College of Physicians and Surgeons of British Columbia (the “College”) to take steps to inform that portion of its membership that engages in the practice of infertility treatments using donated gametes of the content and effect of the Order set out in paragraph three.
- (5) Any person affected by these Orders has leave to apply to this Court, with 14 days notice to the Plaintiff, the Attorney General of British Columbia and the College, to set aside or vary these Orders.

The Applicant will rely on Rule 45 of the *Rules of Court*, section 39 of the *Law and Equity Act*, RSBC 1996, c. 253 and the inherent jurisdiction of this Court.

At the hearing of the application, the Applicant will rely on the following affidavits and other documents:

1. Affidavit #1 of Olivia Pratten, sworn October 22, 2008; and
2. Affidavit #1 of Shirley Pratten, sworn October 23, 2008.

The Applicant estimates that the application will take two hours.

Dated

Solicitor for the Plaintiff

THIS NOTICE OF MOTION was prepared and delivered by Joseph J. Arvay Q.C. of the firm Arvay Finlay, Barristers & Solicitors, whose place of business and address for service is 1350 - 355 Burrard Street, Vancouver, British Columbia V6C 2G8. Telephone: (604) 689-4421. Facsimile: (604) 687-1941

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SXH/tw

File no.: 27135-001

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