



Written by [Dave Bohon](#) on January 7, 2013

## Kansas Targets Surrogate Father in Case Over Lesbian Couple's Child

Surrogate parenting just got a whole lot more complicated. The state of Kansas is trying to force a man to pay support for a child he fathered through artificial insemination for a lesbian couple. In 2009, William Marotta responded to a Craigslist ad placed by lesbian partners Angela Bauer and Jennifer Schreiner who wanted help having a child they could raise together. Marotta said that the two Topeka, Kansas, women met with him and offered him \$50 dollars to donate his sperm to their child-rearing project, but he agreed to provide the service for free.



The three signed a contract specifying that Marotta would have no parental rights and would not be responsible for any child that resulted from his donation. The contract also read that Bauer and Schreiner agreed "to indemnify William and hold him harmless for any child support payments demanded of him by any other person or entity, public or private, including any district attorney's office or other state or county agency, regardless of the circumstances."

Schreiner ultimately gave birth to a girl through the artificial insemination, but it turned out that the insemination procedure was not performed by a licensed physician. By 2010, the lesbian pair had split up, and while Bauer continued to provide support for the child, when illness reduced her income, Schreiner was forced to turn to the state of Kansas for financial assistance through the Kansas Department of Children and Families.

Because Kansas does not recognize same-sex relationships, Schreiner's application for assistance named her as a single mother. Marotta's attorney, Ben Swinnen, explained that the state would not move ahead with the assistance without the name of the father, and so Schreiner provided state officials with Marotta's name. On October 3 the Department of Children and Families filed a claim against Marotta, charging that as the biological father he was required to provide for Bauer's child. "It came out of the blue," said Swinnen, adding that Marotta was "absolutely floored."

Bauer even tried to get involved in the situation as a supposed parent of the child, but was rebuffed by the state. "One gentleman told me he wasn't going to discuss anything with me because I'm not the parent or legal guardian," Bauer told the *Topeka Capital-Journal*.

According to [ABC News](#), the Kansas filing "said that the state had spent \$189 on the baby from July 2012 to September 2012 and nearly \$6,000 in medical assistance, which Marotta had a duty to pay."

Marotta insisted that because his role in the process was limited to donating his sperm, and because the three had signed a contract, he was not responsible for the child. The state countered that because the artificial insemination was not performed by a licensed physician, the agreement was invalid, making Marotta liable for the child's expenses.



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Angela de Rocha, a spokeswoman for the the Department of Children and Families (DCF), explained,

Speaking generally, all individuals who apply for taxpayer-funded benefits through DCF are asked to cooperate with child support enforcement efforts. If a sperm donor makes his “contribution” through a licensed physician and a child is conceived, the donor is held harmless under state statute. In cases where the parties do not go through a physician or a clinic, there remains the question of who actually is the father of a child or children. DCF is required by statute to establish paternity and then pursue child support from the noncustodial parent.

In a legal appeal of the state’s case against Marotta, Swinnen wrote that if, as the Department of Children and Families charged, “the use of a licensed physician is a primary requirement ... then any woman in Kansas could have sperm donations shipped to her house, inseminate herself without a licensed physician and seek out the donor for financial support because her actions made him a father, not a sperm donor. This goes against the very purpose of the statute to protect sperm donors as well as birth mothers.”

Marotta’s attorneys pointed to a 2007 Supreme Court case in which a man who fathered a child through artificial insemination sued for parental rights and was denied. The attorneys argued that Marotta’s actions mirrored those of the father in that case, and Marotta could not be held responsible for the actions of the mother once he had provided his service and signed an agreement giving up parental rights.

Marotta told reporters he thinks there is a political motivation behind his being targeted for child support. “I have a hunch part of the reason this is going this way is because of people’s feelings toward same-sex couples,” he said. “I can’t help but feel this is somewhat of a political issue.”

He added that as his significant legal bills mount, “I’m sure it’s going to leave more of a distaste.... I can’t even believe it’s gone this far at this point and there’s not a ... thing I can do about it.”

The two lesbian women have come to Marotta’s defense, saying they believe the state has unfairly targeted the biological father. “I feel like the state of Kansas has made a mess out of the situation,” said Bauer. Marotta’s attorneys are seeking a dismissal of the case, and will make their argument January 8 in Shawnee County District Court.



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