

# I-Team Exclusive: Surrogacy Birth Certificate

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Paul Dantzig with his twins, Peter and Paula.

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Peter and Paula Dantzig love playing soccer, reading books and sharing meals with their dad. He's the only parent they've ever known. He recalls the day they were born with a smile on his face.

"I felt the greatest joy in the world. I saw the two most beautiful kids in the world," said Dr. Paul Dantzig, a dermatologist with a successful New York City practice, as he watches his two-and-a-half year old twins play outside their Scarsdale home. The children squeal and laugh and are oblivious that the man who's raised them, loved them, and provided for them isn't their father at all, according to Ohio law.

"If God forbid anything happened to them and they're in the hospital with a serious illness and somebody has to make a decision, they're going to say, 'Are you the father?' Prove you're the father. Where is the mother?" says Dr. Dantzig.

## **The twins' surrogate mother**

There are simple questions with not so simple answers. Yes, Dr. Dantzig is Peter and Paula's father. If anyone has any doubts, a court-approved DNA Paternity Test proves it beyond the shadow of a doubt. But who is their mother? According to their Ohio birth certificates, it's Jennifer Biron. But check out her DNA Test. The chance she's the mother: 0%.

"I'm not their mother. By any possibility I'm not their mother," says Biron. So how did she end up on the birth certificates? Biron served as the children's surrogate mother. She carried the babies and gave birth to them, but genetically, they're half Dr. Dantzig's and half an anonymous egg donor's, and there lies the problem: Ohio has no surrogacy law.

When the twins were born at Highland District Hospital in Highland County, Ohio, Dr. Dantzig may have rocked them in the nursery, but the hospital made a decision that's rocking the kids' world to this day. They put Jennifer Biron's name on their birth certificates and left out Dr. Dantzig altogether.

## **Hospital guidelines**

"The hospital followed the [Ohio Department of Health](#) birth certificate guidelines," said Kathy Jones, the hospital's vice president of community outreach. Jones can't say much about the case, just that the hospital only has one set of rules from the state, which it follows in filling out birth certificates.

Biron said she should have no parental rights to the children. She can't believe her name appears as their mother on the only legal piece of identification they possess. "I feel horrible," she said. "I think it's ridiculous."

In fact, the woman Ohio calls the twins' mother hasn't seen them since their birth. As she plays with her laughing 14-month-old son, she says it's her love of her own children that set her on the path to surrogacy so that parents like Dr. Dantzig could experience the same joys.

Dr. Dantzig has only praise for Biron for making his dream of parenthood come true. "I didn't want to go through life without raising a child," he said. But in his late fifties he found himself unmarried and realized time was running out. "I'm in good health and good shape. I have the stamina and the energy," he said, "But really, it was my only option [to have children.] I tried adopting, but everybody rejected me because of my age."

So he turned to surrogacy, but the State of New York doesn't allow it. He found an egg donor through an agency in California and a surrogate to carry his children in Ohio. He thought he had all his bases covered. "The only thing I worried about was having a child and being successful at that," he said. "I never even thought of the birth certificate 'til the problem arose."

It's a problem that looms much larger than a blank spot on a piece of paper.

"Theoretically, I do not have legal custody of the children. Without the birth certificate, I am not going to be able to get them into school. Without the birth certificate, I am not going to be able to get them on an airplane, take a trip or get a passport," Dr. Dantzig explained.

## **Science vs. law**

Family law attorney Ellen Essig said any father would be correct to be deeply concerned about his name not appearing on the birth certificate. Essig said she's handled more than 100 surrogacy cases in the last five years. She wouldn't speak specifically about this case, but says our country uses birth certificates as the basis of our most fundamental rights. "The father of that child who is not on the birth certificate has no right," she said. "The children under that scenario have no legal identification to their parent."

Dr. Dantzig tried to fix the problem. He petitioned the Highland County Juvenile Court to get his name on the birth certificates and get Biron's name off, as she concurs. But to both of their surprise, Judge Kevin Greer ruled that he couldn't change the birth certificates, unless the children's "natural mother," as Ohio calls the biological donor, waives her rights to the children in court.

"First of all, I don't even know who she is," said Dr. Dantzig. "The natural mother was an anonymous egg donor. You can't notify someone that is anonymous of a child she doesn't even know exists at this point," he said.

In addition, the egg donor already waived her rights in her contract with the donor agency in California, promising to "waive any rights [...] to the donated eggs or any offspring" and that "[she] will not assert any claim of parentage." But Judge Greer said that's not enough. He wants the donor to say the same thing to the court.

Essig said in her experience, no judge has ever forced her to produce an egg donor in court. She says most judges accept the donors' waiver of rights in their agency contracts. However, "without a statute on surrogacy and with 88 different counties in Ohio, we have 88 different approaches" from judges, she said.

## **"Caught between rules and regulations"**

As surrogacies have tripled in recent years, lawyers and judges are building new precedents. There may be no state law, but there is case law that judges can follow. Most often, the details work out. Essig calls this case extremely unusual. "Science and law don't often go hand in hand but we're getting there," she said.

Biron said Dr. Dantzig and the children are seemingly caught between rules and regulations that haven't kept up with science. "It's ridiculous because there are other surrogates all over the State of Ohio who do the same thing every day," she said, wondering why this one case didn't work out as intended.

For Dr. Dantzig, there is sadness and anger. "The children have rights and they have to be protected by society," he said. He added that as a physician, he wouldn't reveal the donor even if he knew who she was. "It's not right. She came to this program as an anonymous egg donor, and that's the way it should be kept. You've got to respect her rights."

As for the other woman involved, Jennifer Biron said she may have carried those children, but she has no relationship to them. She's bewildered that she is the only parent that Ohio recognizes to this day. "They should look at it for what it is," Biron said. "It's a father just trying to raise his two kids. I hope that they can get it taken care of so that he can move on with his life."

Dr. Dantzig appealed Judge Greer's decision all the way up to the Ohio Supreme Court but lost. He's hoping to refile the case with an attorney with more expertise in Ohio family law. To read the court decisions and see the entire interview with lawyer Ellen Essig about why parents increasingly turn to surrogacy, click on the links on the top of this page.