



No. S087449
Vancouver Registry

FORM 48

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

ORDER AFTER TRIAL

BEFORE THE HONOURABLE MADAM)
JUSTICE ADAIR) THURSDAY, THE 19TH DAY OF
MAY, 2011

THIS ACTION coming on for trial at Vancouver, British Columbia on October 25, 2010 to November 3, 2010, and on hearing Joseph J. Arvay, Q.C., Sean Hearn, and Alison M. Latimer, counsel for the Plaintiff; Leah Greathead, Bryant Mackey and Alison Luke, counsel for the Defendant, Attorney General of British Columbia; AND JUDGMENT being reserved to this date:

THIS COURT ORDERS the following:

1. A declaration that except for s.4(1)(e) to (h) of the *Adoption Regulation*, the provisions of the *Adoption Act* and *Adoption Regulation* set out in Schedule "A"

(attached to this order) unjustifiably contravene s.15 of the *Charter* and are not saved by s. 1 of the *Charter* and, as a result, are of no force or effect;

2. That this declaration is suspended for a period of fifteen (15) months from the date of this judgment;

3. A permanent injunction prohibiting the destruction, disposal, redaction or transfer out of B.C. of Gamete Donor Records. For the purpose of this Order,

“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:

(i) the identity, medical and/or social history of Gamete Donors;

(ii) the identity of patients who were impregnated through the use of gametes from Gamete Donors and the identify of the Gamete Donor from whom the gametes were received; and,

(iii) the identity of each child conceived from a specified Gamete Donor's donated sperm or egg.

4. Any person affected by the order for a permanent injunction (order #3 above) has leave to apply to this Court, with 14 days notice to Ms. Pratten, the Attorney General of British Columbia and the College of Physicians and Surgeons of British Columbia, to set aside or vary ~~this Order.~~ ^{that order.} EJAT.

PC

5. The Order of Madam Justice Gropper, pronounced September 29, 2010, as between Ms. Pratten and the College of Physicians and Surgeons of British Columbia, is in effect and in particular clause number 2 which provides:

If the Plaintiff obtains against the Attorney General of British Columbia in this action, or in any appeals from this action, either one or both of the declarations pleaded in paragraphs (b) and (d) of the prayer for relief in the Statement of Claim filed in this action on October 24, 2008, the College of Physicians and Surgeons of British Columbia must within a reasonable time thereafter amend its bylaw 3-6 made under the *Health Professions Act*, R.S.B.C. 1996, c. 183, or the equivalent bylaw in force at the time, to include a requirement that registrants must record and permanently preserve Gamete Donor Records, as the term is defined in paragraph 27 of the Statement of Claim, and provide the information in the Gamete Donor Records to the provincial government, or otherwise in accordance with the decision of the Court.

- 6. That Ms. Pratten's claims for declarations under s.7 of the *Charter* be dismissed.
- 7. That Ms. Pratten and the AGBC each have leave to speak to costs.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER, AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

for: 
JOSEPH J. ARVAY, Q.C.
 Counsel for the Plaintiff

for: 
LEAH GREATHEAD
 Counsel for the Defendant
 Attorney General of British Columbia



By the Court,


 Registrar

