

IN THE SUPREME COURT OF CALIFORNIA

K.M. v. E.G.

117 P.3d 673 (2005)

CASE SYNOPSIS

Petitioner egg donor sought to establish a parental relationship with twin five-year-old girls born to respondent gestational mother, the donor's former partner. The trial court granted the gestational mother's motion to dismiss the petition based on the donor's waiver, in an ovum donor form, of her right to claim legal parentage. The Court of Appeal, First District, California, affirmed. The donor sought further review.

CASE FACTS

When the children were born, the gestational mother and donor lived together and were registered domestic partners.

DISCUSSION

- The supreme court reversed the decision in favor of the gestational mother, finding that both parties were mothers of the children.
- The donor was a parent because genetic consanguinity could be the basis for a finding of maternity just as it was for paternity under the Uniform Parentage Act (UPA), Cal. Fam. Code § 7600 et seq.
- The court noted that under Cal. Fam. Code § 7650, provisions applicable to determining a father and child relationship were used to determine a mother and child relationship insofar as practicable.
- The court found, however, that, Cal. Fam. Code § 7613(b), which stated that a man was not a father if he provided sperm to a physician to inseminate a woman who was not his wife, did not apply.
- Even if § 7613(b) applied to women who donated ova, it did not apply in the case at bar, which was not a true egg donation situation because the ova were supplied to produce children who would be raised in a joint home.

- The court declined to apply an intent test and found that the donor's waiver did not affect the determination of parentage.

CONCLUSION

The court reversed the judgment of the court of appeal.