

# Landmark case expands parental rights of sperm donors



**A landmark ruling by the Family Court has greatly expanded the parental rights of sperm donors. Picture: iStock**

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CHRIS MERRITT  
Legal Affairs Editor | Sydney | [@ChrisMerrittc](#)

A landmark ruling by the Family Court has greatly expanded the parental rights of sperm donors after a Newcastle man yesterday won a permanent stay preventing the mother of his daughter taking the child to New Zealand with her same-sex partner.

The decision means single women who use identifiable sperm donors and subsequently form same-sex relationships may find it impossible to exclude the donor from their children's lives.

The decision, known as *Masson & Parsons and Parson*, has made it clear that sperm donors have parental rights if the mothers of their children were single at the time of conception and donors have played a role in their children's lives.

Solicitor Erin Steiner, who represented the sperm donor, said the decision would have a wide impact, particularly in surrogacy and IVF matters involving known sperm donors.

"It has always been our advice when using known donors to be cautious because this could - potentially happen; we now know it will happen," Ms Steiner said.

"Our advice is that if you are considering using a donor, and do not want the donor to be a parent to the child, then they should use an anonymous donor," said Ms Steiner who is a Solicitor-Director of Sydney law firm Steiner Legal.

She said the decision had removed earlier doubts and made it clear that parental rights for sperm donors could be triggered if three factors were present:

- The mother was not in a same-sex defacto relationship at the time of conception;
- The sperm donor could be identified; and
- The donor had a parental role in the life of the child.

Even if the donor had only a limited role in the child's life, "this decision suggests the donor could still be a parent", Ms Steiner said. The decision has eliminated doubts about the parental status of sperm donors that emerged after a 2013 ruling known as *Groth & Banks* that said in some circumstances donors could have parental rights.

Yesterday's ruling was triggered after the child's mother, who is in a de facto same-sex relationship in Newcastle, tried to take her daughter, now 10, to New Zealand, along with a second daughter, now 8, from another relationship. The sperm donor, named as the father on his daughter's birth certificate, played a parenting role for both girls, had been involved in their schooling and they had referred to him as "Dad".

When the mother and her same-sex partner decided to move to New Zealand, they relied on earlier court rulings that say sperm donors are not parents.

The father obtained an interim injunction preventing them taking his daughter out of the country. He argued that the two women had not been in a de facto relationship at the time the child was born and therefore even though the father was a sperm donor, he was the legal parent of his biological daughter.