



Coalition des familles homoparentales

NEWSLETTER - VOLUME X- No. IV – June 2009

Surrogacy: Take Nothing for Granted

*By Gary Sutherland
Co-president, LGBT Family Coalition*

Last January, Judge Michel DuBois of the Québec Youth Court refused the request of a mother who sought to legally adopt her daughter who was born through a surrogate. This is the first decision of this kind and clearly highlights the legal vacuum surrounding use of a surrogate mother in Québec.

Justice Québec's website defines a surrogate mother contract as "any agreement in which a woman agrees to conceive or carry a child for another individual or a couple, either free of charge or for a consideration. All such agreements are null."

Rachel and Antoine (not their real names) wanted to have a child but had fertility problems. They contacted a surrogate mother, Marie, who agreed to carry their baby in exchange for the sum of \$20,000 "to cover inconveniences and expenses."

On the day of the child's birth, Rachel and Antoine were present in the delivery room. Antoine declared that he was the child's father and the baby was named Emily. The doctor registered Emily with Antoine as the father and Marie as the mother. Marie, however, did not sign the birth declaration form required by the Directeur de l'état civil. Instead, she signed a special consent for adoption in favour of Rachel, the father's partner.

Rachel then had to start the procedure to adopt little Emily thinking – and quite rightly, in my opinion – that it was in the best interests of Emily that Rachel be fully recognized as her mother. In court, the couple told the judge the truth: their daughter was born to a surrogate mother. Surrogacy contracts are not recognized, however, in Québec.

Judge Michel DuBois of the Québec Court didn't respond positively, stating that the courts are not there to legalize an illegal procedure. In his view, the criteria "in the best interest of the child" cannot justify a practice that remains contrary to the dispositions of the Civil Code. In other words, for this judge, the end didn't justify the means.

Emily's birth certificate only shows the name of her father. Officially, she has no mother. Rachel has no parental authority over Emily. She can't authorize medical care for her daughter. She can't sign her school report card or ask for a passport for her. The parents are not planning to appeal the decision.

"One thing is sure", added Michel Tétrault, law professor at the University of Sherbrooke and specialist in family law. "The DuBois decision will circulate with the Québec Courts. Some lights will go on. The judges will likely be more careful."

Judge DuBois was asked to make a decision concerning adoption by a second parent; in my opinion, he went beyond his mandate. It may be because the parents of little Emily simply gave too many details about the circumstances surrounding the baby's birth in their adoption request.

Within our Coalition there are families that have been formed using a surrogate mother (to my knowledge all of the children were born outside of Québec in jurisdictions that recognized contracts signed with a surrogate mother), but the second parent adoptions were pronounced in Québec. This decision is a warning to couples – both gay and straight – who decide to found their family using a surrogate: adoption by the non biological parent in Québec is not a sure thing. Anyone wishing to found their family this way should make the case for their adoption as simply as possible, including only the information that is absolutely necessary for the adoption.

Interested in writing for our newsletter? Send your articles at any time to info@familleshomoparentales.org or by post to CFH, 2401 Coursol, Montreal, Quebec, H3J 1C8

News Briefs: March - May 2009

Quebec News

March 22, 2009 (Montreal, Quebec) Accompanied by Tony Tomassi the provincial minister of Families, Premier Jean Charest repeated the promise that his government is committed to families.

During a Montreal press conference detailing budget proposals on tax credits for day care, Charest also confirmed the imminence of slated legislation that will affect infertile couples. "The commitment is there," guaranteed Charest.

As promised during the last electoral campaign, the first two in vitro fertilizations will soon be covered by Quebec's medical insurance, RAMQ (Régie de l'assurance maladie du Québec).

A law will be put in place, because it is necessary to provide a legal framework for this type of insemination. "It's not only to recognize it and provide financial support, but also on the professional level to provide guidelines for the practice and the work done by the clinics," explained the premier.

"This will all be done within the intended time schedule," he added.

May 3, 2009 (Montreal, Quebec) The Quebec government is spending half a million dollars on an education campaign meant to improve the lives of gay, lesbian and transgender seniors.

It's a subject so taboo that the cabinet minister responsible for seniors and representatives of the gay and lesbian communities couldn't find a seniors residence willing to host a news conference.

It was eventually held in a community center on the fringes of Montreal's gay village. Still, Minister Marguerite Blais says it's more about ignorance than malice. "We would have found a residence eventually," she said. "I don't want to accuse anyone of anything. I just want to show how important it is to educate people on this issue."

Laurent McCutcheon of the gay helpline *Gai Ecoute* says homosexuality isn't discussed in most institutions that serve the elderly, leading many Quebec seniors to hide their sexual orientation. As they age and lose

their autonomy, gay, lesbian or transgender seniors face stigma, loneliness, social isolation, rejection and in extreme cases, harassment from the very institutions they depend on to meet their needs.

The new initiatives funded by the government are meant to highlight the isolation many of them feel. "We know there are gays and lesbians in these institutions who, sadly, spent their lives in the closet and will stay there until the end," McCutcheon said. "We'll try to do as much as we can for them but also lay the groundwork for the generations coming up."

"We'll be the first generation to reach our golden years after fighting for our rights," McCutcheon said, a comment later echoed by Blais. "Baby boomers don't want to accept these situations after a lifetime of living openly," she said.

Gai Ecoute will receive \$400,000 over four years to produce an education campaign for people who work with the elderly that will include a website and an information kit. The Quebec Lesbian Network will receive \$120,000 over three years to broadcast a film that portrays the lives of six lesbians in their golden age.

Canadian News

April 20, 2009 (Toronto, Ontario) 365 gay.com The Federal Court of Canada has ordered a new refugee hearing for a Nigerian gay man who says he fears for his life if he is returned home.

Norbert Okoli fled to Canada in 2005 using a fake passport. At a 2006 immigration board hearing he said that once his homosexuality was discovered he was beaten, threatened with death and on one occasion was forced to have sex with a female prostitute in a futile attempt to "turn him" straight.

The board ruled that Okoli should be returned to Nigeria and that he would be safe there as long as he kept his sexuality a secret. Okoli, who has been residing in Toronto, appealed the decision to the Federal Court.

In a ruling, Justice Leonard Mandamin criticized the board decision saying it had failed to take into consideration scars from beatings inflicted on Okoli. Mandamin ordered that the case be returned to the immigration board with a different panel to hear Okoli's plea for asylum.

Homosexuality is illegal in Nigeria, punishable by a prison term of up to 14 years with hard labor. Amnesty International has expressed concerns about human rights abuses in Nigeria against individuals on the basis of their actual or perceived sexual orientation.

April 30, 2009 (Edmonton, Alberta) Canadian Press - Alberta has introduced legislation that critics say will make it the last province in Canada to enshrine gay rights in its human rights code. New Democratic Party Leader Brian Mason says it's shameful that Alberta had to be dragged by the courts to make this change, which has already been in place for many years in some provinces.

Alberta lost a high-profile court battle over this issue a decade ago and was then ordered by the Supreme Court of Canada to add sexual orientation to the human rights code. But there's a controversial twist to the legislation introduced by Alberta's Progressive Conservative government to settle this long-standing battle over gay rights. The Human Rights, Citizenship and Multiculturalism Amendment Act will also give parents the right to exclude their kids from parts of the education curriculum that they don't agree with, including anything to do with same-sex relationships.

Premier Ed Stelmach concedes this opting-out provision could be used to pull students out of classes

dealing with evolution if parents preferred their kids be taught what's in the Bible instead. "The parents would have the opportunity to make that choice," said the premier.

Liberal human rights critic Laurie Blakeman said this threatens to fracture the system if parents start pulling their kids from classes if they don't agree with what's being taught. "I think that the government has opened a huge can of worms with this," Blakeman said in an interview.

Gay Marriage - A Time Line

March 19, 2009 (San Francisco, California) Same-sex marriage might not be recognized in most American states, but it is in the dictionary. Merriam-Webster included a secondary definition of marriage to recognize same-sex relationships several years before gay couples were allowed to tie the knot anywhere in the United States, but the change had gone largely unnoticed until the conservative *World Net Daily* news site reported it.

In its Web and print editions, Merriam-Webster defines marriage as "the state of being united to a person of the opposite sex as husband or wife in a consensual and contractual relationship recognized by law." But in a nod to evolving ideas of love and English usage, the Massachusetts-based company in 2003 added a secondary meaning for "marriage" as "the state of being united to a person of the same sex in a relationship like that of a traditional marriage."

April 1, 2009 (Stockholm) Sweden becomes the seventh country in the world to legalize same-sex marriage. Following a five-hour debate in Parliament, the legislation passes overwhelmingly in a 261 to 22 vote, with 16 abstentions. The new law goes into effect May 1, replacing a 1995 law that allowed civil partnerships.

April 7, 2009 (Montpelier, Vermont) Vermont becomes the fourth state where same-sex marriage is legal and the first to do so in the legislature. The House and Senate override Governor Jim Douglas' veto of a marriage bill.

The measure replaces Vermont's first-in-the-nation civil unions law with one that allows marriage of same-sex partners beginning September 1. Civil unions, which confer some rights similar to marriage, is still recognized but no longer granted after September 1.

Vermont now joins **Massachusetts, Connecticut** and **Iowa** with legalized same-sex marriage - but the only one in which the legislature voted to allow same-sex couples to marry. Legalization in the other three states came as a result of court action.

April 16, 2009 (New York City) As expected, New York Governor David Paterson (D) unveils legislation to allow same-sex couples to marry in the Empire State. Paterson's bill would amend the domestic relations law allowing civil marriages between same-sex couples, and he calls on the Legislature to approve the bill.

April 29, 2009 (Concord, New Hampshire) The New Hampshire Senate passes legislation that would make the state the fifth in the nation to grant marriage equality. A month earlier the bill passed the House on a 186-179 vote, but the House will need to vote on this bill again, since it was amended by the Senate. If it passes the House a second time, it will head to the desk of Gov. Gov. John Lynch who has said he believes the current civil union law works fine, but has not said if he would veto the bill.

May 5, 2009 (Athens) A court annuls the only two same-sex marriages performed in Greece. In June 2008, Mayor Tasos Aliferis, on the island of Rhodes, performed the weddings after LGBT rights group OLKE said

it had found a loophole in a 26-year-old update of the Greek civil marriage law that refers only to participating “persons,” without specifying gender.

The government disagreed with OLKE’s assessment of the law. It maintains the law limits marriage to opposite-sex couples and immediately asked a court in Rhodes to void the marriages. In addition to seeking to have the marriages invalidated, the government charged Aliferis with breach of duty. Both couples say they will appeal.

May 6, 2009 (Augusta, Maine) Governor John Baldacci signs legislation allowing same-sex marriage in Maine, minutes after it received final approval in the legislature. **Maine** is the fifth state to allow gay marriage.

International News

March 31, 2009 365 gay.com (Brussels, Belgium) Lesbians, gays, bisexuals and transsexuals face widespread harassment, bullying and discrimination across **Europe**, according to a report by the EU’s Fundamental Rights Agency.

Agency Director Morten Kjaerum said the investigation found gays and lesbians continue to face assault and other physical attacks due to their sexual orientation despite EU rules meant to guarantee equality in the 27-nation bloc.

“These are alarming signals in an EU that prides itself on its principles of equal treatment and nondiscrimination,” he told reporters at the European Parliament.

The report said gay pride events were being obstructed in Bulgaria, Estonia, Latvia, Poland and Romania. Meanwhile, politicians and religious leaders in Italy, Hungary, Malta, Bulgaria and the Czech Republic have also rejected calls to improve the rights of gays and lesbians.

The report, which compiled studies and surveys from across Europe, said homophobic abuse is usually carried out by young men in groups, but is also persistent at work, in school or when trying to get medical care.

April 1, 2009 365 gay.com (Kampala) A small group of LGBT rights supporters braved government censure and public condemnation to denounce **Uganda’s** harsh laws against homosexuality in a first-ever demonstration.

Sex between two people of the same sex is already a criminal offense in Uganda - punishable by life imprisonment - although there are no records of any recent convictions. Last October the government announced it would further expand the law to make it a criminal offense to be gay. “We want it to become law in that if someone is a homosexual or confesses to being a gay or lesbian, then he is a criminal,” said Ethics and Integrity Minister James Nsaba Buturo at a news conference announcing the bill.

In March for several days hundreds of protestors staged anti-gay rallies, accusing gays of attempting to convert schoolchildren to homosexuality. At the same time about 20 gays and lesbians staged a counter-rally in the capital, Kampala. One woman said she was publicly stripped naked and taunted by a pastor and his congregation as they attempted to exorcise her. “That did not stop me from being a lesbian,” she said.

Uganda has been criticized by international human rights groups for its abuse of gays and lesbians. The government says it had no intention of either repealing the sodomy law or dropping the bill. Anti-gay attacks

are commonplace in Uganda.

A coalition of Christian and Muslim religious groups filled a downtown stadium in 2007 demanding mass arrests of gays. The International Gay and Lesbian Human Rights Commission following the rally said that it had uncovered evidence that the Bush administration had funded groups in Uganda that actively promote violence and discrimination against lesbians and gay men.

May 7, 2009 – 365 Gay.com (Sacramento, California) A bill that would designate May 22 as Harvey Milk Day has been approved by a key committee in the California Senate. The measure now moves to the full Senate for a vote. May 22 is Milk's birth date. He would have been 80 this year.

It would then need House approval before going to Gov. Arnold Schwarzenegger (R). The governor vetoed a similar bill last year saying that while he respected the measure's intent, he thought Milk's "contributions should continue to be recognized at the local level."

Milk was elected to the San Francisco Board of Supervisors in 1977 and shot to death a year later by former supervisor Dan White. White was convicted of manslaughter, and served a little more than three years in prison before committing suicide. In the years since his death, Milk has become one of the most recognizable martyrs of the gay rights movement

News from the LGBT Family Coalition

UPCOMING MEETINGS

JUNE 2009:

□ **SATURDAY JUNE 20TH at 11 a.m.**
PICNIC-BBQ at MOUNT ROYAL

The LGBT Family Coalition, would like to invite all LGBT family members with or without children, as well as all our allies and friends, to a **Community Picnic and Barbecue on Mount Royal**. Join us to relax and exchange with family and friends, at one of Montreal's beautiful landmarks. There will be food, music, sports and games. This activity will take place on **Saturday June 20th from 11 a.m. – 3 p.m.** We will meet at the Chalet at Lac des Castors (Beaver Lake).

If you can, please bring some food, music, games and/or a picnic blanket to share with others.

Directions to Beaver Lake: Orange Line metro to Mont Royal and 11 bus west.

For more information please call Mona at: 514-846-1543 or Gary 514-522-3497

JULY 2009:

□ **SATURDAY July 18th from 11 a.m – 3 p.m.**
A DAY AT THE BEACH – PARC JEAN-DRAPEAU

With its refreshing quality-A water at all times, many entertaining theme-based activities, and sports-friendly offerings such as beach volleyball, the **Parc Jean-Drapeau Beach** is located only a stone's throw away from downtown. Stéphane will meet LGBT Family Coalition members at the rainbow umbrellas. Bring bathing suits, beach toys and lunch. A snack bar is also available on site. **For prices and directions please see the enclosed flier.**

AUGUST 2009 – PRIDE CELEBRATIONS:

□ SATURDAY AUGUST 15th and SUNDAY AUGUST 16th COMMUNITY DAY AND PRIDE PARADE

N.B.: The Pride Parade and Community Day have been scheduled for the weekend of August 15th and 16th. Please reserve this date in your calendars. We will give you an update on this in the weeks to come!

BULLETIN BOARD:

- ◆ Nous recherchons un **5 1/2 (ou +) au rez-de-chaussé**, accès à la cour, quartier paisible, idéalement dans un de ces quartiers: centre-sud de l'arrondissement Ville-Marie et l'arrondissement Plateau-Mont-Royal. **SVP contactez Melodie Paquette et Sylvie Roy au melodiepaq@hotmail.com**
- ◆ **Le Centre des femmes de Rivière-des-Prairies ! 514-648-1030** - Nous sommes ouvertes aux lesbiennes ! Si vous avez besoin de plus d'informations vous pouvez consulter notre site web : www.cdfirdp.qc.ca ainsi que le site de notre regroupement : www.rcentres.qc.ca/propos.html
- ◆ **L'Écho des femmes de la Petite Patrie** est un centre de femmes qui offre des rencontres pour lesbiennes. Ces rencontres ont lieu les lundis soirs aux deux semaines de 19h00 à 21h30, et sont animées par une personne ressource. Ces rencontres, qui se veulent un lieu d'échange, de ressourcement et d'information, s'intéressent aux réalités et aux conditions de vie des lesbiennes. Les rencontres sont en français. Un service de halte-garderie est disponible avec réservation faite une semaine à l'avance. Le centre est situé au **6032 St-Hubert (métro Beaubien). Téléphone (514)277-7445, télécopieur (514)277-1689**

MISCELLANEOUS

- ◆ **Traducteurs, redacteurs, etc:** We are looking for volunteers to help translate this newsletter from English to French. Any contribution (even 1-2 pages a month) would be appreciated. If you are available and willing, **please contact us at: info@familleshomoparentales.org**
- ◆ **Batshaw Youth and Family Centres** is encouraging English speaking and bilingual gay and lesbian couples, and singles, to consider becoming **foster parents**. There are babies, pre-schoolers and older children who are waiting for a foster home. For some the plan will be to help them return to their families. For other children, the plan will be to work toward **adoption**. What a remarkable feeling it is to know you have made a difference in the life of a child by providing a stable, safe and loving environment. For more information, please call, **Rena Rubin, Foster Care Recruiter, at 932-7161, local 416, or send an e-mail to rena_rubin@ssss.gouv.qc.ca**
- ◆ The **Open Book Library's** collection includes over 5500 books written by glbt authors or by authors who write about our communities. Some of these books are for children and adolescents. We are very proud that approximately half of our collection is in French. Much more information as well as online consultation of the book collection is available at our Web site www.ccglm.org/en-b. We are located at **2075 Plessis (CCGLM)** in the Village. Come visit us! Open Wednesdays and Fridays from 1-8 p.m. (514) 528-8424.

The bulletin board is a free forum for members to communicate amongst each other. If you want to post an announcement in the next issue please send it to us at any time to info@familleshomoparentales.org or by post to CFH, 2401 Coursol, Montreal, Quebec, H3J 1C8. If

you have something to advertise, sell, rent or buy...anything where money must change hands, you can place an ad in the newsletter. Ads cost 20 cents per word.

- ◆ **THERE IS NO FREEDOM WITHOUT FINANCIAL FREEDOM - LA LIBERTÉ PERSONNELLE PASSE PAR LA LIBERTÉ FINANCIÈRE.** Financial services for individuals and small businesses: budgeting, debt management, investments, future planning, personal taxes, wealth enhancement strategies. 20% of all subsequent fees will be donated to the CFH. **J. Freed**, (514) 489-8633, www.ifreed.ca
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- ◆ We're putting the "real" in real estate! We don't have big hair and Gucci shoes, just a down-to-earth knowledge of the market. We know how important the right home is to your family. If you're thinking of buying or selling a house or condo anywhere in the city, we can help. **Mary Lamey (514-978-6522) and Amy Barratt (514-718-6522), affiliated real estate agents and proud lesbian mums.**
- ◆ Photographe professionnelle pour mariages, maternité, portraits, familles. Membre de la CFH. Contactez-moi pour plus de renseignements. **Marie-Andrée Boivin 514-273-9658** marieandreeboivin@yahoo.ca

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