

## **Fatherhood by a New Formula**

Using an Egg Donor And a Gestational Surrogate, Some Gay Men Are Becoming Dads -  
- and Charting New Legal and Ethical Territory

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It's a feeling the wealthy Washington entrepreneur likens to "stepping off into thin air," a gut-churning, middle-of-the-night realization that his life-changing choice is based on "some really big leaps of faith."

But most of the time, the single gay executive said, becoming a father using his sperm and eggs donated by a 24-year-old woman he met once in a downtown Starbucks to create embryos that were implanted in the uterus of a 22-year-old surrogate mother he barely knows, absolutely seems like the right thing to do.

It was, he said, the culmination of increasingly urgent soul-searching that accelerated as he hurtled toward 50.

"I've always loved children and I thought, 'What am I waiting for?' I want somebody to love me and I want somebody to love," said Scott, who agreed to be interviewed on the condition that his last name not be published because he was concerned about the reaction of some business associates.

After the demise of a long-term relationship, Scott decided that he had the means and the motivation to become a single father. He rejected adoption because he wanted his own biological child. Instead Scott embarked on a two-year process, fraught with uncertainty, that will cost him \$100,000 by the time he takes the baby, due in late June, home from the hospital.

Scott found his donor and surrogate through Creative Family Connections, a three-year-old law firm with offices in Tysons Corner and Bethesda. The firm often serves as a broker for would-be parents, finding both egg donors and surrogates and handling the associated legal work.

"We believe that everyone can build a family, and that's what we try to help people do," said the firm's founder, Diane S. Hinson. A Harvard Law School graduate, Hinson stopped practicing communications law to start the firm, a move she said was prompted by personal experience. Several years ago when she was single, Hinson adopted a baby, which she calls "the best thing I ever did."

For the past nine years, she said, many gay men who wanted to father children have gone to Growing Generations of Los Angeles, the country's oldest and largest agency that provides egg donors and surrogates exclusively for gay clients.

"I thought it was crazy for people to have to go to the West Coast to create a family and that there was a niche here," she said. While a few other lawyers in the Washington area recruit surrogates for clients, Hinson said, she knows of none who recruit egg donors as well.

Although sociologists agree that the number of gay parents has increased in the past decade -- a phenomenon dubbed the "gayby boom" -- no one knows by how much. Charlotte J. Patterson, a psychology professor at the University of Virginia who has written about the issue, estimates that about 1 million American children have a gay parent, but adds "the truth is that no one knows."

Some medical ethicists say that while the desire of gay men to father children is understandable, the technology required to create such children raises a host of thorny issues society has been slow to address. Few states, they note, have passed laws governing the practice of surrogacy or egg donation.

In the Washington area, all three jurisdictions allow egg donation. Surrogates are recruited in Maryland, because surrogacy contracts are illegal in the District and Virginia bars payments for surrogates.

Hinson said her practice has grown rapidly, mostly through referrals. About half of the firm's 25 current clients are gay; the rest are heterosexual couples. So far, one set of twins has been born on behalf of a gay couple; several surrogates are pregnant with babies they are carrying for gay men, including Scott.

Ethicists worry that the practice of buying eggs and renting a uterus raises questions about informed consent and potential exploitation that don't apply just to gay or single parents. They also worry that the child's best interests have been overlooked.

"Of course there are some people whose parents met drunk in the back seat of a car," said Arthur L. Caplan, director of the Center for Bioethics at the University of Pennsylvania, noting that society doesn't impose regulations on people intending to become parents. "But when you have to use medical technology to create a pregnancy and have unusual social arrangements it raises more questions."

"It's not that I don't think gay people can't be good parents," he added. "But the key question is, 'Who's going to protect these children' " if a parent dies, becomes disabled or a relationship dissolves?

In the view of Lori B. Andrews, director of the Institute for Science, Law and Technology at Chicago-Kent College of Law, assisted reproduction has far outstripped regulation of it. "We have Model T laws trying to keep up with space age technology," she said. "There are plenty of legal land mines here."

Despite contracts that promise confidentiality to donors, Caplan and Andrews predict that in 20 years children created through anonymous egg or sperm donation will come looking for their biological parents, as did adoptees of an earlier era.

Hinson rejects such criticism. "I started off as a single mother by choice, and I don't think my child suffered for it," said Hinson who has since remarried. "I'm a believer in nontraditional families. I think families come in all shapes and sizes."

### **Reducing Risks**

To minimize the possibility of future legal problems, Hinson said she works solely with gestational surrogates: The woman who gives birth is not the egg donor and has no genetic link to a baby.

Egg donors are usually paid \$7,500, while surrogates receive \$20,000 for a single baby and \$25,000 for twins. All expenses, including fees for outside lawyers to represent the interests of each woman, are paid by the prospective father. Egg donors and prospective parents are not told each others' last names to minimize the possibility of claims of custody or financial support.

Most egg donors, who range in age from 21 to 32, are recruited through ads in college or local newspapers. Scott's ad, which ran in The Washington Post's Express tabloid in September 2003, specified that he was looking for a "smart, fit and happy" donor with an "excellent personal and family health history."

Hinson recently placed an ad on behalf of an African American doctor searching for a minority egg donor while another male client wanted a donor who was "smart, fair-haired [and] tall."

Donors and surrogates are given a letter from the father explaining why he wants children. Hinson also requires that the father, donor and surrogate undergo medical and psychological evaluation.

Hinson or her partner accompanies clients to meetings with prospective egg donors, which are typically held in a Starbucks or Cosi coffee shop, chosen for their informality and proximity to Metro.

Those meetings are typically preceded by a telephone interview with a prospective donor as well as a reference check, acquisition of certified college transcripts and sometimes SAT scores. Applicants must submit a recent photo -- some fathers say they want a donor who resembles them or a relative -- and complete a 12-page questionnaire that asks them, among other things, to rate the condition of their teeth.

"It was very important to me to look the egg donor in the eye," said Scott, who met with five candidates. A 90-minute meeting at Starbucks, he noted wryly, is "not a lot to choose the mother of your child."

Surrogates are required to have had at least one successful pregnancy and to undergo two home visits -- the first by Hinson and her partner alone, the second with Hinson and the prospective parent or parents. The surrogates' 30-page contracts specify how much caffeine they can drink and which hair products they can use, and state that they are subject to random drug and alcohol testing. "Everything is negotiated," Hinson said.

Although legal agreements are essential to protect the parties, Hinson said, the relationships are based on trust: that the egg donor has accurately disclosed her medical history, that the surrogate won't smoke or drink and that she will name the father when she is admitted to the hospital to give birth, a crucial action that establishes paternity.

Penn's Caplan said he doubts such contracts are enforceable in most states.

The process is "much easier for lesbian couples," said Reston fertility specialist Fady I. Sharara, "because one of them just gets inseminated with donor sperm" and carries the pregnancy.

"In my book, just because they're gay doesn't mean they can't be parents," said Sharara, who counts Scott among his patients along with a gay physician who fathered twins five years ago. "These men are not trying to fool anybody, they're not in the closet. I think they're doing it in a very responsible way."

At least half of the gay men who consult him, Sharara said, don't make it past the initial consultation where they learn how expensive and time-consuming the process is.

Those who persevere, he said, "have researched this up the wazoo and have thought about it for a good five to 10 years before they get to me."

### **Making the Match**

Richmond lawyers Michael Thorne-Begland and Tracy Thorne-Begland said they decided they wanted children four years ago, shortly after their commitment ceremony.

"I don't know if it's a decision that's any different than a straight couple makes," said Michael Thorne-Begland, 35, who has been with his partner for 12 years. "We had the house, the dog and the white picket fence, and we decided we wanted to spend the rest of our lives together."

Michael Thorne-Begland's sister agreed to donate her eggs. After two prospective surrogates were deemed unsuitable for medical reasons, the couple turned to Hinson. She

found Lori Berry, 39, a special education teacher who lives in Annapolis. Berry and her husband, who works in law enforcement, are the parents of 5-year-old triplets conceived after three years of grueling fertility treatments.

"Lori exceeded our wildest expectations in so many ways," recalled Tracy Thorne-Begland, who is 38. "We were really comfortable that she was going to take care of our children the way she took care of hers."

Another reason both men said they trusted Berry, a trim, poised woman who exudes a reassuring competence, is that she was adamant that she wanted no more children. They were also encouraged when she told them her best friend in high school was gay.

Berry said her struggle with infertility, uncomplicated pregnancy and the unusually good health of her triplets, who have none of the problems common among multiples, motivated her to become a surrogate.

"I felt it was time to give something back," Berry said. "I went in with the mind-set of 'This is yours, I don't want any more kids,'" she said. She said she still felt that way after Logan Ann and Chance Dixon Thorne-Begland, each weighing about seven pounds and born full-term, were delivered by cesarean section Oct. 20 at Anne Arundel Medical Center.

Her children, she said, understood her explanation that she was carrying what they call "the babies" for two daddies because they didn't have a mommy to do it. "They were thrilled and told their whole kindergarten class about it," Berry recalled.

For nearly every doctor's appointment, Berry said, the fathers drove up from Richmond to accompany her. None of her doctors, she said, seemed fazed by the unorthodox arrangement.

"They're great guys and they'll make great parents," said William J. Sweeney, a high-risk pregnancy specialist in Annapolis who treated Berry.

About two months before the twins were due, Tracy Thorne-Begland said he called Anne Arundel Medical Center to make arrangements. He secured two hospital rooms -- one for Berry, so the triplets could visit easily, the other for the new fathers and babies.

"The hospital was perfect. They even had the paperwork filled out correctly," said Tracy Thorne-Begland, a pioneer of a different sort in an earlier life. In May 1992 as "Top Gun" fighter pilot Lt. j.g. Tracy Thorne, he revealed his homosexuality on ABC-TV's "Nightline" and was booted out of the Navy, touching off a legal battle over gays in the military.

Two weeks before the babies were delivered, Berry officially relinquished any parental rights. Hinson then went to court in Baltimore to have the men declared legal parents, believed to be the first such ruling involving gay parents in Maryland, she said.

The families are in touch weekly via telephone or e-mail. Shortly before Christmas, Berry packed the triplets into her white minivan and drove to Richmond for a visit.

### **Meeting Over Coffee**

Within minutes of their meeting last year during her lunch break at a downtown Starbucks, Scott said he knew Tabby was "the one" -- the woman he wanted to be his egg donor.

"We just clicked," he recalled. "I thought, 'I'd marry that girl.' She seemed happy and serene," traits the Harvard MBA wanted to balance his "revved up, Type A personality."

Tabby, who agreed to be interviewed on condition that her last name not be published because the contracts she and Scott signed bars such disclosure to each other, said she "connected with him immediately" and felt he would be a good father.

She said she had reasons other than the \$10,000 Scott paid her, which she plans to use to pay for law school. Tabby said she wrote her college senior thesis on egg donation and hopes to become a lawyer specializing in reproductive rights. Raised in a religiously conservative household, she said, she "felt inspired to break social barriers and help a homosexual person" become a father.

Scott's surrogate is a single mother of a toddler who lives in Prince George's County.

Scott plans to be in the delivery room when his baby, due June 28, is born.

Recently, he said, he hired a housekeeper and plans to employ a nanny while he's at work; at night he wants to take care of the baby by himself. Like many first-time parents, Scott worries about how fatherhood will upend his life, but says he is ready for a change.

"I'm tired of being the star of the show," he said. "I know this will lead me in a different direction."•