



Georgia Supreme Court Rules Sperm Donor Case Falls In Line With 'Consumer Fraud'

September 28, 2020

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The Georgia Supreme Court on Monday decided claims that a sperm donor lied about his mental and criminal history led to damages in line with consumer fraud, but that "life itself can never be an injury."

The high court ruled in favor of a Peachtree City couple who had sued a sperm bank, saying they would not have chosen the donor sperm and that their decision was based on false pretenses about the father's IQ and mental health history. The couple's son has inherited serious medical and psychological problems.

Monday's ruling partially reversed a decision by the Georgia Court of Appeals that had affirmed a Fulton County judge's dismissal of all but one of 13 causes of action the couple asserted in their lawsuit.

"Claims arising from specific impairments caused or exacerbated by defendants' alleged wrongs may proceed, as may other claims that essentially amount to ordinary consumer fraud," Justice Nels Peterson wrote in the Court's opinion.

The case considers a consumer fraud situation in which a couple wanted a child, and they chose the Xytex Sperm Bank. But the sperm they purchased was not what the company promised.

In looking for a sperm donor, Wendy and Janet Norman chose someone they believed spoke multiple languages and was pursuing an advanced degree.

Xytex said it carefully considered its would-be donors' personal health, criminal history and family history to ensure a rigorous screening process in which fewer than 5% of candidates became donors.

Donor 9623 was promoted as one of the sperm bank's "best" donors on account of his profile in which he represented that he was a Ph.D. candidate with an IQ of 160 and had no history of mental health issues or criminal activity.

James Christopher Aggeles, in fact, had a history of schizophrenia, no college degree and served time in jail for burglary. He was not the genius he claimed to be in his donor profile. But Xytex never warned the Normans.

Aggeles was a 39-year-old graduate research assistant at the [University of Georgia's Complex Carbohydrate Research Center](#) in 2016, when he turned himself into police after being named in multiple lawsuits related to sperm donor fraud, according to the *Athens Banner-Herald*.

Over a 14-year period, Aggeles fathered, through sperm donation, 36 children.

The Normans asserted claims including fraud, negligence, negligent misrepresentation, products liability, breach of warranty, false advertising, and specific performance against Xytex and two employees.

Xytex attorney Ted Lavender said during [oral arguments in May](#) that the mothers wanted to compare "the perfect child" to their child.

Peterson at that time asked whether this is a consumer fraud case.

"You advertised to them Sperm A, which had a high-market value. They paid you the market value for Sperm A, but what you actually gave them was Sperm B, which had a market value of zero," Peterson said. "Why are they not entitled to at least their money back?"

Lavender said it wasn't about "false advertising."

"They're seeking damages for a lifetime of care" for the child, he said.

David Newdorf, an attorney for the Norman family, agreed the sperm bank did not cause a genetic abnormality, but Xytex recruited and vouched for the donor.

The son born to Wendy Norman has been diagnosed with attention deficit hyperactivity disorder and a disorder called thalassemia minor, which is an inherited blood disease determined to have come from his father.

The child born in June 2002 has been hospitalized for suicidal tendencies.

The court resolved in favor of the Normans about the allegations in the complaint because they were reviewing a motion to dismiss.

Additionally, the court holds that claims arising from specific impairments caused or exacerbated by defendants' alleged wrongs may proceed, as may other claims that essentially amount to ordinary consumer fraud.

"We affirm in part, reverse in part, and remand the case for further proceedings," the opinion states.

Read the Georgia Supreme Court opinion [here](#).



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<https://www.gpb.org/news/2020/09/28/georgia-supreme-court-rules-sperm-donor-case-falls-in-line-consumer-fraud>