

UNIVERSITY OF CALIFORNIA-IRVINE

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From the Los Angeles Times

THE STATE

UC Irvine Fertility Scandal Isn't Over

While seeking to limit its liability, college admits it failed to inform many patients of wrongdoing.

By Kimi Yoshino

Times Staff Writer

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When revelations surfaced a decade ago that fertility doctors at UCI Medical Center had stolen eggs and embryos from patients, the university vowed to find the women who may have been victims.

But UC Irvine acknowledged this week that it failed to contact at least 20 couples, some of whom have learned only in recent years that their fertilized embryos produced children born to other women more than 15 years ago.

"I have children, and I don't know where they're at," said Rosalinda Elison, who learned in 2002 that her eggs and embryos had been stolen and implanted in another woman, who gave birth to twins. "I feel so cheated and so betrayed."

Now the Elisons are among 29 couples who have found their lives in turmoil.

After learning from attorneys involved in other fertility cases that their eggs and embryos had been stolen, the Elisons and the 28 other couples sued the University of California system, most of them in 2003. But even as UCI Medical Center, in Orange, has conceded it did not contact patients, it has also moved to minimize the amount it could be forced to pay victims, arguing that the statute of limitations has expired.

"We feel there needs to be an end and a conclusion to this litigation," said Byron Beam, UC's lead attorney on the case. "That's not to say that we're not willing to continue to talk" to lawyers for the women and consider financial settlements. But any settlement, he said, must take into account that the misdeeds occurred as long as 18 years ago.

Lawyers are scheduled to meet today to discuss a possible settlement. The meeting will follow a recent flurry of letters sent by attorneys for the former patients to UC Regents and university attorneys, accusing them of stalling.

Beam acknowledged that UCI didn't contact two-thirds of the patients in the newly filed suits. He said UCI sent letters in 1995, and in 2000, to those whose addresses it had. He said the university even hired a private investigator to track them down.

Some couples did receive letters from UCI, but after talking to administrators they were left with the impression they were not affected, said San Diego attorney John K. Baldwin, who is handling many of the cases. He said his firm had tracked down additional patients to let them know about the thefts and that more lawsuits were likely.

Beam said fertility clinic patients should have known of the scandal from widespread news coverage and could have contacted the university. Now, Beam contends, the cases are "stale" and without merit because most patients were treated off campus. The patients are suing for fraud, concealment and emotional distress.

UCI did not say why it was unable to contact the Elisons. The couple moved, but they said husband Layne Elison's work phone number stayed the same, as did the phone number for his parents, who were listed with UCI as emergency contacts. The couple said his parents had had the same number for 40 years.

For UCI, the scandal seemed to have run its course years ago. In 1995, the Orange County Register first reported that world-renowned fertility doctors had stolen eggs for years and had given them to other women. The scandal sparked international news coverage, investigations, state Senate hearings and 128 settlements totaling about \$22 million. It tainted the university, which ignored early warnings and tried to cover up problems.

The fertility scandal was the first of several major problems to plague the medical school and hospital in the past decade. Other problems include misplacing cadavers and selling cadaver body parts without consent. Most recently, The Times reported in November that 32 people died awaiting livers in 2004 and 2005, even as doctors turned down organs that were successfully transplanted elsewhere.

As the seriousness of the fertility cases became public, UCI's top administrator at the time, Chancellor Laurel L. Wilkening, and other officials promised to make things right.

"We must never lose sight of the university's first priority: to properly identify those patients who may have been affected, and to contact them to offer assistance," she told the UC Board of Regents in November 1995. Layne and Rosalinda Alison are among those who say they never heard from the university. She was 26 years old in 1987, with two children, when she went to UCI fertility doctors to reverse a tubal ligation. Drs. Ricardo Asch and Jose Balmaceda waited about 18 months before performing the minor surgery. During that time, Rosalinda Alison said, Asch and Balmaceda told her that her eggs weren't viable and pumped her full of fertility drugs.

"I was used as a lab experiment, a lab rat," she said.

Fertility clinic records show that seven of her eggs were removed and given to another woman in January 1988. That woman gave birth to twins, who today would be 17.

Elison made her last visit to the clinic in 1989. She said that when she learned 13 years later of the other children, she had a nervous breakdown. She takes medication for severe depression and anxiety, distrusts doctors and has gained more than 20 pounds. There are days when she can't get out of bed. Most nights, she added, she dreams of children who might be hers.

"It's rape; it's biological rape," she said.

Shirel and Steve Crawford said they never received notice from the university either. They spent \$35,000 on fertility treatments and three in vitro attempts. They stopped trying when they ran out of money, still desperately wanting a child. Shirel Crawford never gave birth, but clinic records show that her eggs were taken in 1988 and given to a woman who then bore a son. They think that child is part of both of them because her eggs were fertilized with her husband's sperm.

"If I heard about it, do you think I would have just not done anything?" Shirel Crawford said. "Who would ever let them do something to you like that? There's a pain that never goes away when you want to be a parent and you try every avenue that there is to try."

Neither the Crawfords nor the Elisons want to claim a child as their own and force another family to suffer as they have. But they want to know that their children are well cared for. Patient privacy rules prevent their learning who the mothers are.

This is not the first time UCI has been accused of failing to notify victims. In 1995, Sidney Golub, UCI's No. 2 administrator at the time, said university officials tried to track down the patients they thought were affected. They denied knowledge of a list of 200 possible victims that had been circulating for weeks among attorneys and newspaper reporters, saying they knew of only 35. The university, Golub said, "was in the dark."

A week later, embarrassed UCI officials said their attorney, Beam, had the list all along. Beam said administrators did not know he had it.

In the months and years to follow, dozens of victims including many of the 128 patients who have settled their lawsuits were first contacted by newspaper reporters or attorneys rather than UCI, according to plaintiffs' attorneys.

"I don't think we really saw anything in [UCI's] efforts that showed great concern for the patients," said Mary Dodge, co-author of the book "Stealing Dreams: A Fertility Clinic Scandal," who spent eight years researching the case.

UCI has also tried to keep the latest story out of the news. Frustrated by what Baldwin considered low settlement offers and lack of urgency, he sent angry letters to UC's lawyers and the Board of Regents this month. UC attorney Beam responded by warning that if the patients went public, it would "harden the university's resolve" to fight rather than settle.

The Elison and Crawford cases are among several that Beam says do not have merit because those patients were treated at a Garden Grove clinic, not UCI Medical Center.

Before 1990, UCI did not have a fertility clinic at the medical center in Orange but operated satellite clinics in Garden Grove and Saddleback Memorial Medical Center in Laguna Hills. Both operated under UCI's name and the university promoted them. Many of the previously settled lawsuits involved patients from the Garden Grove and Saddleback clinics, although Beam said that was a political decision to settle rather than a legal one. That argument won't get UCI far, said USC law professor Michael Shapiro, an expert in medical law and bioethics.

"If the place was held out to the public as being affiliated with UCI and it was done with UCI's approval or knowledge, then they are going to be held liable as a unit of UCI," Shapiro said.

Attorneys are still arguing over when the legal clock starts ticking ? upon notification or when the scandal became public.

The fraud, Rosalinda Alison said, is still being perpetrated because she has yet to receive any word from UCI. Shirel Crawford agreed: "They stole life. They stole that from me, and they gave it away. Who gives them the

right to say what time limit you can put on that?"

8/30/05 http://health.groups.yahoo.com/group/DSR_Discussion/message/987

Yes, this was the infamous UC Irvine scandal. Here is a link to the Orange County reports that led to the 1996 Pulitzer Prize:

{<http://www.pulitzer.org/year/1996/investigative-reporting/works/1104.html>}

[or <http://tinyurl.com/cp5xg>]

You don't hear much anymore about misdeeds in the infertility business recently but there were a rash of them around ten years ago, including several Manhattan clinics shut down by the NY Board of Health after raids for not testing sperm, the temporary license revocation of Idant's president Feldschuh, the AIDS cases surrounding Dr. Korn's practice in Vancouver, the deceptive responses of CCB's denial of responsibility for a DI child's kidney disease, and several individual suits against clinics for replacing a husband's treated semen with an anonymous donor's (in the US, the UK, and the Netherlands). In such an unregulated business, the possibility for such mistakes and coverups is high. However, the Cecil Jacobsen case in Virginia seems to have been the worst of all.

--- In DSR_Discussion, n wrote:

> There was a NY doc who did this as well (a Law and Order episode about it), and I think a doctor/fertility clinic in Orange County, CA.

> -----Original Message-----

> From: m

> UK Channel 4 22:00, Tuesday 30th August

> "The story of a doctor supplying fertility treatment in Virginia, who

> concealed a dark secret. While he claimed to be able to match his

> patients with donors from backgrounds of their choosing, in reality he

> provided all the sperm produced by the clinic personally - and is

> believed to have fathered 75 children."