

And Baby Makes Four: Surrogacy and the Law

by Chris Thompson

With few rules for guidance, assisted reproduction lawyers negotiate the complex business of hiring surrogate mothers to gestate babies for intended parents. | January 2013



photo by Vern Evans

When you pass through the front doors of the San Diego Convention Center, you enter a three-story, city-block-long Gothic nave lit by sunbeams streaming through hundreds of windows. Ushers in crimson uniforms stand by to assist you; at a discreet distance, blue-suited security guards check ID badges. Escalators deliver guests to the upper levels, where lecture halls hold hundreds of people. If you're going to rent this space, you'd better come with money.

Last October the officers of the American Society for Reproductive Medicine (ASRM) didn't even blink at the cost, filling the center with thousands of doctors, lawyers, nurses, medical technicians, and representatives from pharmaceutical companies. For three days, hundreds of vendors on the main convention floor hawked new sperm-counting techniques or drugs to treat heavy menstrual flows. From in vitro fertilization to contraception to Viagra, the business of making or preventing babies is so lucrative that medical practitioners in India thought nothing of flying in for the week. Conference organizers booked the Padres' Petco Park just to throw a party.

Far from the action on the floor, an exotic subgroup of some 200 members gathered in a mezzanine room to discuss the peculiarities of their trade: gestational surrogacy, or arranging for a birth mother to carry a genetically unrelated child for its intended parents. The attendees included lawyers, psychotherapists, ob-gyns, and surrogacy agents - a new class of medical and legal go-betweens who specialize in closing complex deals between the parties.

In the 20 years since California first legalized gestational surrogacy, the industry has exploded - capitalizing in part on wealthy Asian couples now able to make their dreams of parenthood come true. But this increased demand for children has also increased the potential for greed and exploitation. Sensational scandals - stories of theft, fraud, and baby trafficking - have cast a darkening cloud over surrogacy transactions. The industry's leaders came to San Diego to discuss what to do about it.

The first two speakers offer sensible suggestions, such as better screening of potential surrogates and parents. Then attorney Andrew W. Vorzimer takes the podium. A tanned Long Islander transplanted to Southern California, Vorzimer is managing partner of Vorzimer Masserman in Woodland Hills and self-appointed guardian of the surrogacy industry. In his years of practice, Vorzimer has become preoccupied with California's lack of rules governing what is simultaneously a medical procedure, a legal transaction, and an intimate ordeal for parents, surrogate mothers, and children.

"I've been practicing in this field for two decades," he tells the group. "In the last three years, I've seen more scandals and ethical deviations than anything I'd witnessed in the previous 17 years."

But the real danger, Vorzimer warns, is revealed in the attitudes of people he routinely encounters in his own office. One man, he recalls, asked him to arrange for a surrogate to carry a half-dozen of his embryos, since he wanted at least quadruplets. Not so he could raise all of those babies, the man said, but so he could choose the best one and put the rest up for adoption. "I didn't know what to say," Vorzimer recalls. "Eventually I stammered, 'What are you looking for, the pick of the litter?' And he said, 'That's exactly what I'm looking for.' " The room grows quieter as Vorzimer speaks. He tells of a husband who gave him a sealed letter and ordered him not to open it until instructed. When he finally did so, the letter directed him to deny parental rights to the man's own wife, without her knowledge. One international couple, upon learning the fetus was not the gender they had hoped for, threatened to withhold medical compensation from their surrogate unless she aborted. Another couple tried to put their vanity baby up for adoption because it was born prematurely.

These proposed arrangements, Vorzimer emphasizes, are all perfectly legal. Legal - and also potential fodder for religious and ethical conservatives eager to outlaw the surrogacy business - or even end in vitro fertilization altogether. In many states, he admits, legislators are pursuing ways to foreclose reproductive options, from laws requiring transvaginal ultrasounds for women considering abortion to constitutional amendments defining human life as beginning at conception. Every time the surrogacy industry fails to police itself, he says, its enemies have another opportunity to strike.

"We live in the Wild West of reproductive medicine," Vorzimer concludes. "We have no licensing, no regulation, no oversight. This breeds the kind of unethical and criminal behavior that has become too prevalent in the industry."

Just a few rooms down the hall, Sean Tipton - the ASRM's public affairs director - has his hands full. Tipton is scrambling to make sure reporters and science writers have press kits and digests of the latest discoveries in alternative reproductive technologies. He and Vorzimer know each other well, and they've hoisted more than one beer together after hours. But in their professional roles, the two have staked out positions that cannot be reconciled.

Tipton's job is to make sure that regulation doesn't happen. In California, Minnesota, and other states he is the ASRM's chief lobbyist, opposing legislative efforts by conservatives to

stop in vitro fertilization - or by liberals to meddle in practices the society contends are best left to physicians.

"We'd like to have nice, clear rules so everyone knows what they're getting into," Tipton says. "The problem is, people start down that road and wind up impairing access to treatment. We have to look at the ability of people to make their own decisions about whether - or how, or if, or when - to reproduce."

At a café(C) downstairs from the meeting rooms, Vorzimer picks at a salad while he considers Tipton's argument for keeping politicians out of intimate ethical and medical decisions. "Six, seven years ago, I took the same position as Sean," Vorzimer says. "But the system hasn't worked." Looking around at the doctors and surrogacy agents milling about, he adds, "There's so much greed, so much money in this industry, there has to be regulation."

When most lawyers draw up contracts, it's to give their clients protection regarding liability, compensation, or assets. When Andrew Vorzimer draws up a contract, he says, his clients may have something more bizarre in mind. For example: "*When our seven embryos are cooked up in a lab and three of them are implanted in another woman's body, I want the rest jabbed into my wife's dysfunctional uterus. If the clinic throws them in the garbage, God will deem it murder. If you let my wife's uterus be the trash bin, God will forgive us.*" Vorzimer deals with such existential details every day. But he didn't aspire to this career when he arrived in Southern California. He spent the early 1990s spinning his wheels as a civil litigator at Cotkin, Collins & Franscell in Los Angeles. One day a client asked him to draft a contract between an infertile married couple and a surrogate mother. Surrogacy was still in its infancy, and few lawyers knew how to handle the exotic issues that crop up when one human being gestates another on behalf of two more.

There wasn't much law on the subject. With no statute specifically addressing surrogacy, state courts relied on the Uniform Parentage Act (Cal. Fam. Code §§ 7600-7750), intended to eliminate the legal distinction between legitimate and illegitimate children.

Assemblyman Mike Roos (D-Los Angeles) first introduced a surrogacy bill in 1981, but efforts to regulate the practice were frustrated by an odd coalition of anti-abortion activists, feminists who considered wombs-for-sale a form of slavery, and biotechnology critics alarmed by the strange new directions of medical science.

The *Baby M* case a few years later - in which New Jersey surrogate Mary Beth Whitehead turned over the baby she had borne to the intended parents and then took it back - sparked fears that a surrogate's biological child could be bargained over like a used sofa. A trial court in that case ordered the baby's adoption by the intended mother, but on appeal the surrogacy contract itself was declared void, and Whitehead was granted visitation rights. (*In the Matter of Baby M*, 109 N.J. 396 (1988).)

Surrogacy advocates worried that the *Baby M* fiasco would kill any possibility of legalizing the business in California. But in 1992 the Legislature passed SB 937, a comprehensive set of surrogacy regulations introduced by state Sen. Diane Watson (D-Los Angeles). Gov. Pete Wilson then vetoed the measure, stating that "[c]omprehensive regulation of this difficult moral issue is premature."

A year later, however, the state Supreme Court ruled that when a surrogate gestates an embryo under a contract with intended parents, the woman who donated the egg - not the birth mother - is the natural mother under California law. (*Johnson v. Calvert*, 5 Cal. 4th 84 (1993).)

The court distinguished surrogacy contracts from criminal statutes prohibiting payment for consent to adoption (Cal. Penal Code § 273) and selling any person to another (Cal. Penal Code § 181), and also from the policies underlying the statutes governing termination of parental rights (Cal. Welf. & Inst. Code § 202). According to Justice Edward A. Panelli's

majority opinion, payments under the contract were meant to compensate the surrogate "for her services in gestating the fetus and undergoing labor, rather than for giving up 'parental' rights to the child." Noting the public policy impasse over SB 937, Panelli concluded, "It is not the role of the judiciary to inhibit the use of reproductive technology when the Legislature has not seen fit to do so." His opinion became the foundation for California's gestational surrogacy practice. (See "Whose Pregnancy Is It?" MCLE, page 35.)

Vorzimer became fascinated with the terra incognita of surrogacy law and began to think it might be his calling. When his daughter was born in 1993, it sealed the deal. "My greatest joy was being able to have my child greet me at the end of the day," he says. "And these clients, people struggling with infertility, may never have that opportunity. I was in a position to help people have the same wonderful experience."

In 1994 Vorzimer and two partners set up a boutique firm, and he threw himself into reproductive law full time. The firm currently handles up to 600 cases a year, representing intended parents in drafting agreements for surrogacy, egg donation, sperm donation, and embryo donation. He charges a flat fee of \$6,500 for surrogacy agreements, and \$1,000 for sperm, egg, or embryo donation agreements.

But as Vorzimer delved into the complex world of surrogacy contracts, he realized that the business was, as he puts it, less regulated than running a food truck.

For years, Vorzimer and a cohort of lawyers and therapists have lobbied for state regulation. He started a blog on the legal issues and scoured the Web for pending legislation, lawsuits, and case histories of exploited surrogates or intended parents. And he volunteered to take calls from any attorney, parent, or surrogate who feared that he or she was the victim of a scam. But Vorzimer isn't just a crusading lawyer - he's also an entrepreneur. In 2004 he bought Egg Donation Inc., an agency that connects intended parents with women who are willing to have their ova extracted for cash. The company serves as agent for between 500 and 700 egg donations a year. Basically, his law firm represents parents who buy their eggs through his agency.

Vorzimer says egg donations generate only 15 to 20 percent of his revenue, and he claims that operating his business is no different from a reproductive endocrinologist running a fertility clinic.

"I know it maybe sounds a little strange to someone who's not in this industry, but it's really very common," says Michelle A. Keeyes, managing attorney at Reproductive Law Center in La Mesa. Keeyes points out that her boss, attorney Thomas M. Pinkerton, is a shareholder in A Perfect Match, a surrogacy and egg donor agency owned and run by his wife. "We define our scope of services and explain our role very clearly in the retainer agreement, and we give full disclosure that Tom is a part owner of an agency. I really think the conflict is fairly minimal," she says, adding that for years adoption attorneys have also owned adoption agencies.

Vorzimer stresses that he never personally represents any intended parent who's worked with his egg donor agency - two of his three associates handle those clients. In fact, Vorzimer - along with Karen Synesiou and attorney Bill Handel, co-owners of the Center for Surrogate Parenting in Encino - recently urged the state Legislature to ban attorneys and physicians from representing or treating anyone who has been a client at a surrogacy agency or in vitro fertilization clinic they own. Under their proposal, other lawyers or doctors in the practices would have been allowed to represent clients, but never the actual owners.

Such nuances are largely lost on the public. But when the details of a scam are so lurid - and the consequences to children, parents, and vulnerable young women so unsettling - they threaten to throw the entire industry into disrepute. Vorzimer knows this all too well, thanks to a phone call he got about another surrogacy lawyer who ran her own related business.

In 2011 San Diego attorney Theresa M. Erickson was a respected reproductive law specialist. She wrote legal handbooks, hosted a radio talk show, and owned Conceptual Options, a surrogacy consulting business run in part by her husband and daughter. But the family shop had a secret: Erickson was selling babies on the side.

Under Erickson's direction, Carla Chambers - a Las Vegas woman with a criminal history in human trafficking - and Hilary Neiman, a Maryland attorney specializing in reproductive law, would find potential surrogate mothers on website chat rooms. Chambers would promise surrogates that intended parents were waiting for the babies. The surrogates would be pumped full of drugs to engorge their uterine linings, flown to a clinic in the Ukraine, and implanted with designer embryos selected for blond hair and blue eyes.

Once impregnated, the surrogates were flown back to the United States, returned to their homes, and told the intended parents would soon be in touch. But weeks would go by with no calls. Eventually, the surrogates realized that Chambers, Erickson, and Neiman had misled them.

There were no waiting parents. According to federal prosecutors, Erickson and her coconspirators had at least four women impregnated under the pretense that surrogacy contracts had been signed. Instead, Erickson waited until the surrogates got through their first trimester without a miscarriage before marketing the fetuses, offering them to couples for more than \$100,000 each.

Lawyers for the surrogates approached Steven H. Snyder, a Minneapolis-based attorney and vice-chair of the American Bar Association's Assisted Reproductive Technology subcommittee. Snyder phoned Erickson - who denied the allegations - and then he called the local FBI office. Officials there, Snyder recalls, told him that without an investigation it wasn't clear whether Erickson had violated any laws in their jurisdiction.

So Snyder called Vorzimer, who contacted the FBI's San Diego office. Soon two agents sat down with him to discuss the details of what Erickson was doing. "The agents were both attorneys, and they spent the entire day with me," Vorzimer says. "They were struggling to find a statute Erickson had violated. They had to go with fraud - it's the Al Capone situation." In fact, much of what Erickson did is permissible. The only problem with her business model was the timing. Before a surrogate is impregnated, she can legally agree to sell parental rights to the child she intends to carry. Erickson claimed that the court documents she had filed were legitimate. But the surrogacy contracts lacked the names of the intended parents, which Erickson would fill in after she had sold a fetus already gestating in the surrogate's womb. According to the indictment, Erickson and her coconspirators misrepresented to the surrogates that previously arranged surrogacy agreements had fallen through, and they were merely transferring the surrendered parental rights to a different set of parents. Erickson also was charged with submitting documents in San Diego Superior Court misrepresenting that the babies were products of legitimate surrogacy contracts. She and Neiman quickly pleaded guilty to conspiracy to commit wire fraud and agreed to forfeit all proceeds from the conspiracy. (*United States v. Erickson*, No. 11-CR-3372 (S.D. Cal. plea agreement filed Aug. 9, 2011).)

Last February, Erickson was sentenced to five months in prison and nine months of home confinement. She was disbarred in November for committing a felony involving moral turpitude. "I have to remember, through all of the years, how many people I have helped," Erickson said in an interview last month. "At the end of the day, these beautiful children, that's what gives me hope. What I fear is all the unscrupulous people out there who are waiting to prey on other people."

Prosecutors and the State Bar shared the public's disgust at the idea of selling babies. But Erickson's case was also unsettling to Vorzimer. "How do you prosecute [Erickson] for selling an unborn baby without violating *Roe v. Wade* and acknowledging that the fetus is a

human being?" he asks. "That's why her sentence was a slap on the wrist. Five months of jail time, when they were selling babies for \$100,000 a pop."

Vorzimer has a point. Surrogacy may well be the most legally surreal industry in California: You can kill your fetus; you just can't sell one without a proper contract.

Vorzimer is hardly the only insider who worries that surrogacy is dangerously unregulated. For more than 30 years Hilary H. Hanifan, a Beverly Hills psychologist, has consulted with surrogate mothers - among them, one of Theresa Erickson's victims. In the late 1980s and early '90s, Hanifan, Vorzimer, and the Center for Surrogate Parenting fought unsuccessfully to persuade the Legislature to regulate the industry. But a year after Gov. Wilson vetoed the Watson bill in 1992, the *Calvert* decision effectively legalized surrogacy contracts. Once the industry was legitimate, Hanifan says, surrogacy advocates' crusade for regulation fell by the wayside.

"After the court ruling, we paused," she says. "Intended parents felt that the ambiguity over parental rights was settled. The angst diminished - the children were safe, the intended parents were safe, and the surrogates were safe. That allowed everyone to practice without fearing that children would be stuck in legal limbo."

But about ten years ago, Hanifan claims, Internet access and a boom in the international market changed the surrogacy industry dramatically. "You had a rush of people who were bad, or were in over their heads," she says. "You had sloppy, unethical practices happening all over. The self-policing model seemed inadequate."

According to Hanifan, the worst problems stemmed from the rise of surrogacy agents. These are the unlicensed go-betweens who introduce intended parents to the surrogates, coordinate with doctors and psychotherapists to screen the parties for infectious disease and mental health problems, find lawyers to draw up the contracts, and oversee escrow accounts set up to fund surrogacy fees and expenses.

It's a tough job, requiring knowledge of medicine and the law, attention to detail, and a keen appreciation that you're responsible for the health and future of other human beings. Hanifan claims that a growing number of lazy, incompetent, or unscrupulous people represent themselves as agents with no more bona fides than a laptop computer. And because so much of the business is done over the Internet, it's almost impossible to distinguish a professional agency from a crook.

"The Internet makes all agencies look alike," Hanifan says. "It can make an agency appear professional even if that's not the case. We're all very susceptible to a clever Web page."

Fred Silberberg, founding partner of Silberberg & Ross in Beverly Hills, says the Internet is an especially dangerous place to make international surrogacy transactions. He cites unofficial estimates of India's "fertility tourism" industry at \$2.3 billion annually, with at least 25,000 babies born each year to surrogates who take on incredible risks because of nonexistent oversight, and surrogacy guidelines that are merely voluntary.

Perhaps the fastest-growing clientele for California-brokered surrogate births, Silberberg says, is Chinese couples who produced one child in their youth and now are past childbearing age but wealthy enough to afford the fines for violating their country's one-child policy. However, Silberberg - who also founded Future Family Starter, a full-service surrogacy consultancy and legal practice - says there can be unexpected health complications: Infectious diseases such as hepatitis remain a major concern in China. One of his own clients, a surrogate, discovered that the intended Chinese father had tested positive for hepatitis, which could have been transmitted to her.

Nearly all surrogacy agents claim that they screen their sperm and egg donors, but there's no way to verify that they do. Similarly, no one can verify whether agents - many of them located

on the Internet - have vetted their surrogates for substance abuse or other health problems. "You don't know the health history, you don't know if there's trouble with the family, or if there's a domestic violence situation," Silberberg says. Once the intended parents sign a contract, he adds, "you go through nine months of hoping that the surrogate is going to go through with all the health requirements. The parents don't know her, they haven't met her, some other doctor implants her, and a whole host of problems could come up."

Above all, Hanifan and her colleagues are troubled by California's utter indifference to how surrogacy agents handle money. Although surrogates themselves rarely collect more than \$20,000 in compensation for completing a pregnancy, the health and legal expenses, unforeseen maternity expenses, and the agent's own cut can push the intended parents' bill above \$100,000.

Not all health insurance companies will cover those expenses. And although the industry's most prominent lawyers insist on putting expense money in escrow or a trust account, shadier agents deposit the funds into accounts that only they control.

And sometimes, the surrogacy agents just take the money and run.

In early 2009 Vorzimer began receiving dozens of panicked complaints from surrogacy lawyers and intended parents about a pair of Modesto-based companies: the Michael Charles Independent Financial Holdings Group (an escrow firm), and its major client - SurroGenesis USA Inc., an ambitious surrogacy network. Checks were bouncing.

"I had always declined to represent anyone who dealt with SurroGenesis, because I'd had concerns about them for years," Vorzimer says. "It was clear from my first contact that it was nothing more than a gigantic Ponzi scheme."

Indeed, the promises SurroGenesis made to clients seem too good to be true: The company claimed to have 60 field offices around the world. Couples could browse through online profiles of potential surrogates, or read inspiring stories of successful surrogate births. A respected personal property escrow company was ready to hold the intended parents' money, they were told.

That March as many as 100 parents and surrogates worldwide received a mass email from SurroGenesis, informing them that the companies had closed. All the money supposedly held in trust accounts - up to \$2.5 million - had vanished.

Doing his own investigation, Vorzimer soon learned the rest of the story: Most of SurroGenesis's supposed outposts were post office boxes. (One of the "field offices" turned out to be just that - a cow pasture.) The company proved to be little more than a website run by Tonya A. Collins, a Modesto woman who had recently begun to wear flashy jewelry. But the escrow company was real enough. Collins was its registered agent, and Jack Kiserow, the president of the Michael Charles group, showed up on the Surro-Genesis board of directors. Vorzimer called the FBI. Collins fled to Texas. A pair of Sherman Oaks lawyers - sole practitioner Wayne E. Beaudoin and Theodore A. Penny of Pearson, Simon, Warshaw & Penny - filed a class action against Collins and Kiserow but later withdrew the case because, Beaudoin says, "Collins cleared all the accounts, and we couldn't find any funds we could collect on." (*Madrones v. SurroGenesis USA, Inc.*, No. RG09446774 (Alameda Super. Ct. filed Apr. 13, 2009).)

Last April federal authorities arrested Collins at her Antelope home in Sacramento County. She was indicted on 30 counts of wire fraud, mail fraud, bank fraud, and money laundering. If convicted, she faces decades in prison and more than \$1 million in fines. (*United States v. Collins*, No. 12-CR-110 (E.D. Cal. filed Apr. 19, 2012).)

But the money is gone. Dozens of infertile couples lost between \$5,000 and \$100,000 each - often their life savings. Surrogate mothers were left pregnant but without money for health services or expenses. Eventually, Vorzimer and sympathetic doctors, lawyers, and

psychologists set up pro bono services for victims of the fraud. About ten couples received the babies they had contracted for; many more saw their chance of becoming parents disappear.

Still, not everyone in the surrogacy industry is eager for government oversight. Liz Silverman-Platt, a former client of Vorzimer, became the mother of twins through one of his contracts. In the wake of the SurroGenesis scandal she helped him recruit pro bono doctors and lawyers, and now she runs Baby Steps Fertility, a consulting business. Although she believes intended parents should be protected as much as possible, the prospect of industry regulation makes Silverman-Platt nervous.

"I think the American Society for Reproductive Medicine should be the one mostly handling it," she says. "I wouldn't want to see government playing too big a role."

Michelle Keeyes at the Reproductive Law Center dislikes the idea of lawmakers policing her practice. "In some ways, we're already regulated," she says. "I think most reputable agencies and doctors strive to follow the industry's guidelines."

According to the ASRM's Tipton, the SurroGenesis case demonstrates that legal protections are adequate. After all, he points out, Collins got caught. "It's not clear to me why existing contract law and consumer regulations can't take care of it," he says. "Fraud is fraud."

Another illustration, he adds, is Theresa Erickson's prosecution. "The Erickson case is an example of a system that's working - you've got a woman who's gone to prison. That's sounds pretty regulated to me."

The ASRM distributes a set of written guidelines: Intended parents must have a medically valid barrier to conception (to eliminate the possibility that they are making vanity babies). Sperm and egg donors must be screened for genetic diseases. Surrogate mothers must be screened for sexually transmitted diseases, psychological problems, and substance abuse, and ideally candidates should already have had one child. Parents and surrogates alike must be informed of the potential risks of pregnancy. The surrogate mother must have independent legal counsel, and both her financial compensation and postnatal psychotherapy must be guaranteed before the baby's transfer.

The guidelines are remarkably similar to state regulations Vorzimer and others have championed - and very close to the provisions of state Sen. Watson's SB 937, enacted but vetoed 20 years ago. The main difference: Tipton insists that his organization - not the government - should enforce the rules.

People shouldn't underestimate the ability of medical professionals to police their own, Tipton says. And the consequences of state regulation could be huge. "You're moving toward governmental decisions related to reproduction," he says. "Most Americans are pretty uncomfortable with that."

Tipton makes one final point: By the society's best estimate, only 1,500 surrogate births occur each year in the United States. Scandals like those involving SurroGenesis and Theresa Erickson, he says, capture the public's attention because they're exotic, not because they represent a common threat to public health and safety.

"People pay more attention when Sarah Jessica Parker has a baby than when my wife has a baby," he says. "That fascination contributes to the impression that in vitro fertilization is a different sort of medicine."

The American Society for Reproductive Medicine's unlikely political allies include some religious leaders and anti-abortion activists who oppose oversight for a different reason: They fear it would tacitly legitimize the practice of surrogacy. Minneapolis lawyer Snyder says, "The Catholic Church opposes any regulation, because it disapproves of any child that is created outside the womb. And pro-life groups oppose in vitro fertilization as tantamount to

abortion, in that it involves creating embryos that may be donated to research or destroyed afterward."

Advocates of regulation, however, are convinced that future scandals eventually will provoke responses they can't anticipate or control. That's why Vorzimer, Hanifan, and others promote laws that would codify consensus guidelines - and keep the industry legal.

After intense lobbying last year, the state Legislature enacted AB 1217, sponsored by Felipe Fuentes (D-Los Angeles) and signed by Gov. Jerry Brown in September. The measure specifically addresses the dangers Erickson's misconduct poses by requiring that each party in the surrogacy transaction be represented by separate, independent counsel prior to executing an agreement. The bill also indirectly establishes - for the first time in the nation's history - that gay and lesbian couples have a legal right to be intended parents. (See Cal. Fam. Code §§ 7960, 7962.)

Vorzimer and Silberberg call AB 1217 a good start, but they say many more laws are needed: Trust funds for surrogates should be established in advance, and with accredited third parties. The names of intended parents must not be withheld from the surrogates. To remove financial incentive from transactions, women on public assistance should be banned from becoming surrogates. Health insurance must be guaranteed for the surrogate before any embryonic implantation takes place. And above all, surrogacy agencies must be vetted and licensed by the state.

While Vorzimer earns a living writing surrogacy contracts and brokering human eggs, he continues to warn of the dangers of hiring vulnerable young women to carry babies for people they barely know. "I didn't ask to be the police officer for this industry," he insists. "When I got involved with SurroGenesis and Theresa Erickson, or when I got involved with legislation, I wasn't paid a nickel. I put hundreds of hours into this effort."

Keyes, who also serves on the ABA's assisted reproductive technology committee and competes with Vorzimer for clients, has nothing but praise for his work. "As for being a self-appointed guardian," she says, "I think it's needed."

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