

# Embryo claim is selfish, says *Modern Family* star

## Gay men win battle over surrogate girl

Frances Gibb Legal Editor

A gay couple have won a legal battle for parental rights with the woman who gave birth to a child in an artificial donor arrangement.

The woman, a friend of the couple, insisted that she had parental rights after entering an artificial conception agreement under which, she said, she would be the "main parent and carer".

However, the man who donated his sperm disputed the agreement, insisting that it was that he and his male partner would "co-parent" the youngster — with the woman continuing to "play a role". He said the woman had agreed to be a surrogate mother.

In a ruling published yesterday a High Court judge ruled in favour of the two men after hearings in London and Birmingham. Ms Justice Russell also criticised the woman's "stereotypical images and descriptions of gay men" and said she had sought to exploit the notion of a child being removed from its mother's breast to win sympathy.

The judge said nothing could be reported that could identify the daughter, who turned one this year.

Ms Justice Russell said she had to decide what was in the little girl's best interests, adding: "[The girl] living with [the two men] and spending time with [the woman] from time to time fortunately coincides with the reality of her conception and accords with [the girl's] identity and place within her family."

Jacqui Goddard Miami

Sofia Vergara has spoken out about her ex-fiance's attempts to win custody of their frozen embryos, branding his campaign to have them implanted in a surrogate "selfish".

The actress, whose role in the sitcom *Modern Family* has helped to make her the highest-paid actress on American television, said that the legal action brought against her by Nick Loeb, a millionaire businessman whom she dated for four years, "makes no sense".

A child "needs a loving relationship of parents that get along, that don't hate each other... A kid needs their parents," she said, stating that Mr Loeb was seeking to undo a legal contract they signed two years ago. He says that his claim is supported by the "sanctity of life".

"What judge is going to say OK? Even if it's life or not life, that's not what he [Loeb] signed at that moment. He should have thought about all of that," Vergara, 42, said. She and Mr Loeb, 39, enlisted the expertise of doctors at a California fertility clinic to create two embryos last year, using her eggs and his sperm, intending to use a surrogate to bring them to full term. Two previous attempts in 2013 had failed.

Since the couple's break-up in May last year, the two embryos have remained in deep freeze. Mr Loeb is now contesting a contract that they signed



Sofia Vergara is locked in a dispute with Nick Loeb over frozen embryos

in 2013, in which they agreed that the embryos could only be used with both parties' consent.

"I totally understand him but the thing is this: fortunately or unfortunately, there is law. You wrote, you signed, papers, legal papers... you should have taken it more serious at the time, like I did," Vergara said yesterday on the Howard Stern radio show.

"It's not like a contract [where] they give you, right there, the moment that they're going to take my eggs out," she added. "And not only that, we did it two

times... Two times and now suddenly you want to change your mind?"

Stern asked: "You don't want to have a baby with him?"

Vergara, who is now engaged to the *Magic Mike* actor Joe Manganiello, replied: "Can you blame me?... I don't hate him, but obviously he has a problem with me. A kid needs their parents."

She added: "I'm doing the right thing. I didn't do anything wrong."

Vergara, who worked as a model in her native Colombia and as a co-host on Spanish-language television before pursuing an acting career in the US, met Mr Loeb in Los Angeles in 2010.

In an article for *The New York Times* last week, Mr Loeb revealed that he wishes to have the female embryos implanted in a surrogate and to raise the children himself, but does not want any money from Vergara.

His own troubled childhood had "made me yearn for the type of family based on the images one might see in a Norman Rockwell painting," he wrote. "For as long as I can remember, I have dreamed of being a parent."

He added: "When we create embryos for the purpose of life, should we not define them as life, rather than as property? Does one person's desire to avoid biological parenthood (free of any legal obligations) outweigh another's religious beliefs in the sanctity of life and the desire to be a parent?"

Times 6 May 2015