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## RECENT DEVELOPMENT

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***SIEGLEIN V. SCHMIDT*: PURSUANT TO § 1-206(B) OF THE ESTATES AND TRUSTS ARTICLE, ARTIFICIAL INSEMINATION ENCOMPASSES IN VITRO FERTILIZATION USING DONATED SPERM; A COURT MAY USE THE GOLDBERGER FACTORS TO DETERMINE VOLUNTARY IMPOVERISHMENT; A TRIAL COURT CAN ISSUE A PERMANENT INJUNCTION FOR HARASSMENT BASED ON § 1-203(A) OF THE FAMILY LAW ARTICLE.**

**By: Virginia J. Yeoman**

The Court of Appeals of Maryland held that the term “artificial insemination” includes in vitro fertilization using donated sperm, and that a consenting husband is presumed to be the father of the child born as a result of the procedure. *Sieglein v. Schmidt*, 447 Md. 647, 652, 136 A.3d 751, 754 (2016). The court also held that the circuit court did not abuse its discretion in finding the husband to be voluntarily impoverished or in issuing a permanent injunction based on harassment. *Id.*

Stephen Sieglein (“Sieglein”) and Laura Schmidt (“Schmidt”) married in 2008. Before marrying Schmidt, Sieglein had a vasectomy. When Schmidt desired a child, Sieglein refused to have his vasectomy reversed, but agreed to accompany Schmidt to the Shady Grove Fertility Reproductive Science Center (“Shady Grove”). In 2010, they both signed a consent form at Shady Grove, which demonstrated their desire to undergo assisted reproduction treatment, and their understanding of the risks and obligations involved.

Thereafter, Schmidt, with Sieglein’s consent, underwent in vitro artificial insemination using donated sperm. In 2012, Schmidt gave birth to a son. The birth certificate listed Sieglein as the father and Schmidt as the mother. Shortly after the child’s birth, Sieglein and Schmidt separated.

Schmidt filed for divorce and requested child support in the Circuit Court for Harford County. Schmidt also requested injunctive relief to protect her from physical harm and harassment by Sieglein. Sieglein filed a motion requesting that the court determine whether he was legally the parent, as defined under section 1-206(b) of the Estates & Trusts Article (“section 1-206(b)"). The circuit court held that Sieglein was the legal father of the child and was required to pay child support. Later, the circuit court deemed Sieglein voluntarily impoverished, and calculated his child support payments based on his potential income. The circuit court also granted Schmidt’s request for a permanent injunction against Sieglein to protect her from harassment.

Sieglein appealed to the Court of Special Appeals of Maryland, which affirmed the circuit court’s decision. The court of special appeals explained that the purpose of section 1-206(b) was to establish the rights and

obligations of parents who conceive using artificial insemination. The Court of Appeals of Maryland granted *certiorari* to determine the scope of the term artificial insemination, to review the circuit court's discretion in the interpretation of "voluntary impoverishment," and to review the circuit court's discretion in the issuance of the permanent injunction.

The court began by analyzing Sieglein's and Schmidt's competing interpretations of the term "artificial insemination." *Sieglein*, 447 Md. at 660, 136 A.3d at 759. Sieglein argued that the plain meaning of artificial insemination referred strictly to intrauterine insemination, a procedure whereby the semen is introduced into the uterus or oviduct by artificial means. *Id.* at 660 & 660 n.12, 136 A.3d at 759. Additionally, Sieglein asserted that because in vitro fertilization did not exist at the time the statute was enacted, the term artificial insemination as used in the statute could not encompass that procedure. *Id.* at 660, 136 A.3d at 759. In contrast, Schmidt interpreted the term to include any medical process that results in a pregnancy by other than natural means, including in vitro fertilization. *Id.*

The court then looked to both standard and medical dictionaries for a definition of artificial insemination. *Sieglein*, 447 Md. at 661, 136 A.3d at 760. Specifically, it researched dictionary definitions in editions published prior to the statute's enactment in 1969. *Id.* The court found multiple definitions of artificial insemination and concluded the term was subject to more than one interpretation, thereby rejecting Sieglein's assertion. *Id.* at 662, 136 A.3d at 760.

Next, the court researched the legislative history of the statute to uncover the lawmakers' intent. *Sieglein*, 447 Md. at 662, 136 A.3d at 760. The court's historical research found that the addition of section 1-206(b) was rooted in policymakers' concerns that the increasing use of artificial insemination by married couples would create complications regarding inheritance rights. *Sieglein*, 447 Md. at 662-64, 136 A.3d at 760-61. The court concluded that the emphasis of the statute was not on particular techniques of artificial insemination, but on legitimizing children born from donated sperm. *Id.* at 666, 136 A.3d at 763. Thus, the court held that the definition of artificial insemination encompassed in vitro fertilization, provided the husband consents to the procedure. *Id.* at 666-67, 136 A.3d at 763. As a result, Sieglein was determined to be the legal father. *Id.* at 670, 136 A.3d at 765.

The court next addressed Sieglein's contention that the lower court did not use the traditional meaning of "voluntary impoverishment" when it found he had voluntarily impoverished himself. *Sieglein*, 447 Md. at 670, 136 A.3d at 765. The term "voluntary impoverishment" is not explicitly defined section 12-204(b) of the Family Law Article. *Id.* As such, the court researched earlier versions of the statute. *Id.* These early versions used the terms "voluntarily unemployed or underemployed," which were subsequently replaced with "voluntarily impoverished." *Id.* The court also explained that the court of special appeals had previously characterized voluntary impoverishment as "rendering oneself voluntarily without

adequate resources.” *Id.* at 671, 136 A.3d at 766 (citing *Goldberger v. Goldberger*, 96 Md. App. 313, 624 A.2d 1328, 1335, *cert. denied*, 332 Md. 453, 632 A.2d 150 (1993)). Some factors to be considered in evaluating voluntary impoverishment include the parent’s level of education, current health, efforts to find and retain employment, and the current job market. *Sieglein*, 447 Md. at 672, 136 A.3d at 766 (citing *Goldberger*, 96 Md. App. at 326, 624 A.2d at 1335). Because the circuit court used these factors when it determined that Sieglein was voluntarily impoverished, the court concluded the circuit court did not abuse its discretion. *Sieglein*, 447 Md. at 673, 136 A.3d at 767.

Finally, the court reviewed the circuit court’s issuance of a permanent injunction against Sieglein. *Sieglein*, 447 Md. at 673-74, 136 A.3d at 767. The court emphasized that under section 1-203(a) of the Family Law Article, the lower court is authorized to issue injunctions to prevent harassment. *Id.* at 674, 136 A.3d at 767. The court held that Sieglein’s actions, such as circling around Schmidt and getting in line behind her when there was a protective order against him, constituted harassment. *Id.* at 676, 136 A.3d at 769. Therefore, the circuit court did not abuse its discretion when it entered a permanent injunction against Sieglein. *Id.*

In *Sieglein*, the Court of Appeals of Maryland interpreted the term “artificial insemination” to include in vitro fertilization using donated sperm. Maryland practitioners should be aware that the court is not against construing older statutes in a light that is favorable to modern science and technology. Practitioners should also be aware that this holding simplifies questions of paternity regarding artificial insemination. A husband who consents to in vitro fertilization using donated sperm can no longer deny his legal obligations to the child born from the procedure, as the husband is lawfully considered the father. Consequently, this holding will encourage judicial efficiency in a time when more and more families are opting to undergo various artificial insemination procedures.