

COPPS DiPAOLA SILVERMAN, PLLC

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Copps DiPaola Silverman Helps to Make the Adoption Process After IVF Easier for Same-Sex Couples

When a married same-sex couple conceives a child through IVF, New York State recognizes both parties as the child's legal parents and will issue a birth certificate for the child naming both parties as the child's parents. Under New York State law, this designation is sufficient to confer parentage upon both parties, regardless of who gave birth to the child and regardless of biological relationship. However, given the turbulent political climate we find ourselves in, we routinely advise our clients to pursue a private step-parent adoption as well, to obtain a court order naming both parties as the child's legal parents, especially if they have used a known sperm donor or may be travelling to other states or countries that do not recognize parentage the same way New York does. While this is not required under New York law, it provides an additional layer of protection for same-sex couples and their families.

In a private adoption, New York courts require adoptive parents to submit to a home study, including an examination of their home, family structure, criminal history, medical history, financial circumstances, etc. Copps DiPaola Silverman recently represented a couple who gave birth to their child through reciprocal IVF (the egg of one mother was fertilized by anonymously donated sperm and the resulting embryo was carried by the other mother). Both mothers were listed on the child's birth certificate, but they elected to pursue an adoption as well for an additional layer of protection. We did not feel it was right to require these mothers to submit to (and pay for) a home study just because they are a same-sex couple, when they are already the legal parents of their child under New York State law.

We raised this issue with the court and were successful in convincing the judge to waive the home study requirement for our clients. This is now the second time that a local judge has not required a home study for a same-sex couple seeking to solidify their legal relationship to their child. This is an important victory because it makes it easier, faster and less expensive for same-sex parents to obtain a court order confirming their parentage. More importantly, it acknowledges and addresses a deficiency in the law which requires same-sex couples to take additional steps not required of opposite-sex couples in order to protect and validate their families.

If you or someone you know is considering adoption or expanding your family through IVF, please do not hesitate to contact Copps DiPaola Silverman to discuss your rights, your options, and how to achieve your family's goals the best way possible. We are dedicated to ensuring that all families, regardless of their composition, are treated fairly and with dignity.



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