

## LI gay couple's parental rights battle shows complexities of evolving same-sex marriage laws

By: Andrew Smith

April 5, 2015



*Kelly Steagall, left, and her estranged wife, Farah Martin, right, are battling over parental rights of their three children. The dispute highlights legal issues for same-sex parents who divorce. Photo Credit: Newsday / Thomas A. Ferrara*

Two women who are divorcing each other are fighting over whether one of them is the legal mother of children she's raised -- a result of the nationwide patchwork of laws on same-sex marriage and how to determine parentage of children of gay couples.

Suffolk Family Court Judge Deborah Poulos has ruled that the children conceived in California, where Kelly Steagall, 46, and Farah Martin, 39, were first in a domestic partnership and then married, have both women as parents.

Poulos acknowledged in her complex decision that many factors play a part, including the validity of California law in New York, whether a sperm donor who was a friend to the couple has any parental responsibilities and how the two women raised the children when they were together.

Steagall and Martin had three kids together. Steagall gave birth to the first one, and Martin carried the other two. After they separated, Martin went to Family Court seeking to deny Steagall's parental rights to the younger two children, arguing that because Steagall never adopted them, an informal artificial insemination process left the children's legal parentage in doubt.

Steagall, a teacher's assistant, said, "It's very hard to have kids you raised since birth, to have her [Martin] turn around and have her tell you they're not your children."

Martin, who said she will appeal Poulos' decision, said Steagall never showed the same commitment to the younger children, even before Steagall moved out in 2013. At this point, Martin said, she doesn't want child support from Steagall. "They're not her children," said Martin,

a teacher.

## **Starting a family**

Steagall and Martin met online in 2000 and fell in love. Martin, who is from Nesconset, moved west and the couple lived in California and Nevada. They became domestic partners in 2004 and planned to adopt a child. But in a foster parenting class they became friends with a gay couple and one of the men, Keith Sullivan, agreed to be a sperm donor for Steagall and Martin.

Because Steagall was older, she carried the couple's first child, Izabel, who was born in 2005. Martin adopted her and Sullivan signed papers giving up his parental rights.

Martin carried the next two children, with Sullivan again the sperm donor. Zachary was born in 2007 and Emma in 2009. Steagall didn't adopt them, but she was listed as a parent on both birth certificates. Martin and Steagall married in 2008, when California first allowed same-sex marriages.

The family moved to Port Washington in 2012 and the couple split up the following year. Martin has tried since to deny visitation and custody of Zachary and Emma to Steagall. "These kids were my children," Steagall said. "We raised all of them together."

She said she was in the delivery room for their births, and all three children have her last name. She said she didn't legally adopt Zachary and Emma in part because money was tight then, but she also didn't think it was necessary. She viewed them as her children as much as Izabel was, she said.

But Martin said it troubled her. "It bothered me a lot," she said. "She wasn't committing to me like I did to her."

Sullivan, who has his own children with his ex-partner in California, is the unwilling man in the middle. He said there was never any question that both Martin and Steagall were the parents of all three children, and that it was irrelevant that Steagall didn't formally adopt Zachary and Emma.

"It doesn't mean Kelly's not the mother," Sullivan said, adding that he resents Martin arguing that he has parental rights and responsibilities for Zachary and Emma. His role as nothing more than a close family friend had always been clear until now, he said. "I was really hurt and upset by her bringing this on to me," Sullivan said.

## **Decision looks at state laws**

Poulos, in her decision, and the lawyers for both women said it's not an easy issue to sort out. The judge wrote she was obligated to decide the case based on California law, as long as it didn't conflict with New York's. That was a complicated proposition, however, because the two states had different marriage laws at the time and different standards to decide who the parents were of children in a same-sex couple.

Ultimately, Poulos found that because Martin and Steagall were either in a domestic partnership or married when the kids were born, both women were the legal parents.

Poulos rejected Martin's attempt to have Sullivan named father to Zachary and Emma. "The court finds [Martin's] motives are not based on the best interests of the children," Poulos wrote.

**Martin's attorney, Sari Friedman of Garden City, said Poulos got it wrong. To ensure paperwork establishing paternity is filled out, California law requires artificial insemination to be done under medical supervision, Friedman said. But that didn't happen in this case.**

**"These children know this man [Sullivan] as their father," Friedman said.**

**She said Poulos' decision makes determining paternity too informal and will "open up the floodgates to litigation to decide who's the parent" in similar cases.**

Steagall's attorney, Douglas Byrne of Central Islip, said the evolving legal definition of marriage and parenthood means such cases will become common. He doubted an appeal would succeed because Poulos' decision was so detailed.

Neither mother is thrilled to break new legal ground. Steagall said the law needs to be clarified, in every state. "I can't be the only one," she said.