

## Pop-cicle

**By Reg P. Wydeven  
December 4, 2016**

A few weeks ago I wrote about Christian Audigier, the designer of the tattoo-inspired Ed Hardy clothing line. Audigier died last year from bone cancer. Before his passing, he married his longtime girlfriend, Nathalie Sorensen, and they froze some of his sperm.

A court ruled that Sorensen has the legal rights to Audigier's sperm and can use it "however she sees fit." Audigier's estate is divided between Sorensen and his children, the speculation is that she will use his sperm to conceive heirs to share in his fortune.

Of course, Sorensen could simply want to keep Audigier's sperm to have his child and carry on his legacy, with no ulterior financial motives in mind. The same thing was true of Sarah Robertson.

Tragically, in 2004, Robertson's husband and former high school sweetheart, Aaron, suffered a fatal stroke at the young age of 29. Sarah and Aaron had hoped to have children but had not yet started a family at the time of the stroke.

Knowing Aaron was likely going to die, Sarah elected to harvest some of his sperm. Sarah told CBS News' Anna Werner that although she was losing her husband, "I'll have this, and I can have a child that will have his likeness, or his laugh to bring with me, and that gave us all so much comfort and hope."

After collecting six vials of Aaron's sperm, Sarah chose a sperm bank in Los Angeles to freeze it. Ten years later she decided she was ready to have a baby, so she went back to the sperm bank. She discovered that the clinic had been sold and was now known as Reproductive Fertility Center – and they could not locate any of the six vials of Aaron's sperm.

With her hopes of having Aaron's children dashed, Sarah sued the clinic. Hers is just one of many lawsuits across the country against sperm banks. Multiple families have sued a Georgia-based company for misrepresenting traits of its donors. Court documents allege one donor was promoted as being a neuroscientist but was actually schizophrenic and had not even graduated from college.

While you would assume that these practices would violate regulations that govern sperm banks, the U.S. Food and Drug Administration actually has very little oversight of their practices. The FDA requires that clinics only test donations for eight diseases. There are no other rules pertaining to other genetic testing or screening of donors. There aren't even any regulations regarding the cataloguing of samples. Apparently some coat check rooms have tighter standards.

Like any industry, the highly regarded players fear a few bad apples will spoil the whole bushel. California Cryobank is one of the country's largest and most successful sperm banks and it conducts extensive tests on samples and rejects many donors. Likewise, New Jersey's Biogenetics Corporation runs genetic and health tests on its donations and verifies college transcripts of its donors. Both companies would welcome government regulation, which would legitimize their current practices and would weed out the bad seeds.

If these types of lawsuits persist, it's a sure bet government regulation will soon follow. I'd say you could bank on it.

*This article originally appeared in the Appleton Post-Crescent newspaper and is reprinted with the permission of Gannett Co., Inc. © 2016 McCarty Law LLP. All rights reserved.*