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NYC won't recognize surrogate-born son's actual parents

By [Julia Marsh](#)

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A Manhattan couple's legal odyssey to get their names on the birth certificate of their own son — who was born using a surrogate — illustrates the frustrations involved with nontraditional pregnancies in New York state.

Six months after their baby boy Michael Julianne Kates was born, Steven and Angelina Kates have now filed their second suit against the city's Department of Health, just seeking to be declared the legal parents of their own flesh and blood.

The child is the product of Steven's sperm and Angelina's egg. The embryo was implanted in the womb of Angelina's cousin, yet in the eyes of the government the baby belongs to the relative and her husband — even though the surrogate cousin signed away rights to the child.

That's because New York law still requires the mother who gives birth to be named on the birth certificate, which can be changed only via the courts.

The Kates first filed suit just after Michael's July 22 birth, but had to refile because court administrators came back to them months later just to say they should have submitted the case electronically.

They have now done that and must wait again for a judge to review the case.

In court papers, Steven Kates, a landlord and real-estate investor, fumes that his son's documentation is "inaccurate, misleading and ultimately untrue."

"The idea that a certificate of birth would designate Elena Klimova and Aleksandr Klimov as my child's parents is offensive to me and my wife," Kates says in the suit.

Klimova, the surrogate, says in her own affidavit, "I have children of my own, who are genetically related to me, and I do not want to be named as a parent of a child to whom I have no genetic connection and no interest in parenting."

Angelina was unable to have children because of unspecified "medical and psychological reasons," according to court papers.

Martha Cohen Stine, a family-law expert who is not involved in the case, said "surrogacy laws in New York . . . have not kept up with medical developments or with the reality that today, couples with fertility issues or same-sex issues have so many extraordinary options available if they want to have children."