

# Mother who used surrogate loses maternity benefit claim

A MOTHER whose child was born to a surrogate has lost a High Court claim for State maternity benefit.

Ms Justice Iseult O'Malley agreed that the woman, a cancer sufferer who was unable to become pregnant herself after an emergency hysterectomy, was the victim of discrimination by the State because she 'did not bear her child'. But the judge explained that she was unable to award the mother any maternity benefit due to current laws under the Equal Status Act.

The court heard how the baby girl was born to a surrogate in the US. But the judge pointed out there are currently no laws in place here to deal with such surrogacy situations.

In her High Court action against

By Paul Caffrey

the Department of Social Protection, the mother claimed she had been 'discriminated against because she has not been pregnant'. She said she was the child's biological and genetic mother and was primarily responsible for the child's care from birth.

The court heard how the woman was diagnosed with cervical cancer while pregnant and had to undergo a hysterectomy. As a result, she was unable to support a pregnancy. She and her husband entered an arrangement with a surrogate in a US state who was implanted with their genetic material.

The couple were registered on the child's birth certificate in the US as her legal and biological

parents. The woman said she was first told by her employer that paid maternity leave was not on offer - and that she would have to seek such payments from the Social Protection Department.

But the woman - who cannot be named - said she was told by the department that she had no automatic entitlement to maternity leave or maternity benefit.

Instead she sought payments from the State equivalent to what natural or adoptive mothers in her position would get.

The mother first took her complaint to the Equality Tribunal alleging unlawful discrimination but lost that case in 2011. But the tribunal found that she had presented a 'compelling complaint'.

She then took a High Court case, which she lodged in 2012.

# Dr Mark Dooley



## MORAL MATTERS

# Disney realised how imagination is the key to our magical world

**T**HERE is a beautiful moment in the wonderful film, *Saving Mr Banks*, starring Emma Thompson and Tom Hanks. The movie is based on the true story of Walt Disney's attempt to obtain the film rights to the book *Mary Poppins*, written by uncompromising British author PL Travers. Just when everything seems lost, when Ms Travers decides she has had enough of Disney's dream, he visits her home in England.

In this beautiful scene, during which the two protagonists chat over tea mixed with whiskey, Disney promises Travers that he will look after her beloved characters.

Knowing that the character George Banks is based on her alcoholic father, Travers Goff, Disney tells her that with this film her father will be redeemed. Only imagination, he says, has the power to put order on life - only it can give us hope.

It is now 25 years since I visited the original Disneyland in Anaheim, California. It was the only theme park built under the direct supervision of Disney himself and it provided me with memories that will last a lifetime. I am not someone who is regularly found around such places but then Disneyland is no ordinary theme park.

It is truly a place where the imagination takes flight, where it soars to the stars and leaves you gasping for more. I sat eating breakfast while being tickled by a couple of chipmunks. I don't think I ever laughed as much as I did in that unforgettable moment.

And that night, as Mickey Mouse lit up the sky with a sensational display of fireworks, I wept with awe and wonder. I was no child, yet the magic and the music that filled the air made me feel like one. I was moved in a way I never thought possible.

Walt Disney realised that our greatest faculty is the imagination. Without it, we are destined to live a life without hope, a life without feeling and compassion. For it is the imagination that rescues us from the problems of the present and that opens up a new world of possibility.

Some say the imagination merely offers escapism from the true demands of reality, that it blinds dreamers to their real responsibilities. I say it is the key to a life worth living, to a life that refuses to be held prisoner by the present. I say that where the imagination remains dormant, so too does empathy and love.

Who would want to live in a world without dreamers, without those who see beyond our troubles to a new

dawn? Who would want to live in a world where there was no escape from the harshness of the moment? The life of the imagination is not one of denial but of going to places from which we can see how our own world might be redeemed.

By putting us in the shoes of others, we understand why it is us and not they who are often to blame. By allowing us to see how others see us, we can better appreciate our faults and failings. By enabling us to peer beyond our own limited horizon, the imagination shows us why we should never be too proud.

Pride comes from feeling that you have all the answers and that you are totally self-sufficient. If children don't often exhibit pride, it is because through books, cartoons and movies they are exposed to life on the far side. They escape into worlds far different from their own and return with a fresh understanding of why others behave as they do.

I have often observed my children as they watched movies or sweet cartoons, only to see tears trickle from their eyes. The credits roll and they sit motionless, their faces awash with empathy. They then resume life with a new spirit of affection, love and understanding.

We all need moments like that, moments when order is put on our lives and when a beacon of hope lights up the night sky. Imagination puts order on our past by allowing us to see why people acted as they did.

It permits us to gaze into the future and know that we are never beyond redemption.

We all need to dream, to transfigure reality with the light of love. We all need to take a break from life's pressures and find joy in the lives of others. We need to become like little children and walk with imaginary characters wherever they lead us.

**W**E need to hope for them, weep for them, to love and long for them. And then we need to come back, knowing that things are never as they seem and that we are far better people for having taken the journey. Yes, we have escaped but only from our prejudices and our pride.

I sat in the Mad Hatter's tea cup, attended the Teddy Bears' Picnic and hugged Donald Duck. That I am prepared to admit all this now is because it had a lasting effect on my life.

I left that theme park knowing that Walt Disney was right: only the imagination can redeem us from ourselves and can soften the heart to the point where your tears wash away the pride and the pain.

I left knowing why when we cease to dream, we cease to exist as we should. For only in dreaming can we discover what it means to be fully alive.

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## 6.3 Million Children Died Last Year Before their 5th Birthday

**Sarah (Sierra Leone)**

- 0: Born in a mud hut
- 1: Dirty Water
- 2: Hunger Pains
- 3: Walks 8 Hours for Water
- 4: Contracts Malaria
- 5: Falls asleep in Mum's arms... Dies

**Emma (Ireland)**

- 0: Born in a hospital
- 1: Clean Water
- 2: Birthday Cake
- 3: First day of playschool
- 4: Catches a Cold
- 5: Falls asleep in Mum's arms... Wakes up feeling better

There is something you can do  
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