SUPREME COURT OF QUEENSLAND

CITATION:	*A & B v C* [2014] QSC 111
PARTIES:	**A** (first applicant) **B** (second applicant) **v** **C** (respondent)
FILE NO/S:	[SUPPRESSED]
DIVISION:	Trial Division
PROCEEDING:	Application
ORIGINATING COURT:	Supreme Court at Brisbane
DELIVERED ON:	Ex tempore decision 9 May 2014
DELIVERED AT:	Brisbane
HEARING DATE:	9 May 2014
JUDGE:	Ann Lyons J
ORDER:	**The Court makes the following orders:** **1. A declaration under section 10 of the *Status of Children Act 1978 (Qld)* that the Second Applicant is a parent of the following children pursuant to s 19C of the *Status of Children Act 1978* (Qld):** **(a) D born on [X] December 2004 to the First Applicant;** **(b) E born on [X] October 2006 to the First Applicant.** **2. An order that the registrar under the *Births, Deaths and Marriages Registration Act* 2003 (Qld) correct the information in the register of births with respect to each of the Children so as to:** **(a) remove the particulars that identify C as the father of each of the Children;** **(b) (subject to the Applicants complying with ss 63(4)(a) and (c) *Births, Deaths and Marriages Registration Act 2003* (Qld) to the satisfaction of the registrar under that that Act), to record the second applicant, as a**

parent of each of the Children;

(c) (for the avoidance of doubt), to retain the record of the first applicant as mother of each of the Children, and in the case of the birth entry of E, to also retain the entry of D under the particular 'previous children of relationship' but for that relationship to be taken as the relationship between the Applicants.

3. That there be a restriction on publication on anything that may identify the children the subject of the proceedings to anyone other than the parties, their legal advisors, the Children themselves, the registrar under the *Births, Deaths and Marriages Registration Act* 2003 (Qld), or a court or tribunal in connection with any proceeding in relation to any of these persons.

4. The restriction under s 121 of the *Family Law Act 1975* on publication of identifying details in relation to the Court proceedings under that Act is also noted.

5. I further order that the application, affidavits, submissions and Order be sealed in an envelope and not be opened without further order of a Judge.

CATCHWORDS: FAMILY LAW AND CHILD WELFARE – OTHER MATTERS – REGISTRATION OF BIRTHS DEATHS AND MARRIAGES – where a de facto same sex couple had children via artificial insemination using the sperm of the respondent prior to the 2010 amendments to the *Status of Children Act* 1978 – whether the Queensland Register of Births Deaths and Marriages should be amended to reflect the second respondent's status as the parent of the children "D" and "E"

Births, Deaths and Marriages Registration Act 2003 (Qld),
Family Law Act 1975 (Cth), s 121
Status of Children Act 1978 (Qld), ss 10, 19C
Surrogacy Act 2010 (Qld) s 170

AA v Registrar of Births Deaths and Marriages and BB [2011] NSWDC 100
Re M..... (1924) 26 WALR 115

COUNSEL: J S B Payne for the first and second applicants
The respondent appeared on his own behalf

SOLICITORS: Denise Maxwell for the first and second applicants
The respondent appeared on his own behalf

Background

[1] On 9 May 2014 I made orders in relation to this application and gave some ex tempore reasons. I indicated that I would give some more extensive reasons in due course given some of the issues raised on the application and the need to ensure that all identifying information had been removed from the reasons. These are those reasons.

The application

[2] This is application by the biological mother of two children (whom I shall call A) and her same sex partner (whom I shall call B), for a declaration under s 10 of the *Status of Children Act* 1978 (Qld) ("the SoCA") that B is a legal parent of the two children born to the biological mother A during their relationship using sperm from a known donor (whom I shall call C). Consequential relief under the *Births, Deaths and Marriages Registration Act* 2003 (Qld) ("BDMRA") to correct the relevant birth certificates is also sought. The children are currently aged 9 and 7.

[3] The joint application by A and B was filed on 25 March 2014 and served on the respondent biological father, C, on 28 March 2014. The respondent appeared at the hearing of the application on 9 May 2014 and made submissions on his own behalf.

[4] The application follows legislative changes to state legislation in 2010, to retrospectively recognise that the two women - and the children they planned - have the same rights as if they had been born to a heterosexual couple using donated gametes.

[5] It is not disputed that C provided the sperm by which both children were conceived through an artificial insemination procedure which took place at the applicants' home. C is named on the birth certificate. Both applicants planned the children and, indeed B, the second applicant, performed the artificial insemination procedure on her partner A.

[6] The issues in this application are:

(i) whether the facts are sufficient to satisfy the presumption as to status in s 19C of the SoCA with the result that the second applicant is the legal parent of the children, and C is not, and if so;
(ii) whether B is entitled to a declaration of parentage, and if so;
(iii) whether A and B then entitled to the consequential relief they seek which is for the Registrar to recognise the correct, legal parental status on the children's' birth certificates.

Service and attitude of respondent

[7] In an affidavit filed on 28 April 2014 C set out his attitude to the application which he reiterated to the Court on the day of the hearing of the application. He states he has obtained legal advice about the effect of the provisions of the relevant legislation but cannot afford to engage legal representation. He is currently seeking orders from the Federal Circuit Court for ongoing contact with the children. He indicated that:

> "I understand that it is open to the court to make the orders sought by the applicant, and I am willing to abide by the order of the court. However, I cannot consent to the orders sought."

He continued:

> "I do not oppose the orders sought. However, given I once was known to the children as their Father and that it is my intention to seek contact and maintain this relationship with the children, I am not able to consent to the orders sought. I believe that consenting to the orders would adversely affect the resumption of my relationship with the children and would ultimately undermine and adversely affect that relationship."

[8] C accepts that the appropriate place in which to seek orders for the ongoing contact is the Federal Circuit Court as the *Family Law Act* 1975 (Cth) extends the ability to apply for parenting orders to parents of a child 'or some other person'. There is no doubt that irrespective of the nature of the relationship between C and the children, the application must be determined in accordance with the SoCA.

[9] Accordingly, the only real issue for this Court to determine is whether in view of s 19C of SoCA, the legal parentage of the children recorded on their birth certificates is incorrect.

[10] Whilst the relevant legislation does not require the Registrar of Births, Deaths and Marriages to be served I note that the registrar has been provided with a copy of the Application as a potential interested party. The registrar has not filed any material. The only person likely to be affected by the decision is C who has filed material.

Non-Publication Order

[11] The applicants also seek an order that there be a restriction on publication on anything that may identify the children the subject of the proceedings to anyone not directly involved in the proceeding. The due administration of justice requires that proceedings be open to the public and the hearing of this application was heard in open Court.

[12] It is significant that s 121 of the *Family Law Act* 1975 (Cth), restricts publication of identifying details in relation to the Court proceedings under that Act given the sensitive nature of proceedings. In applications such as this the best interests of the children who are the subject of the application must be paramount and I endorse the approach of Dalton J in the 2013 decision of *Re Suppressed*[1] in this regard. The children in this case are clearly vulnerable given their young age.

[13] I do not consider that the due administration of justice requires the children and their parents to be identified in these reasons. Accordingly, given the nature of this application I consider that any details which could possibly identify the children or their parents should be removed from the reasons.

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1 [2013] QSC 334

Background

[14] The relationship between A and B commenced twenty years ago and I accept that the evidence indicates that they are a de facto couple of the same sex. They wished to become parents, and over a decade ago discussed the process by which this could occur. They did not wish to undergo In Vitro Fertilisation (IVF) treatment and instead preferred to try artificial insemination at home using a known sperm donor. In mid-2003, A came across C via a gay community website in their local area on which he was listed as a member. A contacted C and asked whether he might be interested in donating sperm to A and B. A deposes in her affidavit that C indicated he was interested and said words to the effect that "I'm happy to put my DNA into the world but I do not really want to be a parent".

[15] A and B subsequently met with C about the proposed donation. According to A, during these discussions, C indicated that he only wanted to be casually known by any child born as a result by his first name and never in a parental role. C, however, claims that it was agreed that any children born as a result of the arrangement would know him as their father and that he would be listed as the father on the children's birth certificates. C also maintains that he indicated at the outset that he and his extended family wished to have a relationship with any child who was born.

[16] The respondent's account of how the child D was conceived is consistent with the accounts of both applicants. The procedure resulted in A becoming pregnant with D who was born on [X] December 2004. B was present at the birth but C was not. C visited D the next day.

[17] Since birth, D has lived with A and B but the accounts vary as to how much contact C had with D subsequent to the birth. That issue is not to be resolved in this application.

[18] As at the time of D's birth, the couples same sex de facto relationship was not recognised by state or Commonwealth law and there was no mechanism by which B could be recorded as a parent on the certificate. Even though A informed Centrelink of her same sex relationship with B, at the time the law regarded A as a single mother. A states that she received advice from Centrelink that her social security benefits would be affected if she did not record the father's name on the birth certificate. Consequently, she prepared a birth certificate application to register D's birth and asked C to sign it. Both A and C are noted as informants. The birth was registered on [X] January 2005.

[19] In 2005, following the birth, A and B decided to take on one another's surnames, by hyphenating their former surnames into a new, joint surname; and to give D the new family name. C consented to the change of D's surname to A and B's new surname; he says "I agreed to this as it made sense for [D] to have the same name as the family [D] lived with".

Conception and birth of child E

[20] A similar insemination procedure was followed in respect of the conception and birth of E. E was born on [X] October 2006 with B present. C was not present. E's birth was registered on [X] December 2006. Both A and C are noted as informants. A explains that C was recorded as the father for the same reasons as in respect of D.

[21] It is uncontroversial that C has not had contact with the children since about August 2010.

[22] In 2012, A and B explained to D and E (then about 8 and 6) C's role in their conception.

[23] C attempted to resume contact with the children in May 2013 and subsequently commenced proceedings to resume contact with the children. He seeks orders that the children will still live with the applicants but that he can continue his involvement in their long term care, welfare and development.

Legislation

[24] The operative provisions of the *Surrogacy Act* 2010 (Qld) commenced on 1 June 2010 which was after the birth of both children. The *Surrogacy Act* made significant changes to the SoCA and to the BDMRA, including a provision which enables parties in the applicants' position to be recorded as 'mother' and 'parent' respectively on the birth certificate of any children conceived with the consent of the other. The legislation also provides that the man who produced the semen has no rights or liabilities relating to a child born as a result of a pregnancy.

[25] These changes followed changes to Commonwealth legislation, including the relevant Acts Interpretation Acts,[2] to recognise the status of same sex de facto couples. The changes made in 2010, gave female same-sex partners the same rights that heterosexual couples had long enjoyed in respect of children conceived by them using donor gametes. In the case of heterosexual couples, the SoCA formally removed any distinction between the children of married and non-married couples.

[26] In 1988, the SoCA had been amended to recognise that a heterosexual couple who use a donor egg or sperm to conceive a child are the mother and father of the child; and that the donor of the gametes has no rights or liabilities in relation to any child born as a result of the pregnancy.

[27] The amendments in 2010 were expressly designed to clarify that this principle of law extended to cases where fertilisation occurred inside the woman's body (e.g. GIFT or self-insemination), and where the woman's de facto partner at the time of conception was of the same sex.

[28] Section 107 of the *Surrogacy Act* inserted s 19C of the SoCA, which provides:

> "**19C Artificial insemination—Presumption as to status**
>
> (1) A reference in this section to a fertilisation procedure is a reference to the procedure of artificial insemination.
>
> (2) If semen is used in a fertilisation procedure of the woman, the man who produced the semen has no rights or liabilities relating to a child born as a result of a pregnancy for which the semen has been used.

[2] *Acts Interpretation Act 1901* (Cth) and *Acts Interpretation Acts 1954* (Qld)

(3) The woman's de facto partner is presumed, for all purposes, to be a parent of any child born as a result of the pregnancy."

[29] Pursuant to s19B, s 19C applies, inter alia, where a woman has a female de facto partner and undergoes a fertilisation procedure with the consent of the de facto partner.

"19B Application of sdiv 2A

This subdivision applies if a woman—

(a) has a female de facto partner and undergoes an fertilisation procedure with the consent of the de facto partner; or

Note—

For the meaning of *de facto partner* see the *Acts Interpretation Act 1954*, section 32DA.

(b) has a female registered partner and undergoes a fertilisation procedure with the consent of the registered partner."

[30] "Fertilisation procedure" is defined in s 19C(1) as "the procedure of artificial insemination".

[31] Artificial insemination" is defined in s 4 of SoCA:

"artificial insemination means the insertion of semen into a woman's reproductive tract otherwise than by sexual intercourse and regardless of whether the insertion is done by the woman or another person."

[32] Semen is defined in that same section as "semen or sperm".

[33] The term "de facto" is defined in s 32DA *Acts Interpretation Act* 1954 (Qld) as follows:

"32DA Meaning of *de facto partner*

(1) In an Act, a reference to a ***de facto partner*** is a reference to either 1 of 2 persons who are living together as a couple on a genuine domestic basis but who are not married to each other or related by family.

(2) In deciding whether 2 persons are living together as a couple on a genuine domestic basis, any of their circumstances may be taken into account, including, for example, any of the following circumstances –

a. the nature and extent of their common residence;
b. the length of their relationship
c. whether or not a sexual relationship exists or existed
d. the degree of financial dependence or interdependence and any arrangement for finacial support
e. their ownership, use or acquisition of property;
f. the degree of mutual commitment to a shared life, including the care and support of each other;
g. the care and support of children;
h. the performance of household tasks;
i. the reputation and public aspects of their relation

(3) No particular finding in relation to any circumstances is to be regarded as necessary in deciding whether 2 persons are living together as a couple on a genuine domestic basis.

(4) Two persons are not to be regarded as living together as a couple on a genuine domestic basis only because they have a common residence.
(5) For subsection (1) –
   a. the gender of the persons is not relevant; and
   b. a person is related by family to another person if the person and the other person would be within a prohibited relationship within the meaning of the *Marriage Act 1961* (Cwlth), section 23B if they were parties to a marriage to which that section applies.
(6) In an Act enacted before the commencement of this section, a reference to a spouse includes a reference to a de facto partner as defined in this section unless the Act expressly provides to the contrary."

[34] The applicants have been living together for almost 20 years, they have a joint household and have the joint care of the two children. On the basis of the evidence before me it is abundantly clear that A and B are not married or related but they are living together as a couple on a genuine domestic basis. As I have previously indicated I am satisfied that they are a de facto couple.

[35] Section 37 of the SoCA then makes it clear that the presumptions in s 19C apply to any child conceived before the commencement of s 107 of the *Surrogacy Act.*

"37 Parentage presumption of children conceived by particular fertilisation procedures occurring before commencement for women with female de facto partner

(1) This section applies if, before the commencement of the relevant provision—
   (a) a woman had a female de facto partner and underwent a fertilisation procedure mentioned in sections 19C to 19E; and
   (b) a child was born as a result of the fertilisation procedure; and
   (c) the de facto partner consented to the fertilisation procedure.
(2) Part 3, division 2, subdivision 2A applies as if the relevant provision had commenced immediately before the woman underwent the fertilisation procedure.
(3) However, the presumptions arising under sections 19C, 19D and 19E do not apply so as to affect the vesting in possession or in interest of any property before the commencement of the relevant provision.
(4) In this section—
relevant provision means the *Surrogacy Act 2010*, section 107."

[36] Section 25 of SoCA then provides that a parentage presumption arises from the registration of the birth as follows;

"25 Parentage presumption arising from birth registration

(1) If, under a law of the Commonwealth, a State or a prescribed overseas jurisdiction, a person is named as a child's parent in a register of births or parentage information, the person is presumed to be the child's parent.
(2) The presumption in subsection (1) is rebuttable."

[37] It is clear therefore that the presumption in s 25(1) that C is the parent of D and E is rebuttable, but the presumption in favour of the second applicant under s 19C is not rebuttable as s 19F provides that a "Presumption declared to exist under sections 19C to 19E is irrebuttable". Section 30 of the Act then provides that in the case of two conflicting presumptions, it is for the Court to determine which presumption is "most likely to be correct".

Declaration of parentage

[38] Section 10 of the SoCA allows the Supreme Court to make a declaration of parentage. It provides:

> **"10 Declaration of parentage**
>
> (1) A person who—
>
> (a) alleges that any named person is the parent of her child; or
>
> (b) alleges that the relationship of parent and child exists between the person and another named person; or
>
> (c) having a proper interest in the result, wishes to have determined the question whether the relationship of parent and child exists between 2 named persons;
>
> **may apply to the Supreme Court for a declaration of parentage and the Supreme Court may, if it is proved to its satisfaction that the relationship exists, make the declaration** whether the parent or the child or both of them are living or dead.
>
> (2) Where a declaration is made under subsection (1) after the death of the parent or child, the Court may at the same or a subsequent time make a declaration determining for the purposes of section 8(2) whether any and if so which of the requirements of section 8(1)(b) have been satisfied.
>
> (3) Where a declaration is made under subsection (1) and it is made to appear to the Court that new facts or circumstances have arisen that have not previously been disclosed to the Court and could not by the exercise of reasonable diligence have previously been known or if for any other reason the Court thinks it desirable so to do, the Court may revoke the declaration and thereupon that declaration shall cease to have any force or effect.
>
> (4) The Court shall not make or revoke a declaration under this section unless the Court is satisfied that, so far as is reasonably practicable, all persons whose interests are or may be affected by the declaration or revocation are represented before or have been given the opportunity of making representations to the Court upon the subject matter of the proceedings.
>
> (5) For a criminal proceeding, a declaration having effect under this section is conclusive evidence of the matters contained in it, unless the contrary is established."

[39] On the basis of the affidavit material before me I am satisfied that:

(i) as far as is reasonably practicable all persons whose interests are or may be affected by the declaration have been notified and given the opportunity to make representations before the Court and indeed C has done so;

(ii) A and her female partner B were in a de facto relationship at the time of the fertilisation procedures;

(iii) C was the donor of the sperm used for the fertilisation of A by procedures carried out by B which resulted in the A becoming pregnant with D in 2004 and subsequently E in 2006; and

(iv) B consented to and performed both of the fertilisation procedures.

[40] Accordingly, the rebuttable presumption that C who was registered on the birth certificate as the father of D and E is displaced.

[41] On the basis of the findings that I have made I consider that there is an irrebutable presumption pursuant to s 19C of the Act that B is the parent of both of the children D and E.

[42] I consider that the applicants are entitled to the declaration they seek that B is a parent of both D and E. The next question which then arises is whether public record should record that fact so that the Register is an accurate reflection of the family situation.

Correction of the birth certificate

[43] Section 63 of the BDMRA applies where the birth was registered before the commencement of the section on 1 June 2010 and provides a mechanism for correcting the relevant birth certificate. It requires, first of all, an order of the Supreme Court to remove the particulars that identify the father of the child. That section provides:

> **"63 Application to alter or add parentage details as result of amendments to the Status of Children Act 1978**
>
> (1) This section applies if—
>
> (a) a woman (the *mother*) has undergone a fertilisation procedure within the meaning of the *Status of Children Act 1978*, as a result of which she became pregnant and gave birth to a child; and
>
> (b) by application of a presumption in that Act the mother's partner is presumed to be a parent of the child; and
>
> (c) the child's birth was registered before the commencement of this section.
>
> (2) An application may be made to the registrar for the addition of information in the register of births about the identity of the mother's partner as a parent of the child.
>
> (3) The registrar must include the additional information in the register of births if the registrar is satisfied in relation to the matters mentioned in subsections (4) and (5).

(4) The registrar must not include additional information in the child's birth entry about the identity of the mother's partner as a parent of the child unless—
  (a) the application is made jointly by the mother and the mother's partner; and
  (b) if the child's birth entry already includes information that identifies a person as the father of the child—
    (i) the Supreme Court has made an order for the removal of the particulars from the birth entry that identifies the father of the child; and
    (ii) the registrar removes those particulars from the birth entry; and
  (c) the application is accompanied by a statutory declaration made by the mother and the mother's partner stating that—
    (i) they were in a de facto relationship at the time the mother underwent the procedure mentioned in subsection (1)(a); and
    (ii) the mother's partner consented to the procedure that resulted in the pregnancy.

(5) An application made under this section must be in the approved form.

(6) This section has effect despite sections 10 and 42 and the *Status of Children Act 1978*, section 37."

[44] Section 63, therefore, recognises the second applicant B's entitlement to be named on the birth certificates, even retrospectively. Section 63(4)(b)(i) however makes an order of the Supreme Court a precondition in cases where the birth certificate already includes the name of the father as follows:

> "(4) The registrar must not include additional information in the child's birth entry about the identity of the mother's partner as a parent of the child unless—…
>
> (b)if the child's birth entry already includes information that identifies a person as the father of the child—
>
> (i) the Supreme Court has made an order for the removal of the particulars from the birth entry that identifies the father of the child;"

[45] The powers of the Supreme Court to require the registrar to correct the register of births is required is found in s 11 and s 42 of the BDMRA. These sections provide:

"11 Court order relating to birth register

(1) A court, on application by an interested person or on its own initiative, may order the registrar to—
  (a) register the birth of a child born in Queensland; or
  (b) include or correct application information about a child's birth, other than the child's name, in the register of births.

(2) However, a person may not apply for an order under subsection (1) if the person has, under section 49, applied to QCAT for a review of a decision of the registrar in relation to the same matter.

(3) In this section—
court means—
(a) for application information about a child's parentage—the Supreme Court; or
(b) otherwise—the District Court.

42 Correcting the register
(1) The registrar must correct a register—
(a) on the order of a Queensland court or QCAT; or
…

Should the Declaration and Consequential orders be made?

[46] Should the register be corrected so as to remove any reference to C? I have been unable to find any Queensland decisions in relation to applications of this nature. I have however been referred to a number of decisions of the New South Wales District Court which has jurisdiction under the equivalent NSW legislation. I am grateful for the exploration of the issues and the history in relation to Registers set out in those decisions.

[47] In this regard I note the decision of Walmseley J in the 2011 NSW District Court decision of *AA v Registrar of Births Deaths and Marriages and BB*[3]. In that decision it was argued, in relation to similar legislation, that because of the irrebuttable presumption the Court was required to make the order sought and that the father in that case had no right to have his particulars on the register. The father argued that a decision could only be made in the best interests of the child and that the UN Convention on the Rights of the Child contained at Art 7 a right to know the identity of one's parents. It was held:

> "[36] Despite BB's submissions I consider that I must accept Ms Graycar's submissions that AA's name should be placed on the Register as a parent of AB and that BB's name and his other particulars which are on the Register should be removed from it. That is because, under the provisions of the **Status of Children Act** to which I earlier referred, the rebuttable presumptions in BB's favour that he is a parent are displaced by the irrebuttable presumption that because AB was conceived through fertilisation procedure, he is presume not to be her parent, whereas AA is presumed to be one of her parents. The plain words of **BDMA** show that only two people may be shown on the Register as a child's parents. No doubt a provision for registration of a third parent for a situation such as this one might be a neat answer to the problem this case presents. But there might be unexpected consequences, and it is not appropriate that I speculate about them: the issue was not explored before me. Nor could t have been, given the current requirement that only two people may be registered as parents. On this issue BB referred me to and relied on a Canadian decision, *A.A. v B.B.* (2007) 83 OR (3d) 561, which concerned an application for a declaration of parentage based on the *parens patriae* jurisdiction of a superior court. There the sperm donor father succeeded in obtaining a declaration that the child had three parents: The birth mother, her female

3 [2011] NSWDC 100.

partner and the donor. But the jurisdiction I am exercising is not the *parens patriae* jurisdiction.

[37] Although it may seem to BB to be wrong that the **BDMA** makes no reference to a child's interests on an application such as this, that no doubt is because the **Family Law Act** provides comprehensive provisions for children, whereas the **BDMA** is merely legislation to provide for the proper recording of population details for statistical and related purposes. There is a clear public interest in having a register of accurate information about births."

[48] There can be no doubt that it is important to have correct records. In the 1926 decision of *Re M.....*[4], McMillan CJ referred to "a duty on the part of the Registrar to keep for the public benefit a complete and accurate register". A Register of Births, Deaths and Marriages is, as has been discussed in the NSW decisions, a register of statistical and evidential information mainly for the purposes of succession law. It is not a register of genetic material.

[49] I am satisfied that the appropriate order is for the Court to order the registrar to remove the father's particulars from the register. The register will now accurately reflect the correct parents for the children and the true nature of the relationship between A and B.

ORDER

[50] The Court therefore makes the following orders:

1. A declaration under section 10 of the *Status of Children Act 1978 (Qld)* that the second applicant is a parent of the following children pursuant to s 19C of the *Status of Children Act 1978* (Qld):

   (a) D born on [X] December 2004 to the First Applicant;

   (b) E born on [X] October 2006 to the First Applicant.

2. An order that the registrar under the *Births, Deaths and Marriages Registration Act* 2003 (Qld) correct the information in the register of births with respect to each of the children so as to:

   (a) remove the particulars that identify C as the father of each of the children;

   (b) (subject to the applicants complying with ss 63(4)(a) and (c) *Births, Deaths and Marriages Registration Act 2003* (Qld) to the satisfaction of the registrar under that that Act), to record the second applicant, (born (details removed) as a parent of each of the children;

   (c) (for the avoidance of doubt), to retain the record of the first applicant as mother of each of the children, and in the case of the birth entry of E, to also retain the entry of D under the particular 'previous children of relationship' but for that relationship to be taken as the relationship between the applicants.

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4 (1924) 26 WALR 115

3. That there be a restriction on publication on anything that may identify the children the subject of the proceedings to anyone other than the parties, their legal advisors, the children themselves, the registrar under the *Births, Deaths and Marriages Registration Act* 2003 (Qld), or a court or tribunal in connection with any proceeding in relation to any of these persons.

4. The restriction under s 121 of the *Family Law Act 1975* on publication of identifying details in relation to the Court proceedings under that Act is also noted.

5. I further order that the application, affidavits, submissions and order be sealed in an envelope and not be opened without further order of a Judge.