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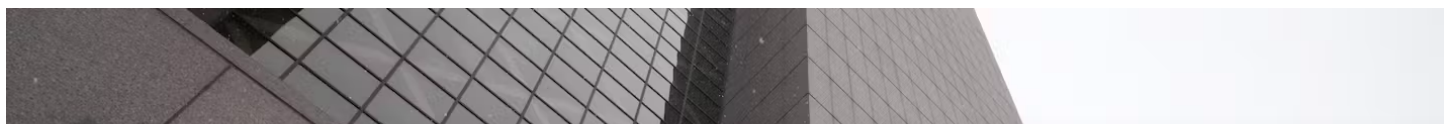


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A jury was asked to weigh the cost of raising a child to maturity against the value the child brings to the world after the husband was incorrectly told his vasectomy was successful.

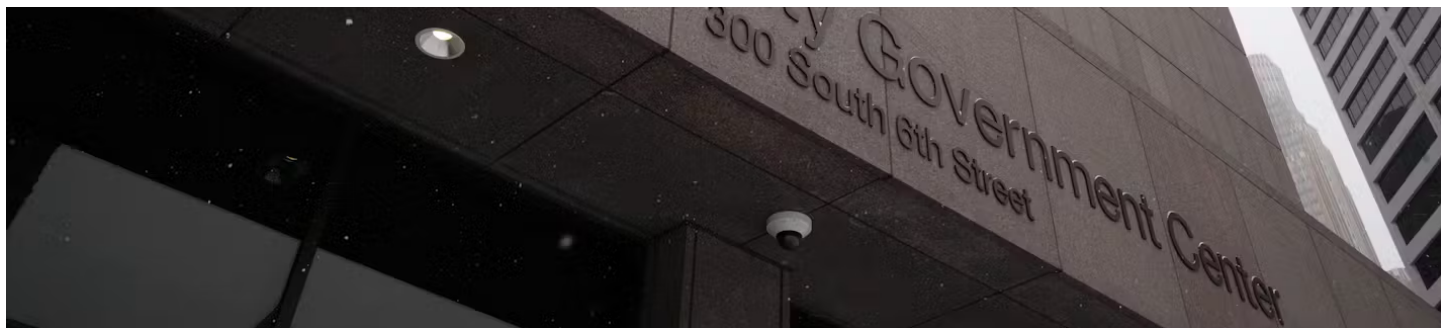
By Jeff Day
The Minnesota Star Tribune
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A Hennepin County jury awarded \$1.1 million in damages to an Excelsior couple who conceived a healthy baby boy four years after the husband was incorrectly told he had a successful vasectomy. (Anthony Soufflé/The Minnesota Star Tribune)

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After a deeply personal and economically contentious trial, a Hennepin County jury awarded \$1.1 million in damages to an Excelsior couple who conceived a healthy baby boy four years after the husband was incorrectly told he had a successful vasectomy.

The lawsuit was brought by Megan and Steven Szlachtowski against Minnesota Urology and was a rare example of a jury being asked to consider the financial implications of a “wrongful conception.”

The eight-member jury, composed of five women and three men, calculated several claims for damages around the pregnancy and delivery of the child and was also asked to determine the cost of raising the child to the age of 18.

Minnesota is one of the states that allows this type of lawsuit to move through the courts, but a Minnesota Supreme Court precedent adds a unique wrinkle. The court also asked the jury to offset the cost of raising the child to the age of 18 with the value the family gains from the “aid, comfort and society” of the child through their lifetime.

The jury placed that total at \$0.

Julie Matonich, the lawyer representing the Szlachtowskis, said her clients love their child and were fighting for damages so they could raise him to the same standards they raised their three other children.

“They chose to have him,” Matonich said. “They love him as much as their other children.”

In a statement through their lawyer, Richard Thomas, Minnesota Urology said it “respects the jury process, but is disappointed in this verdict and is reviewing its options going forward.”

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There was no question that Minnesota Urology had committed medical malpractice. The company admitted a triage nurse told Steven Szlachtowski his post-vasectomy semen sample was negative when it was, in fact, positive. The only question was how much money in damages the company should have to pay the Szlachtowskis.

The jury awarded the following: for the past pain, discomfort and embarrassment for Megan, \$450,000; for the emotional distress of Steven, \$150,000; for their loss of spousal services to each other, \$15,000 each; for past health care costs, \$62,773.59; for Megan's loss of a bonus from work because she was on maternity leave, \$23,815.31; for past child rearing expenses, \$35,320.24, and for the cost of raising their son to the age of 18, \$386,156.76.

The awards for the emotional and physical damages to Megan and Steven were higher than what their attorneys requested.

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The trial lasted six days, and the Szlachtowskis were present throughout. There were discussions of Megan Szlachtowski's recovery from the pregnancy, her past pregnancies and the fear and confusion over finding out she was pregnant again and Steven's confusion over how he could possibly get her pregnant.

There were also extensive discussions over what is the monetary value a child brings into this world for the comfort they give a parent throughout their life.

The justifications each side had to make for those numbers created a situation where Thomas talked about the "perfect child" the Szlachtowskis had brought into this world, while the Szlachtowskis were left to argue the emotional benefit of raising a child is hard to predict.

When Steven Szlachtowski was on the witness stand, Thomas spoke poetically about the bond of parents and children.

"There will be a lifetime of memories and birthdays and weddings and grandchildren and all of those things that you and Ms. Szlachtowski can look forward to," Thomas said. "Through his childhood, young adulthood, his adulthood with you, his siblings, his grandparents and his parents. A wonderful life, right?"

"That's the ideal situation. I don't think that's guaranteed. That's what you hope for," Steven Szlachtowski replied. "But you don't have to go far from my house to see tragedies where it goes the wrong way."

"He has a hand out for you to hold," Thomas replied. "That will be a benefit you can hardly calculate."

“I love all my children,” Steven said. “But you keep describing the ideal situation.”

In her closing arguments, Matonich said no matter how much the Szlachtowskis love their child and how stridently they will work to give their child a good life, putting any monetary value on the “aid, comfort and society” fell entirely to the defense.

Thomas told the jury that there was no real figure you could put on the benefit of a child, but he put it at somewhere between \$2 million and \$4 million.

“I don’t think there are many people who would disagree with me,” he said.

Ultimately the jury sided against the defense argument that there should be an offset between damages for liability and the value of the child.

“They didn’t meet their burden of proof in this case,” Matonich said.

It wasn’t the only point of disagreement throughout the trial.

Both sides hired experts to evaluate the cost of raising the child. Felix Friedt, an economics professor at Macalester College in St. Paul, testified on behalf of the Szlachtowskis. Anna Reding, a forensic accountant for Financial Advisors, testified on behalf of Minnesota Urology.

They were compelling witnesses being paid more than \$400 per hour for their expertise. They used the same USDA report that estimated the average cost of raising a child to the age of 18 and came up with different conclusions.

Friedt put the number at \$554,575. Reding put the number at \$237,421.

Friedt took into account the fact that the Szlachtowskis are wealthy, with a household income of more than \$560,000. He said the USDA clearly states the amount of money a parent spends on their child is directly correlated to their income. And since this trial was about the amount of money Minnesota Urology should pay the Szlachtowskis to raise their child, their finances had to be taken into consideration.

Minnesota Urology rejected that argument with Thomas saying they were only liable for “the reasonable cost of raising a child.”

The jury landed in the middle of the two positions.

The largest gap ended up being over how much to compensate the Szlachtowskis for their pain and suffering.

At closing arguments, Thomas spoke of the positives that pregnancy can bring and that Megan had testified that the little kicks she felt brought her joy.

Thomas attributed a quote to Shakespeare about a pregnant woman being comparable to “a Spanish galleon with painted sails laden with gold.” Matonich said that kind of metaphor “does not really account for the impacts on a woman’s body” from pregnancy.

Matonich asked the jury to award Megan and Steven Szlachtowski a combined \$500,000 for her emotional and physical pain from pregnancy and delivery of their baby. Thomas put the number at somewhere between \$75,000 and \$100,000.

The jury awarded the parents a combined \$600,000.

“They recognized the very real physical impacts of a pregnancy on a woman,” Matonich said.

Before the jury was sent to deliberate, Matonich told them, “There is not a lot in this world that we get to control, I think we are all aware of that every day but one of the things we can control is the number of children that we decide to have. That control was taken away from Mr. and Mrs. Szlachtowski through Minnesota Urology’s negligence. Now you get to control what

MINNESOTA OLOGY'S NEGLIGENCE. NOW YOU GET TO CONTROL WHAT happens next."

They responded emphatically.

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Jeff Day is a Hennepin County courts reporter. He previously worked as a sports reporter and editor.

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