

News **Litigation**

\$5M Somerset Settlement After Doctor Botches First Circumcision

A \$5 million settlement was reached in a Somerset County medical malpractice suit stemming from errors during a circumcision. Assessing the extent of the injury was difficult because of competing photos.

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Hunterdon Medical Center, 2100 Wescott Drive, Flemington, New Jersey. Credit: Google Street View

Two doctors and a hospital agreed to a \$5 million settlement of a Somerset County suit with the parents of a boy whose penis was partially amputated in a botched circumcision.

The doctor who performed the procedure, Michael Girgis, was a resident who was performing his first circumcision, said David Mazie of Mazie Slater Katz & Freeman, who represented the plaintiffs along with Adam Epstein of the same firm. Girgis reached the settlement along with the Hunterdon Medical Center and Cindy M. Barter, a family medicine specialist who supervised the procedure.

The defendants stipulated to liability, and the case proceeded to trial on damages, Mazie said.

The settlement was reached July 14, as the attorneys were about to give closing statements in the medical malpractice suit before Superior Court Judge John E. Bruder.

The suit was brought on behalf of a child identified as A.K., who was born at Hunterdon Medical Center in Flemington on Feb. 9, 2022 and underwent a circumcision two days later.

Girgis and Barter negligently performed the circumcision, causing a partial amputation of A.K.'s penis, the suit alleges.

The physicians and hospital were represented by defense counsel Michael Ricciardulli and Brion D. McGlinn of Ruprecht Hart Ricciardulli & Sherman in Springfield, New Jersey. They did not respond to calls about the case.

Trial Challenge

The child was taken to Morristown Medical Center, where pediatric urologist Michaela Prasad performed emergency surgery. One-third of the glans was taken away but Prasad reconstructed it.

Prasad said the child, now 4, has some scarring and a hypospadia, a condition in which the urethral opening is on the underside of the penis, rather than the tip.

Mazie and Epstein faced a challenge because trying to quantify the scarring was "an uncertain issue," and bringing the child into court for examination of the injury was not considered.

Each side presented photos of the child's injured penis, but the photos presented by the defense made the scarring appear less serious than the plaintiff's photos, Mazie said.

"Some of the photographs made it look not as bad, and you really couldn't get a very good feeling one way or the other as to the way his penis looked, and it's going to look different as he gets older, and that's a problem because nobody knows how it's going to look as he grows," Mazie said.

"The way around it was our photographs. Our photographs, I thought, were clearer, and I thought that they were picking photos that were purposely taken from different angles and that weren't as clear," he said.

In addition, the defense said hypospadia was not an uncommon condition, with about 2% of males born with it, Mazie said.

"So, they made the argument that what happened here is is bad, we agree, but it's not so uncommon. There are many people who are born this way and they have it repaired," Mazie said.



David Mazie, left, and Adam Epstein, right, of Mazie Slater. Courtesy photos

In addition to the problems assessing the damage, there was the reputation of Somerset County juries as conservative when it comes to awarding damages, he said.

Mazie said he believes in having jurors who "know the value of money. So I did pick some people that had experience in finance."

Mazie said he planned to tell the jury that the boy "is going to have to have a

conversation with every sexual partner. He's going to have a conversation before he he ever engages with them. The rest of his life, he is going to say, 'I got to tell you something.'"

Mazie was also prepared to tell jurors at closing that the hypospadia could cause additional scarring on A.K.'s penis and will cause urine to dribble from the bottom of his penis.

Mazie also was prepared to say in his closing that when A.K. gets older and becomes sexually active, his injured penis could be the subject of gossip.

"Girls talk. One of them is going to tell somebody. It's just the way it's going to be. It's just the way life is. And that was, to me, the hook, the way I was going to close on this," he said.

The defendants sought to represent that psychological impact of the injury would not be significant, but they did not present expert testimony from a mental health professional.

The plaintiff's side presented testimony from a psychiatrist who explained that a penis is central to a man's self esteem, Mazie said.

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