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Jury rules against Montana woman's wrongful-birth lawsuit



FILE - In this Feb. 3, 2016 file photo, Kerrie Evans of Gardiner, Mont., right, testifies in District Judge Mike Salvagni's courtroom during her negligent birth civil trial at the Gallatin County Law and Justice Center in Bozeman, Mont. A jury on Thursday, Feb. 11, 2016, ruled against Evans, who sought millions of dollars from health care providers she accused of failing to diagnose her unborn daughter's cystic fibrosis. (Adrian Sanchez-Gonzalez/Bozeman Daily Chronicle via AP, File) (The Associated Press)

By **Associated Press**

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BOZEMAN, Mont. (AP) — A Montana jury ruled Thursday against a woman who sought millions of dollars from health care providers that she said failed to diagnose her unborn daughter's **cystic fibrosis**.

Kerrie Evans of Gardiner had testified that she would have had an abortion if she had known her daughter, who is now 5 years old, would be born with the genetic disease. The mucus cells of a cystic fibrosis patient produce a thick and sticky fluid that damages the lungs and digestive system. While each case is different, many patients now live to be adults with proper treatment and care.

Evans' lawsuit, filed in 2011, initially sought \$14.5 million in damages, including \$10 million for her daughter's medical care. However, during closing statements, Evans' attorneys asked for just over \$2.5 million, the Bozeman Daily Chronicle (<http://bit.ly/1PpQbVx>) reported.

Jurors deliberated for about two hours before finding that nurse practitioner Peggy Scanson of Livingston and Dr. William Peters of Bozeman did not depart from the standard of care in their prenatal treatment of Evans.

Evans testified last week that she was not given any information on cystic fibrosis carrier screening and that she believed the chorionic villus sampling test she requested would indicate whether her unborn child had Down syndrome or cystic fibrosis. If those tests had been positive, "I would have had an abortion," Evans told jurors.

She acknowledged under cross examination that she did not read a cystic fibrosis pamphlet she received during her first appointment with Scanson. The pamphlet said the first step would be a blood test to determine if the mother was a carrier for the disease. If so, the father would be tested. If both were carriers, there would be a 25 percent chance of them having a child with the disease.

Attorneys for Scanson and Peters noted that both of those blood tests would have to be run before the lab doing the genetic testing would know which of the hundreds of mutations of cystic fibrosis to test for. Peters said he offered carrier screening to Evans before performing the CVS, but she declined.

"She ignored what she was given" John Scully, Scanson's attorney, said during closing statements. "She ignored what she was told. And now she's here blaming others."

Evans can't say she was glad her daughter was born and in the same breath say, "I need money because I would have terminated," added Lisa Speare, attorney for Peters.

Speare said after the verdict that she is satisfied with the outcome.

Meanwhile, one of Evans' attorneys, Casey Magan, said she was "terribly disappointed."

Evans would do what she'd done but for the love of her

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Evans' lawsuit was dismissed both as defendants earlier this week.

Evans' attorney said she would do what she'd done but for the love of her

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