

## Jury awards \$1.42M for surgery on the wrong side

Cap on damages will cut recovery by more than half

By **KRISTI TOUSIGNANT**

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A Baltimore jury on Monday awarded \$1.42 million to a Burtonsville woman whose doctor removed the wrong ovary and unnecessarily took out a fallopian tube during surgery.

After a four-day trial and one hour's deliberation, the Baltimore City Circuit Court jury sided with Nadege Neim, whose right ovary and fallopian tube were taken out when her doctor, Maureen Muoneke, was supposed to remove only her left ovary.

"This is a problem that shouldn't exist," said Neim's attorney, Andrew G. Slutkin of Silverman|Thompson|Slutkin|White LLC in Baltimore. "There are universal protocols to prevent it — talking to a patient ahead of time, marking a patient. This doctor did none of that."

The state's cap on non-economic damages will reduce the verdict to \$680,000, Slutkin said.

Muoneke's attorney, David A. Roling of Wharton Levin Ehrmantraut & Klein in Annapolis, did not return requests for comment late Monday. A phone number for Muoneke had been disconnected.

According to her lawsuit, the error caused Neim needless pain, distress and medical expenses and may have left her unable to have biological children in the future.

In June 2009, Neim, then 28 and pregnant, saw Muoneke, a doctor at Women's Care LLC in Ellicott City, for a routine appointment.

During the visit, Muoneke found a mass on Neim's left ovary. It turned out to be a dermoid cyst that was benign, but could become malignant. (Women's Care was not a defendant in the lawsuit action, according to court records.)

Neim agreed to have Muoneke remove her left

ovary, and the operation was scheduled for Sept. 22, 2010. Instead of removing the left ovary, however, Muoneke took out Neim's right ovary and right fallopian tube, Slutkin said.

When Neim returned to Muoneke's office a month later for a follow-up appointment, the doctor did not inform Neim of the error, according to court documents. Neim called the office a few days later to complain of pelvic pain on her right side. Her messages were never returned.

Neim then went to Howard County General Hospital Emergency Department, where a doctor discovered the left ovary was still present and her right fallopian tube and ovary were gone.

"She was shocked to learn that her healthy ovary had been removed," Slutkin said. "She went to the doctor's office to confront her. The doctor wasn't there and she left a message to call and she never heard from the doctor again."

Neim filed suit on Sept. 21, 2011. As a result of the error, she said she is at risk that her left ovary cyst may become malignant and still has to have surgery to remove it. She also said she suffers anxiety and mental distress because she needs another surgery and her ability to have children is at risk.

Muoneke also failed to provide medical records several times when Slutkin sent written requests for the files, Slutkin said.

Slutkin said when he and Neim finally received the files, they were also able to prove that after the surgery, Muoneke added a notation that Neim had complained of pain on her right side.

Slutkin said he obtained original versions of Muoneke's medical records through a subpoena on another doctor who had treated Neim, and no such notation appears on the original, he said.

He showed both versions to the jury, he said.

The jury's award was entirely for non-econom-

### **NADEGE NEIM ET AL VS. MAUREEN MUONEKE M.D.**

**Court:** Baltimore City Circuit Court

**Case No.:** 24C11006058

**Judge:** Sylvester B. Cox

**Outcome:** Verdict for plaintiff for \$1.42 million, \$680,000 after cap

**Dates:**

**Suit filed:** Sept. 21, 2011

**Verdict:** Jan. 14, 2013

**Plaintiffs' Attorneys:** Andrew G. Slutkin and Jamison G. White of Silverman|Thompson|Slutkin|White|LLC in Baltimore.

**Defendant's Attorney:** David A. Roling of Wharton Levin Ehrmantraut & Klein in Annapolis.

**Count:** Medical Malpractice, Informed Consent.

ic damages, and represents the amount Neim's lawyers asked for: \$250,000 a year for the last two years, and \$20,000 a year for her remaining life expectancy, he said.

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