

# CPM client Oakland couple sues fertility clinic over damaged eggs

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The nightmare for Amanda began with a boilerplate email.

The San Francisco fertility clinic storing her eggs notified the 33-year-old in March about a problem with one of its tanks. She needed to come in soon with her husband, Lucas, to unfreeze the eggs and create embryos.

“All it said was your eggs may be affected,” she said. “You were left wondering what in the world could be happening.”

What happened is now part of a class-action lawsuit filed April 9 in San Francisco Superior Court against Pacific Fertility Clinic. The Oakland couple, who shared their story this week with the Bay Area News Group, filed a separate suit in the same court Thursday, alleging the clinic did not properly maintain its storage tanks, destroyed her eggs and put in jeopardy their hope of having children.

The husband and wife wanted to be identified by their first names only for this story. The lawsuit identifies them as Amanda M. and Lucas S.

Pacific Fertility Clinic did not respond to a request for comment.

Amanda’s decision to store her eggs at the center on Francisco Street came at a moment of uncertainty. In December 2012, she was diagnosed with stage II Hodgkin lymphoma and told the cancer might decrease her chance of having children.

The Midwestern transplant, who had not yet met her future husband, said she consulted with family and her doctor before deciding the best option was to store her eggs at Pacific Fertility Clinic, which she said had good ratings based on her research.

## Attorneys

Anne Marie Murphy

## Practice Areas

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## CPM CLIENT OAKLAND COUPLE SUES FERTILITY CLINIC OVER DAMAGED EGGS

From then until early 2018, the only contact with the clinic was a bill — \$600 a year for storage.

According to the lawsuit, news of her cancer came just weeks after she completed a marathon with her father. The soft-spoken high school math teacher said she put off cancer treatment until after January 2013, when she underwent the egg retrieval process.

During chemotherapy, a couple who worked at her school offered to take care of her — an offer that led her to meet their son, Lucas. During an interview on Thursday, the couple joked about how Lucas' younger brother, a student of Amanda's, had earlier attempted to play matchmaker "but no one takes advice from their younger brother."

They married in 2017 and in early 2018 — nearly five cancer-free years for Amanda — and began discussing the possibility of having children. Then the dreaded email arrived on March 11, 2018.

The lawsuit alleges the clinic and its tank manufacturer, Chart Industries, failed to properly maintain, inspect and monitor Tank No. 4, where Amanda's eggs were stored. A leak over multiple days allowed liquid nitrogen levels in the tank to "drop to dangerously-low levels, thereby allowing the temperature in the tank to rise," the lawsuit says.

The couple's attorney, Anne Marie Murphy of Cotchett, Pitre & McCarthy LLP, said the eggs were destroyed through a combination of human and technological error. Chart Industries has since issued a recall of several tanks due to problems with leaks.

"The way the system is supposed to work is to send out an immediate alarm. They are supposed to respond within a half hour," Murphy said.

To make matters worse, Amanda said the clinic pressured her and Lucas to come to the clinic if they wanted to salvage the eggs, but the couple was not yet ready to have children, and were skeptical about using damaged eggs.

"They tried to push me to come into the clinic immediately," Amanda said.

"It was clear it was not a personal call from your doctor," said Lucas, 33. "It was a very directed and guided conversation trying to say, everything is fine."

The couple said they are now uncertain whether they will be able have children. The lawsuit seeks damages and alleges negligence, failure to warn, manufacturing defects and strict liability, among other claims.

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It follows a class-action lawsuit filed against Pacific Fertility that alleges thousands of eggs and embryos were possibly damaged at the clinic's Tank No. 4.

"You are talking about peoples' children," Murphy said. "Not just one family's child, hundreds of people's embryos and eggs that can be lost by one failure."

For Amanda, the pain can be felt while crossing the Bay Bridge, once a joyous occasion. Now, it's a reminder of what could have been... *(To read the entire article, please click [HERE](#))*