

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1643**

Emily Pedersen, et al.,
Appellants,

vs.

Center for Reproductive Medicine,
Defendant,

Advanced Reproductive Technologies,
Respondent.

**Filed July 20, 2026
Affirmed
Ross, Judge**

Hennepin County District Court
File No. 27-CV-22-12513

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Considered and decided by Ross, Presiding Judge; Cochran, Judge; and Bentley,
Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

A laboratory under contract to preserve sperm for use in a married couple's medically assisted effort to conceive a child destroyed the sperm before the designated contract termination. The couple sued the laboratory seeking emotional damages for alleged medical malpractice. The district court dismissed the couple's civil complaint at summary judgment, determining that the laboratory's breach of contract cannot as a matter of law support damages for emotional harm. On appeal, the couple argues that the laboratory's premature destruction of the stored sperm breached a medical duty and, alternatively, that either destroying their sperm or ending their ability to conceive warrants emotional damages based on a physical injury or the wanton invasion of their rights. Because the couple's theory fails as a matter of law under current precedent, we affirm.

FACTS

This case involves a dispute between married couple Dustin and Emily Pedersen and Advanced Reproductive Technologies (ART), the company that contracted with the Pedersens to store Dustin's semen. Because this appeal arises from the district court's dismissal of a civil complaint on summary judgment, we base our review on the facts construed in the light most favorable to the nonmoving parties. *Doe v. Archdiocese of St. Paul*, 817 N.W.2d 150, 163 (Minn. 2012). We summarize the relevant facts as follows.

The Pedersens were unable to conceive a child naturally because of medical complications, including Dustin's azoospermia (an absence of sperm in semen). Dr. Joshua Kapfhamer of the Center for Reproductive Medicine (CRM) in October 2020 suggested

three options: in vitro fertilization (IVF), intrauterine insemination (IUI), or reliance on a sperm donor. Dr. Kapfhamer estimated that their chance of conception through IVF was between 40% and 60% per cycle and that their chance through IUI was between 10% and 15% per cycle. The Pedersens considered Dustin's brother as a potential sperm donor.

The couple began fertility-improvement treatments. Dustin stopped taking testosterone, which he had been prescribed after being diagnosed with hypogonadism, and he and Emily began taking fertility medicine. Dustin then provided semen samples to ART, an andrology laboratory, to analyze the samples for their sperm count. By late January 2021, Dustin's sperm count increased to healthy levels.

The Pedersens consulted with Dr. Kapfhamer and decided on three to four cycles of IUI. Their first attempt at IUI-assisted conception in mid-January was not successful. Dustin produced a semen sample in late January that an expert witness for the Pedersens later described as a "super sample," viable for conception through either IUI or IVF. Dustin and ART entered into a "Short Term Storage Agreement" under which ART would freeze and store that sample for 120 days in exchange for a fee. ART froze the sample on January 29, setting the 120-day discard date as May 29.

Emily told Dr. Kapfhamer that Dustin's brother, their potential sperm donor, had scheduled a vasectomy for early March. Encouraged by Dustin's increased sperm count, Dr. Kapfhamer indicated that the couple would no longer need a donor. Dustin's brother had his scheduled vasectomy.

The couple attempted conception twice more through IUI in March and April, using new sperm samples. Both attempts failed, but Dustin's sperm count remained healthy.

The next month, on May 13, ART laboratory technicians prematurely destroyed Dustin's stored semen sample, miscalculating the destruction date by about two weeks. Two days later Dustin produced another semen sample for a fourth attempt at conception through IUI. But his sperm count had dropped to an insufficient level. CRM staff asked Dustin to return to the clinic to provide another sample, but he directed CRM to instead use his stored semen. Dr. Kapfhamer contacted ART staff and learned of its destruction. He relayed the news to the Pedersens.

The Pedersens became emotionally distraught. Emily began therapy for depression and anxiety rooted in the couple's fertility difficulties. She began taking Lexapro, and her weight fluctuated. The couple ended their reproductive treatment. Dustin resumed taking testosterone. Emily suffered a series of gynecological issues that may have further reduced her ability to conceive. Dustin provided a final sample in July 2022, which showed azoospermia.

The Pedersens sued CRM and ART. They alleged medical malpractice based on negligent hiring and training, failure to warn, and loss of chance. They also alleged breach of contract and promissory estoppel.

Emily had a "chemical pregnancy," which is an early miscarriage shortly after conception, in December 2022. They did not reinstitute fertility treatment.

The Pedersens agreed to dismiss their claims against CRM with prejudice, and they settled their breach-of-contract claim with ART. All that remained unresolved was their medical-malpractice claim against ART.

The district court construed the parties' motions *in limine* as potentially dispositive based on the questions of whether ART owed the Pedersens a medical duty of care and whether the Pedersens could recover damages for emotional harm. The district court therefore characterized ART's motions *in limine* as a motion for summary judgment. It then granted summary judgment favoring ART.

The Pedersens appeal.

DECISION

The Pedersens challenge the district court's decision to grant summary judgment dismissing their medical-malpractice claim against ART. We review the district court's summary-judgment decision *de novo*. *Henson v. Uptown Drink, LLC*, 922 N.W.2d 185, 190 (Minn. 2019). Summary judgment is appropriate only if, based on the record evidence construed in the light most favorable to the nonmoving party, no genuine issue of material fact prevents judgment as a matter of law. *Id.* at 189–90. Our *de novo* review satisfies us that summary judgment is appropriate.

The Pedersens base their challenge on three arguments. They argue first that their malpractice claim should survive summary judgment because it stands independent of their voluntarily dismissed contract claim. They argue second that their loss of ability to conceive a child and the destruction of their sperm sample are physical injuries that could support emotional-harm damages. And they argue third that the district court erred by concluding that neither of these injuries were “wanton and direct invasions” of their rights warranting emotional-harm damages. The arguments do not justify reversing.

I

The Pedersens argue that their medical-malpractice claim stands independent of their dismissed contract claim. A medical-malpractice claim fails unless the alleged tortfeasor owed the plaintiff a duty of care recognized by the medical community. *Tousignant v. St. Louis County*, 615 N.W.2d 53, 59 (Minn. 2000). And this medical duty must stand independent of any contractual obligation the defendant owes the plaintiff. *See D & A Dev. Co. v. Butler*, 357 N.W.2d 156, 158 (Minn. App. 1984). This is because, “[w]here a party cannot prove that the duty at issue arose independent of a contract, Minnesota law precludes that party from recovering in negligence based [on] breach of that duty.” *Glorvigen v. Cirrus Design Corp.*, 816 N.W.2d 572, 584 (Minn. 2012) (quotation omitted). The district court here concluded that the Pedersens failed to meet their burden to distinguish ART’s duty under their malpractice claim from its duty under the parties’ contract, reasoning that the contractual duty and alleged medical duty were one and the same. The Pedersens would have us treat ART’s duty not to destroy their semen sample as one arising from a medical duty and not chiefly a contractual duty. For the sake of efficiency, we will assume the argument is merited but conclude that, based on the analysis below, the Pedersens failed to establish the necessary element of damages. This failure supports summary judgment even if ART’s duty to the Pedersens stands independent of its duty under the semen-storage agreement.

II

We are not convinced by the Pedersens' next argument, which is that the district court erroneously concluded that neither their loss of the ability to conceive a child nor the destruction of their sperm sample constitutes a physical injury supporting emotional-harm damages. A medical-malpractice claim cannot survive a summary-judgment motion if the plaintiffs offer no proof that the defendant's malpractice caused them damages. *Tousignant*, 615 N.W.2d at 59. And plaintiffs are entitled to emotional-harm damages only in three circumstances. *Lickteig v. Alderson, Ondov, Leonard & Sween, P.A.*, 556 N.W.2d 557, 560 (Minn. 1996). The Pedersens maintain that one of these circumstances, when the defendant's negligence caused a "physical injury" that results in the plaintiff's emotional distress, *see Langeland v. Farmers State Bank of Trimont*, 319 N.W.2d 26, 31 (Minn. 1982), applies here. On that basis they contend that the claim meets the damages requirement and avoids summary judgment. Our decision turns on whether the evidence construed in the Pedersens' favor could support a legally valid finding that they suffered a physical injury.

To assess whether the Pedersens have presented evidence supporting a claim involving a physical injury, we must first put the issue in its right context. The issue is rooted in the supreme court's stated reluctance to allow damages for emotional distress based on its concern that "claims of mental anguish may be speculative" and rest on "fictitious allegations," fostering opportunities for "abuse of the judicial process." *Lickteig*, 556 N.W.2d at 560. Although Minnesota precedential caselaw does not define "physical injury," Black's Law Dictionary treats it synonymously with "bodily injury," which means,

“Physical damage to a person’s body.” *Black’s Law Dictionary* 1385 (12th ed. 2024) (defining physical injury); *Black’s Law Dictionary* 935–36 (12th ed. 2024) (defining injury). Especially helpful for our review today, we also recall that, two years before *Lickteig*, this court predicted and announced the same rule in more descriptive form. We said that “[a] plaintiff’s right to damages for emotional distress arising from physical injury to the plaintiff is firmly established” and, more particularly, that “this emotional damage is so closely related to an objective physical injury [that] its existence is relatively certain and the requirement of proximate cause is easily satisfied.” *Carlson v. Ill. Farmers Ins. Co.*, 520 N.W.2d 534, 535–36 (Minn. App. 1994). In other words, we reasoned that the potentially speculative nature of emotional damages is overcome in cases involving the sort of objective physical injury that reduces to relative certainty the link between the injury and the damages.

With that background, we are satisfied that neither the destruction of Dustin’s sperm sample nor the Pedersens’ consequent loss of their ability to conceive constitutes a physical injury warranting emotional damages. The link between ART’s negligent destruction of the sample and the Pedersens’ emotionally distressed reaction to it is a material step removed from the direct physical link between the injury and the anguish that we characterized in *Carlson* and that was implied in *Lickteig*. The link considered in those cases is “relatively certain” because it is physical and essentially automatic rather than attenuated and purely emotional. *Id.* We do not suggest that the negligent destruction of Dustin’s sperm sample did not lead to the couple’s diminished hope for procreation and then to genuine emotional distress from that diminished hope. But their distress results only

indirectly from the negligent act. Our caselaw contemplates instead the kind of physical harm to a person's body that leads directly to that person's physically prompted emotional anguish. The destruction of the sperm sample here is not that sort of injury.

We are not persuaded otherwise by our understanding that the negligently destroyed sperm was a living substance within Dustin's body before it was removed from his body, stored by ART, and prematurely destroyed. The Pedersens argue that ART's destruction of Dustin's sperm is a physical injury because it is "akin to the destruction of amputated tissue intended for reattachment." They characterize it as "an extension of his body" that was "preserved outside his body . . . to accomplish a bodily function," specifically, conception of a child with Emily. The Pedersens' proposition is not established under current Minnesota law, and they cite no case anywhere that has reached the holding they would have us reach. They offer only secondary sources and non-Minnesota authorities discussing the emotional impact of the negligent destruction of reproductive material during fertility treatment. Their argument culminates in their "urg[ing] in good faith that the legal framework supporting damages for emotional distress should be broadened to include cases of reproductive negligence." We understand the logic of their argument, but it asks too much of us to extend Minnesota tort law in a manner that exceeds the authority of this court. It is within only the legislature's or supreme court's purview to make material policy changes or extensions to the state's common law. *See Larson v. Wasemiller*, 738 N.W.2d 300, 303 (Minn. 2007) ("It is also the province of the legislature to modify the common law"); *Lake v. Wal-Mart Stores, Inc.*, 582 N.W.2d 231, 233 (Minn. 1998) (acknowledging the supreme court's "power to recognize and abolish common law

doctrines”); *Schumann v. McGinn*, 240 N.W.2d 525, 537 (Minn. 1976) (“[W]e retain the common-law authority to define torts and their defenses.”). We therefore consider the argument no further.

III

The Pedersens argue lastly that the district court erred by concluding that ART’s conduct did not amount to a willful or wanton invasion of their rights entitling them to emotional damages when reproductive material is “granted an appropriate level of dignity interest.” It is true that tort plaintiffs may recover emotional damages if the defendant’s “willful, wanton, or malicious conduct” resulted in a “direct invasion” of their rights. *Lickteig*, 556 N.W.2d at 560 (quotation omitted). But the Pedersens do not argue that ART’s alleged breach of its medical duty of care amounted to wanton misconduct. They argue instead that ART invaded a supposed “dignity interest” in sperm samples “that should be respected by the law.” The argument stands only if we recognize a novel, elevated interest in sperm samples intended for assisted reproductive use. The argument again asks us not merely to apply but to extend Minnesota common law, a task beyond this court’s reach.

Affirmed.