

Final Copy

Jess Geisinger, 32, has a photo of a freezer full of milk on her Instagram page. But the milk isn't in cartons, it's in special plastic bags, piled onto three shelves and stacked in rows within compartments on the freezer door. And the milk isn't cow's milk. Or homemade oat milk. It's breast milk. Geisinger's breast milk.

At least 170 bags of breast milk can be counted in the photo, posted on September 20, 2018, about two months after she had given birth. But while the breast milk was hers, the baby was not. Geisinger had given birth to her first baby as a gestational carrier, the modern term for a surrogate. She was shipping the breast milk to the baby's mother. She wrote in the photo's caption:

This is it. This is the last piece of my entire journey as a surrogate 🥹.

In a total of 6 weeks of pumping + 4 weeks of weaning, I pumped 2,211oz... 🥰. Each week shipping milk to my surrobabe 😊, but only so much fits in a cooler. So here we are... 1,011oz left in excess. I look at it + I am reminded of how blessed and fortunate I have been to carry healthy babies and produce more than enough milk to extend my gift to others.

My thought at this point is how do I top that? A God given gift of creating life can't really be topped so what's next? What else can I do that will bring as much meaning to my life?

[The CDC estimated](#) that over 18,000 babies were born in the United States with the assistance of gestational carriers between 1999 and 2013, the most recent data available. Surrogacy is now used as a loose term to capture all that the process entails: it is a business and a culture, with its own terminologies and its own standards. And while it's allowed in the United States, it is a largely unregulated industry. Most states do not have statutes that dictate how surrogacy should be best practiced. Within this gray area come serious concerns, as both carriers and parents alike are vulnerable to being taken advantage of.

It was not until February 15, 2021, that compensated gestational surrogacy was legal and in effect in New York, after the Child Parent Security Act (CPSA) was passed through the state's budget bill in April 2020. One important part of the CPSA is that it entails a Surrogate Bill of Rights, the first of its kind in the United States. Advocates pushed to ensure that New York surrogates had full bodily autonomy--a standard that is difficult to measure, reach and protect without specific regulations--including the right to legal counsel of their choice and insurance covered by the intended parents, also referred to as IPs, among several other provisions.

If a New Yorker wanted a baby and could not get pregnant, they previously had two options. Look for someone willing to be a surrogate for “altruistic” purposes--often a close friend or relative who forgoes payment--or outsource a surrogate, whether domestic or international.

This is where Geisinger came in.

One legal battle in particular is credited with kickstarting conflict around surrogacy and surrogacy law, known as the Baby M case. A surrogate--who was biologically related to the baby--refused to surrender either the baby or her parental rights when the baby was born in New Jersey in 1986. She had signed a contract with the baby’s father for \$10,000, but refused the cash. A dramatic court battle ensued, and the case was appealed to the New Jersey Supreme Court in February 1988, which ruled that it was against public policy to be compensated for surrogacy. On remand, the state court restored the surrogate parental rights and allowed her visitation, but custody of the child belonged to the father.

Yet another critical development for surrogacy took place around the same time in 1985: the first baby carried by a gestational carrier was born after implanting a fertilized egg. The carrier, named Shannon Boff, was compensated \$10,000. While arguments against traditional surrogacy were relatively straightforward, as illustrated by the notorious Baby M case, arguments against compensating gestational carriers were more elusive. Even as assisted reproductive technology (ART) progressed, and traditional surrogacy fell largely out of practice, the discourse around surrogacy at large remained in retrospect: does compensating surrogacy equate to women selling their bodies? Is childbirth being cheapened through commodification? Critics of the practice continue to ask questions today. Is surrogacy inherently exploitative because money is changing hands?

These concerns colored socio-political, medical and ethical considerations of surrogacy in the years to come, while the Baby M case gave precedent to future surrogacy laws in the states, including in New York. New York state passed a public policy law in 1992, referencing the Baby M case, that outlawed both traditional surrogacy in the state, and compensated gestational surrogacy. Over time, many states opted to allow the practice, but New York did not, and neither did Louisiana, Michigan or Nebraska. Even now, as New York solidifies its surrogacy laws under the CPSA, the arrangement remains a delicate one.

To hand the newborn to its parent or parents is the pinnacle of the experience to Geisinger. She calls the feeling “pure joy.” She believes most carriers share that same core value, that they are giving a gift above everything else. She finds it laughable when people ask if it’s hard to “give up” the baby--as if she mistakenly became pregnant with a child that’s not hers, she bantered. She thinks of the money as an added bonus, something she might use to put her own kids in private school.

“I don’t view it as someone’s paying me to have their baby,” Geisinger said. “It’s just they’re reimbursing me for the time, the effort, the toll on your body.”

When Geisinger was pregnant with the surrobabes, she had a line she would use if she was out running errands and someone stopped to congratulate her, ask about the baby--girl or boy? When are you due? Jess would answer, and quickly follow up: “but it isn’t mine!” She wasn’t going to go along with it, of course, so she would elaborate. People were curious to learn more, and often amazed.

Not everybody is cut out to be a carrier, and there are far more requirements than simply having a uterus. Those who are cut out for it fit into a highly specific set of qualifications. Geisinger happened to be one of them, twice. She gave birth to the first baby on July 10, 2018--the baby she was shipping milk to in the photo--and the second on September 19, 2020.

Geisinger found ConceiveAbilities after extensive research. (She is now an uncompensated volunteer for the agency to answer questions for women looking to become carriers themselves.) All of her IPs lived in New York. Geisinger lives in Downingtown, PA, with her husband, two children ages 6 and 4, and two Great Danes. On the phone, she is easy-going and open with a sarcastic sense of humor, often posing rhetorical questions. She is also a fervent fan of the 90s sitcom Friends, and in a life-imitates-art turn of fate, Friends might have led Geisinger on the path toward surrogacy. Phoebe becomes a gestational carrier for her brother in the famous episode titled “The One With the Embryos,” originally aired in 1998. Geisinger said watching those episodes must have struck a chord in some aspect.

As Geisinger went through the application process, she felt like there must be something about her history--whatever it might be--that would disqualify her.

“It was almost like applying to win the lottery or something,” Geisinger said. “My hopes were not that high. For some reason I thought it was too good to be true.”

Margaret Daneyko, director of nursing and clinical services at the Reproductive Medicine Associates of New York, explains who might make a perfect surrogate. She would need to have given birth to at least one child of her own, live in a stable home environment, have a good health record, be between the ages of 21 and 45, and have a BMI no greater than 35, she said.

But even more minutiae come into question, like diet, for example. Does an IP care if their carrier eats french fries or drinks soda throughout their pregnancy? Or would they prefer a carrier who is ultra-health conscious? Most agencies strive to make matches based on compatible lifestyles. Even small conflicts could strain the relationship between carriers and IPs.

Other, more pressing ideological questions concerning the pregnancy are often presented once the candidate has been accepted and matched. IPs and carriers must agree on what each would want in various scenarios concerning the pregnancy. What if, for example, the IPs wanted to terminate if genetic testing revealed the baby had a high likelihood of Down Syndrome, a conflict depicted in the 2020 film *The Surrogate*. Would the carrier agree? Geisinger believes that those decisions are up to the parents. She will not be raising the child at the end of it all, she said.

“I often call it--well, I’m sure other people have too--but they call it ‘extreme babysitting’ where the whole time, you know, you’re just taking care of somebody else’s baby. It’s not physically out in the world yet,” Geisinger said.

Although carriers are not paid in one lump sum, rather, at specific benchmarks like when the baby’s heartbeat is first detected, ensuring that a carrier is foremost committed to the work of carrying a pregnancy rather than the pay is an essential criteria for surrogacy agencies. Gestational carriers are compensated between \$20,000 and \$55,000 on average, according to a 2016 study from Columbia Law School. And if they have a partner, the partner goes through much of the same psychological, medical and financial screenings that the carrier goes through as well.

Candidates could also be turned away if they have had more than two cesarean sections. And health conditions, such as endometriosis or gestational diabetes, could indicate the end of the road for many candidates. Such disqualifiers are designed by agencies to ensure the best outcome for carriers and IPs alike. Of course, what one agency might allow, another would not, and this is one risk of an unregulated industry where life could be at stake if something were to go wrong.

One example of the consequences of a lack in checks and balances is the case of Gregory J. Ray Blosser, former owner of The Surrogacy Group based in Annapolis, MD, who defrauded over 40 intended parents of over \$1.1 million. Most surrogacy agencies set up an escrow account to facilitate funds from the intended parent to the carrier, to ensure the money is not tampered with. Blosser did not hold the funds in escrow, rather, all of the funds from his clients were funnelled into his business accounts. He then failed to provide contracted services for both intended parents and carriers. He was sentenced to 32 months in prison and a following three years of supervised release on April 21, 2021.

Although this is a worst-case scenario, to use a surrogacy agency still provides the most security for all involved parties. Agencies are often armed with in-house lawyers, facilitate an in-depth application and matching process and provide services throughout the pregnancy for both IPs and carriers. But all of this comes with a price, however, and one of the biggest challenges for

IPs is the cost. Between \$75,000 and \$125,000 can be spent in total, including insurance for the carrier and any agency fees, according to Joe Williams, attorney and director of surrogate services at the New York Surrogacy Center.

Some, to save some cash, have opted to take independent journeys--that is, to pursue surrogacy without using an agency. Gay couples and single people in particular face additional barriers to becoming parents through surrogacy: some states, such as Louisiana, require that those seeking surrogacy must be straight, married, and at least one parent must be biologically related to the baby. And even states where married, gay couples can pursue surrogacy--such as Utah--stigma could make finding a carrier difficult. One couple claims they were [turned down by over 30 potential carriers](#) because they were gay before they found the right match.

Geisinger and her IM from her second surrogacy were a best-case scenario, and connected right away during their “match meeting” held over Zoom due to the pandemic. The two were similar in age, and complemented each other well, Geisinger said. Her IM was great at starting conversations, where Geisinger tended to follow the lead. She had specifically requested to carry for a couple that did not yet have a child. She wanted to experience that moment, the moment where a parent becomes a parent for the first time, all over again.

The pandemic, however, did spoil many of their plans to spend time together around certain milestones in the pregnancy. Pandemic rules were upsetting for those whose partners weren't allowed to attend appointments due to no-visitor policies--but at least one of the parents was present. In Geisinger's situation, neither of the baby's parents were in the room. She would FaceTime her IPs, but she struggled knowing how hard that must have been for them, especially her IM. Later they obtained special permission to be together at appointments when protocols had relaxed toward the end of the pregnancy. But to think how it could have been without the pandemic is sad, Geisinger said.

“I think in some sense, every surrogate has this sense of making sure their IMs or IFs or the parents in general are experiencing as much as they can just because we're hyper sensitive to the fact that we know they can't carry their own baby and we're experiencing all of these things for them,” Geisinger said.

From being congratulated in public to witnessing ultrasounds, these sensitivities are delicate, often unspoken understandings forged from a deep sense of courage and trust. But as the bond between carriers and IPs grows, to balance companionship with constant discernment can be tricky.

Geisinger, for example, once asked her IM if she would want Geisinger to nurse the baby while they were in the hospital, to ensure that the baby was getting the colostrum, the most

nutrient-dense milk produced when the baby is first delivered. Her IM declined. According to Geisinger, she was unsure how it would make her feel.

After the fact, Geisinger hoped she did not upset her. Even if you're trying to be kind, she said, sometimes you don't realize what might cause someone discomfort. She learned to hold even more empathy and even less judgement.

When the time came for the baby to be born, the hospital let both of her IPs and Geisinger's husband in the room. Her IM stood with Geisinger's doctor and watched her son be born, overcome with emotion, Geisinger said. After the baby was weighed and checked, he laid on his mother's chest for skin to skin.

The story would probably end there, if this were a movie or some season finale: the baby whisked away by his parents, never to be seen or heard from again--though Geisinger has heard of this happening before in real life. Instead, the parents had a room next door to Geisinger's recovery room. They would bring the baby over and spend time together. Once she was up and walking again, Geisinger would walk over some breast milk. Soon enough, she would be back to shipping it.