

# Jury awards family \$674,000 for BB gun shooting accident

• Five years and several trials after incident at lake, teen-ager blinded in right eye receives damages; defendants' insurance companies must pay claim

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It has been five years since William Swanson blinded Todd Baker in the right eye with a BB rifle at the Turkeyfoot Heights subdivision in Franklin Township.

On Friday, after four days of testimony, Swanson's deep cost his family's insurance company \$674,071.

A BB rifle on an evidence table in front of Summit County Common Pleas Judge Glen Morgan had been fired by Swanson on July 29, 1987. Next to the rifle were X-rays of Baker's head.

From across the courtroom, Baker, 19, and his parents, Gary and Rosemary Baker, faced Swanson, 20, and his parents, Dr. Gene A. and Anita K. Swanson, for what was probably the last time since the ordeal began.

There was no joy. "It's been a war," said Mrs. Swanson.

"It's been one of those dark clouds that follow you around for 4½ years," Gary Baker said.

A jury awarded \$660,000 in compensatory damages for the estimated financial loss Baker will suffer in the future, plus \$14,071 to cover Baker's medical bills.

Baker said his son, a senior at Green High School, "would much rather have his eye than the money."

The four-man, four-woman jury deliberated three hours before finding that negligence by William Swanson and his parents contrib-

## QUOTE

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GARY BAKER  
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uted to the accident.

"Any parent who . . . leaves a loaded gun accessible to a teen-ager is asking for trouble," said the Bakers' attorney, Timothy Scanlon.

The verdict capped a marathon civil case that was waged from Morgan's courtroom up to the Ohio Supreme Court.

According to court testimony, William Swanson and his teen-age friends were swimming at a small lake in Turkeyfoot Heights when Baker and his friends insulted them. Swanson got his father's BB rifle from home, aimed it at a tree 100 feet away, but instead hit Baker.

Baker underwent two emergency operations at Children's Hospital Medical Center of Akron, where Swanson's father is an anesthesiologist. His eye could not be saved.

"These are two very nice families that misfortune brought together," the Swansons' attorney, Robert Orth, said after the verdict was read. "They're happy to have

it behind them."

The Bakers sued the Swansons for \$750,000, and later amended the claim to \$2 million.

Economic experts had testified that Baker's impaired vision would reduce his earnings potential by up to \$500,000 over his lifetime.

The Bakers' attorney, Scanlon, said in closing arguments that Baker was owed up to \$900,000, which included \$400,000 for Baker's lost right to enjoy a normal life.

The case stalled when two insurance companies refused to pay damages.

Swanson's father had policies with Physicians Insurance Co. of Ohio and Cincinnati Insurance Co. Both firms went to court, contending they were exempt from paying damages because their policies excluded intentional acts of harm.

Judge Morgan ruled against them, finding that the injury was accidental and that the insurance claim should be paid.

The Akron-based 9th District Court of Appeals reversed Morgan's decision.

But in 1991, the Ohio Supreme Court affirmed Morgan's ruling that the insurance companies should cover any damages.