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Surrogacy Drama: My American Friend Who Got Stuck In Mexico

Topelson was stuck in Mexico City for months with a newborn, while her own pregnancy was progressing.

By [Ellen Trachman](#)

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It's not uncommon to read of intended parents in a surrogacy arrangement getting stuck in a foreign country. Unfortunately, in many cases, new parents are unable to return home with their baby, due to some legal snafu. But despite focusing my professional life in this area, it rarely happens to someone I already know. And by rare, I mean it has never happened before. But there is a first for everything. And fortunately, after some shocking twists and turns, my friend [Carolyn Topelson](#)'s story has a happy ending.

For those of you that are the podcast-listening types, we have a great in-depth interview with Topelson on [I Want To Put A Baby In You](#). And now that states are opening up, and you might actually have somewhere to drive to while listening to podcasts, it's a great time to check it out. Topelson's story is a cautionary tale, as it highlights some of the stark contrasts between US surrogacy law and surrogacy law in other countries.

What Happened? As with most surrogacy stories, there was a long build up involving attempts to conceive, leading to the medical advice that a gestational surrogate was likely the only path forward for a genetically related child. Topelson had been receiving her fertility care in the United States, in her home state of Colorado. However, the medical advice that surrogacy was the next step, and a deep dive into researching the costs and processes (and the six-figure US price tag!), made Topelson consider other options.

Topelson, having been born in Mexico — and holding dual citizenship — learned that she had family connections to a reproductive endocrinologist (aka fertility doctor) in Mexico City. Given that IVF is much more affordable below the border, along with hiring a surrogate to carry an

embryo to term, she traveled there to do her research. After trying again to conceive on her own, she then went the route of gestational surrogacy in Mexico.

Serious Surrogacy Contrast Between The United States And Mexico.

Topelson explained that unlike in the United States where you generally meet the gestational surrogacy before matching, she did not meet her surrogate until the woman had already started medication for the transfer of Topelson's embryo into her body, during an appointment signing legal documents before a Mexican magistrate. While a relationship is encouraged in the United States, as many intended parents want to attend the appointments and be part of the pregnancy, Topelson was specifically advised not to give her personal information to the surrogate or contact her during the pregnancy. She was advised that it was for her own protection to avoid the surrogate attempting to blackmail her. All updates were given to her through her fertility doctor and his team.

A Mid-Pregnancy Surprise.

Topelson's story is destined to be made into a movie, and, like any good story, involved a few unexpected twists. Shortly after the embryo transfer, like J-Lo in the 2010 rom com [The Back-up Plan](#), Topelson met the man she would eventually marry. The embryo transfer was successful and she was thrilled to learn that she was less than nine months away from becoming a parent. Her new man was supportive. A few months into the surrogacy pregnancy, Topelson, who still tracked her cycle out of habit from years of attempted conception, noticed she was late. Sure enough — surprise — she was pregnant! When she approached her doctor with the news, he responded, "Well, I did tell you there was a 5% chance of you conceiving on your own!"

Things Get Scary.

Topelson was traveling back and forth between Colorado and Mexico City during the pregnancies, and traveled back to Mexico within plenty of time of the surrogacy birth to be there when her baby was born. Unlike the United States, where the intended parents are frequently in the delivery room to see the moment their baby is born and there to care for the baby, Topelson was not permitted in the delivery room. As far as the hospital staff knew, the surrogate was giving birth to her own child. The surrogate told the staff that she had a cold and was not feeling well and would prefer that the hospital keep the newborn in the nursery, so as not to expose him. Her "family relative" (Topelson) would be coming to feed and care for the baby. Sneaky! So Topelson first got to see her son in the hospital nursery under the guise of a helpful family member. Topelson did note that this is not the case for all Mexican hospitals. In some, the surrogacy arrangement can be openly known without problems.

The surrogacy agency then arranged for a magistrate to come to Topelson's temporary residence for her to sign documents. She admits that despite being a thorough and Type A attorney, she did not read the documents presented to her. She trusted that the agency had everything under control. (Not to mention that she was caring for a newborn and pregnant herself.) A few days later, she received a birth certificate for her son, showing her as the mother.

Topelson wisely made appointments with the US consulate for genetic testing, and for the processing of her application for her son's US passport. Here is where things took a turn. The DNA tests showed that Topelson was, indeed, the genetic parent of her son — with 99.92% certainty. However, Topelson also had to prove that she had the legal status of a parent to the child. She presented the birth certificate and paperwork she had collected. She was informed by the consulate — to her shock — that they believed there had been fraud involved in obtaining the documents, and that they would not be processing a passport for her son. WHAT?!

Despite her pleas, the consulate did not provide an explanation. It took days before she was able to determine that the consulate believed the agency had fraudulently obtained the birth certificate with her name as the mother. Mexico, having no set system for surrogacy, did not provide a clear process for these matters. Ultimately, the consulate communicated that she would either need to 1) have a new birth certificate showing the surrogate as the mother and the surrogate give permission for the child to travel with her to the United States; or 2) obtain a Mexican court order that she was the legal parent to her child. What a nightmare! Of course, the first option would be moving backward. Why would she fight to get a new birth certificate to name the surrogate as the mother, when Topelson was herself the actual mother. As for the second option, consult after consult with attorneys made it clear that this was not a thing that was usually done, and there was no certain path for making it happen.

In the meantime, Topelson was stuck in Mexico City for months with a newborn, while her own pregnancy was progressing and inching toward baby number two.

A Plea For Help.

Topelson's answer came after a late night plea on social media. While she had not been sharing her private struggles with the world at large, she decided that it was time to put it out there. She posted her story on Facebook, and within hours, was getting responses for offers to help. Thanks to a connection within the US Department of State, Topelson had a temporary passport issued for her son within the week.

Topelson returned home with her son, but laughably, she returned back to Mexico a few months later for a couple days for her wedding (while pregnant). Eventually, she also received the Mexican court order confirming her parental status.

Today, the legal issues have been sorted, and Topelson has a very traditional looking family: mother, father, one son, one daughter. Of course, her son and daughter are only about six months apart in age, but whatever.

What's the lesson when you're going through a surrogacy arrangement? Well, sometimes things seem pretty bleak before they are suddenly a lot better. And of course, be ready to have some curve balls thrown your way. You might also want to put your congressperson's office phone number in your phone. You know, just in case.



Ellen Trachman is the Managing Attorney of [Trachman Law Center, LLC](#), a Denver-based law firm specializing in assisted reproductive technology law, and co-host of the podcast [I Want To Put A Baby In You](#). You can reach her at babies@abovethelaw.com.