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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO

JENNIFER DEBUHR and JASON DEBUHR,

Plaintiffs,

v.

WARREN M. HERN, and BOULDER  
ABORTION CLINIC, P.C., a Colorado  
professional corporation,

Defendants.

Case No. \_\_\_\_\_

COMPLAINT

Plaintiffs, Jennifer DeBuhr and Jason DeBuhr, by and through their undersigned counsel, for their Complaint, state and allege as follows:

PARTIES

1. Plaintiffs Jennifer DeBuhr and Jason DeBuhr are husband and wife, and at all times material hereto were residents of Auburn, Nemaha County, Nebraska.

2. Upon information and belief, Defendant Boulder Abortion Clinic, P.C. (the "Boulder Abortion Clinic"), is a Colorado professional corporation that maintains its principal place of business in Boulder, Colorado.

3. Upon information and belief, Defendant Warren M. Hern ("Dr. Hern") at all times material hereto was a resident of Colorado.

4. At all times material hereto, Dr. Hern was a physician licensed to practice medicine in the State of Colorado. Dr. Hern founded the Boulder Abortion Clinic, where he continues to practice as of the time of this filing. Dr. Hern is the only physician licensed to practice medicine at the Boulder Abortion Clinic. At all times material hereto, Dr. Hern was working at the Boulder Abortion Clinic and acting within the course and scope of his association

with the Clinic and the negligent acts of Dr. Hern outlined below are imputed to the Boulder Abortion Clinic.

#### JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter under 28 U.S.C. § 1332, as complete diversity exists between Plaintiffs and Defendants, and the amount in controversy exceeds \$75,000.

6. Venue is appropriate in the Court under 28 U.S.C. § 1391 because all of the acts and transactions complained of herein occurred in Boulder, Colorado.

#### FACTUAL BACKGROUND

7. In early 2013, Jennifer and Jason DeBuhr conceived a baby.

8. Throughout the baby's development, Jennifer and Jason attended prenatal appointments with Dr. Andrew Robertson at the Methodist Women's Hospital in Elkhorn, Nebraska to monitor the child's health.

9. On or about November 18, 2013, Jennifer had an appointment at Nebraska Medical Center where she underwent an MRI to determine the health and condition of the baby.

\* At this point, Jennifer was approaching the end of the second trimester in her pregnancy.

10. On or about November 21, 2013, Jennifer was informed that the results of her MRI indicated that her baby boy had severe cerebral abnormalities which would reduce the baby's life expectancy to less than a year, if he survived his delivery.

11. After difficult conversations with each other and their medical providers, Jennifer and Jason determined that it was in the best interest of Jennifer's health to terminate the desired pregnancy.

12. At this point in time, Jennifer was nearly in her third trimester and could not have an abortion in her home state of Nebraska.

13. The DeBuhrs determined that the closest clinic where Jennifer could undergo a late second trimester abortion was the Boulder Abortion Clinic, in Boulder, Colorado. Dr. Hern is the only physician licensed to practice medicine at the Boulder Abortion Clinic.

14. Jennifer contacted the Boulder Abortion Clinic, and the clinic staff made her an appointment for her to arrive in Boulder, Colorado on Monday, December 2, 2013. The assistant who talked with Jennifer on the phone informed her that she should expect that her procedure would take at least four days, and that Jennifer would need to make arrangements to stay at a local hotel through December 7, 2013.

15. Jennifer, Jason, and Jennifer's mother traveled to Boulder, Colorado and checked into the hotel on December 2, 2013.

16. On the morning of December 3, 2013, Jennifer, Jason, and Jennifer's mother arrived at the Boulder Abortion Clinic. Upon arrival, Jennifer was told that she would only be permitted to have one person accompany her into the clinic. This was the first time Jennifer was told that she could only have one person by her side. The decision was made that Jason would accompany Jennifer into the clinic.

17. On the morning of December 3, 2013, Jennifer and Jason were required to wire \$7,500 to the Boulder Abortion Clinic before the multi-step procedure could begin. Jennifer then underwent an ultrasound and had blood work done. The clinic staff gave Jennifer and Jason reading materials and required them to watch an instructional video produced by Dr. Hern's office describing how the procedure would work. At no point did Dr. Hern or the clinic staff inform or warn Jennifer and Jason of the risks associated with the operation. At no point did Dr.

Hern indicate that there was any risk that fetal tissue or bone could be left inside Jennifer after the procedure.

18. After watching the video, the clinic staff directed Jennifer into a room where she underwent the first step in the procedure. At this time, Dr. Hern used an ultrasound to find the location of the fetus' heart. Dr. Hern then inserted a syringe containing medication into Jennifer's belly and into the fetus' heart in order to stop the heart. The clinic staff then told Jennifer to return to the clinic the next day.

19. When Jennifer and Jason arrived at the clinic the next day, on December 4, 2013, the clinic staff inserted 1 to 3 laminaria into Jennifer's vagina. Laminaria are rods of dried kelp which are inserted to help dilate the uterine cervix. Packing was then placed in her vagina to hold the laminaria in place.

20. On December 5, 2013, the clinic staff removed the laminaria placed there from the previous day and inserted 6 new laminaria. Jennifer was then sent back to the hotel with orders to come back the next day to begin the final step in the procedure.

21. On the morning of December 6, 2013, Jennifer awoke with stomach cramping and discomfort. Jennifer began vomiting and the packing and laminaria started to fall out of place. Jennifer called the Boulder Abortion Clinic early that morning, and the clinic staff instructed her to show up for her appointment earlier than initially planned.

22. When Jennifer arrived at the Boulder Abortion Clinic, the clinic staff set up an IV drip and placed a suppository in her rectum. After several hours, the staff was able to stop the vomiting.

23. After Jennifer stopped vomiting, the nurses began to prepare Jennifer for the last step in the procedure. The clinic staff was unable to get Jennifer to dilate to more than one to

two centimeters. Despite this, Dr. Hern proceeded with a dilation and evacuation ("D&E") procedure of the fetus.

\* 24. During the D&E procedure, although numbing cream had been placed along her cervix, Jennifer could feel a lot of pulling from the lower half of her body all the way up to her chest. Jennifer experienced intense pain, and as a result of this pain, at some point during the procedure, she blacked out.

25. After the procedure, the clinic staff took Jennifer into a post-operating room where her vital signs were checked, and Dr. Hern performed a visual external examination of her body and indicated that the operation was successful. She was monitored for a couple hours. Jason was able to visit Jennifer at this time.

26. After informing Jennifer that she had low levels of iron and that she needed to lose weight, Dr. Hern released Jennifer from the clinic.

27. Beginning in the early Spring of 2014, Jennifer began to experience breakthrough bleeding. Thinking it was due to a hormonal imbalance, Jennifer's physician, Dr. Andrew Robertson, changed her birth control twice. When the bleeding continued, Jennifer was referred to Dr. Mark Carlson, a gynecologist who ordered an ultrasound.

28. The ultrasound revealed that an object of about four centimeters in length was cutting into Jennifer's uterine wall, causing her to bleed. Dr. Carlson ordered surgery for the first week of February 2015 to inspect, and if necessary, remove the object.

29. During the surgery, Dr. Carlson attempted to remove the object, but he was unable to do so. Dr. Carlson was required to perform a hysterectomy in order to remove the object.

30. The object was tested and it was determined to be a fragment of bone, the shape of which was consistent with the curved portion of a fetus skull.

FIRST CLAIM FOR RELIEF  
(Medical Malpractice)

31. Plaintiffs incorporate all the foregoing paragraphs as if fully set forth herein.

32. In providing medical treatment to Plaintiff Jennifer DeBuhr, Defendant Dr. Hern had a duty to possess and use the care, skill, and knowledge ordinarily possessed and used under like circumstances by other physicians engaged in a similar practice.

33. Defendant Dr. Hern failed to perform in accordance with that duty and was negligent in one or more of the following respects, which negligence is imputed to the Boulder Abortion Clinic:

- a. Defendant Dr. Hern proceeded with a late second trimester D&E operation even though he could not get Plaintiff Jennifer DeBuhr to dilate past two centimeters;
- \* b. Defendant Dr. Hern failed to undertake sufficient measures to ensure that all fetal material had been cleared from Plaintiff Jennifer DeBuhr's body following the completion of the D&E procedure;
- c. Defendant Dr. Hern failed to inspect the fetal material removed from Plaintiff Jennifer DeBuhr's body to ensure that all parts were accounted for;
- d. Defendant Dr. Hern negligently failed to discover an approximately four centimeter fragment of bone which remained in Plaintiff Jennifer DeBuhr's body following the D&E procedure;

- \* e. Defendant Dr. Hern failed to order or perform appropriate and necessary postoperative medical care and tests to discover a fragment of fetal bone left behind after the D&E procedure, which fragment penetrated Plaintiff Jennifer DeBuhr's uterine wall and led to menorrhagia and ultimately the necessity for Plaintiff to undergo a hysterectomy;
- f. As the licensed physician in charge of the treatment administered to Plaintiff Jennifer DeBuhr, Defendant Dr. Hern failed to exercise the requisite degree of supervision and control over the other personnel and employees of the Boulder Abortion Clinic to insure that they provided adequate and necessary medical care to Plaintiff Jennifer DeBuhr while she was a patient at the Clinic;
- g. Defendants Dr. Hern and the Boulder Abortion Clinic failed to provide Plaintiff Jennifer DeBuhr with the diagnostic, operative and postoperative care and treatment consistent with the applicable standard of care for a physician practicing in Dr. Hern's specialized area of medicine.

34. As a direct and proximate result of the Defendants' negligence, Plaintiff Jennifer DeBuhr suffered severe and permanent physical and mental injuries as a result of the lack of appropriate or adequate treatment for her medical needs, including but not limited to vaginal bleeding, surgery to remove her uterus, and, severe pain, stress, and anxiety.

35. As a direct and proximate result of those injuries, Plaintiff Jennifer DeBuhr has suffered damages including permanent injury, disability or impairment to Plaintiff's body; loss of her ability to conceive children; and physical pain and mental suffering endured in the past and reasonably certain to be experienced in the future.

36. As a result of Defendants' breaches, Plaintiff Jennifer DeBuhr has incurred damages in an amount to be proven at trial, in excess of \$75,000.00.

Plaintiffs respectfully request that the Court enter judgment in favor of Plaintiffs and against Defendants on this First Claim for Relief in an amount to be proven at trial, in excess of \$75,000.00, plus costs, attorneys' fees, and interest as allowed by law, and for such other and further relief as the Court deems just and proper.

**SECOND CLAIM FOR RELIEF**  
(Failure to Warn)

37. Plaintiffs incorporate all the foregoing paragraphs as if fully set forth herein.

38. In providing medical treatment to Plaintiff Jennifer DeBuhr, Defendant Dr. Hern had a duty to disclose all medically significant risks associated with the procedure before providing Jennifer with such treatment.

39. Defendant Dr. Hern, whose negligence is imputed to the Boulder Abortion Clinic, failed to perform in accordance with that duty when, prior to the operation, neither Defendant Hern nor his medical personnel informed Plaintiff Jennifer DeBuhr that there was a risk that parts of the deceased fetus may be left within her body during a D&E operation.

40. As a direct and proximate result of Defendants' failure to warn Jennifer of this risk, she suffered physical and mental injury including but not limited to vaginal bleeding, the removal of her uterus, and, severe pain, stress, and anxiety.

41. As a direct and proximate result of those injuries, Plaintiff Jennifer DeBehr has suffered damages including permanent injury, disability or impairment to her body; the loss of her ability to conceive children; and physical pain and mental suffering endured in the past and reasonably certain to be experienced in the future.

42. As a result of Defendants' breaches, Plaintiff Jennifer DeBuhr has incurred damages in an amount to be proven at trial, in excess of \$75,000.00.

Plaintiffs respectfully request that the Court enter judgment in favor of Plaintiffs and against Defendants on this Second Claim for Relief in an amount to be proven at trial, in excess of \$75,000.00, plus costs, attorneys' fees, and interest as allowed by law, and for such other and further relief as the Court deems just and proper.

**THIRD CLAIM FOR RELIEF**  
(Negligent Misrepresentation)

43. Plaintiffs incorporate all the foregoing paragraphs as if fully set forth herein.

44. After the procedure, Defendant Dr. Hern negligently informed Jennifer that the operation had been successful and that she was free to go.

45. Specifically, Defendant Dr. Hern indicated on Jennifer's clinical record that the products of conception and all the fetal tissue and bone had been removed from her uterus.

46. These representations were false, as Defendant Dr. Hern and his medical staff failed to remove and account for a four centimeter fragment of bone left in Jennifer's body during the D&E operation.

47. Relying on Defendant Dr. Hern's representations, Plaintiff Jennifer DeBuhr left Colorado and returned to her home in Nebraska on December 7, 2013. In the Spring of 2014 Plaintiff Jennifer DeBuhr began to experience spotty bleeding. Relying on Defendant Dr. Hern's post-op representations, Plaintiff Jennifer DeBuhr and her physicians did not expect or anticipate that the bleeding was the result of fetal tissue or bone that Defendant Dr. Hern failed to remove during the operation.

48. As a direct and proximate result of the false representations negligently made by Defendant Dr. Hern, whose negligence is imputed to the Boulder Abortion Clinic, the bone

fragment became lodged in Plaintiff Jennifer DeBuhr's uterine wall, causing physical and mental injury including but not limited to vaginal bleeding, the removal of her uterus, and, severe pain, stress, and anxiety.

49. As a direct and proximate result of those injuries, Plaintiff Jennifer DeBuhr has suffered damages including permanent injury, disability or impairment to her body; loss of her ability to conceive children; and physical pain and mental suffering endured in the past and reasonably certain to be experienced in the future.

50. As a result of Defendants' false representations following the procedure, Plaintiff Jennifer DeBuhr has incurred damages in an amount to be proven at trial, in excess of \$75,000.00.

Plaintiffs respectfully request that the Court enter judgment in favor of Plaintiffs and against Defendants on this Third Claim for Relief in an amount to be proven at trial, in excess of \$75,000.00 plus costs, attorneys' fees, and interest as allowed by law, and for such other and further relief as the Court deems just and proper.

**FOURTH CLAIM FOR RELIEF**  
(Loss of Consortium)

51. Plaintiffs incorporate all the foregoing paragraphs as if fully set forth herein.

52. At all times material hereto, Plaintiffs have been husband and wife.

53. The injuries suffered by Plaintiff Jennifer DeBuhr, resulting from the negligence of Defendants, have adversely affected the ability of Plaintiff Jennifer DeBuhr to provide services and to share affection, companionship, comfort, assistance and relations with Plaintiff Jason DeBuhr.

54. Plaintiff Jason DeBuhr has suffered the following damages as a direct and proximate result of the injuries that Plaintiff Jennifer DeBuhr suffered and continues to suffer as a result of the negligent acts and omissions of Defendants:

- a. Loss of domestic services; and
- b. Loss of consortium, including affection, companionship, comfort, assistance, and relations.

WHEREFORE, Plaintiff Jason DeBuhr prays for judgment on the Fourth Claim for Relief against the Defendants for general damages, past and future, for loss of care, companionship, and consortium, mental pain and suffering, the costs of this action, and such other and further relief as allowed by law.

Respectfully submitted on November 30, 2015.

JENNIFER DEBUHR and JASON DEBUHR,  
Plaintiffs,

/s/ Kory D. George

Kory D. George, No. 41058

Laura J. Sova, No. 48151

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<p>DISTRICT COURT, EL PASO COUNTY, COLORADO 270 South Tejon Street Colorado Springs, Colorado 80901</p>	<p>FILED Document CO El Paso County District Court 4th JD Filing Date: Feb 06 2013 04:01PM MST Filing ID: 49329520 Review Clerk: Rachael Maestas</p> <p>▲ COURT USE ONLY ▲</p>
<p>AYANNA BYER.</p> <p>Plaintiff,</p> <p>v.</p> <p>JOHN DOE, M.D., DOCTOR FOR PLANNED PARENTHOOD OF THE ROCKY MOUNTAINS, INC., and</p> <p>PLANNED PARENTHOOD OF THE ROCKY MOUNTAINS, INC., JOINTLY AND SEVERALLY,</p> <p>Defendants.</p>	<p>Case Number: 13 CV 1045</p> <p>Division: 4</p> <p>Courtroom: 5405</p>
<p>COMPLAINT AND JURY DEMAND</p>	

COMES NOW Plaintiff Ayanna Byer, by and through her undersigned counsel, alleges and states as follows:

JURISDICTION AND VENUE

1. Pursuant to C.R.C.P. 98(c) venue is proper in El Paso County because Plaintiff and Defendants are located in Colorado Springs, El Paso County, Colorado and Defendant conducts business in El Paso County, Colorado.
2. This Court has jurisdiction over these Defendants pursuant to Colorado Constitution Article 6, Section 9, and C.R.S. Section 13-1-124(a) and (b) because the Defendant John Doe, resides within the State of Colorado, and the Defendant Planned Parenthood of the

Rocky Mountains, Inc., a corporation, has its principle place of business in Colorado and practices within the state of Colorado.

3. Pursuant to C.R.S.A.Const. Art. 6 Section 9, and C.R.S. Section 13-6-104, this Court has jurisdiction over this action because it involves a civil matter and the amount in controversy exceeds \$15,000.

#### THE PARTIES

4. Plaintiff incorporates herein by this reference paragraphs 1 through 3 of this Complaint, as if fully set forth herein.
5. Plaintiff Ayanna Byer (hereafter "Plaintiff") is a natural person and resident and citizen of the State of Colorado, residing at 725 Fable Glen Court, Colorado Springs, 80906, County of El Paso.
6. Upon information and belief, the Planned Parenthood doctor who performed the abortion whose real name is not currently known (hereinafter the "Planned Parenthood Doctor"), is a resident of Colorado and Planned Parenthood of the Rocky Mountains, Inc. (hereinafter "Defendants") is a Colorado corporation with its principle place of business at 3480 Centennial Boulevard, Colorado Springs, CO 80907.

#### RELEVANT FACTS

7. Plaintiff incorporates herein by reference paragraphs 1 through 6 of this Complaint, as if fully set forth herein.
8. The incident that gave rise to this Complaint occurred in late October, 2012 at the Planned Parenthood located at 3480 Centennial Boulevard, Colorado Springs, CO 80907.
9. The Plaintiff learned she was pregnant in October of 2012 and contacted Planned Parenthood located at 3480 Centennial Boulevard, Colorado Springs, CO 80907. The Planned Parenthood Defendants and/or agents or employees of the Planned Parenthood Defendants determined Plaintiff was approximately eight (8) weeks pregnant. The Planned Parenthood Defendants and/or agents or employees of the Planned Parenthood Defendants then scheduled Plaintiff to take Mifepristone (the abortion pill) to abort the pregnancy.
10. Plaintiff arrived at Planned Parenthood for her scheduled appointment whereby the Planned Parenthood Defendants and/or agents or employees of the Planned Parenthood Defendants determined Plaintiff was farther along in her pregnancy than previously thought; the agents or employees of Planned Parenthood Defendants informed the Plaintiff that Mifepristone was no longer an option for abortion.

11. At this time, the agents or employees of Planned Parenthood Defendants proceeded to pressure Plaintiff into making an immediate decision on whether to proceed with a surgical abortion.
12. Upon Plaintiff's condition that she would receive anesthesia for pain through an I.V. for which Plaintiff would pay an additional fee, Plaintiff agreed to the surgical abortion.
13. Upon Plaintiff being admitted into the surgical procedure room, an agent or employee of Planned Parenthood Defendants could not get the I.V. in Plaintiff's veins. This agent or employee of Planned Parenthood Defendants had to find another agent or employee of Planned Parenthood Defendants to help get the I.V. in Plaintiff's vein.
14. However, before the I.V. was inserted and before the Plaintiff received any anesthesia, the Planned Parenthood Doctor began the procedure to abort the pregnancy.
- \*15. At this time, Plaintiff immediately told the Planned Parenthood Doctor to stop and that she did not want to go through with the abortion procedure because she had not received any anesthetic. Plaintiff also informed Planned Parenthood Doctor and agents or employees of Planned Parenthood Defendants that she believed this to be a sign she should not go through with the abortion. The Planned Parenthood Doctor did not stop, despite Plaintiff's request, and assured Plaintiff the I.V. would be administered and the procedure would only take a few minutes.
16. At this time, the Planned Parenthood Doctor turned on the vacuum machines and told Plaintiff it was too late to stop.
- \*17. The Planned Parenthood Doctor then proceeded to use the vacuum machines while Plaintiff was fully awake and had not received any anesthetic despite their agreement. Plaintiff was forced to feel the full pain of the procedure against her will.
18. When Plaintiff began crying from the pain the Planned Parenthood Doctor stopped the procedure, which had only been performed for approximately seven (7) minutes.
19. Plaintiff proceeded to inform the Planned Parenthood Doctor and agents or employees of Planned Parenthood Defendants that the procedure had not gone as they had agreed. The Planned Parenthood Doctor and the agents or employees of Planned Parenthood Defendants apologized to Plaintiff and said that it was now over.
20. Plaintiff did not agree to a surgical abortion without anesthetic and relied upon the Planned Parenthood Doctor and agents or employees of Planned Parenthood Defendants representation that they would not proceed with the abortion until she had received anesthetic. Upon not receiving anesthetic, Plaintiff informed the Planned Parenthood Doctor and agents or employees of Planned Parenthood Defendants of her intentions to wait on the procedure and possibly come back another date.

21. Plaintiff would not have had an abortion and would have proceeded with her pregnancy to term had the Planned Parenthood Doctor and agents or employees of Planned Parenthood Defendants followed her request and not performed the abortion procedure.
22. The Planned Parenthood Doctor and agents or employees of Planned Parenthood Defendants directed Plaintiff to a waiting room where was never seen by a doctor or nurse thereafter. Furthermore, agents or employees of Planned Parenthood Defendants informed Plaintiff there were no follow up procedures or appointments after a surgical abortion.
23. The Planned Parenthood Doctor or agents or employees of Planned Parenthood Defendants did provide Plaintiff with a prescription for ten (10) Vicodin and antibiotics for fourteen (14) days.
24. Upon Plaintiff's return home, it was evident the pain medication did not work. Plaintiff began to suffer more pain and more bleeding, as well as hot and cold flashes. After approximately two (2) days Plaintiff just barely had enough strength to make it to the Emergency Room at Penrose Hospital, located at 2222 N. Nevada Ave., Colorado Springs, CO 80907.
25. The medical staff at Penrose informed Plaintiff she needed an emergency D&C because the Planned Parenthood doctor failed to finish the abortion procedure and had left particles of the fetus inside Plaintiff's body that had caused an infection.
26. Plaintiff was then forced to wait in pain at Penrose for approximately four (4) hours until a gynecologist could be found for emergency surgery. Dr. Steven A. Foley of Comprehensive Women's Care of Colorado Springs was able to perform the emergency surgery for Plaintiff.
27. Plaintiff remained in the hospital for approximately two (2) to four (4) days due to her weakness from fever and loss of blood. Most D&C patients leave same day, which is evidence of Plaintiff's severe injury from Planned Parenthood's negligent procedure.
28. Dr. Foley followed up with Plaintiff at Penrose before allowing her to be released and prescribed her antibiotics, pain medication, and advised Plaintiff to go home and rest.
29. Dr. Foley also scheduled a follow-up for Plaintiff to see him at his office whereby blood work was performed, showing Plaintiff's hormone levels would not go down. Plaintiff was also still suffering from pain and still bleeding.
30. Plaintiff contacted Planned Parenthood Defendants to file a complaint in which she was informed they would get back to her upon speaking to all parties involved. To this date, Planned Parenthood Defendants have never followed up with Plaintiff regarding her procedure nor her complaint.

**FIRST CLAIM FOR RELIEF**  
(Negligence)

31. Plaintiff incorporates herein by reference paragraphs 1 through 31 of this Complaint, as if fully set forth herein.
32. Planned Parenthood Defendants and the Planned Parenthood Doctor are liable to Plaintiff under the theory of negligence.
33. The Planned Parenthood Defendants and Doctor were negligent. The Planned Parenthood Doctor negligently performed an abortion on the Plaintiff before she was administered any anesthetic, prematurely ended the procedure within approximately seven (7) minutes, and failed to schedule any proper follow-up or appointments with the Plaintiff, against industry standards.
34. Plaintiff suffered from injuries. Plaintiff suffered from pain and bleeding for two (2) days after the procedure, and finally had to go to the Emergency Room at Penrose Hospital, where she remained for two (2) to four (4) days due to her weakness from fever and loss of blood. Plaintiff also suffered and continues to suffer severe emotional distress due to the Planned Parenthood Doctor and Defendant's negligence.
35. The Planned Parenthood Doctor and Defendant's negligence was a cause of the plaintiff's injuries. The medical staff at Penrose informed Plaintiff she needed an emergency D&C because the Planned Parenthood doctor failed to finish the abortion procedure and had left particles of the fetus inside Plaintiff's body that had caused an infection.
36. As a direct, immediate and proximate result of the Planned Parenthood Doctor and Defendants' negligence as stated above, the Plaintiff has sustained severe injuries which has caused the Plaintiff great pain, suffering, discomfort and emotional distress and which will continue to cause the Plaintiff great pain, suffering, discomfort and emotional distress.
37. As a direct, immediate and proximate result of the Planned Parenthood Doctor and Defendants' negligence, the Plaintiff has incurred and will continue to incur medical, therapeutic, hospital and physician expenses.
38. All damages to the Plaintiff are in the past, present and future whether so specifically delineated in each paragraph or not.

**SECOND CLAIM FOR RELIEF**  
(Battery)

39. Plaintiff incorporates herein all allegations contained in paragraphs 1 through 39 in the Introductory Allegations.

40. The Planned Parenthood Doctor and Defendants are liable to Plaintiff under the theory of battery.
41. Unless the patient consents, any operation or procedure involving contact with a patient's body is a battery, even when appropriate skill was used in the operation procedure. Plaintiff had rescinded her consent to the procedure prior to the Defendant starting the procedure by telling the Planned Parenthood Doctor to stop.
42. If a patient consents to a certain operation or procedure, and the physician performs a different operation or procedure without the patient's consent, the physician commits a battery and is responsible to the patient for the damages caused by the physician. Plaintiff did not agree to a surgical abortion without anesthetic and relied upon the Planned Parenthood Doctor and agents or employees of Planned Parenthood's representation that they would not proceed with the abortion until she had received anesthetic.
43. The Plaintiff incurred injuries including, but not limited to, medical injuries, has lost the ability to enjoy life as they did before the accident, has lost time, has suffered impaired earning capacity, economic losses, and has lost time from work and has lost pay and salary.
44. As a direct, immediate and proximate result of the Planned Parenthood Doctor's and Defendant's battery, the Plaintiff has incurred and will continue to incur medical, therapeutic, hospital and physician expenses.
45. All damages to the Plaintiff are in the past, present and future whether so specifically delineated in each paragraph or not.

**THIRD CLAIM FOR RELIEF**  
(Uninformed Consent)

46. Plaintiff incorporates herein by reference paragraphs 1 through 45 of this Complaint, as if fully set forth herein.
47. The Planned Parenthood Doctor and Defendants are liable to Plaintiff under the theory of uninformed consent.
48. The Planned Parenthood Doctor and Defendants performed a surgical abortion on the Plaintiff without the Plaintiff having received any anesthetic.
49. The Planned Parenthood Doctor's and Defendants' negligently failed to obtain the Plaintiff's informed consent before he performed the abortion procedure without the Plaintiff having received any anesthetic.
50. A reasonable person in the same or similar circumstances as the Plaintiff would not have consented to a surgical procedure without any anesthetic had they been given the information required for informed consent

51. The Planned Parenthood Doctor's and Defendants' negligent failure caused the Plaintiff's injuries.
52. As a direct, immediate and proximate result of the Planned Parenthood Doctor's and Defendants' uninformed consent as stated above, the Plaintiff has sustained severe injuries which have caused the Plaintiff great pain, suffering, discomfort and emotional distress and which will continue to cause the Plaintiff great pain, suffering, discomfort and emotional distress.
53. As a direct, immediate and proximate result of the Planned Parenthood Doctor's and Defendants' uninformed consent, the Plaintiff has incurred and will continue to incur medical, therapeutic, hospital and physician expenses.
54. All damages to the Plaintiff are in the past, present and future whether so specifically delineated in each paragraph or not.

**FOURTH CLAIM FOR RELIEF**  
(False Imprisonment)

55. Plaintiff incorporates herein by reference paragraphs 1 through 54 of this Complaint, as if fully set forth herein.
56. The Planned Parenthood Doctor and Defendants are liable to Plaintiff under the theory of false imprisonment.
57. The Planned Parenthood Doctor and Defendants intended to restrict the Plaintiff's freedom of movement. Before the Planned Parenthood Doctor started the abortion procedure, Plaintiff asked the Planned Parenthood Doctor and agents or employees of Planned Parenthood to stop and explained that she did not want to go through with the procedure because she had not received any anesthetic and felt this to be a sign she should keep the baby and carry to full term.
58. The Planned Parenthood Doctor and agents or employees of Planned Parenthood directly or indirectly, restricted the Plaintiff's freedom of movement for a period of time, no matter how short. Defendant told Plaintiff it was too late to stop, at which point he turned on the vacuum machines and began the abortion process against her will for approximately seven (7) minutes.
59. Plaintiff was aware that her freedom of movement was restricted. Plaintiff was aware that the Planned Parenthood Doctor had begun the abortion process, against her will, and refrained from leaving during the surgical procedure due to fear for her safety.

60. As a direct, immediate and proximate result of the Planned Parenthood Doctor's and agents or employees of Planned Parenthoods' false imprisonment as stated above, the Plaintiff sustained severe injuries which have caused the Plaintiff great pain, suffering, discomfort and emotional distress and which will continue to cause the Plaintiff great pain, suffering, discomfort and emotional distress.
61. As a direct, immediate and proximate result of the Planned Parenthood Doctor and agents or employees of Planned Parenthoods' negligence, the Plaintiff has incurred and will continue to incur medical, therapeutic, hospital and physician expenses.
62. All damages to the Plaintiff are in the past, present and future whether so specifically delineated in each paragraph or not.

#### FIFTH CLAIM FOR RELIEF

(Extreme and Outrageous Conduct – Emotional Distress)

63. Plaintiff incorporates herein by reference paragraphs 1 through 62 of this Complaint, as if fully set forth herein.
64. The Planned Parenthood Doctor and Defendants are liable to Plaintiff under the theory of extreme and outrageous conduct – emotional distress.
65. The Planned Parenthood Doctor and agents or employees of Planned Parenthood engaged in extreme and outrageous conduct. The Planned Parenthood Doctor and agents or employees of Planned Parenthood continued to proceed with a surgical abortion on the Plaintiff after the Plaintiff had told the Planned Parenthood Doctor to stop. The Planned Parenthood Doctor and agents or employees of Planned Parenthood continued to proceed with a surgical abortion with the Plaintiff not having received any anesthetic. The Planned Parenthood Doctor and agents or employees of Planned Parenthood stopped the abortion process after approximately seven (7) minutes
66. The Planned Parenthood Doctor and agents or employees of Planned Parenthood did so recklessly. As a physician that performs abortions and works at an abortion clinic, The Planned Parenthood Doctor and agents or employees of Planned Parenthood should have known that there was a substantial probability that their negligent performance on the Plaintiff would cause her severe emotional distress.
67. The Planned Parenthood Doctor's and agents or employees of Planned Parenthoods' conduct caused the Plaintiff severe emotional distress. Plaintiff has suffered and continues to suffer sever emotional distress due to the Planned Parenthood Doctor's and agents or employees of Planned Parenthoods' extreme and outrageous conduct.
68. As a direct, immediate and proximate result of the Planned Parenthood Doctor's and agents or employees of Planned Parenthoods' extreme and outrageous conduct as stated above, the Plaintiff has sustained severe injuries which have caused the Plaintiff great

pain, suffering, discomfort and emotional distress and which will continue to cause the Plaintiff great pain, suffering, discomfort and emotional distress.

69. As a direct, immediate and proximate result of the Planned Parenthood Doctor's and agents or employees of Planned Parenthoods' extreme and outrageous conduct, the Plaintiff has incurred and will continue to incur medical, therapeutic, hospital and physician expenses.
70. All damages to the Plaintiff are in the past, present and future whether so specifically delineated in each paragraph or not.

**SIXTH CLAIM FOR RELIEF**  
(Breach of Fiduciary Duty)

71. Plaintiff incorporates herein by reference paragraphs 1 through 70 of this Complaint, as if fully set forth herein.
72. The Planned Parenthood Doctor and Defendants are liable to Plaintiff under the theory of breach of fiduciary duty.
73. The Planned Parenthood Doctor and Defendants acted as fiduciaries of the Plaintiff with respect to the surgical abortion performed on the Plaintiff.
74. The Planned Parenthood Doctor and Defendants breached their fiduciary duty to the plaintiff. The Planned Parenthood Doctor and agents or employees of Planned Parenthood negligently performed the abortion without the Plaintiff having received any anesthetic, negligently stopped the abortion process after seven (7) minutes, and failed to do any follow-up with the Plaintiff.
75. Plaintiff had injuries. Plaintiff suffered from pain and bleeding for two (2) days after the procedure, and finally had to go to the Emergency Room at Penrose Hospital, where she remained for two (2) to four (4) days due to her weakness from fever and loss of blood. Plaintiff also suffered and continues to suffer severe emotional distress due to the Defendant's negligence.
76. The Planned Parenthood Doctor's and agents or employees of Planned Parenthoods' breach of fiduciary duty was the cause of Plaintiff's injuries.
77. As a direct, immediate and proximate result of the Planned Parenthood Doctor and Defendants' breach of a fiduciary duty as stated above, the Plaintiff has sustained severe injuries which have caused the Plaintiff great pain, suffering, discomfort and emotional distress and which will continue to cause the Plaintiff great pain, suffering, discomfort and emotional distress.
78. As a direct, immediate and proximate result of the Planned Parenthood Doctor and Defendants' breach of a fiduciary duty, the Plaintiff has incurred and will continue to incur medical, therapeutic, hospital and physician expenses.

79. All damages to the Plaintiff are in the past, present and future whether so specifically delineated in each paragraph or not.

**SEVENTH CLAIM FOR RELIEF**

(Breach of Contract)

80. Plaintiff incorporates herein by reference paragraphs 1 through 79 of this Complaint, as if fully set forth herein.

81. The Planned Parenthood Doctor and Defendants are liable to Plaintiff under the theory of breach of contract.

82. The Planned Parenthood Doctor and Defendants entered into a contract with the plaintiff to go ahead with a surgical abortion on the condition that Plaintiff would be administered anesthetic via an I.V.

83. The Planned Parenthood Doctor and agents or employees of Planned Parenthood failed to comply with the contract. The Planned Parenthood Doctor moved forward with the surgical abortion despite the Plaintiff not having received anesthetic and after the Plaintiff had asked The Planned Parenthood Doctor to stop with the procedure.

84. Plaintiff performed her part of the contract. Plaintiff had paid the Planned Parenthood Defendants for the abortion procedure as agreed in her contract with the Planned Parenthood Defendants.

85. As a direct, immediate and proximate result of the Planned Parenthood Doctor's and Defendants' breach of contract as stated above, the Plaintiff has sustained severe injuries which have caused the Plaintiff great pain, suffering, discomfort and emotional distress and which will continue to cause the Plaintiff great pain, suffering, discomfort and emotional distress.

86. As a direct, immediate and proximate result of the Planned Parenthood Doctor's and Defendants' breach of contract, the Plaintiff has incurred and will continue to incur medical, therapeutic, hospital and physician expenses.

87. All damages to the Plaintiff are in the past, present and future whether so specifically delineated in each paragraph or not.

**JURY DEMAND**

88. Plaintiff incorporates herein by reference paragraphs 1 through 87 of this Complaint, as if fully set forth herein.

89. Pursuant to C.R.C.P. 38(b) Plaintiff demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief all is as more particularly hereinafter set forth.

WHEREFORE, on account of the matters set forth in the Seven Claims For Relief, Plaintiff, Ayanna Byer, prays for a judgment in favor of the Plaintiff and against the Planned Parenthood Doctor and Planned Parenthood of the Rocky Mountains, Inc., jointly and severally, in an amount which will fully compensate Plaintiff for her injuries and damages in the past, present and future including for past, present and future medical expenses, for past, present and future pain and suffering, for personal injuries, for emotional distress, for loss of the ability to enjoy life as she did before the event, for permanent physical injuries and for other non-economic damages, for interest on such sums as is provided by law, for attorneys fees, expert witness fees, costs and for such other and further relief as to this Court appears proper in the premises.

Respectfully submitted this 6<sup>th</sup> day of February, 2013.



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DISTRICT COURT, CITY AND COUNTY OF  
DENVER, STATE OF COLORADO  
Court Address: 1437 Bannock Street  
Denver, Colorado 80202

DATE FILED: June 20, 2014 12:58 PM  
FILING ID: 592F22DEF1397  
CASE NUMBER: 2014CV31778

**CARY SMITH, as parent and next friend of R.Z.**

Plaintiff,

v.

**ROCKY MOUNTAIN PLANNED PARENTHOOD,  
INC. d/b/a PLANNED PARENTHOOD OF THE  
ROCKY MOUNTAINS, INC., a Colorado non-profit  
corporation, and JANE DOES 1-4**

Defendants.

▲ COURT USE ONLY ▲

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**Case Number: 2014CV31778**

**Courtroom: 376**

**AMENDED COMPLAINT AND JURY DEMAND**

Plaintiff, R.Z., by and through Cary Smith, as parent and next friend, by her attorneys, for her Amended Complaint against Defendants Rocky Mountain Planned Parenthood Inc. d/b/a Planned Parenthood of the Rocky Mountains, Inc. and Jane Does 1-4, alleges as follows:

### SUMMARY OF THE CASE

1. This case seeks economic and non-economic damages arising from the Defendants' multiple failures to inquire about how a thirteen-year-old girl became pregnant, or what her relationship was to the adult man who brought her to Defendants for an abortion, despite numerous opportunities to speak to the girl alone; their failures to report known or suspected sexual abuse despite numerous indications that the man had sexually abused the girl; and administration of a long-term and undetectable form of birth control to the girl despite her fear of needles, all of which enabled the man to continue his years of sexual abuse of the girl without discovery or consequence.

### PARTIES

2. Plaintiff R.Z., a minor child, is a resident of the State of Colorado living with her mother, Cary Smith, at 2860 Oriole St., Federal Heights, Colorado 80260, in Adams County.

3. Cary Smith ("Plaintiff") is a resident of the State of Colorado, residing with her daughter, R.Z., at 2860 Oriole St., Federal Heights, Colorado 80260, in Adams County. Plaintiff brings this action on behalf of her minor child, R.Z.

4. Defendant Rocky Mountain Planned Parenthood, Inc. d/b/a Planned Parenthood of the Rocky Mountains, Inc. ("Planned Parenthood") is a Colorado non-profit corporation with its principal office located at 7155 East 38th Avenue, Denver, Colorado 80207 in the City and County of Denver.

5. Defendants Jane Does 1-4 are administrative and professional employees of Planned Parenthood who interacted and communicated with R.Z. on May 3, 2012.

### JURISDICTION AND VENUE

6. Plaintiff hereby incorporates all allegations made elsewhere in the Amended Complaint, by reference.

7. Venue for this proceeding is proper in the City and County of Denver pursuant to C.R.C.P. Rule 98(c).

8. Jurisdiction is proper because R.Z. is a resident of the State of Colorado, Planned Parenthood is a Colorado non-profit corporation, with its principal place of business in the State of Colorado, and the events at issue occurred in the State of Colorado. Upon information and belief, Defendants Jane Does 1-4 are also residents of the State of Colorado.

## FACTUAL ALLEGATIONS

9. Plaintiff hereby incorporates all allegations made elsewhere in the Amended Complaint, by reference.

10. On May 3, 2012, R.Z. was thirteen (13) years of age and had been the victim of sexual abuse by her step-father, Timothy David Smith ("Smith") for approximately seven (7) years.

11. During the many years of sexual abuse prior to May 3, 2012, Smith had also been verbally and physically abusive to R.Z., including threatening her life, as well as verbally and physically abusive to R.Z.'s mother, Plaintiff, in the presence of R.Z.

12. Approximately three weeks prior to May 3, 2012, R.Z. took a pregnancy test at the direction of Smith, due to concerns that she might be pregnant. The test indicated that R.Z. was pregnant.

13. A few days to a week before May 3, 2012, Smith pressured R.Z. to call Planned Parenthood to make an appointment for an abortion. The appointment for an abortion was scheduled for May 3, 2012 at Planned Parenthood's 7155 East 38th Avenue, Denver, Colorado 80207, location.

14. On May 3, 2012, Smith transported R.Z. to Planned Parenthood's facility located at 7155 East 38th Avenue, Denver, Colorado 80207 for her appointment and accompanied her inside the facility.

15. In connection with the abortion, Planned Parenthood required certain forms to be completed. Although R.Z. wrote her date of birth and signed some of the forms, the majority of the forms were completed by Smith, and R.Z. did not read them.

16. Smith indicated on the forms that he was R.Z.'s father. However, upon information and belief, Jane Does 1-4 heard R.Z. address Smith as "Tim," not "Dad."

17. R.Z. was briefly examined outside the presence of Smith and then returned to the waiting room where Smith was located. During the examination, none of Jane Does 1-4 spoke to R.Z. about sexual abuse, physical abuse, her relationship with Smith, or any other personal details that could have lead to a determination that R.Z.'s pregnancy was due to abuse.

18. During the appointment, Jane Does 1-4 spoke to R.Z. and Smith about prescribing birth control for R.Z. Smith directed R.Z. to accept birth control in the form of an injection so that Plaintiff would not discover that R.Z. was on birth control. R.Z. initially refused, as she did not like shots; however, Smith directed R.Z. to agree to the injection. Some or all of Jane Does 1-4 were present for at least a portion of this conversation, but did not question R.Z. regarding the situation or potential sexual abuse.

19. Based upon the information provided by Smith and R.Z., Jane Does 1-4 learned that R.Z. was only thirteen (13) years of age and pregnant. Jane Does 1-4 also learned that R.Z. and Smith had different last names and R.Z. addressed Smith as "Tim," not "Dad." Jane Does 1-4 further learned that Smith was directing R.Z. to consent to a form of birth control that Minor Plaintiff was not comfortable receiving.

20. R.Z. was then taken to another room for the abortion procedure. At that time, Smith left the facility to eat lunch.

21. At no point immediately prior to, or during the procedure, did Jane Does 1-4 speak to R.Z. about sexual abuse, physical abuse, her relationship with Smith, or any other personal details that could have lead to a determination that R.Z.'s pregnancy was due to abuse.

22. After the abortion, R.Z. was released from the recovery room, but no adult was present to assist her. Instead, Jane Does 1-4 allowed R.Z. to leave Planned Parenthood's facility unaccompanied, and R.Z. located Smith in his vehicle in the parking lot.

23. At no point during the appointment did Jane Does 1-4 verify Smith's relationship to R.Z.

24. Neither Planned Parenthood nor Jane Does 1-4 ever contacted R.Z.'s mother.

25. Neither Planned Parenthood nor Jane Does 1-4 ever contacted law enforcement, child services, or any other agency to report any suspicion of child sexual abuse as is required under Colorado law, although they should have been alerted to the risk of abuse due to R.Z.'s age and Smith's conduct.

26. As a direct and proximate result of Defendants' failure to inquire about R.Z.'s suspicious circumstances and failure to report any knowledge or suspicion of the sexual abuse of R.Z., Smith was able to continue his sexual abuse of R.Z. on numerous occasions over the course of the next few months.

27. On July 18, 2012, while Smith was out of the home, R.Z. told her mother, Plaintiff, that Smith had been sexually abusing her. Plaintiff transported R.Z. to the hospital for examination and immediately reported the abuse. While at the hospital, Plaintiff learned that R.Z. was on birth control, as prescribed and administered by Defendants.

28. Plaintiff contacted Planned Parenthood to obtain medical records related to the birth control being provided to her daughter and learned that R.Z. had received an abortion at Planned Parenthood's facility while accompanied by her abuser, Smith.

29. Plaintiff was unaware of the ongoing sexual abuse until approximately July 18, 2012. Plaintiff was unaware of the abortion until July 20, 2012.

30. Smith was subsequently arrested and charged with numerous felony counts related to the sexual abuse of R.Z. In late 2012, Smith pled guilty to two counts.

**FIRST CLAIM FOR RELIEF—RESPONDEAT SUPERIOR**  
**(Against Planned Parenthood)**

31. Plaintiff hereby incorporates all allegations made in the Amended Complaint, by reference.

32. Jane Does 1-4 were employees of Planned Parenthood on May 3, 2012.

33. Jane Does 1-4 were acting within the scope of their employment with Planned Parenthood when they interacted and communicated with R.Z. on May 3, 2012.

34. Planned Parenthood is a Colorado non-profit corporation that can only act through its employees. As such, any act or omission of an employee while acting within her employment is the act or omission of Planned Parenthood.

35. The acts and omissions of Jane Does 1-4, and therefore also of Planned Parenthood, on May 3, 2012 have caused R.Z. damages in an amount to be proven at trial, plus interests, costs and attorneys' fees.

**SECOND CLAIM FOR RELIEF—NEGLIGENCE**  
**(Against Planned Parenthood and Jane Does 1-4)**

36. Plaintiff hereby incorporates all allegations made in the Amended Complaint, by reference.

37. On May 3, 2012 Defendants had a duty to inquire of R.Z. sufficient to assess whether R.Z. was the victim of sexual abuse.

38. On May 3, 2012, Defendants had sufficient information available to them to provide knowledge or suspicion of sexual abuse of R.Z.

39. A reasonably careful physician or medical provider in Defendants' positions would have inquired of R.Z. to determine whether she was the subject of sexual abuse.

40. Defendants failed to sufficiently inquire of R.Z. to evaluate whether R.Z. was the victim of sexual abuse.

41. Defendants' failures to inquire of R.Z. were breaches of the duty owed by a reasonably prudent physician or medical provider to R.Z.

42. As a direct and proximate result of Defendants' breaches of their duties, R.Z.'s sexual abuse remained concealed and R.Z. was placed on birth control, all of which enabled Smith to continue to sexually abuse R.Z. on numerous occasions for more than two additional months.

43. As a direct and proximate result of Defendants' breaches of their duties, R.Z. has sustained damages in an amount to be proven at trial, plus interest, costs and attorneys' fees.

**THIRD CLAIM FOR RELIEF—NEGLIGENCE *PER SE***  
**(Against Planned Parenthood and Jane Does 1-4)**

44. Plaintiff hereby incorporates all allegations made in the Amended Complaint, by reference.

45. On May 3, 2012, Defendants had a duty under C.R.S. § 19-3-304 to report known or suspected sexual abuse of minors.

46. On May 3, 2012, Defendants had sufficient information available to them to provide knowledge or suspicion of sexual abuse of R.Z.

47. Defendants failed to report known or suspected sexual abuse of R.Z.

48. On May 3, 2012, Defendants had a duty under C.R.S. § 12-37.5-104 to not perform an abortion on R.Z. until 48 hours after written notice of the pending abortion had been delivered to Plaintiff at her home.

49. Defendants did not provide written notice to Plaintiff of the pending abortion.

50. Defendants did not wait 48 hours to perform an abortion on R.Z.

51. As a direct and proximate result of Defendants' breaches of their duties, R.Z. has sustained damages in an amount to be proven at trial, plus interest, costs and attorneys' fees.

**FOURTH CLAIM FOR RELIEF—NEGLIGENT INFLICTION  
OF EMOTIONAL DISTRESS**  
**(Against Planned Parenthood and Jane Does 1-4)**

52. Plaintiff hereby incorporates all allegations made in the Amended Complaint, by reference.

53. Defendants were negligent in failing to sufficiently inquire of R.Z. to assess whether R.Z. was the victim of sexual abuse.

54. Defendants were negligent in failing to report known or suspected sexual abuse of R.Z.

55. Defendants' negligence created an unreasonable risk of physical harm to R.Z.

56. Defendants' negligence caused R.Z. to be put in fear for her own safety and such fear was shown by physical consequences or long continued emotional disturbance, rather than only momentary fright, shock, or other similar and immediate emotional distress.

57. As a direct and proximate result of Defendants' negligence, R.Z. has sustained damages in an amount to be proven at trial, plus interest, costs and attorneys' fees.

**FIFTH CLAIM FOR RELIEF—EXTREME AND OUTRAGEOUS CONDUCT  
(Against Planned Parenthood and Jane Does 1-4)**

58. Plaintiff hereby incorporates all allegations made in the Amended Complaint, by reference.

59. Defendants engaged in extreme and outrageous conduct.

60. Defendants did so recklessly or with the intent of causing R.Z. severe emotional distress.

61. Defendants' conduct caused R.Z. severe emotional distress.

62. As a direct and proximate result of Defendants' extreme and outrageous conduct, R.Z. has sustained damages in an amount to be proven at trial, plus interest, costs and attorneys' fees.

**PRAYER FOR RELIEF**

Plaintiff, Cary Smith, as parent and next friend of R.Z., prays for judgment upon all claims against the Defendants, and requests economic and non-economic damages for the pain and suffering and emotional distress R.Z. has suffered as a result of their negligent and reckless conduct, plus pre- and post-judgment interest as provided by law, attorneys' fees, costs and such other relief as the Court deems just and proper.

**JURY DEMAND**

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Dated this \_\_\_ day of June, 2014

Respectfully submitted,

MARTIN LAW OFFICE LLC

*Original signature on file at Martin Law Office*

/s/ Jodi S. Martin

Jodi S. Martin

KLEIN | FRANK, P.C.

*Original signature on file at Klein | Frank, P.C.*

/s/ Carrie Frank

Beth A. Klein  
Carrie R. Frank

SILVER & DeBOSKEY,  
A Professional Corporation  
*Original signature on file at Silver & DeBoskey*

/s/ Angela D. DeVine \_\_\_\_\_  
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