

EXHIBIT 1

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

ROBERTA CLARK,)
Plaintiff,)
vs.)
) CIVIL ACTION NO.:
) CV2012-1045
)
PLANNED PARENTHOOD SOUTHEAST, INC.))
PLANNED PARENTHOOD OF GEORGIA, INC))
PLANNED PARENTHOOD OF ALABAMA, INC))
and DR. AQUA DON E. UMOREN, MD, and,)
Fictitious parties, A through I,)
Defendants.)

PLAINTIFF’S FIRST AMENDMENT TO ORIGINAL COMPLAINT, ADDING AND/OR SUBSTITUTING PLANNED PARENTHOOD SOUTHEAST, INC AS A DEFENDANT IN THE ABOVE SYLED ACTION

COMES NOW, Roberta Clark, by and through the undersigned counsel, and pursuant to this court’s order and directive of January 9, 2013¹, hereby amends the original complaint by adding and/or substituting Planned Southeast, Inc as proper party defendant in the above styled cause.

1. Plaintiff, Roberta Clark adopts and incorporates all allegations, claims and damages claimed in the original complaint as if fully set forth in this first amendment to the original complaint; therefore, plaintiff’s original complaint being fully incorporated herein, a copy of said original complaint is herein attached and served upon defendants together with this first amendment to plaintiff’s complaint.

¹ In open court on January 9, 2013, counsel for Planned Parenthood of Georgia, Inc and Planned Parenthood Southeast Inc, informed the court and plaintiff’s counsel of a name change from Planned Parenthood of Georgia, Inc to Planned Parenthood Southeast, Inc, thereafter, the court granted the plaintiff a 20-day extension of time to add and/or substitute a proper party.

2. Further, pursuant to Rule 19, A.R.Civ. P., Rule 15(c), A.R.Civ.P and/or 9(h), A.R.Civ.P., substituting fictitious parties A through I for Planned Parenthood of Southeast, Inc and in line with the court order of January 9, 2103, hereby adopts and incorporates and asserts all allegations and damages claimed (ad admnum clauses) in the original complaint against Planned Parenthood of Southeast, Inc as if fully set in this first amendment to the plaintiff's complaint.

Wherefore, premises considered, plaintiff respectfully requests this Honorable Court to enter an order directing Planned Parenthood Southeast, Inc., be added and/or substituted as a defendant and further direct the clerk of the court to re-caption the above styled action as follows:

Roberta Clark, Plaintiff vs. Planned Parenthood Southeast, Inc, et al, Defendants.

Respectfully submitted by,

/s/ Adedapo T. Agboola
/s/ Darryl Bender
Attorneys for Plaintiff

OF COUNSEL
BENDER AND AGBOOLA, LLC
711 North 18th Street
Birmingham, Alabama 35203
PH. (205) 322-2500/FAX: (205) 324-2120
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CERTIFICATE OF SERVICE

I hereby certify that on this the 21st day of January 2013, I have served the foregoing on all counsel of record via Ala e file to: Charles A. McCallum, III, Esq. @ McCallum, Hoaglund, Cook & Irby, LLP, 905 Montgomery Hwy, Suite 201, Vestavia Hill, AL 35216, and **Service of summons and complaint by certified mail upon: Planned Parenthood of Southeast, Inc, c/o Kay Scott, President/CEO @ 75 Piedmont Avenue, NE, Suite 800, Atlanta, GA 30303.**

/s/ Adedapo T. Agboola
Of Counsel

FILED IN OFFICE

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA AUG 09 2012

ROBERTA CLARK,
Plaintiff,

ANNE-MARIE ADAMS
Clerk

vs.

)
)
)
) CIVIL ACTION NO.:

) CV 201201045
)
)

PLANNED PARENTHOOD OF GEORGIA, INC, a domestic corporation; PLANNED PARENTHOOD OF ALABAMA, a domestic corporation; and DR. AQUA DON E. UMOREN, MD in his individual capacity and also in his capacity as agent, officer, manager, medical director or employee of named corporate defendants, PLANNED PARENTHOOD OF GEORGIA, INC and PLANNED PARENTHOOD OF ALABAMA; [both corporate defendants are hereinafter referred to jointly as "PLANNED PARENTHOOD"]; Defendants, A B C refer to that person, firm, corporation, administrator/nursing practitioner, governing authority, board of directors, clinic director, medical director, attending physician, supervising physician, medical specialist, technician, nursing assistant, sonographers, ultrasound technicians or any other agents of named defendants who negligently and/or wantonly, recklessly failed to provide proper medical care, treatment to the plaintiff, and whose negligent and wanton conduct proximately caused the misdiagnosis of the plaintiff's ectopic pregnancy thus causing physical bodily injuries, pain and suffering, psychological damages and emotional distress to the plaintiff; **Defendants, DEF,** refer to that person, firm, corporation, administrator/nursing practitioner, governing authority, board of directors, clinic director, medical director, attending physician, supervising physician, medical specialist, technician, nursing assistant, sonographers, ultrasound technicians or any other agents of named defendants negligently and/or wantonly failed to train, failed to supervise and who negligently and/or wantonly hired the person or persons, entity or entities whose failure to utilize that degree of a medical care, knowledge, skill, competence, care, treatment, assistance and supervision required in rendering medical treatment to the plaintiff; **Defendants, GHI,** refer to that person, administrator/nursing practitioner, firm, corporation, governing authority, board of directors, clinic director, medical director, attending physician, supervising physician, medical specialist, technician, nursing assistant, ultrasound technicians sonographers or any other agents of named defendants who negligently and/ wantonly failed to provide the plaintiff with the adequate advise, counseling and information required under the law with respect to abortion and reproductive services made the basis of plaintiff's complaint; and wherefore, **Defendants, A through I** are fictitious parties whose proper names and true identities are presently unknown to the plaintiff but will be correctly named and substituted when ascertained.

Defendants.

PLAINTIFF'S COMPLAINT AND FACTUAL ALLEGATIONS

1. Plaintiff adopts and incorporates by reference all of the information and pleading in the above styled caption as if fully stated herein.
2. At all times material hereto, Plaintiff, Roberta Clark is an adult citizen of the State of Alabama and a resident of Jefferson County, Alabama.
3. At all time material hereto, plaintiff was under the care of defendants pursuant to express and implied contract between plaintiff and defendants on the basis of patient-physician or patient-healthcare provider relationships.
4. Defendant, **PLANNED PARENTHOOD** is an Abortion and Reproductive Health Clinic domestic corporation. At all time material hereto, **PLANNED PARENTHOOD** was doing business in Jefferson County, Alabama at its location on 1211 27th Place South, Birmingham, Alabama 35205 where the wrongful conducts made the basis of this lawsuit occurred. Defendants, **PLANNED PARENTHOOD** is directly liable for its own culpable conduct and also is vicariously liable for the negligent, breach of standard of care and any wrongful conduct of all co-defendant, Dr Aqua Don E Umoren and for the wrongful conducts of fictitious parties A through I. Upon information and belief, Planned Parenthood of Alabama has merged with Planned Parenthood of Georgia, Inc
5. Defendant, **Dr. Aqua Don E Umoren, MD.** [hereinafter referred to as **Dr Umoren**], is a physician, and he is being sued individually and in his official capacity as a physician agent, a servant, a employee of corporate defendants, **PLANNED PARENTHOOD**. Dr. Umoren was acting within the scope of his duties as an employee or agent of **PLANNED PARENTHOOD** at all times material hereto.

6. Fictitious defendants, A through I are board of directors, governing authority, physicians, medical assistants, technicians, specialists, ultrasound technicians, sonographers, radiology technicians, manufacturers, sellers, distributors of medical equipments, quality assurance companies for ultrasound machines, agents/employees of **PLANNED PARENTHOOD** whose negligent and/or wanton conduct, breach of standard of care, fraud, misrepresentation, breach of contract, negligent and wanton training and supervision either separately or combined with the wrongful conducts of named defendants to proximately cause Plaintiff's injuries and damages made this basis of th is lawsuit.
7. The occurrences or Plaintiff's legal injury made the basis of this complaint happened or accrued on August 20, 2010 in Jefferson County, Alabama.
8. The substantive claims in this action are governed by The Alabama Medical Liability Act, the common law of Alabama and any other applicable laws and regulations of the State of Alabama.
9. On or about August 10, 2010 and at all time material hereto, plaintiff, Roberta Clark entered into an express or implied contract with the defendants, **PLANNED PARENTHOOD** and Dr Umoren and fictitious parties A through I for consideration duly paid by the plaintiff to the defendants to provide the plaintiff with medical services and care by defendants. By the terms of the parties' contract, the defendants expressly or impliedly agreed or warranty to use acceptable standard of care, reasonable care, diligence and skill in providing the medical services and medical treatments, including but not limited to pregnancy tests, diagnosis of pregnancy, termination of pregnancy and provide any other necessary abortion

services and counseling and to exercise reasonable care in maintaining the personal safety and general health and welfare of the plaintiff and the welfare of all similarly situated members of public at large who under similar circumstances entrusted their medical care and welfare to the defendants for the purposes of receiving abortion and/or reproductive services from the defendants.

10. On August 10, 2010, plaintiff presented to defendants' Clinic, **PLANNED PARENTHOOD** in Birmingham Alabama for abortion services which include but not limited to pregnancy testing, evaluation and termination of pregnancy.

11. On August 10, 2010, after completing required paper work, defendants ordered labs and pregnancy test with the following finding and results; Hgb11.9 gm/dl; Rh Pos(+); Pregnancy Test: Type Stanbio Result Pos(+).

12. On August 20, 2010, defendants performed an ultrasound showing estimated fetal gestational age of 8 weeks 4 days.

13. On August 20, 2010 following the completion of the ultrasound, plaintiff underwent a suction curettage procedure to terminate plaintiff's pregnancy, the suction curettage procedure was performed by **Dr. E Umoren** at defendants' **PLANNED PARENTHOOD** clinic in Birmingham Alabama.

14. Upon information and belief, plaintiff alleges that following said suction curettage procedure; Dr Umoren knew or should have known that suction curettage procedure did not result in termination of plaintiff's pregnancy and that plaintiff was still pregnant after the procedure because no fetal tissue was identified in tissue specimen sent to pathology on August 20, 2010.

15. According to Dr Umoren's preoperative and operative procedure summary, physician's pelvic exam revealed a uterus of 8-4weeks, also the report of induced termination of pregnancy filed with State of Alabama shows clinical estimate of gestation of 8.4 weeks.
16. Following the suction curettage procedure performed at defendants' facility by Dr Umoren on August 20, 2010, plaintiff continued to have bleeding accompanied with nausea, vomiting and lower quadrant pain.
17. On September 14, 2010, plaintiff presented to emergency department of BMC Princeton Medical Center in Birmingham Alabama with complaints of nausea, vomiting and left lower quadrant pain.
18. On September 14, 2010 following physical examination and ultrasound exam at the emergency department of BMC Princeton Medical Center, the ultrasound showed evidence of a 13-week gestation that was extrauterine involving left adnexa (fallopian tube), this finding prompted emergency admission of plaintiff for surgical intervention, pain management and treatments.
19. On September 15, 2010, at BMC-Princeton Medical Center, plaintiff underwent a laparoscopy with conversion to laparotomy in which plaintiff's left tube was removed with the 13-week fetus and placenta.

**COUNT ONE
NEGLIGENCE AND/OR WANTONNESS CLAIMS AGAINST PLANNED
PARENTHOOD AND DR UMOREN ALABAMA MEDICAL LIABILITY ACT**

20. Plaintiff adopts and re-alleges all the averments and factual allegations in paragraphs 1 through 19 as if fully set out herein in Count One and further alleges the following:.

21. That at all time material hereto, defendants, **PLANNED PARENTHOOD** and **Dr Umoren** and fictitious defendants, **A through I**, jointly and/or separately owed the Plaintiff, **Roberta Clark** a duty of care, i.e., the duty to exercise that degree of care, reasonable care, skill and diligence commonly possessed and exercised by similarly situated medical practitioners, physicians, nurses, healthcare providers, medical entities in the same neighborhood/medical community acting under the same or similar circumstances made the basis of this lawsuit and described in this complaint.

22. Plaintiff alleges that on August 20, 2010 and at all time material hereto, Defendants, **PLANNED PARENTHOOD AND Dr Umoren** and fictitious defendants, **A through I**, negligently and/wantonly breached the standard of care owed plaintiff **Robert Clark** in that defendants negligently and/or wantonly deviated from acceptable standard of care in the diagnosis of pregnancy, termination of pregnancy and provision of abortion services to plaintiff by failing to exercise such reasonable care, skill, and diligence as other similarly situated health care providers in the same in the same neighborhood/community and in the same general line of practice have and exercise in like cases, specifically,

- i. **PLANNED PARENTHOOD** and **Dr Umoren** and fictitious parties **A through I**, negligently and/ wantonly failed to diagnose ectopic pregnancy;
- ii. **PLANNED PARENTHOOD** and **Dr Umoren** and fictitious parties **A through I**, negligently and/or wantonly failed to diagnose the nature of

plaintiff's pregnancy before and after a suction curettage procedure was performed.

- iii. **PLANNED PARENTHOOD and Dr Umoren and fictitious parties A through I, negligently and/or wantonly failed to exercise proper and appropriate, sufficient and reasonable due care in regard to diagnosing the nature of plaintiff's pregnancy so as to identify ectopic pregnancy;**
- iv. **PLANNED PARENTHOOD and Dr Umoren and fictitious parties A through I, negligently failed to exercise proper and appropriate, sufficient and reasonable due care in regard to reviewing the ultrasound conducted on plaintiff on August 20, 2010 which defendants interpreted as demonstrating that no viable intrauterine pregnancy was present, had the defendants exercised proper and appropriate, sufficient and reasonable due care in regard to reviewing the ultrasound conducted on plaintiff on August 20, 2010 defendants would have determined that an intrauterine tubal pregnancy existed.**
- v. **PLANNED PARENTHOOD and Dr Umoren and fictitious parties A through I, negligently/or wantonly failed to terminate plaintiff's pregnancy thereby causing the plaintiff to continue to carry an ectopic tubal pregnancy which ruptured within 3 weeks after Dr. Umoren and PLANNED PARENTHOOD and fictitious parties A through I were employed to terminate said pregnancy;**

23. Plaintiff alleges that aforesaid conducts, acts and omissions described in i- v above and other acts and omissions of defendants described in this complaint constitute negligent and/or wanton breach of standard of care and violations and deviations from acceptable standard of care by PLANNED PARENTHOOD and Dr Umoren and fictitious parties A through I.

24. Plaintiff alleges that as a direct and proximate consequence of aforesaid negligent and/or wanton breach of standard of care, violations and deviations from acceptable standard of care either separately by PLANNED PARENTHOOD and Dr Umoren and/or combined and concurred with negligent conducts acts and omissions of fictitious parties A through I to cause plaintiff's injuries and damages made the basis of this lawsuit.

25. Plaintiff alleges that as a direct and proximate consequence of defendants' negligence and/or wantonness, breach of standard of care, deviations from acceptable standard of care by defendants, PLANNED PARENTHOOD and Dr Umoren either separately or combined and concurred with negligent and/or wanton conducts of fictitious defendants, Plaintiff, Roberta Clark was injured, suffered and continues to suffer damages which include but not limited to:

- i. ruptured fallopian tube as a result of ectopic pregnancy;
- ii. hospitalization to undergo painful surgical operations to treat ruptured ectopic pregnancy which said operations included laparoscopy with conversion to laparotomy with left salpingectomy, lysis of pelvic adhesions, removal of a 13-

week extrauterine pregnancy and placement of a Jackson-Pratt drain,

- iii. Loss of tube resulting in infertility.
- iv. bleeding, vomiting, nausea;
- v. physical pain, mental anguish and emotional distress;
- vi. medical expenses, loss time and wages
- vii. other unliquidated damages

Wherefore, premises considered, the plaintiff, claims and demands compensatory and punitive damages and cost in excess of the jurisdiction limit of this court against the defendants and fictitious parties separately and jointly in an amount to be determined by a struck jury.

**COUNT TWO
NEGLIGENT AND/WANTON HIRING, SUPERVISION TRAINING
AND RETENTION**

26. The Plaintiff adopts and re-alleges all the averments/allegations in paragraphs 1 through 25 and the wherefore clause in Count One as if fully set out herein.

27. The plaintiff alleges that defendants Dr Umoren and PLANNED PARENTHOOD owners, governing authority and Board of Directors negligently and/wantonly failed to monitor, manage, train and supervise fictitious parties A through I who without requisite training, education, experience and certification were allowed to conduct pregnancy tests and performed ultrasound without proper training and certification.

28. The plaintiff alleges that defendant, PLANNED PARENTHOOD, its owners, governing authority and Board of Directors and fictitious parties A through I, negligently and/wantonly failed to monitor, manage, train and supervise the activities of its attending physician who allowed employees or other fictitious parties who did not possess the requisite training, education, experience and certification to conduct pregnancy tests, perform and interpret ultrasound results.

29. As a direct a proximate result of defendants' negligent and/wanton training, monitoring, supervision, hiring, retention and inadequate staffing, the plaintiff was caused to suffer physical injuries and damages alleged and described in this complaint.

30. Wherefore, premises considered, the plaintiff, claims and demands compensatory and punitive damages and cost in excess of the jurisdiction limit of this court against the defendants and fictitious parties separately and jointly in an amount to be determined by a struck jury.

COUNT THREE
[Fictitious Parties]

31. The plaintiff adopts and re-alleges all the averments/allegations in paragraphs 1 through 30 and the wherefore/damage clauses in Counts One and Two as if fully set out herein.

32. The plaintiff alleges that the fictitious parties designated in this complaint included but not limited to individual employees, agents, corporate entity, firms, who were in anyway associated with the ownership, management, operation, control, direction who at any time provided treatments, testing, diagnosis or supplied

equipments or medications used in the treatment or care of the plaintiff and plaintiff pregnancy and who may be responsible for plaintiff's individual claims and the

33. Wherefore, premises considered, the plaintiff, claims and demands compensatory and punitive damages and cost in excess of the jurisdiction limit of this court against the defendants and fictitious parties separately and jointly in an amount to be determined by a struck jury.

34. PLAINTIFF DEMANDS A JURY TRIAL ON ALL CLAIMS SET FORTH IN THIS COMPLAINT.



Adedapo T. Agboola-BAR ID AGB001
Darryl Bender
Attorneys for the Plaintiff

OF COUNSEL:

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BIRMINGHAM, AL 35203
(205) 322-2500/Fax (205) 324-2120
E-mail: Agbula@aol.com

DEFENDANTS TO BE SERVED BY CERTIFIED MAIL-RESTRICTED DELIVERY TO:

PLANNED PARENTHOOD OF GEORGIA, INC
AGENT FOR SERVICE:
LARRY S RODICK
1211 27th Place South
Birmingham, Alabama 35205

PLANNED PARENTHOOD OF ALABAMA
AGENT FOR SERVICE:
LARRY S RODICK
1211 27th Place South
Birmingham, Alabama 35205

Dr. Aqua Don E Umoren MD
Alabama Womens Center
612 Madison St SE
Huntsville, AL 35801

Where a document that is otherwise unavailable has been scanned or copied by a computing device, such as a computer, text processors, word processors, or any similar device, a machine-readable copy shall be produced in a form which may be read and used by a similar computing device. Plaintiff is requested to produce the contents of floppy disks, hard disks, optical disks, magnetic tapes, read-only memories, computer networks, and any memory devices of all types.

2. **"Identify"** when used in reference to a natural person, means to state: his or her full name, his or her present or last known business and residence address, his or her present and last known position and business affiliation, and his or her employer, title, and position at the time in question in this lawsuit.
3. **"Identify"** when used in reference to a corporation, partnership, joint venture, company, business entity, or other organization, means to state: the full, legal and proper name of the organization, the type of organization, and the principal business address of the organization.
4. **"Identify"** when used in reference to a document means to state: the date, title, author, addressee, type of document, or other reasonable means of identification of the document, and its present location and custodian. If the document is no longer in your possession or subject to your control, then please state what disposition was made of the document, as last known to you.
5. **"Identify"** when used in reference to an oral communication, conference, or meeting, means to state: the date of the communication, conference or meeting; the identity of all parties of the communication, conference or meeting; and the subject matter and general substance of what was said or transpired in the communication, conference, or meeting.
6. **"Communications"** shall be deemed to include any oral or written communication correspondence, contact, promise, representation, inducement, or document of which you have any knowledge or information.
7. **"Related to"** or **"relating to"** shall mean directly and indirectly mentioning or describing, pertaining to, being connected with, or reflecting upon, the stated subject matter.
8. The singular form of a word, document, or person shall refer to the plural form as well, and words used in the masculine gender shall also include the feminine.
9. **"And"** or **"or"** shall be construed to be both conjunctive and disjunctive, so as to bring within the scope of the request any document or information that might be deemed to be outside its scope by some other construction or interpretation.
10. **"You," "yours," "your,"** and **"Defendant"** shall refer separately to each defendant as named in the above styled cause, and all of defendants agents,

representatives, employees, attorneys, and all other persons or entities in privities with each defendant.

11. **"Plaintiff"** shall refer to, Roberta Clark

12. **"Person"** shall mean any individual, partnership, firm, association, corporation, or any other business, governmental or local

INTERROGATORIES

1. For the corporate defendant, please state your legal name or legal Authority under which you operate and if the corporate defendant is a government or non government entity, if a government entity please state under which laws of the State or Municipality you operate

ANSWER

2. For the corporate defendant, please state if you claim government immunity that insulate you from this lawsuit, if so describe such immunity in detail and produce any documents pertaining to such immunity.

ANSWER

3. Please state if you either individually or jointly with co-defendant has ever rendered any service or medical treatment to plaintiff, Roberta Clark, plaintiff in this case and state specifically the following:

- (a) The date such treatment or service was rendered or provided
- (b) The type of treatment and service that was rendered or provided
- (c) The date of discharge from under your care or service
- (e) Diagnosis of condition for which treatment was rendered

Please attach all records of treatments, including but not limited to medical records, billings statements, ultrasound, pathology reports, x-rays, MRI, surgical notes or operation notes, etc,

ANSWER

4. For the each non corporate defendant, Dr. Aqua Don E. Umoren, please identify yourself fully; giving your full name, current residence address, name of practice, office address and specialty that you practice in medicine.

ANSWER:

5. List all of academic qualifications and degrees which you hold and specify for each said degree:

- (a) the date on which you received the degree.
- (b) the school from which you obtained your degree.
- (c) The name and address of every hospital or other medical facility in which you served as an intern, resident or had a fellowship position and specify as to each said hospital, (1) the inclusive dates of your employment (2) your title or titles; (3) the specialty field, if any, in which you worked; (4) the name of your supervisor or the person whom you reported to in each position in each hospital.

ANSWER:

6. State whether or not your license to practice your profession has ever been suspended or revoked or whether renewal has ever been refused. If so, state specifically and in detail of all facts surrounding each and every suspension, revocation or renewal and give the date and reasons thereof for each event.

ANSWER:

7. State whether you are currently Board Certified in any specialty or sub specialty by American Board of Medical Specialties (ABMS)? If so, name each and every Board Certification you possess and indicate as to each the date that you received your certification and the last and next renewal date if applicable.

ANSWER:

8. State the specialty and sub specialty if applicable in which you were practicing when you provided services or consultation to Roberta Clark.

ANSWER:

9. State the full name and address of your employer at the time that you treated or rendered any service to Roberta Clark

ANSWER:

10. Please recite completely the details of your professional working experience, including in your answer, but not limited to a bibliography of your publications, Journal articles and other research projects and inventions in which you have participated, a description of your area of specialization, and the areas in which you have practiced.

ANSWER:

11. State the name and address of each hospital, clinic, health facility or institution with which you are or have been affiliated since completing your

training and as to each, indicate the nature of your affiliation, and the inclusive dates thereof, and your title or titles.

ANSWER:

12. State specifically and in detail the substance of all advice, instructions or warnings that you and/or any other physicians, or individual under your supervision or direction given to Roberta Clark regarding abortion services, termination of pregnancy and risk of ectopic pregnancy

ANSWER:

13. Describe in detail your policy or procedure of pre operative and post operative diagnosis ectopic pregnancy as of August 20, 2010

ANSWER:

14. Please identify and describe in detail any business arrangement, financial, employment relationship or employment agreement that you had or in effect with the corporate defendant at the time of occurrence or occurrences made the basis of this lawsuit.

ANSWER:

15. Concerning any services or treatments rendered to plaintiff, Roberta Clark, please state whether the services were rendered in the line and scope of this defendant's employment or agency with any of co-defendants, if so, please identify which of the co-defendants and the extent of such agency relationship.

ANSWER:

16. State whether or not this defendant has ever been a defendant in a malpractice suit other than the present one involving same or similar circumstances as that alleges in the complaint by Plaintiffs in this cause, if the answer to this interrogatory is in the affirmative, then state:

- (a) each case number and case name, court and trial docket number.
- (b) state the substance of the allegations made against this in each case listed defendant.
- (c) state the outcome of the case including the terms of any settlements.

ANSWER:

17. Please admit or deny that summons and complaint were received by you or your agent.

ANSWER:

18. Please state if you take the position that the service of summons and complaint was improper. If you take the position that the service of summons and complaint was improper, please state and give the following:

- i. all factual basis your position
- ii. your correct and proper physical address for delivery or service of summons and complaint

ANSWER:

Filed and served with summons and plaintiff's complaint by:



Adedapo T. Agboola
Darryl Bender

Attorneys for the Plaintiff

OF COUNSEL:

BENDER AND AGBOOLA, LLC
711 NORTH 18TH STREET
BIRMINGHAM, AL 35203
(205) 322-2500/Fax (205) 324-2120
E-mail: Agbula@aol.com

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Dr. Aqua Don E Umoren MD
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NE-MARIE ADAMS
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IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

ROBERTA CLARK,
Plaintiff,

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PLANNED PARENTHOOD OF GEORGIA, INC.,
PLANNED PARENTHOOD OF ALABAMA,
and DR. AQUA DON E. UMOREN, MD.,
Defendants.

REQUEST FOR PRODUCTION TO DEFENDANTS

Comes now the plaintiff in the above-styled cause and, pursuant to the Alabama Rules of Civil Procedure, requests the production of documents and things from defendants to be responded to individually and separately in the time and manner prescribed by the Rules:

I. For purposes of these "Interrogatories" and "Request for Production", the term "documents and things" means all written, recorded or graphic matters of whatever kind and nature, and all non-identical copies thereof, including, but not limited to, all papers, books, records, letters, tangible things, correspondence, communications, memoranda, notes, notations, records, records of telephone or other conversations, statements, summaries, opinions, studies, analyses, evaluations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, guidelines, charts, manuals, brochures, photographs, publications, schedules, journals, diaries, lists, tabulations, newsletters, receipts, bills, canceled checks, vouchers, ledger sheets, statements of witnesses, findings of investigations, insurance policies, claim forms, records of negotiations, reports or consultations, records kept by electronic or mechanical means, tapes or tape recordings, transcripts of tape recordings, notes or drafts relating to any of the foregoing things, all things similar to the foregoing things, and any other document or thing of any kind or character in your possession, custody or control or known by you to exist.

Different versions of the same document, handwritten notes or notations in any form, draft documents and documents with handwritten notations or marks not found on the original or on other copies are different documents. Where a document that is otherwise unavailable has been scanned or copied by a computing device, such as a computer, text processors, word processors, or any similar device, a machine-readable copy shall be produced in a form which

may be read and used by a similar computing device. Plaintiff is requested to produce the contents of floppy disks, hard disks, optical disks, magnetic tapes, read-only memories, computer networks, and any memory devices of all types.

2. **"Identify"** when used in reference to a natural person, means to state: his or her full name, his or her present or last known business and residence address, his or her present and last known position and business affiliation, and his or her employer, title, and position at the time in question in this lawsuit.

3. **"Identify"** when used in reference to a corporation, partnership, joint venture, company, business entity, or other organization, means to state: the full, legal and proper name of the organization, the type of organization, and the principal business address of the organization.

4. **"Identify"** when used in reference to a document means to state: the date, title, author, addressee, type of document, or other reasonable means of identification of the document, and its present location and custodian. If the document is no longer in your possession or subject to your control, then please state what disposition was made of the document, as last known to you.

5. **"Identify"** when used in reference to an oral communication, conference, or meeting, means to state: the date of the communication, conference or meeting; the identity of all parties of the communication, conference or meeting; and the subject matter and general substance of what was said or transpired in the communication, conference, or meeting.

6. **"Communications"** shall be deemed to include any oral or written communication correspondence, contact, promise, representation, inducement, or document of which you have any knowledge or information.

7. **"Related to"** or **"relating to"** shall mean directly and indirectly mentioning or describing, pertaining to, being connected with, or reflecting upon, the stated subject matter.

8. The singular form of a word, document, or person shall refer to the plural form as well, and words used in the masculine gender shall also include the feminine.

9. **"And"** or **"or"** shall be construed to be both conjunctive and disjunctive, so as to bring within the scope of the request any document or information that might be deemed to be outside its scope by some other construction or interpretation.

10. **"You," "yours," "your,"** and **"Defendant"** shall refer separately to each defendant as named in the above styled cause, and all of defendants agents, representatives, employees, attorneys, and all other persons or entities in privities with each defendant.

11. **"Plaintiff"** shall refer to, Plaintiff Roberta Clark
12. **"Person"** shall mean any individual, partnership, firm, association, corporation, or any other business, governmental or local

DOCUMENTS AND THINGS REQUESTED

1. Please produce **certified copy or copies** of each and every medical record, X-ray, Ultrasounds, sonograms, CT-Scans, reports, physicians' findings, referral notes, surgical notes and summary, committee reviews, statements, incident report, video, photograph, tape recording, computer data or other documents which in any way relates or pertaining to the treatment, services rendered or products used in and about the treatment of Roberta Clark regardless of the department or division of the hospital, clinics or facility in which the treatment and/or services were rendered.

ANSWER/RESPONSE

2. Produce a copy of this defendant's policy and procedure manual pertaining to reading and reporting results and findings of ultrasounds, and any other radiological imaging

ANSWER/RESPONSE

3. Produce any and all documents pertaining to the financial relationship between each co-defendant in this lawsuit, both corporate and individuals during the time period made the basis of this lawsuit.

ANSWER/RESPONSE

4. Produce each and every contract, agreement, or other document whatsoever between the defendants the period of time made the basis of this lawsuit since entering into employment with each other or one another..

ANSWER/RESPONSE

5. Produce a list of the full names, job titles, resident addresses and dates of employment of any physicians, nurses, nursing personnel, technicians or any medical staff that ever provided any services or treatments to Roberta Clark in your facility while she was under your care.


ANSWER/RESPONSE

6. Produce a copy of Board Certification and license ever possessed or obtained, acquired or received by you

ANSWER/RESPONSE

7. Produce a list of all malpractice lawsuits ever filed against you other than the present one involving same or similar circumstances as that alleged in the complaint by Plaintiffs in this cause, showing the each case number and case name, court and trial docket number.

Filed and served with summons and complaint by:


Adedapo T. Agboola
Darryl Bender
Attorneys for the Plaintiff

OF COUNSEL:

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