

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

FILED-CLERK
U.S. DISTRICT COURT
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TEXAS-EASTERN
PLAINTIFF
BY *M. Velton*
503 CV 47

T.L. MARTIN

V.

**NO.
Jury Trial Demanded**

**LOUIS JERRY EDWARDS, M.D., and
LITTLE ROCK FAMILY PLANNING SERVICES, P.A.**

DEFENDANTS

COMPLAINT

T.L. Martin ("Ms. Martin"), for her complaint against Louis Jerry Edwards, M.D. ("Dr. Edwards"), and Little Rock Family Planning Services, P.A. ("LRFPS"), states:

PARTIES, VENUE, AND JURISDICTION

1. Ms. Martin is a woman over the age of twenty-one. She resides in and is domiciled in Texarkana, Texas.
2. LRFPS is a for-profit professional association organized under the laws of the State of Arkansas with its principal place of business in Little Rock, Pulaski County, Arkansas. LRFPS advertises its services and solicits business in the State of Texas, including the City of Texarkana, Texas. Ms. Martin became aware of LRFPS and chose to use its services as a result of seeing an advertisement placed by LRFPS in the November 2000 Yellow Pages published by Verizon Southwest, Inc. LRFPS has the requisite minimum contacts with the State of Texas and is subject to personal jurisdiction in the State of Texas.
3. Dr. Edwards is the Medical Director of LRFPS. He is licensed by the Texas State Medical Board and by the Arkansas State Medical Board. Upon information and belief, Dr. Edwards resides in and is domiciled in Pulaski County, Arkansas. The services of Dr. Edwards are advertised by LRFPS in the State of Texas, including Texarkana, Texas.

Dr. Edwards has the requisite minimum contacts with the State of Texas and is subject to personal jurisdiction in the State of Texas.

4. The amount in controversy in this case exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states. Therefore, this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a).

5. This Court has venue pursuant to 28 U.S.C. § 1391(a) because the defendants are subject to personal jurisdiction in this judicial district, and there is no other district in the State of Texas where this action may be brought.

FACTS

6. Dr. Edwards was at all times mentioned in this Complaint, and now is, a physician licensed to practice under the laws of the State of Arkansas and the State of Texas. Dr. Edwards has held himself out, and now holds himself out, to the public, and to Ms. Martin in particular, as a Board Certified Obstetrician Gynecologist. At all times material, Dr. Edwards was employed by LRFPS as Medical Director and was acting in that capacity at the time of the injuries to Ms. Martin, as hereafter alleged. LRFPS is responsible for the conduct of Dr. Edwards under the doctrine of *respondeat superior*.

7. On or about March 1, 2002, Dr. Edwards performed a first-trimester abortion for Ms. Martin at the LRFPS facility when she was at approximately six weeks of gestation.

8. Dr. Edwards used a 7mm cannula to remove the contents of the uterus by suction curettage. Dr. Edwards knew, but did not inform Ms. Martin, that the risk of retained products of conception following a termination of pregnancy at that early stage is greater than later in pregnancy. Dr. Edwards knew, but did not inform Ms. Martin, that the risks of retained tissue,

infection, hemorrhage, and perforation of the uterus could lead to permanent incapacity to conceive and bear children.

9. In the days following March 1, 2002, Ms. Martin continued to experience symptoms of pregnancy. She experienced nausea, vomiting, and tender breasts. She had a positive pregnancy test on March 8, 2002. On March 9, 2002, she obtained a test for the level of chorionic gonadotropin, which showed a result of 7137 MIU/ML. This level is a typical level for seven to eight weeks of pregnancy. Ms. Martin reported to LRFPS that she continued to have symptoms of pregnancy, and that her level of chorionic gonadotropin was at 7137. The nurse to whom Ms. Martin reported these things at LRFPS told her that all this was normal.

10. On or about May 13, 2002, Ms. Martin was tested again for the level of chorionic gonadotropin, and the results showed a level of 111 MIU/ML. Ms. Martin reported the result of this test to a nurse at LRFPS. The nurse told Ms. Martin that the drop in the level of her chorionic gonadotropin to 111 indicated that she was no longer pregnant, and all of the products of conception had been successfully removed from her uterus during the abortion on March 1, 2002. The statements made by the nurse at LRFPS were false. In truth, the symptoms experienced by Ms. Martin and her levels of chorionic gonadotropin indicated that the products of conception were not removed during the procedure on March 1, 2002, but that some time between March 9, 2002, indicated that the procedure on March 1, 2002, failed to remove the contents of the uterus and that the embryo died sometime between March 9, 2002, and May 13, 2002, but remained in the uterus.

11. During the course of the procedure on March 1, 2002, Dr. Edwards perforated the uterus of Ms. Martin.

12. As a consequence of the retained products of conception and the perforation of the uterus, and the resulting complications, Ms. Martin developed severe pelvic pain and rectal pain. She experienced hemorrhaging. She developed a pelvic infection and endometritis. As a consequence of these complications, Ms. Martin is no longer able to conceive or have children.

13. The complications resulting from the retained products of conception and the perforation of the uterus caused Ms. Martin to undergo hospitalization and surgery at Wadley Hospital in Texarkana, Texas, on or about June 16, 2002.

14. The complications resulting from retained products of conception and the perforation of the uterus caused Ms. Martin to undergo an additional hospitalization and surgery at Christus St. Michael's in June and July of 2002.

COUNT I: ASSAULT AND BATTERY

15. Paragraphs 1 through 14 are incorporated herein.

16. Dr. Edwards and LRFPS failed to supply adequate information to obtain the informed consent of Ms. Martin.

17. The procedures that Dr. Edwards and LRFPS performed were not performed in an emergency situation.

18. Dr. Edwards and LRFPS did not supply Ms. Martin the type of information regarding the procedure that would customarily have been given to a patient in her position by other medical care providers with similar training and experience at the time of the procedure in the locality in which Dr. Edwards practices or in a similar locality. Specifically, Dr. Edwards and LRFPS failed to inform Ms. Martin:

A. That the risks of retained products of conception are greater at six weeks' gestation than later;

B. That the risks of perforation of the uterus are greater for someone like Ms. Martin, who has a retroverted uterus, than is indicated on the standard forms of consent that were used in this case;

C. That the risks of the procedure included severe rectal and abdominal pain;

D. That the risks of the procedure included pelvic infection;

E. That complications would necessitate further and more intrusive surgery;
and

F. That the procedure could result in permanent sterility.

19. Dr. Edwards and LRFPS led Ms. Martin to believe that it was safer to terminate the pregnancy than to carry the pregnancy to term, which is not true.

20. Ms. Martin was having withdrawal from an antidepressant, Effexor. She was experiencing nausea, nervousness, diarrhea, crying, and tremors. She was not in condition to make such an important decision as the decision to terminate her pregnancy. No one at LRFPS inquired into these matters nor made an effort to ascertain Ms. Martin's mental and emotional condition.

21. Dr. Edwards and LRFPS acted with intent to cause harmful or offensive contact with Ms. Martin. That harmful or offensive contact with Ms. Martin resulted from the conduct of Dr. Edwards and LRFPS. Because Dr. Edwards and LRFPS failed to obtain the informed consent of Ms. Martin, that contact is not privileged.

22. Ms. Martin did not know of these undisclosed risks. Ms. Martin would not have undergone the procedure if she had known of these risks, and if she had been in a condition to make responsible decisions.

23. The failure of Dr. Edwards and LRFPS to inform Ms. Martin about the risks of these procedures, the failure to ascertain her mental condition, and the harmful and offensive contact that followed, proximately caused Ms. Martin to suffer physical pain, mental anguish, emotional distress, increased medical expenses, lost wages, and permanent sterility.

**COUNT II: MEDICAL MALPRACTICE—FAILURE
TO INFORM OF KNOWN RISKS**

24. Paragraphs 1 through 23 are incorporated herein.

25. Dr. Edwards and LRFPS failed to supply adequate information to obtain the informed consent of Ms. Martin.

26. The procedures that Dr. Edwards and LRFPS performed were not performed in an emergency situation.

27. Dr. Edwards and LRFPS did not supply Ms. Martin the type of information regarding the procedure that would customarily have been given to a patient in her position by other medical care providers with similar training and experience at the time of the procedure in the locality in which Dr. Edwards practices or in a similar locality. Specifically, Dr. Edwards and LRFPS failed to inform Ms. Martin:

A. That the risks of retained products of conception are greater at six weeks' gestation than later;

B. That the risks of perforation of the uterus are greater for someone like Ms. Martin, who has a retroverted uterus, than is indicated on the standard forms of consent that were used in this case;

C. That the risks of the procedure included severe rectal and abdominal pain;

D. That the risks of the procedure included pelvic infection;

E. That complications would necessitate further and more intrusive surgery;

and

F. That the procedure could result in permanent sterility.

28. Dr. Edwards and LRFPS led Ms. Martin to believe that it was safer to terminate the pregnancy than to carry the pregnancy to term, which is not true.

29. Ms. Martin was having withdrawal from an antidepressant, Effexor. She was experiencing nausea, nervousness, diarrhea, crying, and tremors. She was not in condition to make such an important decision as the decision to terminate her pregnancy. No one at LRFPS inquired into these matters nor made an effort to ascertain Ms. Martin's mental and emotional condition.

30. Ms. Martin did not know of these undisclosed risks. Ms. Martin would not have undergone the procedure if she had known of these risks, and if she had been in a condition to make responsible decisions.

31. The failure of Dr. Edwards and LRFPS to inform Ms. Martin about the risks of these procedures proximately caused Ms. Martin to suffer physical pain, mental anguish, emotional distress, increased medical expenses, lost wages, and sterility.

COUNT III: MEDICAL MALPRACTICE—NEGLIGENCE

32. Paragraphs 1 through 31 are incorporated herein.

33. Dr. Edwards and LRFPS failed to possess and apply with reasonable care the degree of skill and learning ordinarily possessed and used by members of his profession in good standing engaged in obstetrics and gynecology in Little Rock, Arkansas, or a similar community.

Specifically, Dr. Edwards and LRFPS:

A. Failed to possess and apply with reasonable care the degree of skill and learning required to avoid puncturing Ms. Martin's uterus;

B. Failed to possess and apply with reasonable care the degree of skill and learning required to ascertain that Ms. Martin's uterus had been punctured;

C. Failed to exercise and possess with reasonable care of the degree of skill and learning required to ascertain that the products of conception had not been removed by the procedure;

D. Failed to obtain a pathology report following the termination of pregnancy procedure to ascertain whether or not the products of conception had been removed by the procedure;

E. Failed to possess and apply with reasonable care of the degree of skill and learning ordinarily possessed and used by members of Dr. Edwards' profession in follow-up care;

F. Failed to advise Ms. Martin in the first half of March that her symptoms and levels of chorionic gonadotropin indicated continuing pregnancy;

G. Failed to inform Ms. Martin of the risks inherent in the continued pregnancy; and

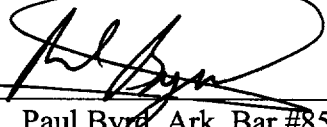
H. Failed to inform Ms. Martin in May 2002 that her symptoms and level of chorionic gonadotropin indicated that she was carrying dead fetal tissue in her uterus.

34. The failure of Dr. Edwards and LRFPS to adhere to the proper standard proximately caused Ms. Martin to suffer physical pain, mental anguish, emotional distress, increased medical expenses, lost wages, and sterility.

35. Ms. Martin requests a trial by jury.

WHEREFORE, T.L. Martin prays that this Court will enter judgment against Louis Jerry Edwards, M.D., and Little Rock Family Planning Services, P.A., for compensatory damages in an amount exceeding \$1,000,000, for costs of the action, reasonable attorneys' fees, and all other relief to which she may be entitled.

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