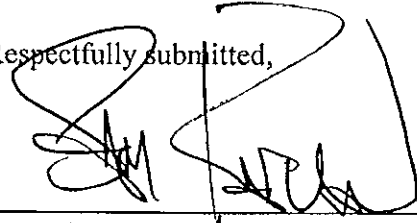


Respectfully submitted,

By:



Samuel Z. Kaplan
Scott E. Spencer

Counsel for Plaintiff Franshawn Harris

**Brief of Plaintiff Franshawn Harris
Opposing Defendants Ruddock and Center for Choice II's Motions
for Partial Summary Judgment**

Genuine Issues of Material Fact Preclude the Granting of
Summary Judgment in Defendants Ruddock and Center for Choice II's Favor.

I. Introduction & Background

Franshawn Harris, Plaintiff herein, suffered devastating and permanent injuries following what should have been a "routine" second trimester dilation and evacuation procedure (abortion) performed by Defendant Martin Ruddock, M.D., at Center for Choice II in January, 1996. Perhaps most dramatic and shocking is the pain and suffering which she endured -- in effect, she underwent major abdominal surgery at the hands of Dr. Ruddock without anesthesia of any kind. Needless to say, credulity is broken not strained to suggest that a reasonable person would have proceeded under those conditions had the material risks and complications been disclosed. As a result of the lack of informed consent and substandard care provided to Plaintiff at the hands of Defendants, Plaintiff nearly died. Because no anaesthesia services were utilized or available to

Plaintiff at the Center for Choice II, she experienced unimaginable agony, screaming in pain as she suffered horribly. Only an emergency hysterectomy at the Medical College of Ohio saved her life. Unfortunately, she will never bear children again. For this, redress is now sought.

When Plaintiff Harris initially went to the Center for Choice II in December, 1998, it was believed that she was in the first trimester of pregnancy. Plaintiff was informed of the possible complications of an abortion at that time and signed a consent form. When she appeared for the procedure, Plaintiff learned that, in fact, she was much farther along than previously believed and that the procedure would be more involved and the fee for services greater. The two day procedure was then scheduled for January 4-5, 1996. Plaintiff was not given the option of having anaesthesia services available: the Center for Choice II had rejected Dr. Ruddock's request to have such available. Thus, knowing that it was not available, and therefore believing it was not necessary, Plaintiff underwent the procedure. It was during that procedure that things went terribly wrong. Plaintiff experienced excruciating pain, screaming at Dr. Ruddock to stop (which he ignored), and soon went into shock. It became apparent that emergency transport would be needed as her condition was life-threatening. However, rather than being taken from Center for Choice II to nearer hospitals capable of handling her dire condition, Plaintiff was taken across town to the Medical College of Ohio. Undergoing an emergency surgery to save her life, doctors at MCO found and described the following injuries:

1. Plaintiff's uterus was found to be "completely ruptured on the right flank from the cervix to the fundus"; (Plaintiff had only been informed about the possibility of a "perforation" or "small hole" (as commonly understood and defined by Webster's II New Riverside Dictionary));

2. Both pelvic ligaments “had been totally dissected from the pelvic side wall”; (Plaintiff has never been informed that this was a risk or complication of the procedure);
3. The “uterine artery had been lacerated”; (Plaintiff had never been informed that this was a risk or complication of the procedure);
4. Lacerations in the small bowel in the mesentery; (Plaintiff had never been informed that this was a risk or complication of the procedure);
5. Plaintiff went into shock and nearly died (Again, Plaintiff had never been informed that these were risks or complications of the procedure).

Taken from MCO Discharge Summary (attached as Exhibit A). Never forget that all of these injuries were inflicted by Defendant Ruddock and suffered by Plaintiff without benefit of anaesthesia.

MCO’s primary diagnosis was post abortion uterine rupture, with secondary diagnoses of small intestine injury, mesenteric injury, anemia, hypokalemia, and shock. At MCO, Plaintiff, then aged 19, underwent a total abdominal hysterectomy, right salpingoophorectomy, small bowel repair, repair of mesentery and removal of intraperitoneal fetus, and exploratory laparotomy. Exhibit A. She was discharged six days later.

Defendant Martin Ruddock, M.D., has moved for partial summary judgment, arguing that the absence of a dispute as to any material fact with respect to Plaintiff’s claim based on a lack of informed consent entitles him to judgment as a matter of law pursuant to Ohio R.Civ.P. 56(C).

Defendant Center for Choice II has requested the same relief.¹ Both Defendants are wrong. As will be made plain herein, genuine disputed material facts preclude granting the relief which Defendants seek.

Plaintiff Franshawn Harris has brought suit against Defendants Martin Ruddock, M.D., and Center for Choice II, claiming, among others, that they did not provide informed consent prior to a January, 1996, second trimester dilation and evacuation procedure performed by the former at the location of the latter. Defendants instant motions relate exclusively to the issue of informed consent. In support of its claims that informed consent was provided, Defendants have submitted the following items:

1. Informed consent document from 1993 abortion (attached to Defendant Ruddock's Motion at A);
2. Center for Choice II chart, December 22, 1995 (attached to Defendant Ruddock's Motion at B);
3. Center for Choice II intake records (attached to Defendant Ruddock's Motion at D);
4. "Consent for Increased Risks" form (attached to Defendant Ruddock's Motion at E);
5. Defendant Ruddock's Deposition Transcript (filed in its entirety).

Defendant Ruddock concludes in his motion seeking partial summary judgment that "this is a

¹ By written motion, Defendant Center for Choice II adopted and incorporated by reference the Memorandum of Law and Argument advanced by Defendant Ruddock.

LHD HCL, win (KNUCYP) FOS 11:15 Date 12/22/95 JK
LAB WORK: Hct. 40 Rh Pos (Rh Neg) CFC2 UCG POS. Time 11:15 Date 12/22/95 JK

Instructions given to eat iron rich foods and take multivitamins with iron. Date _____ Initials _____

1-5-97 BP 130/70 P-88 - T 99.0

PROCEDURE ROOM: BP 130/68 Pulse 80 Temp 98.9 By Dates _____ Weeks 10

Vagina _____ Cervix _____ Adenexae _____ Uterus _____ Weeks _____

U/S S/D Date 12/22/95 BPD _____ CRL _____ Weeks _____

Using 10 cc 1% Lidocaine, the cervix was dilated to _____ Denniston/Pratt and a _____ mm suction tip was used to aspirate the uterine contents with / without difficulty. Estimated gestation was _____ weeks. Specimen _____ grams. Specimens sent to M/W Path R

Findings: _____

Comments: 1st trimester Suction Sharp D&C TAB
EBL = cc Tissue Check -

AB performed with U/S Guidance

~~FORWARD TO E O O O O (one) msa~~

Follow up with: MD RN
Doctor Signature *[Signature]*

RECOVERY ROOM: 1 (2) 3 4 5 6 7 Rhogam given IM: FULL MIC

Time _____ BP _____ Pulse _____
Time: 1:20 PM
Site: Left thigh
Initials: JS

Birth Control: Barrier to DMPA Referral made to: own MD

Pain Medication Given: Ibuprofen 800 mg (po) Acetaminophen 2 tabs (po) Time: 12:00 Int. SA

IV Given: 12N 1000 cc LR start at 2 bag IV cath Lt wrist -> Oxytocin 30
U add @ 1:30 -> RR

Saw Tissue after AB: Yes No N/A Comments _____

During Instruction: Attentive Distracted Asked Questions Special Instructions on _____

Discharge Medications: Doxycycline 100 mg (po) bid x 7 days
 Tetracycline 250 mg (po) qid x 7 days Methergine 0.2 mg (po) qid x 2 days
 Erythromycin 250 mg (po) qid x 7 days Methergine 0.2 mg (po) qid x 3 days

Discharge Condition: E G F P Bleeding: None Min Mod Heavy

Checkup Appt. _____ Time Discharged _____ Rec. Nurse _____

I understand the possible complications of abortion & know what I need to do to care for myself after my abortion.

Patient Signature _____

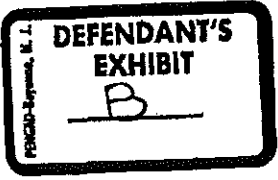
POST ABORTION APPOINTMENT: Date _____ BP _____ Temp _____ Pulse _____

Bleeding: None Min Mod Heavy / Pink Red Brown

Cervix _____ Uterus _____ Adenexae _____ Routine Post AB Checkup _____

Contraception: _____ Referral? _____

Comments: _____ Signature _____



SIGNIFICANT OTHER CONSENT FORM

I have requested to have _____ present with me when I have my abortion procedure. We have been counseled about what to expect during the procedure. We fully understand that the Center For Choice II staff's primary concern must be the health and safety of the patient, and that a friend or relative can be in the surgery area only at the discretion of the staff. We further understand that in the event of a medical emergency, or any unacceptable behavior, s(he) might be asked to leave the room and to return to the main waiting area. We both agree to honor any such instructions by the Center for Choice II staff.

Signature of Patient

Signature of Significant Other

Signature of Patient Advocate

Relationship of SO to patient

CONSENT FOR INCREASED RISKS

I, Tran Mon Harris, age 19, hereby give my consent and request and authorize medical personnel designated by the Center For Choice II to perform an abortion on me and I understand that I have an increased risk for complications from an abortion due to the fact that I: (check ALL that apply)

- Have had previous surgery on my uterus (such as a Cesarean Section)
- Wish to have an early first trimester abortion (less than 8 wks LMP)
- Wish to have a second trimester abortion (more than 12 wks LMP)
- Have other medical risks that include _____

These risks, which include uterine perforation, hemorrhage, infection, unsuccessful abortion, and retained tissue or fetal parts, have been fully explained to me.

[Signature]
Patient Advocate's signature

Tran Mon Harris
Patient's signature

[Signature]
Witness

1/4/96
Date

CONSENT FOR INSERTION OF OSMOTIC CERVICAL DILATORS

I, Tran Mon Harris, age 19, hereby give my consent and request and authorize medical personnel designated by the Center For Choice II to insert osmotic cervical dilators. The purpose and need for the osmotic cervical dilators have been explained to me and I fully understand that the insertion of these dilators into the cervical opening begins the abortion process.

I understand that once the osmotic cervical dilators have been inserted, I cannot change my mind. I further understand and agree to return to the Center for Choice II or other medical personnel authorized by the Center For Choice II within 24 hours to have the osmotic cervical dilators removed and to complete the abortion procedure.

Camela Jo' Gray
Patient Advocate's signature

Tran Mon Harris
Patient's signature

[Signature]
Witness

1/4/96
Date

case. Accordingly, the proper case to test informed consent against is Nickell, supra, and it is clear that plaintiffs cannot present evidence to establish a meritorious claim on informed consent.

FACTS

This case involves the Plaintiff, Franshawn Harris, bringing suit against Dr. Ruddock for complications as a result of an abortion she received on January 5, 1996. This motion for summary judgment is only directed at the issue of informed consent. The Plaintiff has claimed that Dr. Ruddock did not obtain an informed consent prior to the January 5, 1996, abortion. However, Dr. Ruddock performed an abortion on Franshawn Harris in 1993 at which time she went through an extensive informed consent procedure and again prior to her abortion in January of 1996 she went through an extensive informed consent procedure. There is no genuine issue as to any material fact that the Plaintiff cannot present evidence to establish a meritorious claim on informed consent.

Attached hereto is Exhibit A which is the informed consent document Plaintiff Franshawn Harris reviewed and signed in 1993 prior to her 1993 abortion.

With respect to her 1996 abortion, attached hereto is Exhibit B which is the Center For Choice II chart which indicates that on December 22, 1995, Dr. Ruddock met with Franshawn Harris at the Center For Choice II in the procedure room. At that time, Dr. Ruddock "asked her if she had any questions regarding risk and potential complications," and performed a pelvic examination on the Plaintiff when he realized that her uterine size was inconsistent with the dates of her last normal menstrual period. This was confirmed

on ultrasound and the procedure was not performed.” (See Page 50 of Dr. Ruddock’s deposition attached hereto as Exhibit C. A complete copy of this deposition has been filed with this Honorable Court.) Franshawn Harris also reviewed a videotape prior to her 1996 abortion in compliance with the House Bill 108 regulations. Center For Choice II intake records attached as Exhibit D confirm that Franshawn Harris viewed the informed consent videotape. (See also Pages 73 and 74 of Dr. Ruddock’s deposition transcript attached hereto.) Further, “Ms. Franshawn Harris on the page under ‘Consent to Abortion,’ signs her initials and then signs the document, not once, but twice on 12/22 and -- 12/22/95 at 12:12 p.m., and on 1/5/96 at 12:37 p.m., those notations are in Franshawn’s handwriting stating that the nature and purpose of an abortion, the risk involved and the possibility of complications have been fully explained to me.” (See Page 74 of Dr. Ruddock’s deposition attached hereto.) As identified in the informed consent documents and as confirmed by Dr. Ruddock, “perforation is a risk of any abortion.” See informed consent document identifying perforation as a risk to which Franshawn Harris gave informed consent.

Dr. Ruddock further testified that “in the second trimester, if I broke the second trimester down into 13 weeks to 19 weeks, and from 20 weeks to 24 weeks. In the group of the early to mid-second trimester abortion procedures, I may have problems, complications of a minor or to a major nature in maybe two or three of those thousand patients.” (See Page 116 of Dr. Ruddock’s deposition attached hereto as Exhibit C.)

Overall, there is absolutely no doubt that Franshawn Harris provided informed consent. She had it in an abortion in 1993, saw a videotape with respect to her 1996 abortion, had the risks explained to her by Dr. Ruddock and signed an informed consent form as well as an increased risk informed consent form specifically consenting to the risk that she encountered. The risk is a known but rare complication of perforation with resulting emergency hysterectomy. Without a doubt, Franshawn Harris had an opportunity to ask questions, filled out the consent for increased risks (see Exhibit E attached hereto) and saw a video. (See Page 192 of Dr. Ruddock's deposition attached hereto as Exhibit C as well as each exhibit attached hereto.)

Overall, this is a classic example of perfect informed consent with the resulting rare but known complication of a perforated or ruptured uterus during a second trimester abortion. With respect to Dr. Ruddock, this has happened at most five times out of the thousands of abortions he has performed.

CONCLUSION

Plaintiff cannot meet the requirements needed to establish a *prima facie* case for lack of informed consent in this case which involves less than a 1% incidence of rupture. Plaintiff was well informed of the risks of an abortion and proceeded in spite of these known risks.

ANSWER: Pamela J. O'Leary, Director
Martin Ruddock, M.D.

INTERROGATORY NO. 14.

State whether you or any person employed by you accompanied Plaintiff in the emergency transport vehicle while being transported to Medical College Hospitals on January 5, 1996. If you answered in the affirmative, identify each such person by name, title, last known address and telephone number.

ANSWER: Jeanette Boraby, R.N.

Babula.

*1006 National Ave.
Toledo, OH 43609*

*1968 graduate of
Waste HS*

*Parents: Mr. & Mrs. ~~Ross~~ Boraby
Nevada*

INTERROGATORY NO. 15:

State whether any person employed by Center for Choice II spoke with Plaintiff at any time after she underwent surgery at Medical College Hospitals on January 5, 1996. If you answered in the affirmative, identify each such person by name, title, last known address and telephone number, and state the date upon which such conversation took place.

granted you privileges to perform abortions. For each such clinic, etc., identified, specify the starting and ending dates of your employment and/or subcontract and/or privileges.

ANSWER: N/A

INTERROGATORY NO. 21:

For the ten-year period preceding January 5, 1996, identify by name, last known address and telephone number, all persons who have asserted a claim for medical malpractice (or a claim that you were liable to respond in damages for the medical malpractice of another) against you, the disposition of each such claim, and, if filed in a court, the name of the court, the names and addresses of the parties to each such claim, and the case number.

ANSWER: Object. Not calculated to lead to discoverable evidence. Without waiving the objection, the Center for Choice was named in one suit. Case No. 89-2455, Shelly McCoy vs. Center for Choice.

INTERROGATORY NO. 22:

State whether, on January 5, 1996, you employed Martin Rudduck, M.D., to provide medical services at Center for Choice

C

FILED
LUCAS COUNTY

ORIGINAL

1999 SEP -8 P 3: 49

COMMON PLEAS COURT
BERNIE QUILTER
CLERK OF COURT

IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

FRANSHAWN HARRIS

*

Case No. C196-4095

Plaintiff,

*

Judge McDonald

vs.

*

**PLAINTIFF'S TRIAL
BRIEF**

*

MARTIN RUDDUCK, M.D., ET AL

*

*

Defendants.

*

Scott E. Spencer (0027138)
545 Spitzer Bld.
Toledo, Ohio 43604
Telephone: (419) 242-8214
Co-counsel for Plaintiff

*

*

I. STATEMENT OF THE CASE

This is an action for medical malpractice and battery (lack of informed consent) arising out of injuries sustained during an abortion procedure that occurred on January 5, 1996 in Toledo, Ohio. Plaintiff, Franshawn Harris has brought this action for damages against Martin Ruddock, M.D., the physician who performed the procedure and Center for Choice, II, the corporation that owned and operated the facility where the procedure was performed. She contends that Ruddock and Center for Choice II deviated from the accepted

standard of care in the performance of the abortion and provision of equipment and medications, that defendants were negligent and reckless in sending the plaintiff for emergency treatment to a hospital several miles further away than other available hospitals, and that they failed to inform plaintiff of the material risks of the procedure and safer alternatives. Plaintiff also claims that Center for Choice is liable under the doctrines of respondeat superior and agency by estoppel.

II. FACTS

Center for Choice II ("CCII) is a d/b/a for The Woman's Pavilion, Inc., an Ohio corporation that owns and operates an abortion clinic at 17 N. Huron, in Toledo, Lucas County, Ohio. At all times relevant, CCII held itself out to the public as a provider of abortions. Defendants claim that Dr. Ruddock was an "independent contractor." However, defendants held him out as CCII's "medical director", and did not notify the public or the plaintiff that he was not an employee of CCII.

Franshawn Harris, then 19-years-old, went to CCII in December, 1994 seeking advice about abortion. She was told she was 10 weeks pregnant, and told of certain possible complications germane to an abortion at 10 weeks.

When she later returned to the clinic for the procedure, she was informed that she was not 10 weeks pregnant, but 19 weeks. She was not informed of the nature or possible severity of increased risks attendant to a 19-20 week abortion. She was not informed that CCII's articles of incorporation limited it to providing early abortions. She was not informed that she could have the

procedure performed under anesthesia at other facilities, or that Dr. Ruddock had requested and CCII refused to provide anesthesia for procedures such as hers, or that performing the procedure without anesthesia increased the risks of pain and injury.

Ms. Harris underwent the procedure on January 5, 1995. During the procedure, while fully conscious, Franshawn's uterus was ruptured from the cervix to the fundus (about a 7 inch tear), the uterine artery and infundibulopelvic ligament were severed, and her bowel was lacerated in two places.

Franshawn screamed in pain and was told to shut up by Dr. Ruddock. She went into shock from the loss of blood. An emergency vehicle was summoned and Franshawn was transported from downtown Toledo to MCO, in South Toledo, per the instructions of Dr. Ruddock and CCII personnel, per a pre-existing agreement that CCII had entered into with MCO. Three hospitals in the downtown area were bypassed.

Franshawn was near death when she arrived at MCO. She was rushed to surgery where the above injuries were observed. Because of the severity of the injuries, her right ovary and uterus had to be removed. She was discharged from the hospital after six (6) days confinement. Her medical bills were approximately \$21,000.00.

III. STIPULATIONS

None at this time, but we expect some before trial, e.g., medical records and bills.

ORIGINAL

A

IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

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LUCAS COUNTY
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Franshawn Harris

Case No. 96-4095

-vs-

COMMON PLEAS COURT
HARRY E. BLOS
CLERK OF COURTS

Pretrial Statement

Pretrial Date: 4/17/97

Time: 4:15

Judge Frederick H. McDonald

Martin Rudduck, M.D.

Defendant.

1. Type of case: Medical Malpractice
2. Brief state of facts: Plaintiff under went an abortion procedure and claims
medical negligence
3. Issues of fact: Were risks disclosed
4. Damages (if applicable, list specials) unknown
4. (a) Injuries (briefly describe, if applicable) unknown
5. Issues of law: Standard of care
6. Witnesses anticipated: (list)
 - a. Expert witnesses: Not determined other than employees of Defendant

b. Lay witnesses: Employees of Defendant

7. Estimated length of trial: 3 days

8. Discovery: Present status: Incomplete

Additional time needed: 180 days

9. Pretrial motions anticipated: Summary Judgment

10. Stipulations: None

Submitted by: Sarah A. McHugh

Trial counsel for: Center for Choice

Please complete and submit at the pretrial conference. Thank you for your cooperation.

IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

FRANSHAWN HARRIS
Plaintiff,

Case No. CI96-4095

-vs-

Pretrial Statement
Pretrial Date: April 17, 1997
Time: 4:15 p.m.
Judge Frederick H. McDonald

MARTIN RUDDOCK, M.D., et al.
Defendant.

1. Type of case: Medical Malpractice
2. Brief state of facts: Uterine rupture and bleeding during second trimester abortion.
3. Issues of fact: Whether Defendant failed to meet the standard of care, and injured Plaintiff.
4. Damages (if applicable, list specials) Bowel injury, bleeding and hysterectomy.
4. (a) Injuries (briefly describe, if applicable)
5. Issues of law: Whether Defendant failed to meet the standard of care and injured Plaintiff.
6. Witnesses anticipated: (list)
 - a. Expert witnesses: Unknown at present.

b. Lay witnesses: Unknown at present.

7. Estimated length of trial: 4-5 days.

8. Discovery: Present status: Writeten discovery exchanged.

Additional time needed: 10-12 months.

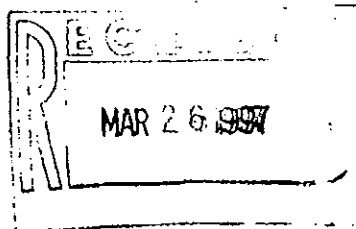
9. Pretrial motions anticipated: Unknown.

10. Stipulations: None at present.

Submitted by: John F. Bodie, Jr.

Trial counsel for: Defendant

Please complete and submit at the pretrial conference. Thank you for your cooperation.



Affidavit of Franshawn Harris

State of Ohio)
) ss:
County of Lucas)

Comes now Franshawn Harris, who after being duly sworn and cautioned, states as follows:

1. I am the Plaintiff in Lucas County Common Pleas Court Case No. CI 96-4095;
2. I was not informed by either Dr. Ruddock or the Center for Choice II that a second trimester abortion involves complications other than those which had been described for a first trimester procedure;
3. Instead, I was told only that there was an increased risk for complications;
4. As a direct result of Dr. Ruddock's actions at the Center for Choice II in January 1996, I sustained a complete rupture of my uterus from the cervix to the fundus, dissection of pelvic ligaments from the pelvic side wall; laceration of a uterine artery, lacerations in my small bowel, and shock;
5. Because no sedative or anesthesia had been provided to me by either Dr. Ruddock or Center for Choice II, I experienced excruciating pain for an extended period of time;
6. At various points, and due to the pain I was experiencing, I begged Dr. Rudock to stop the procedure, however, he continued, causing greater pain and injury;
7. As a further consequence, I experienced great blood loss and was taken by emergency medical transport to not the nearest available hospital, underwent an emergency hysterectomy, and experienced an extended hospitalization;
8. Had I been informed by Dr. Ruddock or any official from Center for Choice II of any one of these possibilities prior to the January 1996, procedure, I would not have undergone the procedure without anesthaesia.

Further affiant sayeth naught.

Franshawn Harris

Franshawn Harris, Affiant

8/31/99

Date

MEDICAL COLLEGE HOSPITALS
DISCHARGE SUMMARY

35 93 45
HARRIS, Franshawn
J. Fanning, M.D.
Admitted: 1/5/96
Discharged: 1/10/96

ADDRESSOGRAPH

PRIMARY DIAGNOSIS: Post abortion uterine rupture.

SECONDARY DIAGNOSES: Small intestine injury, mesenteric injury, anemia, hypokalemia and shock.

PROCEDURES: Total abdominal hysterectomy, right salpingoophorectomy, small bowel repair, repair of mesentery and removal of intraperitoneal fetus, exploratory laparotomy.

INDICATIONS: The patient is a 19 year old black female gravida 5 para 2 who was approximately 20 weeks gestation who underwent elective D&E. The patient was felt to have uterine rupture, became hypotensive and shocky, was transported immediately to MCO. On inspection it was noted that the abdominal circumference was gradually increasing, that the patient's pressures were difficult to keep elevated, and that the pulse was in the 120's.

The patient was taken immediately to surgery. Exploratory laparotomy was performed. The pelvic anatomy was examined and the uterus was found to be completely ruptured on the right flank from the cervix to the fundus. Both pelvic ligaments had been totally dissected from the pelvic side wall, uterine artery had been lacerated. There were also lacerations noted in the small bowel in the mesentery. Because of this, at total abdominal hysterectomy, right salpingoophorectomy was performed as there was no chance for repair. There was also repair performed of the small bowel in the mesenteric region. The rest of the abdominal region was explored and the fetal head was found in the right upper quadrant.

The patient tolerated the procedure well. She received approximately 3.5 liters of LR, 500 cc of plasmanate, 5 units of packed red blood cells. Estimated blood loss was approximately 3,500 cc of the procedure.

The patient was admitted post-operatively into the SICU where she was watched overnight and felt to be hemodynamically stable. Hemoglobins and hematocrits were watched. She was transported out on post-operative day number two to the floor. She continued to do well. She had good pain control. She was afebrile. She was maintained on Unasyn. Intakes and outputs were watched carefully. Her PT on post-operative day number two was 13.3. PTT was 27.6. H&H was 8.5 and 24.3. All of her electrolytes were within normal limits.

The patient continued to do well over the next few days. She began having bowel sounds. She was started on a clear liquid diet on the evening of the 7th. She continued to improve. She had good bowel sounds. She was passing flatus. Jackson-Pratt drain was pulled on the morning of the 8th. There was 60 cc out of the last 24 hours. Her temperature maximum had been 100.2. Pulse was 115. She still continued to do well, still on antibiotics. PCA was discontinued and she was started on oral pain medications.

On the 9th, the patient continued to do well improving slowly. She had an episode of chest pain. EKG was performed as was a chest x-ray; both were negative. The patient was given Maalox and this helped.

IV antibiotics were discontinued on the evening of 1/9 as she had been afebrile for 36 hours on them. On the morning of 1/10, the patient was feeling much better. She slept well. She was tolerating her diet. She had a positive bowel movement. She was diuresing well and she wished to go home.

The patient was discharged to home.

CONTINUED...

ORIGINAL

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LUCAS COUNTY

1999 DEC -6 A 10: 36

COMMON PLEAS COURT
BERNIE QUILTER
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

FRANSHAWN HARRIS)	CASE NO. 96-4095
)	
Plaintiff)	JUDGE McDONALD
)	
v.)	<u>DEFENDANT DR. RUDDOCK'S</u>
)	<u>TRIAL BRIEF</u>
MARTIN RUDDOCK, M.D., et al.)	
)	
Defendant)	
)	

I. STATEMENT OF THE CASE

This medical malpractice action was filed on December 31, 1996 against the Center for Choice II ("CCII") and Dr. Martin Ruddock. The complaint stems from an abortion procedure that was performed by Dr. Ruddock at CCII on January 5, 1996. The complaint contains allegations of negligence and failure to obtain informed consent.

II. STATEMENT OF FACTS

Plaintiff, Franshawn Harris, presented to CCII on December 22, 1995 seeking an abortion. On that day, Dr. Ruddock met with Ms. Harris to discuss possible risks and complications associated with the procedure. Ms. Harris was given the opportunity to ask

any questions she may have had about these risks. Dr. Ruddock proceeded to perform a pelvic examination on Plaintiff when he discovered her uterine size was inconsistent with the dates of her last normal menstrual period. These results were confirmed by an ultrasound and the abortion procedure was not completed that day.

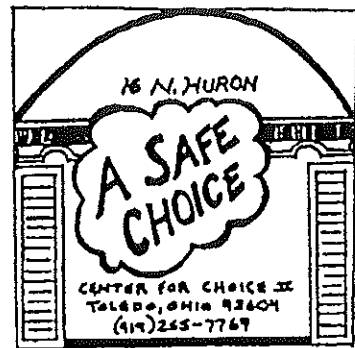
Prior to having any procedure, Plaintiff viewed a videotape on informed consent in compliance with House Bill 108 regulations. Plaintiff was also required to read and sign a 'Consent to Abortion' form that was provided by CCII. This form states that Plaintiff was aware of and informed of the possible risks and complications associated with the abortion. She signed this consent twice, once on the first visit when the procedure was not done and again when she came back. During her second visit on January 4, 1996, she signed a consent for increased risks which detailed the increased risks with a second trimester abortion.

This was not Plaintiff's first time at CCII. She had gone through one previous abortion at CCII where she viewed the videotape and was informed of the risks and dangers involved. This time she suffered from a known, but rare complication. She was given an opportunity to ask Dr. Ruddock questions, she filled out the consent for increased risks and saw a videotape.

Despite being given all of the information related to the increased risks, Ms. Harris went ahead with the procedure. During the course of the procedure Ms. Harris suffered from a ruptured uterus. A ruptured uterus is a known, but rare complication associated with second trimester abortions.

Date 2-5-93 Lab
 Rpt # 4072 Meds
 Amt. Pd. 250 ODH _____
 Ins. _____ Profile
 Amt. Due _____ All Sigs
FOR OFFICE USE ONLY

S P



PATIENT PERSONAL HISTORY

All your answers are confidential. No information will be given to anyone without your written permission.

Name Grandhawn Harris Age 16 Birthdate 6/1/1976
 Address 24166 WILSON RPT-4 Phone No. _____
 City TOLEDO State OHIO Zip 43611
 Occupation STUDENT Yrs. of Education Completed 11 Religion _____
 Are you a registered voter? _____

Please circle one: Single Married Separated Divorced Widowed
 Please circle one: White Black Asian Hispanic Other
 How did you find out about the Center for Choice? through a friend
 Where did you have your pregnancy test? HOME When? 11/92
 Was the test a blood serum test? _____ or a urine test?
 Have you ever had an unplanned pregnancy before? If yes, when was it? _____
 and what did you do about it? had it

State your definition of abortion: to help people who can't take care of life
 Do you want to see pictures of fetal development? NO NO change
 Do you want to see the tissue that was removed from your uterus after your abortion? NO None
 How did you feel about abortion before this pregnancy? I didn't I think I should have abortion if people want it
 How do you feel about abortion now? I'm All for it

What options have you considered for this unplanned pregnancy? Adoption Abortion Keeping
 Whose idea was it for you to have an abortion? MYSELF
 Who knows you are here today? my mom, sister, boyfriend
 Are they supporting you in this decision? my sister is
 Does the man involved know that you are here? yes
 How does he feel about your decision? he's All for it
 What would you like to be doing 5 years from now? settled down and working
 In your lifetime has anyone ever tried to pressure or force you to have sexual contact? no
 If yes, have you resolved that experience? _____
 In case of an emergency, whom should we contact? JAMES Braga
 Their phone number 243-7905 Do they know you're here? yes

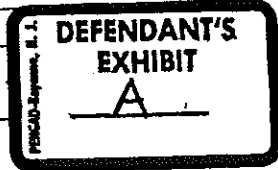
***** STOP HERE *****

CONSENT TO RELEASE INFORMATION

I authorize the Center for Choice II to release records of my abortion procedure to the physician or clinic as designated below:

Physician Name _____
 or
 Clinic Name _____
 Address _____
 City _____ State _____ Zip _____
 Your Name _____

Records Released
 pt _____
 md _____
 hc _____
 date _____



Patient would like to be called J. Johnson Date: 2-5-93

IMMEDIATE FAMILY AND SELF HISTORY

- No S M F GM GF S/B Adopted
- No S M F GM GF S/B Stroke
- No S M F GM GF S/B Heart Disease? MVP No.
- No S M F GM GF S/B Diabetes Yes
- No S M F GM GF S/B Epilepsy or Seizures
- No S M F GM GF S/B High Blood Pressure
- No S M F GM GF S/B Asthma outgrown
- No S M F GM GF S/B Hepatitis/Liver Disease
- No S M F GM GF S/B Sickle Cell
- No S M F GM GF S/B Kidney/Bladder Disease
- No S M F GM GF S/B Varicose Veins
- No S M F GM GF S/B Thyroid Disorders
- No S M F GM GF S/B Cancer
- No S M F GM GF S/B Alcoholism
- No S M F GM GF S/B Twins

SELF HISTORY

- Yes No Chest Pain
- Yes No Anemia current
- Yes No Fainting
- Yes No Headaches
- Yes No Blurred Vision
- Yes No Calf or Leg Pain
- Yes No Bleeding or Clotting
- Yes No Physical Abnormalities
- Yes No Mono
- Yes No Professional Counseling 1 mo helpful
- Yes No Drug Addiction
- Yes No Smoke _____ per _____

Drug Allergies? aspirin Had Novacaine? yes
 Current Medications? Q When taken last? _____
 Previous Pelvic Exam? yes Presently Breastfeeding? _____
 Past surgery and when? Q

Symptoms of pregnancy: nausea fatigue breast tenderness dizziness
 freq. urination cramping backache

Symptoms/Suspicion of vaginal infection (STDs): Q

Type of birth control at time of conception? pill Used correctly? yes

What type of birth control are you interested in? pill

Reproductive History: Grav. 3 Para 2 T/AB Q Misc. Q Ectopic Q

Date of last live birth: 9/9/92 C-Sections: # Q Date of Prev. Abortion: Q

LMP Nov 18 Pregnancy Test Site _____ Serum _____ Urine _____

LAB WORK: Hct. 30 RhPos / RhNeg CFC2 ucg pos date 2/12/93

B/P 100/62 Pulse 84 Temp. 97.8 By Dates 12/13 Weeks 12/13
 Vagina M Cervix M Adnexae my my Uterus RT Weeks 12/13

U/S _____ Date _____ BPD _____ CRL _____ Weeks _____

Using 10cc 1% Lidocaine, the cervix was dilated to 3 Denniston/Pratt and a 12 mmc suction tip was used to aspirate the uterine contents with without difficulty. Estimated gestation was 12-13 weeks.

Specimen _____ grams. Findings _____

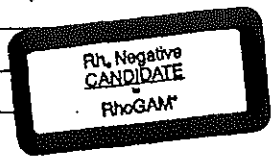
Comments: 1st 2nd Trimester Suction Sharp D & C TAB
 EBL = 35 cc Tissue Check - complete F/P

Doctor Signature [Signature]
2-12-93

RECOVERY ROOM 1 2 3 4 5 6 7

Time Admitted: 3:05 P
Time 3:05 P B/P 110/60 Pulse 84
4:45 PM 110/60 76

Rhogam Given IM: FULL MIC
Time: 2:05 PM
Site: LGM
Initial: JM



Birth Control Orthocyclen

Referral made to: _____

Comments: 4:15 pm 2 mg Ergo IM given for passy by clot

During Instruction: Attentive Distracted Asked Questions
 Needed special instructions on _____

Discharge Medications:
 Tetracycline 250mg 1 cap PO qid x 7 days
 Erythromycin 250 mg 1 cap PO qid x 7 days
 Ergotrate 0.2mg PO qid x 2 days
IV Given: _____

Pain Medication Given:
 Ibuprofen _____ mg PO
 Tylenol 2 tabs PO
 Other _____

Discharge Conditon: E (G) F P Bleeding: None (Min) Mod Heavy

Checkup Appt. March 5 Time Discharged 4:45 pm Rec. Rm. Nurse Teri Poirange

I understand the possible complications of abortion and know what I need to do to take care of myself after my abortion.

Patient Signature Jerronchaun Harris

Interim Notes: Date: 3/1/93 NS J11 PL

Screening Notes: Date: 2/6/93 - Wants to finish school
considered AB last time but didn't go
because of mom's feelings

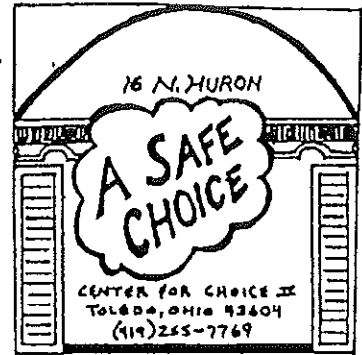
If patient is a minor, has either parent been informed of her choice / which? mom
Int. [Signature]

Lab Notes: Date: _____
 Instructions given to eat iron-rich foods and take multi-vitamins with iron. Int. _____

Group Information Notes: Date: _____
Int. _____

Other Comments: Date: _____
Int. _____

CCCC



CONSENT TO ABORTION

I, Branchawn Harris, age 16, hereby give my consent to, and request and authorize a physician designated by the Center for Choice II to perform an abortion upon me. If any unforeseen conditions should arise in the course of the abortion which in his / her judgment requires procedures in addition to, or different from those now contemplated, including but not limited to the administration of anesthesia and the use of such anesthetics as may be deemed advisable, I further consent to and request and authorize the performance of any and all procedures deemed necessary. J.H. int.

I further consent to the disposal of any tissues which may be removed at the time of the abortion by my attending physician or his / her assistants. J.H. int.

The nature and purpose of an abortion, the risks involved, and the possibility of complications have been fully explained to me. This includes such things as perforation, infection, heavy bleeding, unsuccessful abortion and retained tissue or fetal parts. I acknowledge that no assurance has been made as to the results that may be obtained. J.H. int.

I understand, as part of MY responsibility for my health care, it is essential that I have an examination in 2 to 3 weeks after this abortion to ensure the abortion is complete. I agree to consult with doctors at the Center for Choice II BEFORE seeking other medical treatment if I feel I have a problem. J.H. int.

I certify that I have read and fully understand the above consent to an abortion and that I have told my attending physician (if such information was known to me) that my pregnancy commenced on 11/18/93 (date of last menstrual period), and that all above blanks or statements requiring insertion or completion were filled in. J.H. int.

In presence of:
Krist L. Mathis -
 Patient Advocate's Signature

Branchawn Harris
 Patient's Signature

I.D. Scott HS

Date 2/5/93

S.S. # _____

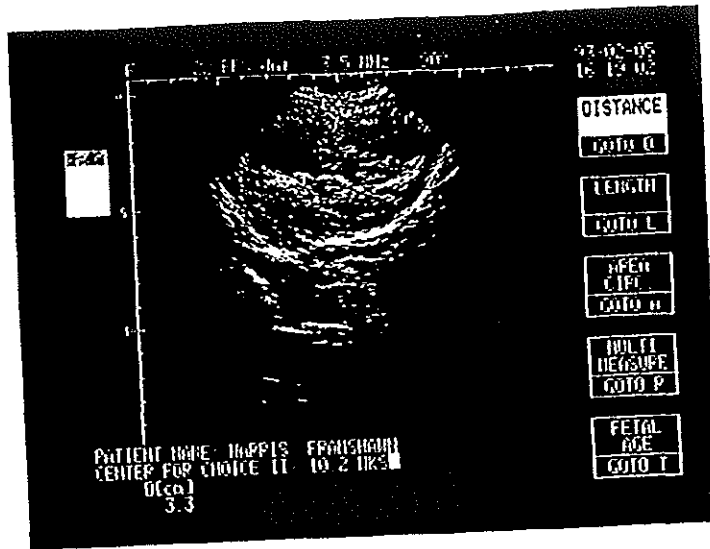
Witness: Margaret Weinberger

Medicaid # 500 498.237-6

Witness: Pat Harmon

Family Health Plan # _____

Post Abortion Appointment: Date: _____
 B/P _____ Temp. _____ Repeat UCG _____
 Bleeding: None Min. Mod. Heavy / Pink Red Brown
 Patient Complaints _____
 Cervix _____ Uterus _____ Adnexae _____
 Contraception: _____ Referral? _____
 Comments _____
 _____ Routine Post-Abortion Check-Up Signature _____



MICRhoGAM* Rh₀(D) Immune Globulin (Human)
 Micro-Dose for use only after spontaneous or induced abortion or
 termination of ectopic pregnancy up to and including 12 weeks' gestation.
 CONTROL FORM Hospital/Clinic CFCH

© ORTHO DIAGNOSTIC SYSTEMS 1996 633-20-002-2

ATTENTION LABORATORY

Patient's Name Franklin Harris

Patient is Rh negative 21293 Date

LOT NO. OF MICRhoGAM ISSUED MCL 117 EXP. DATE 7-6-94

Tech. J. Maxwell

*Trademark

ATTENTION OBSTETRICAL SERVICE

IMPORTANT

1. Establish patient identification before injecting this single dose of MICRhoGAM intramuscularly.
2. Verify the lot number and expiration date of MICRhoGA recorded on this form with the lot number and expiration date printed on the accompanying pouch containing the prefilled syringe of MICRhoGAM.
3. Retain this form for verification of administration of MICRhoGAM.

Date MICRhoGAM injected 21293

Pregnancy termination date 2-12-93

Attending physician Dr. M. Laddach

Date of Injection of MICRhoGAM 2-12-93

Hospital/Clinic CFCH

Attending Physician Dr. M. Laddach

Insurance Copy - attach this statement to your insurance claim form.

Complete the personal information requested on the form. This statement contains all the information the doctor is required to supply. It is not necessary for this office to fill out the insurance company claim form.

[REDACTED] PARVIS J.
NAME

CHART NO. 13868

DIAGNOSIS:

Pregnancy

DATE OF SERVICE: 2-5-93

DATE OF PAYMENT: same

TOTAL FEE: \$ 250

FEE PAID

YES NO

FID # 34-1552127



CENTER FOR CHOICE II

(419) 255-7769 16 N. Huron St.
Toledo, OH 43604

4672

OFFICE SERVICES:

- Adoption Services
- Pelvic Examination
- Counseling Service
- Ultrasound
- Morning After Treatment
- OTHER _____

LABORATORY PROCEDURES:

- Pregnancy Test
- Sensitive Pregnancy Test
- Rh Test
- Hematocrit Test
- OTHER _____

SURGICAL PROCEDURES:

- D & E
- Abortion, Elective, B & E
- OTHER _____