

FILED 06 MAY 22 15:39 USDC-ORP

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JOHN & GRACE HUMMASTI,

CIVIL NO. 06-251-ST

PLAINTIFFS,

VS.

PLAINTIFF'S STATEMENT

JOHN BUCKMASTER, MD., ET. AL.,

IN OPPOSITION

DEFENDANTS.

Comes now, John & Grace Hummasti, and hereby submits this STATEMENT IN OPPOSITION to Defendants Motion to Dismiss the Complaint.

In Support thereof, Plaintiffs aver the following:

1) This Court has Jurisdiction over the Claims of the Plaintiff's as related to Survivorship to the Estate of Ya'acov Hummasti pursuant to 28 USC 1350 (Alien Tort Statute).

This is because Ya'acov Hummasti would have been born in the State of Israel as an **Alien**, that is, he would have been an Israeli citizen (as opposed to an American Citizen) under the Israeli Law of Return.

As set forth herein, Grace Hummasti had purchased **non-refundable**, "one-way" airline tickets to Tel Aviv on 1 June 2004 prior to any consultation with Defendants about the abortion or Downs Syndrome (trisomy 21) related to Ya'acov Hummasti.

The intestate succession or survivorship of Plaintiffs John and Grace Hummasti, as related to Ya'acov Hummasti's estate must be purviewed under Israeli law since Oregon's Wrongful Death Statute limits wrongful death claims to those *in situs*, that is, according to **the state of residency of the decedent**. ORS 30.020

2) Congress enacted the Partial Birth Abortion Ban Act in 2003 under 18 USC §1531 which prohibits the type of abortion that Defendants performed. (That section is set out *ante*, at Appendix A.)

In doing so, Congress made it criminal for any physician to kill any fetus where such abortion procedure is unnecessary, “except to save the life of the mother.”

With regards thereto, neither the State of Oregon, nor Congress has authorized the *euthanasia* of a person without informed consent (e.g. physician assisted suicide).

In the instant case, it was not necessary for Grace Hummasti to undergo an abortion since there is no medical evidence defendants can now submit which would show that said abortion was necessary to save Plaintiff’s life.

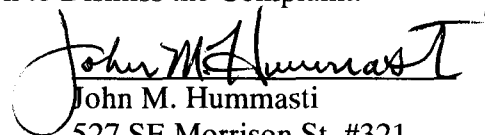
Moreover, there was never any discussion between Plaintiffs and Defendants relevant to informed consent which even suggests that Plaintiffs life was in jeopardy if she did not consent to an abortion.

The only discussion relevant to the loss of life, was in the context of Ya’acov Hummasti needing extensive heart surgery such that would permit preservation of *his* life!

In the Court making it’s factual determination(s), Plaintiffs respectfully request that the Court find that abortion for the sole purpose of *euthanasia* is unethical and unconstitutional within the ambit of 18 USC §1531.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully submits this STATEMENT IN OPPOSITION to Defendants Motion to Dismiss the Complaint.

Dated this 22<sup>nd</sup> day of May, 2006.

  
John M. Hummasti  
527 SE Morrison St. #321  
Portland, OR. 97214

## APPENDIX A

### CHAPTER 74 -- PARTIAL-BIRTH ABORTIONS

#### 18 USC §1531

#### **§1531. Partial-birth abortions prohibited**

(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the date of enactment of this chapter.

(b) As used in this section --

(1) the term 'partial-birth abortion' means an abortion in which --

(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

(2) the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(2) Such relief shall include

(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(B) statutory damages equal to three times the cost of the partial-birth abortion.

(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section."

(b) CLERICAL AMENDMENT. -- The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

**"74. Partial-birth abortions ..... 1531".  
SEC. 4. SENSE OF THE SENATE CONCERNING ROE V. WADE.**

(a) FINDINGS. --The Senate finds that --

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe v. Wade* (410 U.S. 113 (1973)); and

(2) the 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy.

(b) SENSE OF THE SENATE. --It is the sense of the Senate that --

(1) the decision of the Supreme Court in *Roe v. Wade* (410 U.S. 113 (1973)) was appropriate and secures an important constitutional right; and

(2) such decision should not be overturned.

Passed the Senate March 13, 2003.



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 PAGE NO. 1

MR JOHNMAURITZ HUMMASTI  
 3137 SW PRIMROSE ST 2  
 PORTLAND OR 97219

HUMMASTI/GRACE

AGENT	CONTACT	CUSTOMER NO.	ACCOUNT NO.	DATE
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ANGELENE			5032244743	01 JUN 04
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A	TU	06JUL 07JUL	LV PORTLAND ORE AR FRANKFURT	415P 1120A	LUFTHANSA	469V OR	OSTOP JET
A	WE	07JUL 08JUL	LV FRANKFURT AR TEL AVIV	1055P 350A	LUFTHANSA	690V OR	OSTOP JET
				SEAT	23-A **RESERVED** HUMMASTI/GRACE		
			TAX	0.00	TOUR		775.00
					SUBTOTAL		775.00
					TOTAL INVOICE AMOUNT		775.00
					AMOUNT DUE		775.00

THIS TICKET IS NON REFUNDABLE  
 CHANGES ARE NOT ALWAYS ALLOWED...PLEASE SEE YOUR AGENT  
 OR CHECK DIRECTLY WITH THE AIRLINES FOR RULES AND PENALTIES  
 THIS IS A USE IT OR LOOSE IT TICKET  
 A VALID PASSPORT IS REQUIRED FOR MOST INTERNATIONAL TRAVEL  
 A VISA MAY ALSO BE REQUIRED FOR YOUR DESTINATION  
 PLEASE CONTACT THE EMBASSY OR CONSULATE FOR ENTRY REQUIREMENTS  
 PLEASE CHECK YOUR ITINERARY AND MAKE SURE NAMES ARE CORRECT  
 \*\*\*\*\*IMPORTANT\*\*\*\*\*  
 IF NAMES ON TICKET DO NOT MATCH EXACTLY NAME ON PASSPORT...  
 YOU COULD BE DENIED BOARDING  
 CHECK IN 2-3 HOURS PRIOR TO DEPARTURE FOR INTERNATIONAL FLIGHTS  
 LUFTHANSA AIRLINES 800-645-3880  
 THANK YOU FOR USING ASA UNIVERSITY TRAVEL -ANGELENE



ASA UNIVERSITY TRAVEL, LLC  
 1505 SW Broadway  
 Portland, OR 97201  
 503-224-6659

# RECEIPT

DATE 6/1/04 No. 876486

RECEIVED FROM Seven hundred seventy five and 00/100 DOLLARS

one-way LH Fare

FOR  CASH FROM \_\_\_\_\_ TO \_\_\_\_\_

OR  CHECK

MONEY ORDER BY AS

ACCOUNT 775.00

PAYMENT 02

BAL DUE

1182

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 1505 SW Broadway  
 Portland, OR 97201  
 503-224-6659

03 3426 9783  
 PASSENGER TICKET AND BAGGAGE CHECK  
 SUBJECT TO CONDITIONS OF CONTRACT  
 NOT TRANSFERABLE

ISSUED BY: LUFTHANSA  
 NAME OF PASSENGER: INTERNATIONAL TRAVEL  
 FROM: HOMMASTI/GRACE  
 TO: SEATTLE WA  
 CLASS: Y  
 CARRIER: LH  
 FLIGHT: 6/1P  
 DATE: 05/23/04  
 TIME: 07JUL

FARE: AY 2.50  
 TAXES: 32.81  
 TOTAL: 35.31

STOCK CONTROL NO. TX 889 CK  
 DOCUMENT NUMBER 220 1158723106 0

ISSUE CODE: A50516524  
 EXPIRES: 05/31/04  
 FROM: 05/23/04  
 NOT VALID AFTER: 07JUL

ISSUING AGENT: X/N81/MK

NOT VALID FOR TRAVEL

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IT IS UNLAWFUL TO PURCHASE OR RESELL THIS TICKET FROM TO ANY ENTITY OTHER THAN THE ISSUING CARRIER OR ITS AUTHORIZED AGENTS

A STAR ALLIANCE MEMBER

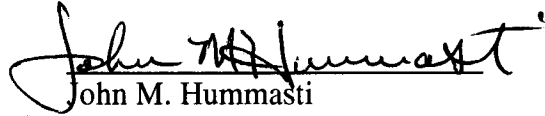
CERTIFICATE OF SERVICE

I, John Mauritz Hummasti, hereby declare that I have served by Regular US Mail, a true copy of the attached Plaintiff's STATEMENT IN OPPOSITION on the Defendants by placing the Attached in an Addressed, Sealed Envelope with prepaid postage affixed thereon addressed to:

Kari A Furnanz -Attorney At Law  
HOFFMAN, HART AND WAGNER  
ATTORNEYS AT LAW  
Twentieth Floor  
1000 SW Broadway  
Portland, OR. 97205

and depositing the same in a US Postal Collection Box on this date.

Dated this 22<sup>nd</sup> day of May 2006.

  
John M. Hummasti  
Plaintiff Pro Per  
527 SE Morrison St. #321  
Portland, OR. 97214-2364