

CAUSE NO. _____

MELANIE MENDOZA,
Plaintiff,

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IN THE DISTRICT COURT OF

VS.

HARRIS COUNTY, TEXAS

DOUGLAS A. KARPEN, M.D.;
TEXAS AMBULATORY SURGERY
CENTER; and AARON WOMEN'S
CLINIC,
Defendants.

JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND REQUESTS FOR DISCLOSURES

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MELANIE MENDOZA, hereinafter sometimes referred to as Plaintiff, complaining of DOUGLAS A. KARPEN, M.D.; TEXAS AMBULATORY SURGERY CENTER; and AARON WOMEN'S CLINIC, hereinafter sometimes referred to as Defendants, and for cause of action would respectfully show unto the Court and Jury as follows:

I.
DISCOVERY LEVEL

1. Discovery in this case should be conducted under Level 3, pursuant to Rule 190.4 of the TEXAS RULES OF CIVIL PROCEDURE. Plaintiff respectfully requests that this Court enter an appropriate Scheduling Order so that discovery may be conducted pursuant to Level 3.

II.
REQUESTS FOR DISCLOSURE

2. Pursuant to Rule 194 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff requests Defendants to disclose, within fifty (50) days of service of this request, the information and material described in Rule 194.2 of the TEXAS RULES OF CIVIL PROCEDURE. Plaintiff specifically requests the responding party to produce responsive documents at the undersigned law offices within fifty (50) days of service of this request.

III.
JURISDICTION AND VENUE

3. Plaintiff affirmatively pleads that this Court has jurisdiction because the damages sought are in excess of the minimum jurisdictional limits of the Court. Furthermore, all of the causes of action asserted in this case arose in the State of Texas, and all of the parties to this action are either residents of the State of Texas or conduct business in this State in connection with the causes of action embraced by the claims in this lawsuit. Therefore, this Court has both subject matter and personal jurisdiction over all of the parties and all of the claims.

4. Venue is proper in Harris County, Texas under the general venue statute of TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1) (West 2007) because all or a substantial part of the events or omissions giving rise to the claim occurred in Harris County, Texas and no mandatory venue provision applies.

IV.
PARTIES

5. Plaintiff, MELANIE MENDOZA, resides in Harris County, Texas.

6. Defendant, DOUGLAS A. KARPEN, M.D. is a physician practicing medicine in Harris County, Texas. He may be served with process by the clerk of this court by mailing a copy of the citation, with the petition attached, to Douglas A. Karpen, M.D. at 2505 No. Shepherd, Houston, TX 77008, and/or Douglas A. Karpen, M.D. at 5607 Schumacher, Houston, TX 77057, or wherever he may be found.

7. Defendant, TEXAS AMBULATORY SURGERY CENTER is a corporation, partnership, or proprietorship, duly organized and existing pursuant to law. It may be served with process by the clerk of this court by mailing a copy of the citation, with the petition attached, to Texas Ambulatory Surgery Center, Attn: Douglas A. Karpen, M.D. at 2505 No. Shepherd, Houston, TX 77008, or wherever it may be found.

8. Defendant AARON WOMEN’S CLINIC is a corporation, partnership, or proprietorship, duly organized and existing pursuant to law. It may be served with process by the clerk of this court by mailing a copy of the citation, with the petition attached, to Aaron Women’s Clinic, Attn: Douglas A. Karpen, M.D. at 2505 No. Shepherd, Houston, TX 77008, or wherever it may be found.

9. To the extent that the above-named Defendant is conducting business pursuant to a trade name or assumed name, then suit is brought against him pursuant to the terms of Rule 28 of the TEXAS RULES OF CIVIL PROCEDURE and Plaintiff hereby demands that upon answering this suit, that he answer in his correct legal name and assumed name.

V.
CAUSE OF ACTION

10. It has become necessary to institute this suit due to the permanent injuries Plaintiff suffered and continues to suffer as a result of medical negligence. When this case is tried, the evidence will show that on or about February 7, 2013, Plaintiff Melanie Mendoza went to Defendant Aaron Women’s Clinic to discuss whether or not she would have an abortion. She was 22 weeks pregnant. Defendant Dr. Douglas Karpen and his staff represented to the Plaintiff that “abortion is a low-risk procedure,” “hemorrhage or excessive bleeding following an abortion is most often much less than that which occurs following a full-term or premature pregnancy,” and “it is highly unlikely any uncomplicated or mid-trimester abortion will cause a problem with infertility or future pregnancies.”

One week later, on February 14, 2013, the Plaintiff went to the Defendant Texas Ambulatory Surgery Center’s facility on North Shepherd. When she arrived, there were over a dozen young women in the “waiting area,” for their abortions. The Plaintiff watched as each young woman was called to go to the back. Finally, the Plaintiff was the only young woman left in the waiting area, and she remained there, alone, for some time after the last young woman had left, and the Plaintiff got

the feeling that she had been forgotten. Finally, a nurse came to the waiting area and appeared to be surprised that the Plaintiff was still there. From that moment, everything thereafter appeared to be rushed, and the results of the botched abortion speak for themselves, as it is extremely doubtful that the Defendant Dr. Karpen will claim that what he did to Ms. Mendoza is a “poster child” of whatever skills he professes as a surgeon. The next day, Ms. Mendoza felt terrible and was in extreme pain. The pain was so intense that Ms. Mendoza decided to go to the emergency room at West Houston Medical Center, where a CT scan was performed, showing that she had a tear in her uterus and that she was bleeding internally. An “on-call” OB/GYN was called to perform emergency surgery. Upon entering the abdomen via an initial laparoscopic procedure, it was determined that the bleeding was so significant and the injuries so extensive, that the OB/GYN elected to convert to an open procedure. When this case is tried, that physician will testify that what she thereafter observed with respect to the nature and extent of the injuries caused by Dr. Karpen was one of the worst injuries to a uterus that she had ever seen or read about. Dr. Karpen had performed the surgery in such a negligent manner that he had caused a “laceration defect in the lower left posterior uterus in a vertical manner, extending laterally and partially medially, in a T-shape form. The uterine cavity was completely open from this defect with the uterine arteries exposed. There was extension of the laceration to the posterior broad ligament.” That OB/GYN also told the Plaintiff that if she had not come on her own to the emergency room when she did, that she would have probably died. The good news is that Melanie Mendoza did survive Dr. Karpen’s negligence. The bad news is that in addition to the complicated surgical procedure that was necessitated because of Dr. Karpen’s negligence, Dr. Karpen’s negligence has caused irreversible and permanent damage to Ms. Mendoza’s uterus, such that, in reasonable medical probability, she will be in extreme danger should she ever become pregnant. On the date of the procedure performed by Dr. Karpen, Melanie

Mendoza was 20 years of age. Following her emergency operative procedure at West Houston Medical Center, the OB/GYN physician's description of Dr. Karpen's negligent surgical technique was "Ruptured uterus."

11. When this case is tried, the evidence will show that Douglas A. Karpen, M.D. was negligent in his care and treatment of Melanie Mendoza, and such negligence was a proximate cause and/or medical cause of the Plaintiff's resulting injuries and damages.

12. At all times material to this cause, Defendant Douglas A. Karpen, M.D. was acting within the course and scope of his employment and/or agency, as an agent, servant, employee, vice principal, and/or alter ego of Texas Ambulatory Surgery Center and Aaron Women's Clinic. Accordingly, these entities are liable, pursuant to *respondeat superior*, vice principal, alter ego, apparent and/or ostensible agency, and/or agency by estoppel, as those terms are defined and applied under the laws and statutes of the State of Texas.

VI.
DAMAGES

13. There are certain elements of damage, recognized in law, that the Plaintiff, MELANIE MENDOZA is entitled to have the Jury separately consider in a case of this nature. Those elements of damage include the following:

- a. The physical pain that MELANIE MENDOZA has suffered from the date of the occurrence in question up to the time of trial;
- b. The mental anguish that MELANIE MENDOZA has suffered from the date of the occurrence in question up to the time of trial;
- c. The reasonable and necessary medical expenses incurred by MELANIE MENDOZA from the date of the occurrence in question up to the time of trial;
- d. The physical incapacity, impairment, and disability MELANIE MENDOZA has suffered, and the resulting inability to do those tasks and services that

MELANIE MENDOZA would ordinarily have been able to perform from the date of the occurrence in question up to the time of trial; and

- e. The disfigurement that MELANIE MENDOZA will suffer in the future beyond the time of trial.

From the time of trial of this case, the elements of damage to be separately considered, which Plaintiff, MELANIE MENDOZA, will sustain in the future, beyond the time of trial, are such of the following elements that are shown by a preponderance of the evidence:

- a. The physical pain that MELANIE MENDOZA will suffer in the future beyond the time of trial;
- b. The mental anguish that MELANIE MENDOZA will suffer in the future beyond the time of trial;
- c. The reasonable and necessary medical expenses that will be incurred by MELANIE MENDOZA in the future beyond the time of trial;
- d. The physical incapacity, impairment, and disability MELANIE MENDOZA will suffer, and the resulting inability to do those tasks and services that MELANIE MENDOZA would ordinarily have been able to perform in the future beyond the time of trial; and
- e. The disfigurement that MELANIE MENDOZA will suffer in the future beyond the time of trial.

14. All of the cited elements of damages have been proximately caused by the negligent acts and omissions of the Defendants, for which this suit is brought. Because of the above and foregoing, Plaintiff has been damaged, and will be damaged, in a sum greatly in excess of the minimum jurisdictional limits of this Honorable Court.

VII.

COMPLIANCE WITH TEXAS CIVIL PRACTICE & REMEDIES CODE §74.051

15. This is a “health care liability claim” as defined in TEX. CIV. PRAC. & REM. CODE §74.001(a)(13) (West 2007). Plaintiff has complied with TEXAS CIVIL PRACTICE & REMEDIES CODE §74.051 and §74.052, by giving written notice to one or more of the Defendants and/or potential

Defendants, *via* certified mail, return receipt requested.

VIII.
JURY TRIAL

16. Plaintiff respectfully requests a jury trial in accordance with the applicable provisions of the Texas Rules of Civil Procedure.

IX.
PRAYER

17. For the above reasons, Plaintiff prays that the Defendants be cited to appear and answer herein, and that upon a trial of this case, the Plaintiff has judgment against the Defendants, jointly and severally, for her damages as set forth herein, pre-judgment interest, post-judgment interest, costs of court, and for such further relief, both in law and in equity, to which the Plaintiff may show herself to be justly entitled.

Respectfully submitted,

THE LEWIS LAW FIRM

/s/ Craig Lewis

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