

**SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO**

**TINA ATKINS, individually and as personal
representative of the ESTATE of KEISHA
MARIE ATKINS, and NICOLE ATKINS**

Plaintiffs,

vs.

No. D-202-CV-2018-05696

**CURTIS BOYD, M.D. P.C. d/b/a
SOUTHWESTERN WOMEN'S OPTIONS,
CURTIS W. BOYD, Individually, CARMEN
LANDAU, Individually, SHANNON CARR,
Individually, THE UNIVERSITY OF NEW
MEXICO d/b/a UNM HEALTH SYSTEM, THE
UNIVERSITY OF NEW MEXICO BOARD OF
REGENTS, THE UNIVERSITY OF NEW
MEXICO HEALTH SCIENCES CENTER, LISA
HOFER, M.D., Individually, UNM MEDICAL
GROUP, INC., LILY BAYAT, M.D., Individually,
and BRENDA PEREDA, M.D., Individually,
LAUREN DVORSCAK, M.D., Individually.**

Defendants.

**COMPLAINT FOR MEDICAL MALPRACTICE/
MEDICAL NEGLIGENCE, WRONGFUL DEATH, UNFAIR TRADE PRACTICES,
CIVIL CONSPIRACY**

COMES NOW the Plaintiffs, TINA ATKINS, individually and as personal representative of the ESTATE OF KEISHA MARIE ATKINS and NICOLE ATKINS (hereinafter sometimes referred to as "Plaintiffs"), by and through their attorneys of record MICHAEL J. SEIBEL & ASSOCIATES, PC (Michael J. Seibel) and THE LAW OFFICE OF JUSTIN K. HALL, PC (Justin K. Hall), and pursuant to the New Mexico Rules of Civil Procedure, hereby states for their complaint the following:

INTRODUCTION/JURISDICTIONAL ALLEGATIONS

1. Plaintiffs were, at all times material hereto, residents of the City of Albuquerque, County of Bernalillo, State of New Mexico.

2. Defendant Curtis Boyd, M.D., P.C., was, at all times material hereto, a domestic for-profit New Mexico corporation doing business as “Southwestern Women’s Options”, 522 Lomas Boulevard NE in the City of Albuquerque, Bernalillo County, New Mexico, for the purpose of providing late term abortion services.

3. Defendant Curtis W. Boyd, M.D. (hereinafter sometimes referred to as “Boyd”) is a licensed doctor doing business in Albuquerque, New Mexico. Upon information and belief, Boyd supervises all employees of Defendant Southwestern Women’s Options.

4. Defendant Carmen Landau, M.D. (hereinafter sometimes referred to as “Landau”) is a licensed physician doing business in Albuquerque, New Mexico. Upon information and belief, Landau is employed by Defendant Southwestern Women’s Options.

5. Defendant Shannon Carr, M.D. (hereinafter sometimes referred to as “Carr”) is a licensed physician doing business in Albuquerque, New Mexico. Upon information and belief, Carr is employed by Defendant Southwestern Women’s Options.

6. At all times material to this complaint, Defendant Curtis Boyd, M.D., P.C. d/b/a “Southwestern Women’s Options” (hereinafter sometimes collectively referred to as “SWO”), and its doctors (including Defendants Boyd, Landau and Carr), nurses, nurses aides, employees, agents and servants were not qualified health care providers under the New Mexico Medical Malpractice Act.

7. Defendant The University of New Mexico, was, at all times material hereto, a domestic for-profit New Mexico State Educational Institution operating as director and doing business as the “University of New Mexico Health System” (aka “UNM Health System”) in the City of Albuquerque, Bernalillo County, New Mexico.

8. Defendant The University of New Mexico Board of Regents, was, at all times material hereto, a governing body for the University of New Mexico, a New Mexico State Educational Institution doing business in the City of Albuquerque, Bernalillo County, New Mexico.

9. Defendant The University of New Mexico Health Sciences Center, was, at all times material hereto, a for-profit subdivision of the University of New Mexico Health System, doing business at 1101 Medical Arts Avenue, NE, Suite 4A in the City of Albuquerque, Bernalillo County, New Mexico.

10. At all times material to this complaint, Defendant Lisa Hofler, M.D. (hereinafter sometimes referred to as “Hofler”), was an employee, officer, director, and/or agent of Defendants The University of New Mexico, The University of New Mexico Health Sciences Center, and under the control and/or direction of the University of New Mexico Board of Regents (hereinafter sometimes collectively referred to as “UNM”).

11. At all times material to this complaint, Defendant Lauren Dvorscak, M.D. (hereinafter sometimes referred to as “Dvorscak”), was an employee, officer, director, and/or agent of Defendants The University of New Mexico, The University of New Mexico Health Sciences Center, and under the control and/or direction of the University of New Mexico Board of Regents (hereinafter sometimes collectively referred to as “UNM”).

12. Defendant UNM Medical Group Inc. (hereinafter sometimes collectively referred to as “UNM Medical Group”) was, at all times material hereto, a 501(c)(3) non-profit corporation doing business in the City of Albuquerque, Bernalillo County, New Mexico.

13. At all times material to this complaint, Defendants Lily Bayat, M.D. (hereinafter sometimes referred to as “Bayat”) and Brenda Pereda, M.D. (hereinafter sometimes referred to as “Pereda”), were employees, officers, directors, and/or agents of Defendant UNM Medical Group.

14. Upon information and belief, at all times material to this complaint, neither Defendants Hofler, Bayat nor Pereda were qualified health care providers under the New Mexico Medical Malpractice Act.

15. Because none of the Defendants are qualified health care providers as defined by the New Mexico Medical Malpractice Act, Plaintiffs are not required to comply with the prerequisites of the New Mexico Medical Malpractice Act for filing this lawsuit.

16. Personal jurisdiction of all parties, subject matter jurisdiction and venue are present and proper in this state district court, County of Bernalillo, State of New Mexico.

GENERAL ALLEGATIONS

17. On or about January 23, 2017, Keisha Atkins presented to the UNM Hospital to seek medical assistance for an elective twenty four (24) week abortion. On January 31, 2017, Keisha Atkins returned to UNM Hospital.

18. After examining Keisha Atkins, Defendant Lily Bayat, under the direct supervision of Defendant Brenda Pereda, denied Keisha Atkins’ request for a twenty four (24) week elective abortion. Consequently, Defendant Bayat, under the direct supervision of Defendant Pereda, referred Ms. Atkins to SWO at 522 Lomas Boulevard NE, Albuquerque, New Mexico.

19. To ensure Ms. Atkins' referral to SWO, Defendant UNM Medical Group contacted SWO and confirmed the availability of an appointment time immediately following Ms. Atkins' release from Defendant UNM Medical Group, scheduled the appointment for Ms. Atkins and hand delivered their ultrasound results to SWO on January 31, 2017.

20. Subsequently, on February 01, 2017, at the SWO clinic, clinic doctors, under the supervision of Defendant Curtis Boyd, inserted a syringe filled with Dygoxin into Keisha Atkins' stomach and injected a lethal dose into the baby causing the baby's death. Ms. Atkins was then released from SWO clinic with her deceased baby in utero and an instruction to return to the SWO Clinic.

21. As part of her discharge instruction from the SWO clinic, Defendants Curtis W. Boyd, Shannon Carr and Carmen Landau instructed Keisha Atkins not to contact or consult any medical facility, hospital, doctor, emergency room or nurse outside of the employees, agents and/or staff of the SWO clinic.

22. On February 03, 2017, Keisha Atkins returned to the SWO clinic with her deceased baby in utero and without the start of the labor process. As a further complication, Keisha Atkins presented to the SWO clinic with high fever and troubled breathing.

23. At 6:45 AM on the morning of February 03, 2017, Defendants Carmen Landau and Shannon Carr, under the supervision of Defendant Curtis Boyd, started administering fluids to Keisha Atkins.

24. Nine hours later at 4:08 PM, Defendants Carmen Landau and Shannon Carr, under the supervision of Defendant Curtis Boyd, confirmed that Keisha Atkins' vital signs and her troubled breathing had not improved since her arrival at 6:45 AM.

25. Ten hours after their starting Keisha Atkins on an IV drip, Defendants Carmen Landau and Shannon Carr, under the supervision of Defendant Curtis Boyd, called for an ambulance to transport Ms. Atkins to UNM Hospital Emergency Room.

26. However, prior to her ambulance trip to UNM Hospital ER, Defendants Carmen Landau and Shannon Carr, under the supervision of Defendant Curtis Boyd, contacted Presbyterian Hospital to request that Keisha Atkins receive a referral to UNM Hospital ER.

27. At 4:53 PM on February 03, 2017, Keisha Atkins arrived at UNM Hospital ER, presenting with respiratory distress, progressive tachycardia, fever and depleted ability to maintain sufficient oxygen saturation levels from a septic abortion.

28. Under the direct care of Defendant Lisa Hofler, an employee of Defendant UNM, Keisha Atkins' spent five and one half hours in the Emergency Room while her condition deteriorated.

29. At 10:29 PM on February 03, 2017, almost six hours since here arrival at Defendant UNM Hospital, Defendant Hofler finally transferred Keisha Atkins to the operating room, where she began a Dilation and Evacuation of the deceased baby.

30. During the procedure, Ms. Atkins suffered cardiac arrest and became pulseless on the operating table. Keisha Atkins never regained consciousness. She was pronounced dead at 12:10 AM, the morning of February 04, 2017.

31. As an employee of Defendant UNM, Defendant Lauren Dvorscak, M.D. undertook the task of investigating the death of Keisha Atkins. Despite evidence to the contrary, Dr. Dvorscak wrote a report listing the cause of death as "natural" due to pregnancy.

COUNT I – NEGLIGENT MEDICAL REFERRAL OF DEFENDANTS
LILY BAYAT, M.D., BRENDA PEREDA, M.D. AND UNM

32. Plaintiffs re-allege and incorporate herein as though set forth in full paragraphs 1 through 31 above.

33. Defendant Lily Bayat and Defendant Brenda Pereda, failed to possess and apply the knowledge, skill and care ordinarily used by Obstetrics and Gynecology doctors acting under similar or same circumstances and giving due consideration to the locality involved when they provided medical diagnosis, treatment and care to Keisha Atkins and when they referred Keisha Atkins to SWO for a late term elective abortion on January 23, 2017.

34. Defendants Bayat and Pereda, as doctors specializing in Obstetrics and Gynecology medicine, were negligent in providing medical diagnosis, treatment and care to Keisha Atkins and in referring Keisha Atkins to SWO, which negligence included, but was not limited to, the following:

- a. failure to inform Keisha Atkins of the risks and potential complications associated with SWO's late term elective abortion practices and procedures;
- b. failure to inform Keisha Atkins of the risks and potential complications of allowing SWO Clinic doctors to insert a syringe filled with Dygoxin into her stomach for the purpose of injecting a lethal dose into the baby to cause the baby's death;
- c. failure to inform Keisha Atkins of the risks and potential complications of carrying a dead baby inside of her womb after being released from the SWO clinic;
- d. failure to inform Keisha Atkins of the inadequacy of SWO's medical facility and equipment used in performing late term elective abortions and addressing

medical complications;

- e. failure to inform Keisha Atkins of the risks and potential complications for infection and sepsis associated with SWO's late term elective abortion procedure;
- f. failure to inform Keisha Atkins of the risks and potential complications associated with SWO instructing its patients not to contact or consult any medical facility, hospital, doctor, emergency room or nurse outside of the employees, agents and/or staff of the SWO clinic;

35. The negligent referral of Keisha Atkins to the SWO clinic, without informing Ms. Atkins of the risks and complications associated with the procedure(s) and with the inadequacies of the SWO Clinic caused injuries, pain, suffering and ultimately Keisha Atkins' wrongful death.

36. At the time of their referral of Keisha Atkins to the SWO Clinic on January 31, 2017, Defendants Bayat and Pereda were employees, agents, servants, owners, officers and/or directors of Defendant UNM Medical Group and were acting within the scope and course of their employment, ownership or agency with Defendant UNM Medical Group.

37. Defendant UNM Medical Group is jointly and severally responsible for and jointly and severally liable for the actions, inactions, negligence or conduct of its doctors, staff or other employees who provided medical diagnosis, treatment, care to Keisha Atkins and/or who referred her to SWO on January 31, 2017, including Defendants Bayat and Pereda.

38. As a proximate result of the negligence of Defendants UNM Medical Group, Defendants Bayat and Pereda, Plaintiffs are entitled to damages against Defendants for: past medical expenses; loss of household services; loss of earnings & benefits; loss of enjoyment of life; mental

anguish; emotional distress; mental, physical, emotional and psychological pain and suffering, loss of consortium and wrongful death in an amount to be proven at the time of trial.

39. All of Plaintiffs' injuries, damages and wrongful death are due to the negligence and carelessness of Defendants, without any contributing negligence on the part of Plaintiffs.

COUNT II – MEDICAL NEGLIGENCE OF DEFENDANTS
CARMEN LANDAU, M.D., SHANNON CARR, M.D., CURTIS BOYD, M.D. AND SWO

40. Plaintiffs re-allege and incorporate herein as though set forth in full paragraphs 1 through 39 above.

41. Defendants Landau, Carr and Boyd failed to possess and apply the knowledge, skill and care ordinarily used by medical doctors acting under similar or same circumstances and giving due consideration to the locality involved when they provided medical diagnosis, treatment and care to Keisha Atkins from January 31, 2017 to February 03, 2017.

42. Defendants Landau, Carr and Boyd, as doctors specializing in late term elective abortion, were negligent in their diagnosis, treatment, and care of Keisha Atkins, which negligence included, but was not limited to, the following:

- a. failure to abide by the standard of care to perform abortion procedures in a hospital and/or in a similarly equipped overnight facility capable of providing constant medical monitoring;
- b. failure to abide by the standard of care to identify and diagnose infection and sepsis;
- c. failure to abide by the standard of care to provide adequate medical treatment for infection and sepsis;

- d. failure to inform Keisha Atkins of the risks and potential complications of allowing SWO Clinic doctors to insert a syringe filled with Dygoxin into her stomach for the purpose of injecting a lethal dose into her baby to cause the baby's death;
- e. failure to inform Keisha Atkins of the risks and potential complications of carrying a dead fetus inside of her womb after being released from the SWO clinic;
- f. failure to inform Keisha Atkins of the inadequacy of SWO's medical facility and equipment used in performing late term elective abortions and addressing medical complications;
- g. failure to inform Keisha Atkins of the risks and potential complications for infection and sepsis associated with SWO's late term elective abortion procedure;
- h. failure to inform Keisha Atkins of the risks and potential complications associated with SWO instructing its patients not to contact or consult any medical facility, hospital, doctor, emergency room or nurse outside of the employees, agents and/or staff of the SWO clinic;

43. The negligence and failure of Defendants Landau, Carr, Boyd and SWO to diagnose and adequately treat Keisha Atkins for infection and sepsis, and the failure to inform Ms. Atkins of the risks and complications associated with the procedure(s) and the failure to provide a hospital and/or in a similarly equipped overnight facility capable of providing constant medical monitoring caused injuries, pain, suffering and ultimately Keisha Atkins' wrongful death.

44. At the time of their negligent acts, Defendants Landau, Carr and Boyd were employees, agents, servants, owners, officers and/or directors of Defendant SWO and were acting within the scope and course of their employment, ownership or agency with Defendant SWO.

45. Defendant SWO is jointly and severally responsible for and jointly and severally liable for the actions, inactions, negligence or conduct of its doctors, staff or other employees who provided medical diagnosis, treatment, care to Keisha Atkins, including Defendants Landau, Carr and Boyd.

46. As a proximate result of the negligence of Defendants Landau, Carr and Boyd, Plaintiffs are entitled to damages against Defendants for: past medical expenses; loss of household services; loss of earnings & benefits; loss of enjoyment of life; mental anguish; emotional distress; mental, physical, emotional and psychological pain and suffering, loss of consortium and wrongful death in an amount to be proven at the time of trial.

47. All of Plaintiffs' injuries, damages and wrongful death are due to the negligence and carelessness of Defendants, without any contributing negligence on the part of Plaintiffs.

**COUNT III – MEDICAL NEGLIGENCE OF
DEFENDANT LISA HOFER**

48. Plaintiffs reallege and incorporate herein as though set forth in full paragraphs 1 through 47 above.

49. Defendant Hofer failed to possess and apply the knowledge, skill and care ordinarily used by Obstetrics and Gynecology doctors acting under similar or same circumstances and giving due consideration to the locality involved when she provided medical diagnosis, treatment and care to Keisha Atkins from February 03, 2017 to February 04, 2017.

50. Defendant Hofler was negligent in the diagnosis, treatment, and care of Keisha Atkins, which negligence included, but was not limited to, the following:

- a. failure to correctly identify and characterize the cause of Keisha Atkins' symptoms on February 03, 2017;
- b. failure to diagnose and treat Keisha Atkins' infection and sepsis;
- c. failure to investigate Keisha Atkins' infection and sepsis, its potential causes and whether it could be linked with the presenting complaints;
- d. failure to diagnose and treat Keisha Atkins' infection and sepsis;
- e. delaying appropriate and life saving medical care and treatment to Keisha Atkins.

51. While providing medical diagnosis, treatment and care to Keisha Atkins on February 03, 2017 and February 04, 2017, Defendant Hofler was an employee, agent, or servant of Defendant UNM and was acting within the scope and course of her employment or agency with said Defendant.

52. Defendant UNM is jointly and severally responsible for and jointly and severally liable for actions, inactions, negligence or conduct of its doctors, staff or other employees who provided medical diagnosis, treatment or care to Keisha Atkins on February 03, 2017 and February 04, 2017, including Defendant Hofler.

53. As a proximate result of the negligence of Defendants UNM and Defendant Hofler, Plaintiffs are entitled to damages against Defendants for: past medical expenses; loss of household services; loss of earnings & benefits; loss of enjoyment of life; mental anguish; emotional distress; mental, physical, emotional and psychological pain and suffering, loss of consortium and wrongful death in an amount to be proven at the time of trial.

54. All of Plaintiffs' injuries, damages and wrongful death are due to the negligence and carelessness of Defendants, without any contributing negligence on the part of Plaintiffs.

COUNT IV – RESPONDIAT SUPERIOR
Defendant Curtis Boyd, M.D., P.C. d/b/a “Southwestern Women’s Options”

55. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 53 as if stated fully herein.

56. At all times material hereto, Defendants Landau, Carr and Boyd were employees, agents, servants, owners, officers and/or directors of Defendant SWO, and/or authorized to practice late term elective abortions at the SWO clinic.

57. At all times material hereto, Defendants Landau, Carr and Boyd were acting within the scope of their employment and/or authorization with Defendant SWO.

58. Defendant SWO had the right to control the manner in which the details of the work of Defendants Landau, Carr and Boyd was to be performed at the time of the occurrence, even though the right of control may not have been exercised.

59. As a direct and proximate result of the negligence, negligence per se and omissions of Defendants Landau, Carr and Boyd, acting within the scope of their employment and/or authorization with Defendant SWO, Plaintiffs are entitled to damages against Defendants for: past medical expenses; loss of household services; loss of earnings & benefits; loss of enjoyment of life; mental anguish; emotional distress; mental, physical, emotional and psychological pain and suffering, loss of consortium and wrongful death in an amount to be proven at the time of trial.

60. All of Plaintiffs' injuries, damages and wrongful death are due to the negligence and carelessness of Defendants, without any contributing negligence on the part of Plaintiffs.

COUNT V – RESPONDIAT SUPERIOR
Defendant UNM

61. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 60 as if stated fully herein.

62. At all times material hereto, Defendants Hofler and Dvorscak were employees, agents, servants, owners, officers and/or directors of Defendant UNM, and/or authorized to practice medicine at Defendant UNM.

63. At all times material hereto, Defendants Hofler and Dvorscak were acting within the scope of their employment and/or authorization with Defendant UNM.

64. Defendant UNM had the right to control the manner in which the details of the work of Defendants Hofler and Dvorscak was to be performed at the time of the occurrence, even though the right of control may not have been exercised.

65. As a direct and proximate result of the negligence, negligence per se and omissions of Defendants Hofler and Dvorscak , acting within the scope of their employment and/or authorization with Defendant UNM, Plaintiffs are entitled to damages against Defendants for: past medical expenses; loss of household services; loss of earnings & benefits; loss of enjoyment of life; mental anguish; emotional distress; mental, physical, emotional and psychological pain and suffering, loss of consortium and wrongful death in an amount to be proven at the time of trial.

66. All of Plaintiffs' injuries, damages and wrongful death are due to the negligence and carelessness of Defendants, without any contributing negligence on the part of Plaintiffs.

COUNT VI – RESPONDIAT SUPERIOR
Defendant UNM Medical Group

67. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 66 as if stated

fully herein.

68. At all times material hereto, Defendants Bayat and Pereda were employees, agents, servants, owners, officers and/or directors of Defendant UNM Medical Group, and/or authorized to practice medicine at Defendant UNM Hospital.

69. At all times material hereto, Defendants Bayat and Pereda were acting within the scope of their employment and/or authorization with Defendant UNM Medical Group.

70. Defendant UNM Medical Group had the right to control the manner in which the details of the work of Defendants Bayat and Pereda was to be performed at the time of the occurrence, even though the right of control may not have been exercised.

71. As a direct and proximate result of the negligence, negligence per se and omissions of Defendants Bayat and Pereda, acting within the scope of their employment and/or authorization with Defendant UNM Medical Group, Plaintiffs are entitled to damages against Defendants for: past medical expenses; loss of household services; loss of earnings & benefits; loss of enjoyment of life; mental anguish; emotional distress; mental, physical, emotional and psychological pain and suffering, loss of consortium and wrongful death in an amount to be proven at the time of trial.

72. All of Plaintiffs' injuries, damages and wrongful death are due to the negligence and carelessness of Defendants, without any contributing negligence on the part of Plaintiffs.

COUNT VII – UNFAIR TRADE PRACTICES

73. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 72 as if stated fully herein.

74. New Mexico Statute defines Unfair Trade Practices, in part, as follows:

"unfair or deceptive trade practice" means an act specifically declared unlawful pursuant to the Unfair Practices Act [57-12-1 NMSA 1978], a false or misleading oral or written statement, visual description or other representation of any kind knowingly made in connection with the sale, lease, rental or loan of goods or services or in the extension of credit or in the collection of debts by a person in the regular course of his trade or commerce, which may, tends to or does deceive or mislead any person and includes:

- (1) representing goods or services as those of another when the goods or services are not the goods or services of another;
- (2) causing confusion or misunderstanding as to the source, sponsorship, approval or certification of goods or services;
- (3) causing confusion or misunderstanding as to affiliation, connection or association with or certification by another;
- (4) using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if doing so deceives or tends to deceive;

75. Defendant Curtis Boyd, M.D., P.C. d/b/a “Southwestern Women’s Options” (hereinafter sometimes referred to as “SWO”), its agents and employees have engaged in unfair trade practices by:

- (A) Failing to inform Keisha Atkins that SWO is in active collaboration with Defendant UNM and that its staff members are voluntary professors at Defendant UNM;
- (B) Failing to Inform Keisha Atkins that she was free to consult any medical care facility, clinic, nurse and/or doctor as needed for obtaining medical assistance;

(C) Stating that if Keisha Atkins experienced medical complications that resulted in her seeking emergency room care or hospitalization outside of the SWO Clinic, she would be held financially responsible for those additional charges, but that she would not incur additional charges for attempting to resolve medical complications inside of the SWO Clinic;

(D) Failing to give the Plaintiff informed consent under New Mexico Law;

(E) Failing to provide a clear, conspicuous, informed consent separate from the consent to receive treatment;

76. As a result of the acts of Defendants SWO, Plaintiffs have sustained damages in loss of property, emotional distress, mental anguish, consequential damages, injuries and wrongful death and other damages to be proven at trial.

77. Pursuant to *57-12-1 et seq.* Plaintiffs are entitled to attorney's fees.

78. Pursuant to *57-12-1 et. seq.* Plaintiffs are entitled to treble damages.

COUNT VIII – UNCONSCIONABLE TRADE PRACTICES

79. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 78 as if stated fully herein.

80. New Mexico Statute defines "Unconscionable Trade Practice" as an act or practice in connection with the sale, lease, rental or loan, or in connection with the offering for sale, lease, rental or loan, of any goods or services, including services provided by licensed professionals, or in the extension of credit or in the collection of debts which is to a person's detriment:

(A) takes advantage of the lack of knowledge, ability, experience or capacity of a person to a grossly unfair degree; or

(B) results in a gross disparity between the value received by a person and the price paid.

81. At the time of her late term elective abortion procedure, Keisha Atkins did not have the financial means to pay for her elective abortion and was receiving government assistance for her medical care.

82. At the time of her late term elective abortion procedure, Keisha Atkins did not know that she would not be charged additional fees or incur additional charges for seeking medical assistance for medical complications during her late term elective abortion procedure.

83. At the time of her late term elective abortion procedure, Keisha Atkins did not know that she was free to seek medical assistance for medical complications at any medical facility.

84. At the time of her late term elective abortion procedure, Keisha Atkins did not have the capacity to fully understand the consent agreement.

85. The actions of the Defendants took advantage of the lack of knowledge, ability and capacity of Keisha Atkins to an unfair degree.

86. Plaintiffs have sustained damages.

87. Plaintiffs are entitled to attorney's fees pursuant to The Unfair Trade Practices Act.

88. Plaintiffs are entitled to treble damages pursuant to the Unfair Trade Practices Act

COUNT IX – CIVIL CONSPIRACY

89. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 88 as if stated fully herein.

90. Via its Office of Medical Investigator, Defendants Dvorscak and UNM were responsible for conducting an investigation to determine the cause of Keisha Atkins' death.

91. SWO is in active collaboration with Defendant UNM and the staff members of SWO are voluntary professors at Defendant UNM.

92. Defendant SWO and Defendant Curtis Boyd are the sole providers of infant unborn body parts to Defendant UNM.

93. Defendants Dvorscak and UNM produced a report of findings, wherein Dvorscak opined that the cause of Keisha Atkins' death was due to "Natural" due to pregnancy, despite a significant amount of evidence that the cause of her death was as the result of a septic abortion.

94. Defendant Dvorscak's opinion as to the cause of Keisha Atkins' death, which was against a significant weight of evidence that the cause of her death was the result of a septic abortion, was rendered for the purpose of protecting Defendants SWO and Curtis Boyd from regulatory and medical scrutiny and from civil and tort liability.

95. As a direct and proximate result of the civil conspiracy between Defendants UNM and Dvorscak and Defendants SWO and Curtis Boyd, Plaintiffs are entitled to damages against Defendants for: damages, including, but not limited to: mental anguish; emotional distress; mental, physical, emotional and psychological pain and suffering, in an amount to be proven at the time of trial.

96. All of Plaintiffs' injuries and damages are due to the negligence and carelessness of Defendants, without any contributing negligence on the part of Plaintiffs.

COUNT X – LOSS OF CONSORTIUM

97. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 96 as if set forth fully herein.

98. As a direct and proximate result of the negligence and omissions of Defendants, Plaintiffs have been deprived of the companionship, company and care of Keisha Atkins.

99. As a direct and proximate result of the negligence and omissions of Defendants, Plaintiffs have suffered and will continue to suffer a loss of consortium in an amount not presently determinable, but to be proven at the time of trial.

100. All of Plaintiffs' injuries, damages and wrongful death are due to the negligence and carelessness of Defendants, without any contributing negligence on the part of Plaintiffs.

COUNT XI – PUNITIVE DAMAGES

101. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 100 as if set forth fully herein.

102. All of Defendants in this matter acted maliciously, wantonly and in obdurate disregard for the rights of Plaintiffs, justifying an award of compensatory and punitive damages on all counts.

COUNT XII – CONCLUSION

WHEREFORE Plaintiffs Tina Atkins, individually and as personal representative of the Estate of Keisha Marie Atkins and Nicole Atkins, request special and compensatory damages and judgement against Defendants in an amount to be proven at trial, for their costs, prejudgment and post-judgment interest, and for such other and further relief as may be permitted by law.

Respectfully,

MICHAEL J. SEIBEL & ASSOCIATES, PC

/s/ Michael J. Seibel

MICHAEL J. SEIBEL (State Bar #: 8337)

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AND

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