

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

MAUREEN PEAL,)	
)	
Plaintiff,)	
)	Cause No. 1922-CC00612
vs.)	
)	Division No. 1
PLANNED PARENTHOOD,)	
DR. JUSTIN DEIDRICH, and)	
REPRODUCTIVE HEALTH SERVICES)	
OF PLANNED PARENTHOOD OF THE)	
ST. LOUIS REGION,)	
)	
Defendants.)	

**DEFENDANT REPRODUCTIVE HEALTH SERVICES OF PLANNED PARENTHOOD
OF THE ST. LOUIS REGION'S ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED PETITION**

COMES NOW, Defendant Reproductive Health Services of Planned Parenthood of the St. Louis Region ("RHS"), by and through the undersigned counsel, and for its Answer and Affirmative Defenses to Plaintiff's Petition, states as follows:

1. Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph 1 of Plaintiff's First Amended Petition and therefore denies the same.

2. Defendant admits that it is a corporation duly organized and existing by virtue of the laws of Missouri and admits that it acts through its agents, servants, and employees. However, Defendant specifically denies that Dr. Justin Deidrich ("Dr. Deidrich") was its agent, servant, and/or employee.

3. Defendant admits the allegations contained in Paragraph 3 of Plaintiff's First Amended Petition.

4. Defendant admits that medical records on May 26, 2018 reflect that Plaintiff's fetus was approximately 10 weeks 2 days of gestation based upon ultrasound, and underwent an abortion performed by Dr. Diedrich. Defendant denies any remaining allegations contained in paragraph 4 of Plaintiff's First Amended Petition.

5. Defendant admits that medical records on May 26, 2018 reflect that villi were seen, some fetal parts were seen, and the products of conception were sent to pathology. Defendant denies any remaining allegations contained in paragraph 5 of Plaintiff's First Amended Petition.

6. Defendant is without sufficient information with which to admit or deny the allegations contained in paragraph 6 of Plaintiff's First Amended Petition, and therefore denies same.

7. Defendant admits that medical records on June 29, 2018 reflect that an ultrasound that day showed a fetus with a gestational age of 15 weeks 1 day. Defendant further admits that medical records on June 30, 2018 reflect that Dr. Diedrich performed an abortion on Plaintiff on that day. Defendant denies any remaining allegations contained in paragraph 7 of Plaintiff's First Amended Petition.

8. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 8 of Plaintiff's First Amended Petition and therefore denies the same.

9. Defendant denies the allegations contained in Paragraph 9 including subparts a. and b. of Plaintiff's First Amended Petition.

WHEREFORE, having fully answered Plaintiff's First Amended Petition, Defendant prays for judgment in its favor and its costs expended herein and for such other and further relief this Court deems just and proper under the circumstances.

AFFIRMATIVE DEFENSES

1. Plaintiff's First Amended Petition fails to state a claim upon which relief can be granted in that Plaintiff has not made any allegations that this Defendant was negligent or caused her injury in any manner.

2. Defendant further pleads it cannot be held vicariously liable for the acts or omissions of any individual not its employee, pursuant to Section 538.205(3) of the Revised Statutes of Missouri.

3. As and for a further affirmative defense, Defendant states that the sole and proximate cause of Plaintiff's alleged injuries or damages, if any, were caused by intervening acts or omissions other than Defendant over which this Defendant had no control.

3. As and for a further affirmative defense and in the event of an adjudication of the issues in this case whereby this Defendant is held liable to respond to damages to Plaintiff, this Defendant prays for a determination of the comparative fault pursuant to §537.765 RSMo, of Plaintiff and for a determination and apportionment of the negligence of all parties as set out in Plaintiff's First Amended Petition, as well as other persons and/or entities who are not parties at the time this cause is submitted to a jury or trier of fact, who may have entered into a release, covenant not to sue or similar agreement with Plaintiff for a claim arising out of the alleged transaction which is the basis of Plaintiff's cause of action, and for an appropriate reduction of Defendant's responsibility for the payment of damages that may be awarded to Plaintiff. In the event Defendant is held jointly liable with other parties, this Defendant prays that a determination be made of the relative distribution of fault with an apportionment of responsibility for the payment of any damages that may be awarded to Plaintiff and a determination of the right of contribution and indemnity between Defendant and any other parties at the time of the submission of this case,

as well as with other persons and/or entities who previously entered into a release, covenant not to sue, or similar agreement with Plaintiff or a claim arising out of the alleged transaction which formed the basis of Plaintiff's cause of action.

4. Pleading hypothetically, and in the alternative, Defendant alleges that Plaintiff's damages were caused, either in whole or in part, by parties who are not presently sued, and the negligence of such parties serves to bar, or otherwise reduce comparatively, Plaintiff's claims for negligence against Defendant.

6. As and for a further affirmative defense, in the event that any of the other party defendants enter into a settlement in this case, Defendant reserves the right to rely upon Mo. Rev. Stat. § 537.060 to request a reduction of the amount of any judgment rendered against Defendant by the jury as a set off or reduction based upon amounts paid on behalf of any other party defendant prior to trial.

7. Defendant states that it intends to rely on the provisions of RSMo § 537.067 with regard to joint and several liability in the event that the trier of fact finds any Defendant liable in this matter, an assumption this Defendant herein denies.

8. As and for a further affirmative defense, Defendant specifically reserves all other defenses and avoidances, and including each and every affirmative defense permitted by Rule 55.08 of the Missouri Rules of Civil Procedure, which may be warranted in the future.

Respectfully submitted,

/s/ Mark R. Feldhaus

Mark R. Feldhaus #53429

Mark P. Hess #71002

LASHLY & BAER, P.C.

714 Locust Street

St. Louis, Missouri 63101

(314) 621-2939

(314) 621-6844/Fax

mfeldhaus@lashlybaer.com

mhess@lashlybaer.com

Attorneys for Defendant Planned Parenthood

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on the 29th day of August, 2019, via the Court's electronic filing system to all parties and counsel of record.

Eugene H. Fahrenkrog, Jr.
7777 Bonhomme, Suite 2100
Clayton, Missouri 63105
gfahrenkrog@mvp.net

/s/ Mark R. Feldhaus

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 29th day of August, 2019, Defendant Reproductive Health Services of Planned Parenthood of the St. Louis Region did serve their Responses to Plaintiff's First Request for Production of Documents via e-mail upon all counsel of record as follows:

Eugene H. Fahrenkrog, Jr.
7777 Bonhomme, Suite 2100
Clayton, Missouri 63105

Respectfully submitted,

/s/ Mark P. Hess

Mark R. Feldhaus	#53429
Mark P. Hess	#71002

Lashly & Baer, P.C.
714 Locust Street
Saint Louis, Missouri 63101-1603
314.621.2939 – telephone
314.621.6844 – fax
mfeldhaus@lashlybaer.com
mhess@lashlybaer.com
**Attorneys for Defendants
Planned Parenthood and
Reproductive Health Services of Planned
Parenthood of the St. Louis Region**