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TYPICAL: Male abortionist blames female abortion patient for botched procedure which landed him a \$36 million dollar judgment

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FL Abortionist James Pendergraft has had his license suspended for doing illegal third trimester abortions.

The Orlando Sentinel is asking: [Will judge reverse \\$36M verdict against Orlando-area abortion doctor?](#)

An Orange Circuit judge is likely to decide soon whether to reverse a **\$36.7 million jury award** in a **medical-malpractice** case decided last month against a **suspended** Orlando-area **abortion doctor** and his clinic, the **Orlando Women's Center**.

An Orange County jury awarded \$18.7 million in compensatory damages and a total \$18 million in punitive damages against **James Scott Pendergraft IV** and the Orlando Women's Center, where he was listed in court papers as one-time medical

director. Pendergraft's attorney, Robert Nesmith, filed a post-trial motion early this month to set aside the verdict for the monetary damages. He also requested a new trial. Nesmith would not comment with the case still pending.

Pendergraft, listed as founder of the Orlando Women's Center on its website and as the "business owner" by someone answering the phone at a clinic location, could not be reached for comment.

State Department of Health records show Pendergraft cannot currently practice medicine in Florida.

"His license status is currently suspended," DOH spokeswoman Jennifer Hirst said. However, it is not revoked, and all details

behind the license suspension were not immediately available.

The lawsuit involves a woman, identified as C.H. in court documents, who went to the Orlando Women's Center on Nov. 15, 2001, to terminate what she thought was a 16- to 20-week pregnancy. Staff at the center determined she was 22.3 weeks pregnant, according to the complaint and other court records.

Staff at the clinic gave her 12 doses of Cytotec and a single dose of RU-486 during an 11- or 12-hour period to induce labor. Neither Pendergraft nor another physician at the facility, Dr. Randall B. Whitney, personally evaluated, examined or treated the woman, the lawsuit says.

At about 1 a.m. Nov. 16, "C.H. was instructed to and/or allowed to leave the Orlando Women's Center while in active labor," according to the claim.

She then went to the emergency room at Orlando Regional Medical Center in "active labor" and gave birth by cesarean section "to a viable female child," the lawsuit says.

That baby, identified in court documents as J.F., was "born prematurely and has suffered catastrophic and permanent bodily injuries, impairment, disability, [and] disfigurement." Expenses related to the child's care and treatment formed the basis of the lawsuit.

In his motion to set aside the verdict, Nesmith argues that "strict liability" should not have applied in this case. "This is a standard negligence case," he wrote.

His argument covers Florida's statute governing so-called partial-birth abortions, while maintaining the procedure performed on C.H. was not an attempted partial-birth abortion.

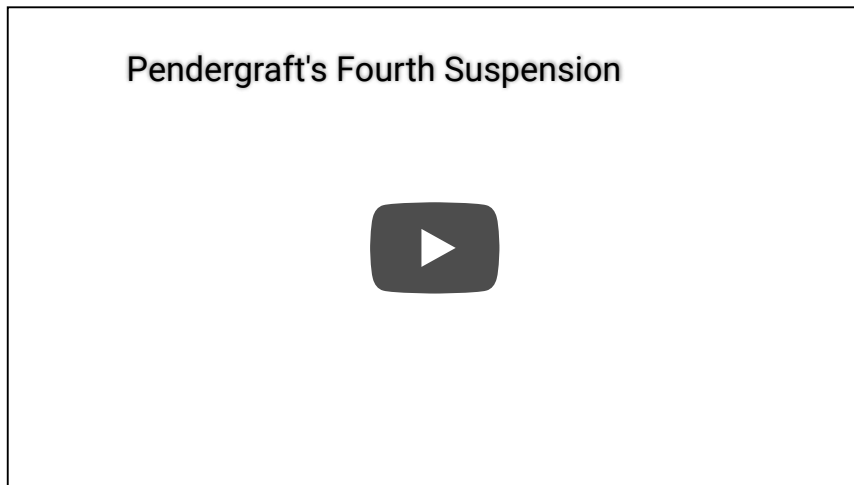
"By Florida statutes and previous cases, the fetus was not viable when the mother presented to Orlando Women's Center and thus [the statute] does not apply in this case and therefore there cannot be strict liability," Nesmith wrote. "Strict liability statutes ... only apply to persons," he also argued. "A fetus is not a person."

Because the woman came to the center to have an abortion, "survival of the plaintiff's child was never anticipated under this arrangement," Nesmith argued.

He also claims the judge made an error in not allowing the defendant to show "the patient was at fault." Nesmith says C.H. was negligent "for bolting from the Orlando Women's Center." She was not asked or forced to leave the clinic, and had she stayed "the abortion procedure would have been completed"

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