



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
1200 Ontario Street
Cleveland, Ohio 44113

Court of Common Pleas

ANSWER OF...
August 20, 2020 13:40

By: MARC W. GROEDEL 0016351

Confirmation Nbr. 2055253

JENNIFER GRANT

CV 20 935388

vs.

Judge: ASHLEY KILBANE

PRETERM FOUNDATION, ET AL.

Pages Filed: 6

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

JENNIFER GRANT,	)	CASE NO. CV 20 935388
)	
Plaintiff,	)	JUDGE RICHARD D. McCLURE
)	
vs.)	
	)	<u>JOINT ANSWER OF DEFENDANTS</u>
PRETERM FOUNDATION, et al.,	)	<u>PRETERM CLEVELAND, INC.,</u>
	)	<u>IMPROPERLY IDENTIFIED AS</u>
Defendants.	)	<u>PRETERM FOUNDATION,</u>
	)	<u>MITCHELL REIDER, M.D.,</u>
	)	<u>MONIQUE KATSUKI, M.D., JUSTIN</u>
	)	<u>LAPPEN, M.D., AND NATALIE</u>
	)	<u>HINCHCLIFFE, D.O. TO</u>
	)	<u>PLAINTIFF'S COMPLAINT</u>
)	
	)	<i>(Jury Demand Endorsed Hereon)</i>

Defendants, Preterm Cleveland, Inc., improperly identified as Preterm Foundation, Mitchell Reider, M.D. Monique Katsuki, M.D., Justin Lappen, M.D., and Natalie Hinchcliffe, D.O., through counsel, hereby state as follows for their Joint Answer to Plaintiff's Complaint:

1. In response to paragraph 1, Defendants admit that Plaintiff underwent a pregnancy termination on or about April 16, 2019. The remaining statements and allegations contained in this paragraph are denied.

2. In response to paragraph 2, Defendants admit that Defendant Preterm Cleveland, Inc. is a non-profit corporation and is located at 12000 Shaker Blvd., Cleveland, Ohio. The remaining statements and allegations contained in this paragraph are denied.

3. In response to paragraph 3, Defendants admit that Defendant Preterm Cleveland, Inc. operated a women's healthcare clinic that provided various services, including abortion care, and held itself out to the public as furnishing such medical services.

4. Paragraph 4 is denied for lack of information or knowledge.

5. Paragraph 5 is admitted.

6. Paragraph 6 is denied for lack of sufficient information or knowledge.

7. Paragraph 7 is admitted.

8. Paragraph 8 is denied.

9. Paragraph 9, including subparts (a), (b), (c), (d), (e), and (f) are denied.

10. While not intending to deny that Plaintiff received medical services at University Hospitals of Cleveland, the allegations of negligence as set forth in paragraph 10 of Plaintiff's Complaint are denied.

11. Paragraph 11 is denied.

12. Paragraph 12 is denied.

13. Paragraph 13 is denied.

14. In response to paragraph 14, Defendants restate all of the admissions, statements, and denials as set forth above as though fully rewritten herein.

15. Paragraph 15 is denied.

16. Paragraph 16 is denied.

17. Paragraph 17 is admitted.

18. Paragraph 18 is denied.

19. Paragraph 19 including subparts (a), (b), (c), (d), (e), and (f) are denied.

20. Paragraph 20 is denied.

21. Paragraph 21 is denied.
22. Paragraph 22 is denied.
23. Paragraph 23 is denied.
24. Defendants deny each and every statement and allegation not specifically admitted herein as true.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim against these Defendants upon which relief can be granted pursuant to Ohio Civ. R. 12(B)(6).

2. Pursuant to Ohio Civ.R. 12(B)(5) there was insufficiency of service of process, Summons and Complaint on these Defendants.

3. All or several of the claims set forth by Plaintiff in the Complaint are barred by the applicable statutes of limitation set forth in O.R.C. §2305.113.

4. The injuries to Plaintiff were as a consequence of Plaintiff expressly assuming the risk of those injuries and damages and therefore Defendants are released from any liability to Plaintiff and the claims set forth by Plaintiff in the Complaint are barred.

5. Plaintiff has failed to join a party pursuant to Ohio Civ. R. 19 or Ohio Civ. R. 19.1 and therefore Plaintiff's Complaint against these Defendants must be dismissed.

6. The injuries of Plaintiff are attributable to one or more persons from whom the Plaintiff did not seek recovery in this action (O.R.C. §2307.23(C)).

7. The injuries of Plaintiff as described by Plaintiff in the Complaint were proximately caused by the acts and/or omissions of persons and/or entities other than these Defendants over whom these Defendants had no control, no right to control, no duty to control and in fact did not control, and therefore, Plaintiff cannot recover from these Defendants.

8. Although Defendants specifically deny any liability to the Plaintiff, Defendants affirmatively state that the injuries and damages of Plaintiff as described by Plaintiff in the Complaint were proximately caused by the intervening and superseding negligence and/or other tortious conduct of another person and/or entity and therefore, Plaintiff cannot recover from these Defendants.

9. Plaintiff lacks a reasonable good faith basis upon which to bring a medical claim against these Defendants thereby entitling Defendants to an award of attorneys' fees and costs against Plaintiff as provided by R.C. §2323.42.

10. The injuries and damages as described by Plaintiff in the Complaint were caused by the acts and/or omissions of other individuals and/or entities whose conduct these Defendants had no reason to anticipate, said conduct not being the responsibility of Defendants.

11. One or several of the claims set forth for damages by Plaintiff in the Complaint are subject to the limits on certain types of damages and this Court is without jurisdiction to enter judgment for Plaintiff beyond the limitations set forth in R.C. §2323.43.

12. Plaintiff's Complaint fails to comply with Ohio Civil Rule 10(D).

13. One or more of the claims expressly or impliedly set forth by Plaintiff in the Complaint was not brought in the name of the real party-in-interest pursuant to Ohio Civ.R. 17(A).

14. Defendants are entitled to a set-off from any verdict or judgment entered against them, of any amount paid to Plaintiff by any other person or entity, pursuant to R.C. 2307.28.

15. Defendants are entitled to an apportionment of liability to other parties and non-parties to this action pursuant to R.C. 2307.23.

16. Plaintiff's claims are barred and/or limited by Ohio Tort Reform Legislation.

17. Plaintiff's Complaint is subject to the limitations set forth and SB281, SB120 and SB179 and corresponding Revised Code Sections.

18. Plaintiff lacks the capacity to sue.

19. Plaintiff lacks standing to sue.

20. There is no personal and/or subject matter jurisdiction for one or more of the claims.

21. One or more of Plaintiff's claims are subject to principles of estoppel and/or immunity.

22. These Defendants reserve the right to add any additional Affirmative Defenses as the evidence and discovery so disclose.

WHEREFORE, having fully answered, Defendants, Preterm Foundation, Mitchell Reider, M.D. Monique Katsuki, M.D., Justin Lappen, M.D., and Natalie Hinchcliffe, D.O., pray that Plaintiff's Complaint be dismissed and that they be allowed to go forthwith without further expense or delay. A trial by jury is hereby demanded.

Respectfully submitted,

/s/Marc W. Groedel

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Attorney for Defendants

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Monique Katsuki, M.D., Justin Lappen, M.D., and
Natalie Hinchcliffe, D.O.*

CERTIFICATE OF SERVICE

On this 20th day of August, 2020, the foregoing Answer filed and served via the Court's efilings system.

/s/Marc W. Groedel
MARC W. GROEDEL (0016351)
Reminger Co., L.P.A.