

## Toledo abortion clinic fights for compensation after winning anti-abortion legal battle

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BY ELLIE BUERK / THE BLADE



Amelia Stower, former owner of Capital Care Clinic.

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Amelia Stower understands what it means to be under attack.

After taking ownership of Capital Care, Toledo's last remaining abortion clinic, in 2020, the 22-year-old college student said she has had her life threatened innumerable times.

"Because of my age, my gender, being a college student, they saw me as a weakness," Ms. Stower told The Blade, referring to Toledo-based anti-abortion groups. "But I am the reason that Toledo still has abortion access."

Ms. Stower said she'd be naive not to take the threats against her seriously. In November, investigators determined that someone attempted to intentionally set fire to the abortion clinic.

But beyond the near-constant threat to her physical well-being, Ms. Stower said she often feels the line that protects Ohioans' right to access abortion is every day under siege.

"As long as abortion is legal in Ohio, I can't leave. You have to be on top of it because, the anti-abortionists are on top of it," she said.

Most recently two Toledo-based anti-abortion groups — Right to Life Action Coalition of Ohio and Greater Toledo Area Right to Life — unsuccessfully attempted to shutter Capital Care. With the help of the Thomas More Society, a staunchly

anti-abortion national public interest firm, the anti-abortion groups, represented by Jeffrey Barefoot, president-elect of the former and board member of the latter, filed a lawsuit first in Wood County Common Pleas Court that alleged Ms. Stower and Capital Care were practicing medicine without a license.

The lawsuit was later moved to Lucas County when the initial venue was ruled to be improper. Capital Care is in Lucas County.

“We chose a venue that we thought would be more favorable,” Ed Sitter, Greater Toledo Right to Life’s executive director, said.

Ohio law does not require that LLCs, like Capital Care, or its owners, be medically licensed, only that the practitioners treating patients are licensed.

Additionally, state law dictates that any allegation of unlawful or unlicensed practice of medics be reported to the state medical board for investigation prior to the filing of a civil suit. Mr. Barefoot and his affiliated organizations skirted said requirement, filing a complaint with the medical board only after they’d filed suit against Ms. Stower and Capital Care. The state medical board subsequently cleared Ms. Stower and Capital Care of any wrongdoing.

Judge Lori Olender dismissed the case against Ms. Stower in September. She wrote in her ruling that it was “clear that the plaintiff lacks standing to bring suit.”

Now, Ms. Stower and her legal team, spearheaded by Fairlawn, Ohio-based attorney Peter Pattakos, are seeking compensation from Mr. Barefoot and his affiliated organizations for the time and effort it took to fight their unfounded lawsuit. Mr. Pattakos was joined by Jessie Hill, a Case Western Reserve University law professor and representative of the Ohio chapter of the American Civil Liberties Union.

They argued during a hearing Thursday that the plaintiffs filed a lawsuit that was unwarranted under Ohio law, had no evidentiary support, and was for an improper purpose: “to merely harass or maliciously injure the defendants, including by burdening them with litigation costs.”

“This is a textbook case of sanctionable conduct and that the sanctions are absolutely necessary in this case to deter this and any future baseless lawsuits in this relentless campaign to shut down a lawful, and constitutionally protected business,” Ms. Hill said.

The plaintiffs’ attorney Eugene F. Canestraro argued that even the tiniest shred of evidence is enough to justify the filing of their case.

“There is a wide separation between cases that don’t make it factually and cases that are sanctionable. This case is not sanctionable,” Mr. Canestraro said.

Mr. Barefoot testified that their research efforts prior to filing the suit were “extensive,” and included speaking with witnesses who he alleged had witnessed misconduct at the clinic. He declined to provide the names of those witnesses, and no one was called to testify to such misconduct Thursday.

“We knew from our research that [Ms. Stower] wasn’t licensed. We knew that the LLC was not a professionally licensed LLC. We knew that they didn’t have doctor employees. We knew that they were advertising about ‘our doctors.’ We knew that even in their own pleadings they call themselves a medical clinic, and we knew that they were providing an office for the independent contractors that came in. It met all of the criteria,” Mr. Barefoot said of the plaintiff’s interpretation of state law.

Ms. Stower first took ownership of Capital Care in August, 2020, when the clinic’s previous owner was forced to step down because of medical issues. No one else had put their hands up to keep the clinic running.

“It was either someone takes this on or the clinic is closing and I was like over my dead body,” Ms. Stower said.

The hours were grueling. She said she lost relationships, her mental health suffered, and she was forced to take time off from school. When she heard she was being sued — after an ex parte hearing had been held in Wood County without her knowledge — Ms. Stower struggled to find a lawyer that was willing to take on her case.

“I thought I was going to get arrested,” she said. “I’d never had to find a lawyer before. And I got a lot of no’s because there’s a reputation issue.”

Mr. Pattakos and his firm, aided by Ms. Hill, were the exception.

“The fundamental right over a woman’s body has been upheld as a result of this lawsuit despite extremely frivolous efforts to push it forward. The plaintiffs have engaged in a consistent campaign against what they saw as a perceived weakness in the clinic. There was no legal basis for making the very serious accusation of practicing medicine without a license. And so thus far the law has been upheld,” Mr. Pattakos said.

Ms. Stower recently passed ownership of Capital Care — now the Toledo Women’s Center — to David Burkons, a physician who has previously offered services, in January, so she could return to school. She’s only 13 credit hours away from securing

her University of Toledo degree in gender studies. After graduation, Ms. Stower said she hopes to go to law school, to be a lawyer “who makes change happen, not one that keeps things the same.”

In the meantime, patients will still see the young activist running the clinic’s front desk. She remains heavily involved in the day-to-day operations of the clinic.

When asked how she continues to handle the onslaught of vitriol from area anti-abortion groups, Ms. Stower answered simply — “In order for me to care about their opinion, I’d have to respect it. And I don’t.”

Judge Olender is expected to rule on the defense’s motion for sanctions in the coming weeks. Both parties are scheduled to appear next before her court for a hearing on March 11.

Nine abortion clinics remain open in Ohio. The Toledo Women’s Center is the only clinic northwest of Columbus.

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