



IN THE CIRCUIT COURT OF TUSCALOOSA COUNTY, ALABAMA

Case No.: _____

****Jury Trial Demanded****

JANE STONE, an individual,

Plaintiff,

v.

WEST ALABAMA WOMEN'S CENTER, INC.; TAMER YVETTE MIDDLETON, MD; **A**, whether singular or plural, that hospital, clinic or other health care facility which undertook to provide medical services to Jane Stone on the occasion made the basis of this suit, the negligence, breach of contract or other actionable conduct of which contributed to cause Jane Stone's injuries and damages; **B**, whether singular or plural, that medical partnership, professional association, or professional corporation which undertook to provide medical services to Jane Stone on the occasion made the basis of this suit, the negligence, breach of contract or other actionable conduct of which contributed to Jane Stone's injuries and damages; **C**, whether singular or plural, that entity which undertook to provide medical-surgical, medical-diagnostic, medical-rehabilitative, medical-technical, or medical-therapeutic services to Jane Stone on the occasion made the basis of this suit, the negligence, breach of contract or other actionable conduct of which contributed to Jane Stone's injuries and damages; **D**, whether singular or plural, that entity which, concerning the occasion made the basis of this suit, was the principal or any of the named or above-described fictitious party defendants; **E**, whether singular or plural, that entity which is the successor-in-interest of the named or above-described fictitious party defendants; **F**, whether singular or plural, that entity which is the predecessor-in-interest of any of the named parties or above-described fictitious party defendants; **G**, whether singular or plural, that entity, other than those listed above, who or which employed Tamer Yvette Middleton, MD, and/or the individuals described fictitiously as J, K, L, and/or M; **H**, whether singular or plural, that entity who or which at the time of the occurrence made the basis of this suit employed the nurses, techs, and/or other non-physician health care providers who assisted Tamer Yvette Middleton in the delivery of health care services to Jane Stone on the date(s) of the occurrence(s) set forth in this Complaint; **I**, whether singular or plural, that entity, other than those listed above, whose wrongful conduct contributed to cause Jane Stone's injuries and damages.; **J**, whether singular or plural, that person, who, as an owner, stockholder, partner, associate, employee, or agent of any of the fictitious parties described above, in items A through I, inclusive, undertook to provide any health care or related service to Jane Stone on the occasion made the basis of this suit, the negligence, breach of contract or other actionable conduct of whom contributed to cause Jane Stone's injuries and damages; **K**, whether singular or plural, that physician, physician's assistant, nurse practitioner, or other health care provider who undertook to provide medical services to Jane Stone on the occasion made the basis of this suit, the negligence, breach of contract or other actionable conduct of whom contributed to cause Jane Stone's injuries and damages; **L**, whether singular or plural, that clinic administrator, medical director, or other person at WAWC on the date(s) of the occurrence(s) made the basis of this lawsuit who was responsible for the management, control, and operation of the facility, and

for ensuring that the facility was sufficiently staffed and administered in a manner to provide adequate care for each patient admitted, the negligence, breach of contract or other wrongful conduct of which contributed to cause Jane Stone's injuries and/or damages; **M**, whether singular or plural, that physician who was serving as Medical Director at West Alabama Women's Center on the date(s) of the occurrence(s) set forth in this Complaint and who was responsible for supervising all clinical functions and ensuring that the facility met the requires of Ala. Admin. Code § 420-5-1 and all professional standards of care, and whose negligence, breach of contract or other actionable conduct contributed to cause Jane Stone's injuries and damages; **N**, whether singular or plural, that registered nurse, licensed practical nurse, patient care technician, ultrasound technician, medical assistant, and/or other non-physician health care provider who undertook to provide medical services to Jane Stone at West Alabama Women's Center on December 22 and/or 28, 2020, the negligence, breach of contract or other actionable conduct of whom contributed to cause Jane Stone's injuries and damages; **O**, whether singular or plural, that registered or licensed practical nurse, medical or patient care technician, medical assistant, or other non-physician healthcare provider at West Alabama Women's Center who failed at the time of the occurrence made the basis of this suit to provide care and treatment to Jane Stone in accordance with abortion facility policies and procedures, patient care policies and procedures, and/or functional safety and maintenance policies and procedures, the negligence, breach of contract or other actionable conduct of whom contributed to cause Jane Stone's injuries and damages; **P**, whether singular or plural, that nurse practitioner, registered nurse, licensed practical nurse, nursing assistant, medical assistant, patient care technician, and/or other non-physician healthcare provider who provided assistance to Dr. Middleton during and/or immediately following the D&E performed on Jane Stone on December 28, 2020, the negligence, breach of contract or other wrongful conduct of which contributed to cause Jane Stone's injuries and/or damages; **Q**, whether singular or plural, that nurse practitioner, registered nurse, licensed practical nurse, nursing assistant, medical assistant, patient care technician, and/or other non-physician healthcare provider who monitored and assisted Jane Stone post-operatively in the recovery room at WAWC on December 28, 2020, the negligence, breach of contract or other wrongful conduct of which contributed to cause Jane Stone's injuries and/or damages; **R**, whether singular or plural, that registered nurse responsible for supervising all nursing care of patients such as Jane Stone in preparation for a pregnancy termination procedure, during a pregnancy termination procedure, the recovery period, and initial discharge on the date of the occurrence made the basis of this lawsuit, the negligence, breach of contract or other wrongful conduct of which contributed to cause Jane Stone's injuries and/or damages; **S**, whether singular or plural, that person, other than those described above, who undertook to provide any health care or related service to Jane Stone on the occasion made the basis of this suit, the negligence, breach of contract or other wrongful conduct of which contributed to cause Jane Stone's injuries and/or damages.

Plaintiff avers that the identity of the fictitious defendants is unknown to Plaintiff at this time, or, if their names are known to Plaintiff, their identity as proper party defendants is unknown to Plaintiff at this time; but their true names will be substituted by amendment when such knowledge is ascertained.

Defendants.

COMPLAINT

Jane Stone alleges as follows against Defendants West Alabama Women’s Center, Inc., Tamer Yvette Middleton, MD, and one or more of the parties described fictitiously in the caption as “A” through “P”:

PARTIES

1. JANE STONE is a pseudonym for an adult resident of Shelby County, Alabama.
2. The Defendant, WEST ALABAMA WOMEN’S CENTER, INC. (hereinafter referred to as “WAWC”), is an Alabama Corporation with its principal place of business located in the City of Tuscaloosa, Alabama. WAWC is, and at all times material to this Complaint was, a health care entity qualified to do business in Alabama and was doing business in Tuscaloosa County, Alabama, as the largest provider of medication and procedural abortion services in the State of Alabama.
3. The Defendant, TAMER YVETTE MIDDLETON, MD (“Dr. Middleton”), is an adult resident of Georgia. At all times material to this Complaint, Dr. Middleton was a medical doctor licensed to practice medicine in the State of Alabama; was actively practicing medicine at WAWC in Tuscaloosa County, Alabama; and was acting within the line and scope of her duties and responsibilities as an actual and/or apparent agent or employee of Defendant WAWC, and/or Fictitious Party Defendants A, B, C, D, E, F, G and/or I.
4. The Defendants described fictitiously in the caption as “A” through “S”, are those individuals or entities whose legal names are unknown to Plaintiff at this time, or if the names are known to Plaintiff, their identities as proper defendants are not known to Plaintiff, but whose true names will be substituted by amendment when such knowledge is ascertained.

JURISDICTION AND VENUE

5. Venue is proper in this Court as the conduct giving rise to this action occurred in Tuscaloosa County, Alabama.

6. The amount in controversy exceeds, exclusive of costs, Twenty Thousand Dollars (\$20,000.00).

FACTUAL ALLEGATIONS

7. On Tuesday, December 22, 2020, Jane Stone presented to WAWC located at 535 Jack Warner Parkway, Suite 1, in Tuscaloosa, Alabama, for the purpose of completing a pre-admission evaluation for an induced termination of pregnancy. Jane Stone's pre-admission evaluation, which consisted of counseling, an ultrasound and lab work, was completed by Mamie Newton, a registered nurse employed by WAWC.

8. During the counseling portion of the pre-admission evaluation, Jane Stone informed Nurse Newton that she had decided to have an abortion after prenatal genealogical testing revealed that her child was pre-disposed to suffer from lifelong health disorders, including Downs Syndrome. Also, while discussing the risks specific to the termination procedure, Nurse Newton explained that hemorrhaging was the primary complication related to the procedure, but any hemorrhaging she may experience would be treated at the clinic internally. While discussing the risks, Jane Stone asked Nurse Newton whether any patients had ever died or suffered life-threatening complications from the procedure. In response, Nurse Newton explained that a patient had died following a procedure performed at the clinic, but that the patient's death was the result of drug use and not related to the procedure or complications of the procedure.

9. After providing counseling and obtaining Jane Stone's signature on various consent forms, Nurse Newton performed an ultrasound to confirm that Jane Stone was pregnant and to

determine the gestational age of her baby. While performing the ultrasound, Nurse Newton told Jane Stone that she could tell the baby had Downs Syndrome based on the appearance of his eyes.

10. After completing the ultrasound, Nurse Newton scheduled Jane Stone's termination procedure – specifically, a dilation and evacuation (D&E) – for December 28, 2020, at 11:00 AM, and she informed Jane Stone that WAWC's physician, Dr. Middleton, would perform the procedure.

11. Dr. Middleton was not present at WAWC and did not evaluate Jane Stone on December 22, 2020.

12. A D&E is the preferred method for performing late first-trimester and second-trimester abortions. In order to perform a D&E, surgical instruments must pass through the cervix, the opening to the uterus, and into the uterus. In order for these instruments to pass through the cervix safely, the cervix must be opened prior to the procedure. This process of opening the cervix prior to a D&E is called cervical priming or cervical preparation. Cervical preparation can be done with medications or with small rod-like devices that are placed inside the cervix. Prostaglandins, such as Cytotec, are the most common medications used for cervical preparation. They work by softening, thinning, and opening the cervix so that at the time of the procedure it is possible to further open the cervix if needed and to place the instruments through the cervix into the body of the uterus. These medications can be taken intravaginally, rectally, orally, buccally, or sublingually for cervical priming. Cervical priming increases preoperative cervical dilation, making the procedure easier and quicker for the physician. However, in order to properly dilate the cervix pre-operatively, the woman must receive the agent at least three hours prior to her procedure.

13. On Monday, December 28, 2020, Jane Stone presented to WAWC at approximately 10:39 AM for her scheduled D&E. Upon arrival, Jane Stone signed in and sat in the waiting area at WAWC along with thirty to thirty-five other people.

14. At approximately 11:30 AM, Jane Stone was called back and taken to Nurse Newton's office to sign additional paperwork, including a Consent for Post-Abortion Care form. Nurse Newton apologized to Jane Stone for the delay in starting her procedure and stated that the clinic was "overbooked and understaffed" and that she "could not give [Jane Stone] any medicine until [she] met [Dr. Middleton]."

15. At approximately 11:44 AM, after Jane Stone signed the necessary paperwork, a WAWC employee, including one or more of the parties described fictitiously as "N" through "S", obtained Jane Stone's vital signs, and completed a pre-operative ultrasound.

16. At approximately 12:30 PM, Dr. Middleton saw Jane Stone for the first time and administered 800 micrograms of Cytotec into Jane Stone's vagina for cervical priming. After administering the Cytotec, Dr. Middleton sent Jane Stone to a waiting room, where Jane Stone waited with other patients until her name was called.

17. At approximately 1:00 PM, Jane Stone received oral doses of Xanax, Phenergan, Naproxen and Doxycycline in preparation for the D&E. These medications were given by Nurse Newton and/or one or more of the parties described fictitiously as "N" through "S".

18. At approximately 1:30 PM, approximately one hour after she received Cytotec for cervical priming, Jane Stone was taken into the procedure room and positioned on the exam table. Dr. Middleton then prepped the cervix and vagina with antiseptic solution, exposed and grasped the cervix with a tenaculum, and administered a paracervical block using 18 milliliters of 1% Lidocaine. Thereafter, Dr. Middleton progressively dilated Jane Stone's cervix using rigid, steel

Pratt dilators until she reached the desired diameter of dilation. Dr. Middleton then inserted a 14-millimeter suction cannula into Jane Stone's uterus and electrically aspirated the uterine contents.

19. During the procedure, which she performed without the use of ultrasound guidance and without adequate cervical preparation, Dr. Middleton lacerated the right side of Jane Stone's cervix, perforated the lower right uterine segment, and sheared multiple uterine blood vessels.

20. After completing the vacuum extraction, Dr. Middleton informed Jane Stone that she had increased bleeding and called several nurses into the procedure room to assist. Thereafter, multiple nurses, including, but not limited to, one or more of the parties described fictitiously as "N" through "S", responded to the procedure room to assist Dr. Middleton with monitoring Jane Stone's vital signs, preparing and/or administering medications, and performing an ultrasound. During this time, Dr. Middleton administered medications into Jane Stone's uterus to control the bleeding. Dr. Middleton also administered 800 micrograms of Cytotec into Jane Stone's rectum.

21. At approximately 2:30 PM, Dr. Middleton, and/or one or more of the parties described fictitiously as "N" through "Q", carried Jane Stone from the procedure room to the recovery room and put her in a recliner. Jane Stone was not wearing any pants, could not walk on her own, was bleeding internally, and was complaining of severe pain.

22. While in recovery, from approximately 2:30 PM to 3:30 PM, Jane Stone was bleeding, in severe pain, unable to walk without assistance, and passed out multiple times in the presence of Fictitious Defendant P, Q, R, and/or S. During this time, Jane Stone's nurse, including, but not limited to, one or more of the parties described fictitiously as "P" through "S", assisted Jane Stone to the bathroom two times, and on both occasions, Jane Stone exhibited signs of significant ongoing blood loss. In addition, Jane Stone was noted to be pale and diaphoretic, and

her vital signs indicated that she was progressing toward shock. Neither Dr. Middleton nor any other physician evaluated Jane Stone during this time.

23. Throughout this time, Jane Stone repeatedly told the nurses that something was wrong and that she wanted someone to call an ambulance to take her to the hospital. In response, Jane Stone's nurses, including, but not limited to, Fictitious Defendants "P" through "S", dismissed and/or told Jane Stone she was being anxious and she just needed to calm down.

24. At approximately 3:30 PM, after attempting unsuccessfully to palpate Jane Stone's pulse, Dr. Middleton, and/or one or more of the parties described fictitiously as "J" through "S", called 911 and requested an ambulance to transport Jane Stone to DCH Hospital. On arrival to WAWC, the paramedics established an IV in Jane Stone's left arm and immediately started infusing IV fluids.

25. At approximately 4:00 PM, Jane Stone's paramedic called DCH to inform the Emergency Department staff that they were in route. At the time of that call, Jane Stone's paramedic advised Nurse Kelly Brigham that Jane Stone was unresponsive; that they could not obtain a blood pressure; and that she had signs of heavy bleeding.

26. Jane Stone presented to the emergency department ("ED") at DCH at 4:08 PM. On arrival, Dr. Christopher Mann noted she had complaints of significant abdominal/pelvic/uterine pain, heavy vaginal bleeding, "cool/clammy/pale" skin, a low blood pressure, and a decreased level of consciousness.

27. A STAT abdominal ultrasound ordered by Dr. Mann found that Jane Stone had an enlarged uterus and evidence of hemorrhaging in the right pelvic adnexa extending upwards into the right abdomen. The radiologist who interpreted Jane Stone's ultrasound communicated these

“critical” findings to Dr. Mann at 5:19 PM. Minutes later, Dr. Mann called WAWC and “left a message for Dr. Middleton with the answering service.”

28. At 5:25 PM, Dr. Mann ordered a STAT OBGYN consult. Dr. John McDonald, the OBGYN on call, evaluated Jane Stone in the ED and immediately took her to the operating room.

29. In the OR, Jane Stone was placed under general anesthesia and initially underwent a diagnostic laparotomy performed by Dr. McDonald. Upon entry into Jane Stone’s pelvic region, Dr. McDonald encountered a large – approximately 1000 milliliter – retroperitoneal hematoma. Upon further exploration, Dr. McDonald found evidence of a “broad ligament hematoma starting at the level of the uterine artery and extending up through the vesico-uterine peritoneum anteriorly as well as up through the right pelvic sidewall involving the right ovary.” Thereafter, Dr. McDonald consulted Dr. Ford Simpson, Jr., a vascular surgeon, to assist with exploration of the retroperitoneal space, and isolation of the right ureter and right uterine artery.

30. When Dr. Simpson arrived in the OR, Jane Stone’s pelvic region was already exposed and Dr. McDonald was applying pressure on the retroperitoneum. After Dr. McDonald removed pressure, the retroperitoneum began bleeding profusely. Dr. Simpson noted that there was a large hematoma with multiple areas of bright red arterial bleeding, and surgically clipped multiple branches of the hypogastric artery while Dr. McDonald sutured several areas of uterine bleeding. Dr. McDonald then attempted to close a rent through the right side of Jane Stone’s cervix on the right side of the lower uterine segment; however, Jane Stone’s uterus continued to bleed. Due to the extent of the damage to the right side of Jane Stone’s uterus, Dr. McDonald had no choice but to perform a supracervical hysterectomy. While in surgery, Jane Stone received two units of packed red blood cells and one unit of fresh frozen plasma.

31. Post-operatively, Jane Stone was transferred to the ICU and remained hospitalized at DCH until January 1, 2021.

COUNT ONE

32. Plaintiff re-adopts and re-alleges the factual allegations contained in the preceding paragraphs, and further alleges as follows:

33. On or about December 28, 2020, Dr. Middleton, J, K, L and/or M undertook to and did provide medical care and treatment to Jane Stone. All of said services were provided at WAWC in Tuscaloosa County, Alabama.

34. In providing medical care and services to Jane Stone, and at all times material to this Complaint, Dr. Middleton, J, K, L and/or M were under a legal duty to possess and exercise that degree of care, skill, and diligence commonly possessed and exercised by similarly situated health care providers in the national medical community in providing care and treatment to patients such as Jane Stone.

35. In providing medical services to Jane Stone, Dr. Middleton, J, K, L and/or M breached the applicable standard of care that was in effect at the time in one or more of the following respects:

- (a) by ordering and/or administering an excessive amount of Cytotec.
- (b) by performing Jane Stone's D&E without adequate cervical preparation;
- (c) by failing to properly dilate Jane Stone's cervix;
- (d) by failing to wait three hours after administering Cytotec to start the D&E procedure;
- (e) by forgetting to wait three hours after administering Cytotec to start the D&E;

- (f) by failing to adequately prepare Jane Stone's cervix before starting the D&E;
- (g) by using unnecessary force and/or unnecessary medical interventions in an effort to hurry along Jane Stone's D&E;
- (h) by forcefully and aggressively dilating Jane Stone's cervix using instrumentation without adequate cervical preparation;
- (i) by lacerating and perforating Jane Stone's cervix, lower uterine segment and uterine arteries;
- (j) by performing Jane Stone's D&E without ultrasound guidance;
- (k) by ignoring and/or failing to take appropriate action in response to the bleeding and pain concerns voiced by Jane Stone after the D&E procedure;
- (l) by dismissing and/or failing to take appropriate action in response to Jane Stone's complaints of pain and bleeding post-operatively;
- (m) by failing, after deciding to send Jane Stone to the hospital, to timely and/or properly communicate with physicians and emergency department staff at DCH, and/or to notify them of Jane Stone's pending arrival;
- (n) by failing to treat Jane Stone in accordance with WAWC's written protocols, guidelines, policies, procedures, and/or clinical practice guidelines for the performance of a D&E;
- (o) by failing to provide care and treatment to Jane Stone in accordance with the Alabama State Board of Health rules, set forth in Ala. Admin. Code § 420-5-1, governing outpatient abortion or reproductive health centers;
- (p) by failing to timely recognize, diagnose, and treat Jane Stone's cervical, uterine, and arterial injuries, and/or transfer Jane Stone to the hospital for treatment thereof; and,
- (q) by failing to accurately document her care and treatment of Jane Stone.

36. As a proximate result of the above-described acts and/or omissions of Dr. Middleton, J, K, L and/or M, Jane Stone suffered the following injuries and damages:

- (a) she was caused to suffer severe acute physical injuries, including a cervical laceration, uterine perforation, life-threatening hemorrhaging and hypovolemic shock;
- (b) she was caused to suffer a lengthy hospitalization and required extensive surgical, anesthetic, and therapeutic treatment, including a supracervical hysterectomy;
- (c) she was caused to suffer, and will in the future continue to suffer, great physical pain and suffering;
- (d) she was caused to suffer, and will in the future continue to suffer, mental anguish and emotional distress;
- (e) she will never be able to become pregnant and have children;
- (f) she was caused to incur, and will in the future continue to incur, significant medical bills and out-of-pocket expenses related to in vitro fertilization and surrogacy;
- (g) she was caused to suffer lost wages and income;
- (h) she was caused to suffer permanent injury;
- (i) she was caused to be disfigured; and,
- (j) she was caused to suffer, and will in the future continue to suffer, loss of enjoyment of life and interference with normal daily activities.

WHEREFORE, the plaintiff, Jane Stone, demands judgment against Defendant Tamer Yvette Middleton, MD, J, K, L and/or M, jointly and severally, in an amount to be determined by the jury, together with interest, costs, and any other relief to which she may be entitled.

COUNT TWO

37. Plaintiff re-adopts and re-alleges all of the factual allegations contained in the preceding paragraphs, and further alleges as follows:

38. In providing medical care and services to Jane Stone, and at all times material to this Complaint, Dr. Middleton, J, K, L and/or M were acting within the line and scope of his or her duties as an agent, employee, and/or servant of the Defendants, WAWC, and/or one or more of the parties described fictitiously as A, B, C, D, E, F, G, and/or I.

39. In providing medical care and services to Jane Stone, Dr. Middleton, J, K, L and/or M breached the applicable standard of care which was in effect at the time in the manner described in Count One.

40. As a proximate result of the above-described acts and/or omissions of Dr. Middleton, J, K, L and/or M, Jane Stone suffered the injuries and damages described in Count One.

41. The Defendants, WAWC, and/or one or more of the parties described fictitiously as A, B, C, D, E, F, G, and/or I, are vicariously liable to Plaintiff for the negligent and/or wrongful acts or omissions of their agents and/or employees, including, but not limited to, Dr. Middleton, J, K, L and/or M.

WHEREFORE, the plaintiff, Jane Stone, demands judgment against the Defendants, jointly and severally, in an amount to be determined by the jury, together with interest, costs, and any other relief to which she may be entitled.

COUNT THREE

42. Plaintiff re-adopts and re-alleges all of the factual allegations contained in the preceding paragraphs, and further alleges as follows:

43. On or about December 22, 2020, Jane Stone was a patient at WAWC in Tuscaloosa County, Alabama.

44. At the aforesaid times and place, Defendants WAWC, A, B, C, D, E, F, G, H, and/or I, acting through its administrators, medical director, nurses, technicians, medical assistants, and/or other non-physician health care providers including, but not limited to, Nurse Mamie Newton and/or one or more of the parties described fictitiously as “L” through “S”, undertook to and did provide medical, diagnostic, nursing and/or other health care services and treatment to Jane Stone (hereinafter referred to collectively as WAWC’s staff”). All of said services were provided in Tuscaloosa County, Alabama.

45. In providing medical, diagnostic, nursing and/or other care, treatment and services to Jane Stone on December 22, 2020, WAWC’s staff, including, but not limited to, Nurse Newton and/or one or more of the parties described fictitiously as “L” through “S”, were under a legal duty to possess and exercise that degree of care, skill, and diligence commonly possessed and exercised by similarly situated hospitals or health care providers in the national medical community acting under the same or similar circumstances described above.

46. At the times and place described above, WAWC’s staff breached the applicable standard of care which was in effect at the time in one or more of the following respects:

- (a) by failing to truthfully and/or accurately respond to Jane Stone’s questions regarding complications of D&E procedures, and whether any patient had ever died as a result of hemorrhaging in connection with a D&E performed at WAWC;
- (b) by failing to inform Jane Stone that another patient had died on May 7, 2020, as a result of a uterine perforation and hemorrhaging related to an attempted surgical D&E performed at WAWC;
- (c) by falsely representing that the death of the WAWC patient who died following a D&E procedure was related to a fatal drug overdose;

- (d) by failing to inform Jane Stone that Dr. Leah Torres, WAWC's medical director who was responsible for the operation and safety of all practices and procedures performed at WAWC, had her medical license revoked in August 2020;
- (e) by failing to inform Jane Stone that WAWC's medical director had received a cease and desist order from the Medical Licensure Commission of Alabama and was not authorized to function as medical director at the time;
- (f) by failing to inform Jane Stone that WAWC's Medical Director was not licensed to practice medicine in the State of Alabama in December 2020; and,
- (g) by failing to obtain appropriate informed consent.

47. At the aforesaid time and place, WAWC's staff, including, but not limited to, Nurse Newton and/or one or more of the parties described fictitiously "L" through "S", were working within the line and scope of their duties as employees and/or agents of Defendant WAWC, A, B, C, D, E, F, G, H, and/or I.

48. As a proximate result of the above-described acts and/or omissions of WAWC's staff, including, but not limited to, Nurse Newton and/or one or more of the parties described fictitiously "L" through "S", Jane Stone suffered the injuries and damages described in Count One.

49. The Defendants, WAWC, and/or one or more of the parties described fictitiously as A, B, C, D, E, F, G, H, and/or I, are vicariously liable to Plaintiff for the negligent and/or wrongful acts or omissions of WAWC's staff.

WHEREFORE, the plaintiff, Jane Stone, demands judgment against the Defendants, jointly and severally, in an amount to be determined by the jury, together with interest, costs, and any other relief to which she may be entitled.

COUNT FOUR

50. Plaintiff re-adopts and re-alleges all of the factual allegations contained in the preceding paragraphs, and further alleges as follows:

51. On or about December 28, 2020, Jane Stone was a patient at WAWC in Tuscaloosa County, Alabama.

52. At the aforesaid times and place, Defendants WAWC, A, B, C, D, E, F, G, H, and/or I, acting through its administrators, medical director, nurses, technicians, medical assistants, and/or other non-physician health care providers including, but not limited to, Nurse Mamie Newton and/or one or more of the parties described fictitiously as “L” through “S”, undertook to and did provide medical, diagnostic, nursing and/or other health care services and treatment to Jane Stone (hereinafter referred to collectively as WAWC’s staff”). All of said services were provided in Tuscaloosa County, Alabama.

53. In providing medical, diagnostic, nursing and/or other care, treatment and services to Jane Stone on December 28, 2020, WAWC’s staff, including, but not limited to, Nurse Newton and/or one or more of the parties described fictitiously as “L” through “S”, were under a legal duty to possess and exercise that degree of care, skill, and diligence commonly possessed and exercised by similarly situated hospitals or health care providers in the national medical community acting under the same or similar circumstances described above.

54. At the times and place described above, WAWC’s staff breached the applicable standard of care which was in effect at the time in one or more of the following respects:

- (a) by failing to inform Dr. Middleton that Jane Stone’s cervix was not adequately prepared when Dr. Middleton started the D&E;
- (b) by failing to provide care and treatment to Jane Stone in accordance with WAWC’s written patient care policies and

procedures in effect at the time pertaining to cervical preparation;

- (c) by failing to provide care and treatment to Jane Stone in accordance with WAWC's written patient care policies and procedures in effect at the time pertaining to the use of Cytotec and/or Misoprostol;
- (d) by ignoring and/or failing to take appropriate action in response to the bleeding and pain concerns voiced by Jane Stone after the D&E procedure;
- (e) by dismissing and/or failing to take appropriate action in response to Jane Stone's complaints of pain and bleeding post-operatively;
- (f) by failing to treat Jane Stone in accordance with WAWC's written protocols, guidelines, policies, procedures, and/or clinical practice guidelines for the performance of a D&E;
- (g) by failing to treat Jane Stone in accordance with WAWC's written protocols, guidelines, policies, procedures, and/or clinical practice guidelines pertaining to patient recovery and post-operative care;
- (h) by failing to provide care and treatment to Jane Stone in accordance with the Alabama State Board of Health rules, set forth in Ala. Admin. Code § 420-5-1, governing outpatient abortion or reproductive health centers; and,
- (i) by failing to accurately document his or her care and treatment of Jane Stone;
- (j) by refusing to call an ambulance to transport Jane Stone to the hospital; and,
- (k) by failing to take Jane Stone's post-operative complaints seriously and/or to communicate her complaints to Dr. Middleton.

55. At the aforesaid time and place, WAWC's staff, including, but not limited to, Nurse Newton and/or one or more of the parties described fictitiously "L" through "S", were working

within the line and scope of their duties as employees and/or agents of Defendant WAWC, A, B, C, D, E, F, G, H, and/or I.

56. As a proximate result of the above-described acts and/or omissions of WAWC's staff, including, but not limited to, Nurse Newton and/or one or more of the parties described fictitiously "L" through "S", Jane Stone suffered the injuries and damages described in Count One.

57. The Defendants, WAWC, and/or one or more of the parties described fictitiously as A, B, C, D, E, F, G, H, and/or I, are vicariously liable to Plaintiff for the negligent and/or wrongful acts or omissions of WAWC's staff.

WHEREFORE, the plaintiff, Jane Stone, demands judgment against the Defendants, jointly and severally, in an amount to be determined by the jury, together with interest, costs, and any other relief to which she may be entitled.

COUNT FIVE

58. Plaintiff re-adopts and re-alleges all of the factual allegations contained in the preceding paragraphs, and further alleges as follows:

59. On or about December 28, 2020, Jane Stone was a patient at WAWC in Tuscaloosa County, Alabama.

60. At the aforesaid time and place, the Defendants, WAWC, A, B, C, D, E, F, G, H, and/or I, undertook to and did provide care and treatment to Jane Stone. All of said medical services were provided in Tuscaloosa County, Alabama.

61. In providing care, treatment and services to Jane Stone, WAWC, A, B, C, D, E, F, G, H, and/or I, were under a legal duty to possess and exercise that degree of care, skill, and diligence commonly possessed and exercised by similarly situated facilities in the national medical community acting under the same or similar circumstances described above.

62. In providing care, treatment and services to Jane Stone on December 28, 2020, the Defendant, WAWC, A, B, C, D, E, F, G, H, and/or I, breached the applicable standard of care in effect at that time in one or more of the following respects:

- (a) by failing to schedule a sufficient amount qualified staff members to properly care for each patient admitted;
- (b) by failing to properly orient, train, hire, and/or supervise the members of WAWC's staff who were providing care to patients on December 28, 2020;
- (c) by failing to establish and implement appropriate policies and procedures pertaining to the dosing and administration of Misoprostol and/or Cytotec;
- (d) by failing to establish and implement appropriate policies and procedures pertaining to the post-operative care and recovery of patients;
- (e) by failing to establish and/or implement an appropriate written orientation program to familiarize each staff member with the facility and its policies and procedures;
- (f) by failing to establish written criteria setting forth the specific procedures permitted to be performed in the facility and/or specific procedures that Dr. Middleton was authorized to perform;
- (g) by failing to appoint a qualified medical director who was responsible for WAWC's clinical functions and ensuring that the facility met requirements of Ala. Admin. Code § 420-5-1;
- (h) by failing to operate WAWC in accordance with Ala. Admin. Code § 420-5-1;
- (i) by failing to properly train, orient, and define the job responsibilities of the members of WAWC's staff who were scheduled to work, and working, on December 28, 2020;
- (j) by failing to have a physician available to communicate with Jane Stone's providers at DCH Hospital;

- (k) by failing to properly monitor, care for, and treat Jane Stone; and,
- (l) by failing to properly train, supervise and monitor the nurses and other employees who provided care and treatment to Jane Stone.

63. As a result of the above-described acts and/or omissions of WAWC, A, B, C, D, E, F, G, H, and/or I, Jane Stone suffered the injuries and damages described in Count One.

WHEREFORE, the plaintiff, Jane Stone, demands judgment against the Defendants, jointly and severally, in an amount to be determined by the jury, together with interest, costs, and any other relief to which she may be entitled.

JURY DEMAND

64. Plaintiff demands a trial by struck jury.

For Plaintiff Jane Stone,

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