

JANE DOE
VERSUS

011144
19TH JUDICIAL DISTRICT OF
SEC. 27
DOCKET NUMBER:

DELTA CLINIC OF BATON ROUGE, INC
AND DR. MARY FRANCES GARDNER

PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

COST OK \$ 400.00
#1588
APR 13 2012
MC

PETITION FOR DAMAGES

DEPUTY CLERK OF COURT

NOW INTO COURT through the undersigned counsel comes the petition of JANE DOE,
who respectfully represents that:

1.

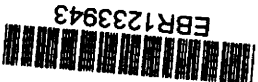
The plaintiff, whose real name is being withheld as allowed by law in cases of this nature, is given the name of JANE DOE (hereinafter sometimes referred to as "JANE"). She is a person of the full age of majority (38 years old), and is presently residing in Ascension Parish, State of Louisiana. She suffered severe injuries as a result of her abortion at the facility operating under the name of "DELTA CLINIC OF BATON ROUGE, INC," (sometimes also known under the alternative titles provided in the caption of this action, and hereinafter referred to as "DELTA CLINIC"), a domestic corporation authorized to do and doing business in the State of Louisiana while under the care of DR. MARY FRANCES GARDNER (hereinafter referred to as "DR. GARDNER"), a resident of and domiciled in the Parish of Orleans.

2.

On information and belief, the defendants named herein deviated from the accepted standards of medical practice and/or care for health care providers and/or negligently caused injuries and damages to the plaintiff, JANE DOE, as a result of their actions or inactions, or the actions or inactions of their agents, employees, representatives and/or contract personnel in failing to obtain informed consent, failing to offer anesthesia services prior to an invasive surgical procedure and consequently inflicting extreme mental and physical pain and suffering and in causing the Petitioner to have a complete hysterectomy. Said Defendants are truly and justly indebted unto the Petitioner for such sums as are reasonable and proper in the premises, for the following, to-wit:

3.

In early April, 2009, due to fears that she would lose her new job that would require some physical labor and that an unstable relationship with the father of the unborn child might render



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APR 13 2012

her incapable of raising the child, JANE decided to consider termination of her unplanned pregnancy.

4.

On April 9, 2009, JANE made her initial visit to DELTA CLINIC for the mandatory pre-abortion counseling. The "counseling" conducted by the clinic was not administered according to the requirements of the Louisiana Woman's Right to Know statute (LSA-R.S. 40:1299.35.6). Also contrary to the provisions of the aforementioned law, JANE was required to render a deposit of \$150.00, and to submit to various diagnostic tests to affirm her pregnancy and determine the age of her fetus.

5.

She was then seated in a room with a group of approximately twenty other women for a brief presentation concerning a typical course of events in an abortion procedure. The clinic then reported to JANE that her fetus was approximately seven weeks old, and they scheduled her for an abortion appointment.

6.

On April 14, 2009, Petitioner again presented to DELTA CLINIC for a medical abortion, which procedure involves the administration of certain medications that, once consumed, cause the fetus to be aborted.

7.

Over the following days, JANE felt pain but no bleeding after the first day. The Petitioner called DELTA CLINIC as instructed to report that the medication failed to successfully complete the abortion. Finally on April 20, 2009, JANE was able to speak to DR. GARDNER on the phone about her pain and that the abortion had failed. DR. GARDNER dismissed her complaints during the phone call and advised JANE to see a gastroenterologist. After more combative discussion, JANE told DR. GARDNER that she would resort to going to an emergency room for medical help. It was only at this point that DR. GARDNER agreed to provide follow-up medical care.

8.

Upon DR. GARDNER's authorization of a second ultrasound, JANE immediately drove to DELTA CLINIC on April 20, 2009. A second ultrasound was conducted and fetal tissue was identified in her uterus by a Delta staff member who told JANE, "you still have a lot of crap

inside that needs to come out.” Delta Clinic staff then phoned DR. GARDNER to report the results of the ultrasound. DR. GARDNER then ordered a second round of the abortion medication to be administered to JANE. In the hours following the administration of the abortion medication, JANE again felt pain but no bleeding.

9.

On April 21, 2009, JANE continued to experience pain but again the medication failed to complete the second attempted medical abortion. Petitioner presented for her fourth time to DELTA CLINIC following her second failed medical abortion. DR. GARDNER authorized a surgical abortion procedure at this point.

10.

JANE was very anxious, crying and upset prior to the surgical abortion because of the failure of the two medical abortions and the lack of communication and medical attention from DR. GARDNER and DELTA CLINIC. She was not offered any sedatives or anesthesia to help her calm down at any time prior to or during the surgical procedure. DR. GARDNER was very combative with JANE before and during the surgical procedure ordering her to stop crying. Prior to the start of the procedure while JANE was lying down, DR. GARDNER grabbed JANE's arms and forcefully held them down on JANE's chest when she thought JANE had attempted to use her cell phone. DR. GARDNER had been in error. JANE felt very fearful, anxious and concerned. DR. GARDNER ordered JANE to remain still during the procedure though it was causing JANE obvious severe pain as evidenced by her tears, reports of pain and involuntary movement of her lower body in response to the pain caused by the scraping of the medical instruments. Despite JANE's protests of pain, DR. GARDNER continued the procedure admonishing JANE to remain still in an aggressive and demeaning tone.

11.

Over the following months after the abortion, JANE reported to emergency rooms and doctor offices seeking treatment of lower abdominal pain. The pain worsened over the months despite repeated visits to and treatment by specialists. Sexual intercourse with her spouse became painful during this time and contributed to marital difficulties.

12.

Conservative treatment proved unsuccessful. A finding of abnormal tissue following a laparoscopic examination resulted in JANE having a complete hysterectomy in May, 2010.

13.

A proximate cause of the injuries and damages set forth herein was a result of the negligence and/or failure to meet the standard of care by the named defendants, their agents, employees, representatives and/or contract personnel as a result of the following non-exclusive list of omissions and/or commissions to wit:

- (a) Failure to obtain informed consent regarding the consequences of a failed or incomplete medical abortion.
- (b) Failure to give Petitioner some form of anesthesia before performing the surgical abortion so that she would not experience the excruciating pain that she did during the procedure.
- (c) Failure to properly perform the surgical abortion.
- (d) Failure to implement policies and procedures to insure that patients receive appropriate and timely medical care.

14.

Petitioner, JANE DOE, alleges that she is entitled to and therefore claims damages in a reasonable sum, for her past, present and future pain and suffering, mental anguish and anxiety, residual physical and mental impairment, loss of enjoyment of lifestyle and disability for said injuries, loss of consortium and having to undergo a complete hysterectomy.

15.

As a result of the aforementioned event and subsequent injuries, Petitioner anticipates and therefore claims that she is entitled to past, present and future medical expenses in a reasonable sum.

16.

At the time of the incident, Petitioner was gainfully employed and as a result of said incident and injuries, Petitioner claims damages in a reasonable sum for past, present and future economic loss and loss of earning capacity.

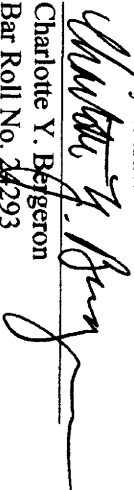
WHEREFORE, PETTIONER, JANE DOE, prays for judgment condemning said Defendants, DELTA CLINIC OF BATON ROUGE, INC. and DR. MARY FRANCES GARDNER and to pay unto Petitioner damages in a reasonable sum, together with legal interest from date of judicial demand until paid for all costs of these proceedings.

RESPECTFULLY SUBMITTED:

FELIX J. STERNFELS
Attorney at Law


Felix J. Sternfels
Bar Roll No. 24891

CHARLOTTE Y. BERGERON
Attorney at Law


Charlotte Y. Bergeron
Bar Roll No. 24293
P. O. Box 760
4830 Highway 1 South
Napoleonville, LA 70390
Telephone: (985) 369-1608
Facsimile: (985) 369-6110
ATTORNEYS FOR PLAINTIFF

INFORMATION FOR SERVICE:

PLEASE SERVE:

DELTA CLINIC OF BATON ROUGE, INC
Through its Registered Agent for Service
Yigal Bander
8075 Jefferson Highway
Baton Rouge, LA 70809

DR. MARY FRANCES GARDNER
927 Broadway
New Orleans, Louisiana 70118

CERTIFIED TRUE COPY

18-60514

DEPUTY CLERK OF COURT

HOLD SERVICE.

- 01-DAMAGES
- 02-CONTRACT
- 03-PRISONER SUIT
- 04-EXECUTORY PROCESS
- 05-ENFORCEMENT
- 06-WORKMANS COMPENSATION
- 07-GENERAL REVIEW
- 08-PROPERTY RIGHTS
- 09-INJUNCTION MANDAMUS
- 10-OTHER
- 11-COMM. PROP PARTITIONS
- 12-PUBLIC SERV. COMM.
- 13-OTHER PARTITIONS
- 14-OTHER
- 15-DEQ.
- 16-OTHER
- 17-OTHER
- 18-OTHER
- 19-OTHER
- 20-OTHER

CIVIL

19TH JUDICIAL DISTRICT
EAST BATON ROUGE PARISH, LA
FILED

2012 APR 13 PM 2:36


DEPUTY CLERK & RECORDER FOR
DOUG WELBORN
CLERK OF COURT E B R PARISH

NINETEENTH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

SUIT NUMBER: 611144

JANE DOE
VERSUS

DELTA CLINIC OF BATON ROUGE, INC. AND DR. MARY FRANCES GARDNER

ANSWER TO PETITION FOR DAMAGES

The defendant, Delta Clinic of Baton Rouge, Inc., answers as follows the Petition for Damages filed by the plaintiff, who styles herself Jane Doe.

1.

The allegations of Paragraph 1 of the Petition are denied insofar as they relate to Delta Clinic of Baton Rouge, Inc., and otherwise denied for lack of knowledge.

2.

The allegations of Paragraph 2 are denied.

3.

The allegations of Paragraph 3 are denied for lack of knowledge.

4.

The allegations of Paragraph 4 are denied as written. It is admitted that Jane Doe made her initial visit to Delta Clinic on April 9, 2009 for the mandatory pre-abortion counseling, that she paid \$150, and that she submitted to various diagnostic tests.

5.

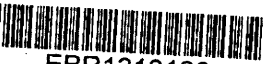
The allegations of Paragraph 5 are admitted.

6.

The allegations of Paragraph 6 are admitted.

7.

The allegations of Paragraphs 7 through 10 are denied as written. It is admitted that medical abortion medication was properly administered on April 14, 2009, that it did not complete the abortion as quickly as is usually the case, and that a surgical abortion was properly performed on April 21, 2012.



EBR1313126

COST OK \$ 20
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DEPUTY CLERK OF COURT
MAN
SECTION: 27

8. The allegations of Paragraphs 11 and 12 are denied for lack of information.

9.

10. The allegations of Paragraphs 13 through 16 are denied.

11.

12. The allegations of the prayer for relief are denied and opposed.

13.

14. The plaintiff must meet the burden of proof set forth in La. R.S. 9:2794(A), and cannot do

so.

15.

16. The defendants did not breach the standard of care, and are not liable to the plaintiff in any way.

Wherefore, the defendant prays that this Answer be deemed good and sufficient, and that judgment be rendered in favor of the defendants and against the plaintiff, dismissing the plaintiff's action with prejudice, and at her sole cost.

Respectfully submitted:

Yigal Bander #24953
Manasseh, Gill, Knipe & Belanger, P.L.C.
8075 Jefferson Highway
Baton Rouge, LA 70809
Phone: (225) 383-9703
Fax: (225) 383-9704
Email: yigal@manassehandgill.com

2012 MAY 21 PM 3:34
FILED
DOUG WELBORN
CLERK OF COURT FOR PARISH

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on all counsel of record by fax and U.S. mail, as follows:

Felix J. Sternfels
Charlotte Y. Bergeron
P.O. Box 760
4380 Highway 1 South
Napoleonville, LA 70390
Fax: (985) 369-6110

Baton Rouge, Louisiana, this 21 day of May, 2012.

Yigal Bander
Yigal Bander

2302-12-003827

CITATION

JANE DOE
(Plaintiff)

NUMBER C611144 SECTION 27
19th JUDICIAL DISTRICT COURT

vs.

DELTA CLINIC OF BATON ROUGE, INC.,
ET AL
(Defendant)

PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

TO: MARY FRANCES GARDNER
927 BROADWAY
NEW ORLEANS, LA 70118

GREETINGS:

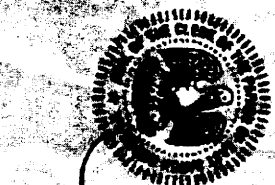
2012 MAY 11 P 4:23
FILED

Attached to this citation is a certified copy of the petition*. The petition tells you what you are being sued for.

You must EITHER do what the petition asks OR, within fifteen (15) days after you have received these documents, you must file an answer or other legal pleading in the office of the Clerk of Court at 300 North Boulevard, Baton Rouge, Louisiana. If you do not do what the petition asks, or if you do not file an answer or legal pleading within fifteen (15) days, a judgment may be rendered against you without further notice.

This citation was issued by the Clerk of Court for East Baton Rouge Parish on 08-MAY-2012.

Requesting Attorney: FELIX J STERNBERG
*The following documents are attached:
PETITION FOR DAMAGES



By Anna Arnold
Deputy Clerk of Court for
Doug Welborn, Clerk of Court
ENTERED
SERIAL NO. 1201
DEPUTY PARISH

Received on this _____ day of _____, 20____ and on the _____ day of _____, 20____, served on the above named party as follows:
PERSONAL SERVICE: On the party herein named at _____
DOMICILIARY SERVICE: On the within named _____, by leaving the same at his domicile in this parish in the hands of _____ a person of suitable age and discretion residing in the said domicile at _____

DUE AND DILIGENT: After diligent search and inquiry, was unable to find the within named _____ at his domicile, or anyone legally authorized to represent him _____ or _____

RETURNED: Parish of _____ this _____ day of _____, 20____.

SERVICE: _____
MILEAGE: _____
TOTAL: _____
Deputy Sheriff
CITATION (COF) - 2302

19th JUDICIAL DISTRICT
EAST BATON ROUGE PARISH, L.A.
FILED
2012 MAY 25 AM 11:26
DEPUTY CLERK & RECORDER FOR
DOUG WELBORN
CLERK OF COURT E.B.R. PARISH

EBR1341278



EBR1294472

Charlotte Y. Bergeron
Attorney at Law
P. O. Box 760 4830 Highway 1 South
Napoleonville, LA 70390
Telephone: (985) 369-1608 Facsimile: (985) 369-6110

VIA HAND DELIVERY

April 13, 2012

East Baton Rouge Parish Clerk of Court
P. O. Box 1991
300 North Boulevard
Baton Rouge, LA 70821-1991

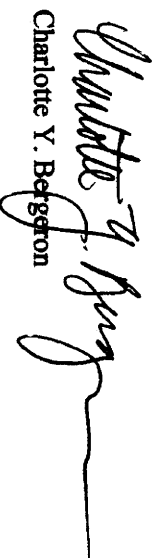
RE: Jane Doe vs. Delta Clinic of Baton Rouge, Inc.
and Dr. Mary Frances Gardner

Dear Sir:

Please find enclosed the original and two copies of a Petition for Damages. Please file the original and return the stamped copies to me. Please hold service on the above named defendants at this time.

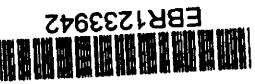
With kindest regards, I am

Yours truly,


Charlotte Y. Bergeron

CYB:cyb

Enclosures



REC'D C.P.
APR 16 2012