



IN THE CIRCUIT COURT OF MADISON COUNTY

RYAN MAGERS, individually and on
 behalf of his deceased child, BABY ROE,

Plaintiff,

v.

ALABAMA WOMEN'S CENTER FOR
 REPRODUCTIVE ALTERNATIVES,
 LLC; JOHN DOE #1, JOHN DOE #2,
 and JOHN DOE #3, being agents,
 employees, directors, representatives,
 contractors, or servants of Alabama
 Women's Center for Reproductive
 Alternatives, LLC; and UNKNOWN
 PHARMACEUTICAL COMPANY,
 being the manufacturer and distributor of
 a pill designed to kill unborn children; all
 of whose true and correct names are
 otherwise unknown to Plaintiff at this
 time, but will be added by amendment
 when properly ascertained,

Defendants.

Case No.

COMPLAINT

COMES NOW Plaintiff, Ryan Magers, in his individual capacity and as the next friend of, personal representative of the estate of, and/or father of his deceased child (hereinafter referred to as "Baby Roe"), and files this complaint against the above-specified Defendants. In support of this Complaint, Plaintiff shows the following:

JURISDICTION & VENUE

1. This Court has jurisdiction over this action pursuant to Ala. R. Civ. P. 17(c), §§ 6-5-391, and 6-5-410, Ala. Code 1975.
2. Venue is proper pursuant to § 6-3-7, Ala. Code 1975.

PARTIES

3. Plaintiff Ryan Magers is an individual over the age of 19 residing in Madison County.
4. Defendant Alabama Women's Center for Reproductive Alternatives, LLC (hereinafter referred to as "Alabama Women's Center") is an Alabama domestic limited liability company located in Madison County at the following address:
4831 Sparkman Drive NW, Huntsville, AL 35810.
5. John Doe #1, John Doe #2, and John Doe #3 are sued and referred to herein under the fictitious names John Doe #1, John Doe #2, and John Doe #3. Plaintiff alleges that the aforementioned Defendants were agents, employees, directors, representatives, contractors, or servants of the Alabama Women's Center at the time the wrongful death made the basis of this suit and were responsible, either jointly or individually, for the wrongful acts or omissions alleged herein.
6. Unknown Pharmaceutical Company is sued and referred to herein under the fictitious name of Defendant Unknown Pharmaceutical Company. Plaintiff does not know the true name of Defendant Unknown Pharmaceutical Company, but alleges that the aforementioned Defendant caused or contributed to the wrongful

death made the basis of this suit and was responsible, either jointly or individually, for the wrongful acts or omissions alleged herein.

7. Defendants John Doe #1, John Doe #2, John Doe #3, and Defendant Unknown Pharmaceutical Company are hereinafter collectively referred to as “Fictitious Defendants” when not referred to individually or as otherwise heretofore specified.

FACTS

8. Plaintiff realleges and re-avers all allegations heretofore stated.
9. In early 2017, Plaintiff’s girlfriend (hereinafter referred to as “the Mother”) discovered that she was pregnant with Baby Roe.
10. Plaintiff became aware of the pregnancy and made it known that he wanted to keep Baby Roe, but the Mother wanted to abort.
11. At some point after discovering that she was pregnant, the Mother set up an appointment to have Baby Roe aborted at Alabama Women’s Center.
12. In between the discovery of the pregnancy and the date of the appointment, Plaintiff repeatedly pleaded with the Mother not to kill Baby Roe.
13. On February 10, 2017, per the appointment, the Mother went to the Alabama Women’s Center to proceed with the abortion.
14. Baby Roe was approximately six weeks old on February 10, 2017.
15. The Defendants gave the Mother a pill, which she took, that induced the death of Baby Roe.
16. As a result of the Defendants’ actions, Plaintiff’s child, Baby Roe, was killed.

17. On January 25, 2019, Plaintiff filed a petition for letters of administration with the Madison Probate Court, to serve as the personal representative of Baby Roe's estate.

COUNT I: WRONGFUL DEATH

ALL DEFENDANTS

18. Plaintiff realleges and re-avers all allegations heretofore stated.

19. Under Alabama law, an unborn child is a legal person. Ala. Act 2017-188 (to be codified in Ala. Const. 1901); § 1, Ala. Const. 1901; § 6-5-391, Ala. Code 1975; § 13A-6-1(a)(3), Ala. Code 1975; § 13A-5-40(10), Ala. Code 1975; § 13A-5-49(9), Ala. Code 1975; § 26-15-3.2, Ala. Code 1975; § 26-22-1(a), Ala. Code 1975; *Ex parte Phillips*, No. 1160403 (Ala. Oct. 19, 2018), slip op. at 41, 70-71; *Hamilton v. Scott*, No. 1150377 (Ala. Mar. 9, 2018) (*Hamilton II*), slip op. at 11; *Stinnett v. Kennedy*, 232 So. 3d 202, 203, 215 (Ala. 2016); *Ex parte Hicks*, 153 So. 3d 53, 66-72, 84 (Ala. 2014); *Ex parte Ankrom*, 152 So. 3d 397, 411, 421, 429, 439 (Ala. 2013); *Hamilton v. Scott*, 97 So. 3d 728, 734 n.4, 737, 739 (Ala. 2012) (*Hamilton I*); *Mack v. Carmack*, 79 So. 3d 597, 599, 600, 607, 611 (Ala. 2011) (per curiam); *Zaide v. Koch*, 952 So. 2d 1072, 1082 (Ala. 2006); *Gentry v. Gilmore*, 613 So. 2d 1241, 1249 (Ala. 1993) (Maddox, J., dissenting); *Ankrom v. State*, 152 So. 3d 373, 382 (Ala. Crim. App. 2011).

20. The pill that Defendants manufactured, distributed, and gave to the Mother caused Baby Roe's death.

21. Defendants, separately and severally, wrongfully caused Baby Roe's death.

COUNT II: AGENCY DEFENDANT

ALABAMA WOMEN'S CENTER AND DEFENDANTS JOHN DOE #1, #2, & #3

22. Plaintiff realleges and re-avers all allegations heretofore stated.

23. The above-described acts of Defendants John Doe #1, #2, and #3 were committed while the aforementioned Defendants were acting as agents, employees, directors, representatives, contractors, or servants of the Alabama Women's Center and were committed within the scope of their agency and while furthering the business interests of the Alabama Women's Center.

24. As principal of Defendants John Doe #1, #2, and #3, Alabama Women's Center is responsible for all the acts committed by the aforementioned Defendants within the scope of their agency, including the death of Baby Roe.

COUNT III: COMBINED AND CONCURRING WRONGFUL ACTS

ALL DEFENDANTS

25. Plaintiff realleges and re-avers all allegations heretofore stated.

26. The wrongful act or acts of the Defendants in this case combined and concurred to cause the wrongful death of Baby Roe as alleged above.

COUNT IV: FICTITIOUS PARTIES

FICTITIOUS DEFENDANTS

27. Plaintiff realleges and re-avers all allegations heretofore stated.

28. This Count of the Complaint is a fictitious party count. The Defendants liable under this count are those Defendants who or which are liable to Plaintiff under any theory of law advanced in the Complaint or in any amended complaint, and include but are not limited to those Defendants which Plaintiff has attempted to describe in the style or caption of the Complaint. These Defendants are otherwise unknown at this time, but will be added by amendment when ascertained.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants jointly and severally for such damages as the jury may assess together with the costs of this proceeding.

JURY DEMAND

Plaintiff demands a trial by struck jury on all counts.

RESPECTFULLY SUBMITTED this 6th day of February, 2019.

[SIGNATURES ON SUBSEQUENT PAGE.]

/s/ Brent Helms

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