



AlaFile E-Notice

02-CV-2021-901640.00

To: JACK SMALLEY III
trip@longandlong.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

FELICIA BURDICK-AYSENNE ET AL V. THE CENTER FOR REPRODUCTIVE MEDICINE,
02-CV-2021-901640.00

The following complaint was FILED on 9/16/2021 4:01:51 PM

Notice Date: 9/16/2021 4:01:51 PM

JOJO SCHWARZAUER
CIRCUIT COURT CLERK
MOBILE COUNTY, ALABAMA
CIRCUIT CIVIL DIVISION
205 GOVERNMENT STREET
MOBILE, AL, 36644

251-574-8420
charles.lewis@alacourt.gov

Judge Code:

State of Alabama Unified Judicial System Form ARCiv-93 Rev. 9/18	COVER SHEET CIRCUIT COURT - CIVIL CASE (Not For Domestic Relations Cases)	Ca: 02 Date of Filing: 09/16/2021 CIRCUIT COURT OF MOBILE COUNTY, ALABAMA JOJO SCHWARZAUER, CLERK Judge Code:
GENERAL INFORMATION		
IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA FELICIA BURDICK-AYSENNE ET AL v. THE CENTER FOR REPRODUCTIVE MEDICINE, P.C. ET AL		
First Plaintiff: ☐ Business ☒ Individual ☐ Government ☐ Other		
First Defendant: ☒ Business ☐ Individual ☐ Government ☐ Other		
NATURE OF SUIT: Select primary cause of action, by checking box (check only one) that best characterizes your action:		
TORTS: PERSONAL INJURY ☒ WDEA - Wrongful Death ☐ TONG - Negligence: General ☐ TOMV - Negligence: Motor Vehicle ☐ TOWA - Wantonness ☐ TOPL - Product Liability/AEMLD ☐ TOMM - Malpractice-Medical ☐ TOLM - Malpractice-Legal ☐ TOOM - Malpractice-Other ☐ TBFM - Fraud/Bad Faith/Misrepresentation ☐ TOXX - Other: _____ TORTS: PERSONAL INJURY ☐ TOPE - Personal Property ☐ TORE - Real Property OTHER CIVIL FILINGS ☐ ABAN - Abandoned Automobile ☐ ACCT - Account & Nonmortgage ☐ APAA - Administrative Agency Appeal ☐ ADPA - Administrative Procedure Act ☐ ANPS - Adults in Need of Protective Service		
OTHER CIVIL FILINGS (cont'd) ☐ MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/ Enforcement of Agency Subpoena/Petition to Preserve ☐ CVRT - Civil Rights ☐ COND - Condemnation/Eminent Domain/Right-of-Way ☐ CTMP - Contempt of Court ☐ CONT - Contract/Ejectment/Writ of Seizure ☐ TOCN - Conversion ☐ EQND - Equity Non-Damages Actions/Declaratory Judgment/ Injunction Election Contest/Quiet Title/Sale For Division ☐ CVUD - Eviction Appeal/Unlawful Detainer ☐ FORJ - Foreign Judgment ☐ FORF - Fruits of Crime Forfeiture ☐ MSHC - Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition ☐ PFAB - Protection From Abuse ☐ EPFA - Elder Protection From Abuse ☐ QTLB - Quiet Title Land Bank ☐ FELA - Railroad/Seaman (FELA) ☐ RPRO - Real Property ☐ WTEG - Will/Trust/Estate/Guardianship/Conservatorship ☐ COMP - Workers' Compensation ☐ CVXX - Miscellaneous Circuit Civil Case		
ORIGIN: F ☒ INITIAL FILING R ☐ REMANDED A ☐ APPEAL FROM DISTRICT COURT T ☐ TRANSFERRED FROM OTHER CIRCUIT COURT O ☐ OTHER		
HAS JURY TRIAL BEEN DEMANDED? ☒ YES ☐ NO Note: Checking "Yes" does not constitute a demand for a jury trial. (See Rules 38 and 39, Ala.R.Civ.P, for procedure)		
RELIEF REQUESTED: ☒ MONETARY AWARD REQUESTED ☐ NO MONETARY AWARD REQUESTED		
ATTORNEY CODE: SMA014 9/16/2021 4:02:39 PM Date /s/ JACK SMALLEY III Signature of Attorney/Party filing this form		
MEDIATION REQUESTED: ☐ YES ☐ NO ☒ UNDECIDED		
Election to Proceed under the Alabama Rules for Expedited Civil Actions: ☐ YES ☒ NO		



IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

**FELICIA BURDICK-AYSENNE AND
SCOTT AYSENNE, in their individual
capacities and as parents and next friend of
BABY AYSENNE, deceased
embryo/minor,**

Plaintiffs,

v.

**THE CENTER FOR REPRODUCTIVE
MEDICINE, P.C.; MOBILE INFIRMARY
ASSOCIATION d/b/a MOBILE
INFIRMARY MEDICAL CENTER; AND
FICTITIOUS DEFENDANTS A through I,
all of whose names and true legal identities
are otherwise unknown at this time, but
who will be added by amendment when
ascertained, jointly and severally;**

Defendants.

CIVIL ACTION NO.

CV-2021-_____

**PLAINTIFFS RESPECTFULLY
REQUEST A TRIAL BY JURY**

COMPLAINT

“Today, this Court again reaffirms the principle that unborn children are protected by Alabama’s wrongful-death statute from the moment life begins at conception.”

“The fact that life begins at conception is beyond refutation.”

“Although life is a continuous process, fertilization is a critical landmark because, under ordinary circumstance, a new, genetically distinct human organism is thereby formed.”

“A zygote or embryo is the beginning of a new human being.”

Stinnet v. Kennedy, 232 So. 3d 202, 220-22 (Ala. 2016) (Justice Parker concurring specially).

This case arises from the Defendants’ failure to secure their cryogenic storage freezer area, which stores human embryos. As a result of Defendants’ failures in this regard, Plaintiff Baby Aysenne was killed, and Plaintiffs Felicia and Scott Aysenne have incurred unimaginable sadness, anguish, and emotional distress. In further support of their Complaint, Plaintiffs show as follows:

THE PARTIES

1. Plaintiffs FELICIA BURDICK-AYSENNE (“Felicia”) is an adult person who is the mother, next friend and legal guardian of minor BABY AYSENNE, a deceased minor.

2. Plaintiff SCOTT AYSENNE (“Scott”) is an adult person who is the father, next friend and legal guardian of minor BABY AYSENNE, a deceased minor.

3. Plaintiff BABY AYSENNE is a deceased minor. Suit is brought on Baby Aysenne’s behalf by and through her parents, Felicia and Scott Aysenne.

4. Defendant THE CENTER FOR REPRODUCTIVE MEDICINE, P.C., (“CRM” and/or the “Center”) is an Alabama entity doing business by agent or otherwise in this County and State. The Center owns and operates a fertility clinic with related functions such as human embryo storage at Mobile Infirmary.

5. Defendant MOBILE INFIRMARY ASSOCIATION d/b/a MOBILE INFIRMARY MEDICAL CENTER (the “Infirmary”) is an Alabama entity doing business by agent or otherwise in this County and State. The Infirmary owns and operates a hospital with attached laboratories, offices, and storage facilities known as the Mobile Infirmary.

6. Defendants A, B, and C, are those persons, firms corporations, associations, partnerships, or other entities who were responsible for the security and safety of embryos in the Defendants’ custody and control.

7. Defendants D, E, and F, are those persons, firms corporations, associations, partnerships, or other entities who created, participated in creating, implemented, approved, or otherwise ratified the Defendants’ embryo-security procedures, protocols, and policies.

8. Defendants G, H, and I, are those persons, firms corporations, associations, partnerships, or other entities whose wrongful conduct caused and/or contributed to the injuries and damages suffered by the Plaintiffs

FACTUAL ALLEGATIONS

I. Alabama law protects all human life, including embryos.

9. Human life is a continuum from fertilization until natural death.
10. A human embryo is the first stage in the continuum of life, lasting from fertilization to the beginning of the third month of pregnancy.
11. A human being is the same living organism at every developmental life stage, from an embryo to a fetus, to an infant, toddler, teenager, and into adulthood. The degree of maturation is the only difference.
12. Each embryonic human being is a unique human life that is special and intrinsically valuable from conception.
13. Wrongfully causing and/or allowing the death of an embryonic human being is no different than causing the death of a human being at any other stage of life. Embryonic human beings are human beings.
14. The public policy of the State of Alabama is to protect life, born and unborn, including embryonic human beings.
15. Embryonic human beings are entitled to the protection of Alabama's laws regardless of their race, gender, size, or the environment that sustains their life.

II. General overview of assisted reproductive technology.

16. Assisted reproductive technology ("ART") includes all fertility treatments in which eggs or embryos are handled.

17. In vitro fertilization (“IVF”) is a type of ART where a child is conceived by joining an egg and a sperm outside of the womb.

18. IVF involves obtaining one or more eggs from a female and then fertilizing them with a man’s sperm outside of the womb (i.e. in vitro).

19. After fertilization, the eggs turn into single-celled zygotes. At this point in time, an entirely new person has been created, with his or her own unique DNA. The zygote stage is immediately followed by cleavage, when the single cell progresses through several divisions and develops into an embryo.

20. There is no difference between an embryo conceived during IVF and one conceived during in vivo fertilization (i.e. inside the body). Location of the two embryos would be the only distinguishing fact. They are both the beginning of a new human life, separate and apart from the egg and sperm from which they came.

21. Following IVF conception and development into an embryo, the embryo is either transferred to a woman’s uterus or preserved by cryopreservation for future transfer.

22. Cryopreservation is a two-step procedure that freezes the embryos, in a process called vitrification, and then stores them in cryogenic freezers. When ready, the embryos are then thawed and transferred into the uterus where they are no different than any other embryo that had been fertilized in utero. The resulting child is exactly the same as any other human being.

23. There is no difference between an embryo that is preserved by cryopreservation and embryos that are transferred to a woman’s uterus other than the their environment.

24. For many people, including the Plaintiffs herein, cryopreservation allows for peace of mind about a future family. Since the first IVF baby was born in 1978, over 9 million children

have been born using IVF procedures, including cryopreservation, and it is estimated that there are over one-million frozen embryos in the United States right now.

25. If the embryonic human being is not deprived of the cryopreservation environment, he or she can be successfully transferred many years later and become a healthy child. For example, a healthy baby girl was recently birthed following a 27-year cryopreservation.

III. Plaintiffs' history with the Center.

26. Felicia and Scott went to the Center for assistance in conceiving children. The Center provides services for harvesting, storing and implanting embryos, including IVF.

27. The Center harvested eggs from Felicia, which were fertilized in vitro by Scott's sperm. The resulting zygotes progressed through several divisions in the Center's laboratory, eventually developing into viable embryos.

28. The Center then cryopreserved Felicia and Scott's embryos.

29. Baby Aysenne was the last embryo that Felicia and Scott had conceived. Felicia and Scott were paying the Center to store and protect Baby Aysenne in the Center's cryogenic freezer.

30. Baby Aysenne was sufficiently developed for possible pregnancy, which Felicia and Scott were planning to do in the near future.

31. These plans were ruined when Felicia and Scott received a phone call from the Center stating that their last remaining embryo had been killed.

IV. An eloping Infirmary patient enters the Center's unsecured storage area and kills Baby Aysenne.

32. The Center's IVF lab and cryogenic storage area are located within Defendant Infirmary's hospital facilities. The cryogenic storage area is supposed to remain locked, secured, and/or monitored at all times.

33. Despite the need to have the cryogenic storage area locked, secured, and/or monitored at all times, on or about December 20, 2020, the cryogenic storage area was not locked, secured and/or monitored.

34. Leaving this area unlocked, unsecured, and/or unmonitored was a direct violation of the Center's policies and procedures.

35. It was foreseeable that harm could come to the unprotected embryos stored in the Center's cryogenic storage area should it be left unlocked, unsecured, and/or unmonitored.

36. Defendant Infirmary allowed one of its patients to leave and/or elope from his or her room in the Infirmary's hospital area and access the cryogenic storage area. This person removed Baby Aysenne and other embryos from the cryogenic environment that was sustaining their lives.

37. It is believed that the cryopreservation's subzero temperatures burned the eloping patient's hands, causing him or her to drop the cryopreserved embryonic human beings on the floor, where they began to slowly die.

38. By the time the Defendants discovered the embryonic children, they had all died.

V. Defendants' tortious conduct.

39. Defendants should have secured their cryogenic storage facility and all other parts of the facility that have direct access to the cryogenic storage facility from all outside intrusions. This is no different than DHR regulations requiring that entry into daycare centers be secured and closely guarded. And the reasoning is the same: small children, including embryos, cannot protect themselves. Thus, those who willingly agree to care for them must do so with utmost care, attention, and security.

40. Defendants further failed to exercise such reasonable care, skill, and diligence as other similarly situated health care providers in the same general line of practice ordinarily exercise in a like case. The Defendants departed from the accepted standard of care applicable to similarly situated healthcare providers in one or more of the following respects:

- a. Failing to admit the patient that destroyed the embryos to the appropriate area of Defendant Infirmary's hospital.
- b. Failing to appropriately monitor the patient that killed Baby Aysenne.
- c. Allowing the patient that killed Baby Aysenne to elope and wander Defendant Infirmary's facility unsupervised and undetected.
- d. Failing to follow Defendant Infirmary's patient elopement policy and procedures.
- e. Failing to create and implement adequate patient elopement policies and procedures.
- f. Failing to timely discover that a patient had eloped and was wandering Defendant Infirmary's facility unsupervised.
- g. Failing to adequately train the Defendants' staff regarding patient elopement and security.
- h. Failing to alert other staff and call for assistance upon discovering a patient had eloped.
- i. Failing to pursue the patient that killed Baby Aysenne upon learning of his or her elopement.
- j. Failing to notify other healthcare providers at Defendant Infirmary that a hospital patient had eloped and was wandering the hospital facility unsupervised.
- k. Failing to appropriately safeguard Baby Aysenne and other embryonic human beings.
- l. Failing to have appropriate security and safeguards in place for the protection of Baby Aysenne, and other embryonic human beings.
- m. Failing to have adequate policies and procedures in place for the protection of Baby Aysenne, and other embryonic human beings.

- n. Failing to provide appropriate training to Defendants' staff about safeguarding embryos.
- o. Causing or allowing the embryo cryopreservation storage to be unlocked, unsecured, and/or unmonitored to the degree that would allow a random unauthorized person to gain access and kill Baby Aysenne and other embryonic children.
- p. Failing to have appropriate alarms and/or other alert systems in place that would immediately notify healthcare providers and staff of removal of embryos from their cryopreservation storage.
- q. Failing to follow industry guidelines and practices for human embryology laboratories relating to the safe storage of embryos.

41. As a direct and proximate result of Defendants' tortious conduct, Baby Aysenne suffered a wrongful death. Furthermore, as a direct and proximate result of Defendants' tortious conduct, Scott and Felicia Aysenne have incurred mental anguish, strain, and emotional distress.

FIRST CAUSE OF ACTION
WRONGFUL DEATH

42. Plaintiffs adopt the allegations contained in the preceding paragraphs herein.

43. Defendants were guilty of a multitude of legal, moral, and ethical violations that directly lead to and/or caused Baby Aysenne's death.

44. Pursuant to Alabama's Wrongful Death laws, Plaintiffs demand judgment in an amount to properly punish Defendants for their wrongful and illegal conduct and to discourage others from engaging in such illegal and reckless behavior.

WHEREFORE, the above premises considered, Plaintiffs demand judgment of and from the Defendants for all damages to which the fact finder may award them at trial, plus interest as allowed by law, and costs.

SECOND CAUSE OF ACTION
NEGLIGENCE/WANTONNESS

45. Plaintiffs adopt the allegations contained in the preceding paragraphs herein.

46. Defendants were guilty of negligence and/or wantonness that directly lead to and/or caused Baby Aysenne's death.

47. As a direct and proximate result of Defendants' tortious conduct, Felicia and Scott Aysenne were severely and significantly injured.

WHEREFORE, the above premises considered, Plaintiffs demand judgment of and from the Defendants for all damages to which the fact finder may award them at trial, plus interest as allowed by law, and costs.

THIRD CAUSE OF ACTION
BREACH OF CONTRACT

48. Plaintiffs adopt the allegations contained in the preceding paragraphs herein.

49. Defendants breached their duty to protect and secure Baby Aysenne. Such duty was either contractual in nature and/or arose from the bailment relationship between the parties.

50. As a direct and proximate result of Defendants' breach(es), Felicia and Scott Aysenne were injured.

WHEREFORE, the above premises considered, Plaintiffs demand judgment of and from the Defendants for all damages to which the fact finder may award them at trial, plus interest as allowed by law, and costs.

Respectfully submitted,

/s/ Jack Smalley III

JACK SMALLEY III

Attorney for Plaintiffs

(SMA014)

LONG & LONG, PC
3600 Springhill Memorial Drive N
Mobile, Alabama 36608
Phone: (251) 445-6000
Facsimile: (251) 445-0282
Trip@longandlong.com

PLAINTIFFS RESPECTFULLY REQUEST A TRIAL BY JURY

/s/ Jack Smalley III
JACK SMALLEY III

DEFENDANTS TO BE SERVED VIA CERTIFIED MAIL AS FOLLOWS:

THE CENTER FOR REPRODUCTIVE MEDICINE, P.C.
c/o Thomas F. Garth (Registered Agent)
2 North Royal St.
Mobile, AL 36602

MOBILE INFIRMARY ASSOCIATION
d/b/a MOBILE INFIRMARY MEDICAL CENTER
c/o D. Mark Nix (Registered Agent)
5 Mobile Infirmary Circle
Mobile, AL 36607

DISCOVERY TO BE SERVED WITH THE COMPLAINT



IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

**FELICIA BURDICK-AYSENNE AND
 SCOTT AYSENNE, in their individual
 capacities and as parents and next friend of
 BABY AYSENNE, deceased embryo/minor,**

Plaintiffs,

v.

**THE CENTER FOR REPRODUCTIVE
 MEDICINE, P.C.; MOBILE INFIRMARY
 ASSOCIATION d/b/a MOBILE
 INFIRMARY MEDICAL CENTER; AND
 FICTITIOUS DEFENDANTS A through I,
 all of whose names and true legal identities
 are otherwise unknown at this time, but who
 will be added by amendment when
 ascertained, jointly and severally;**

Defendants.

CIVIL ACTION NO.

CV-2021-_____

**TO BE SERVED
 WITH THE COMPLAINT**

**PLAINTIFFS' FIRST SET OF INTERROGATORIES AND REQUESTS
 FOR PRODUCTION TO DEFENDANT THE CENTER FOR
 REPRODUCTIVE MEDICINE**

COME NOW the Plaintiffs, by and through undersigned counsel, and pursuant to the *Alabama Rules of Civil Procedure*, request Defendant **THE CENTER FOR REPRODUCTIVE MEDICINE** answer each of the following Interrogatories under oath, in writing, separately, in the fullest detail possible, and in accordance with the definitions and instructions set forth below, the answers shall be signed by the person making them, and a copy of your answers, together with your objections, if any, shall be served no later than forty five (45) days after service of these Discovery Requests.

INSTRUCTIONS

You are under a duty to seasonably supplement your response with respect to any interrogatory directly addressed to (1) the identity and location of persons having knowledge of

discoverable matters, and (2) the identity of each person expected to be called as an expert witness at trial, the subject matter on which he is expected to testify, and the substance of his testimony. In addition, you are under a duty to amend a prior response if you obtain information on the basis of which you know that the response was incorrect when made, or that the response, though correct when made, is no longer true, and the circumstances are such that a failure to amend the response is, in substance, a knowing concealment.

DEFINITIONS

1. As used herein, the terms "you," "your," or "yourself" refer to Defendant, each of you agents, representatives and attorneys and each person acting or purporting to act on your behalf.

2. As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys or other persons acting or purporting to act on behalf of the person in question.

3. As used herein, the term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments and other units therein, and shall include, but not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau or department.

4. As used herein, the term "document" means any medium upon which intelligence or information can be recorded or retrieved and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, report, record,

contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, including, without limitation, computer data files, data files, word-process documents, reports generated by databases, spreadsheets, e-mails, replicant data, file clones, backup data and files, file directories, residual data, deleted files still extent on hard drive, stored in computers, software, back-up tapes, file clones, etc., which are in your possession, custody or control or which were, but are no longer, in your possession, custody or control.

5. Each of the terms "identify," "identity" or "identification" or words of like import, means (i) when referring to a natural person, to provide information sufficient to notice a deposition of such person and to serve such person with process requiring his or her attendance at a place of examination and shall include, without limitation, his or her full name; present or last known address; the last date when such address was known or believed to be correct; his or her present or last known business affiliation, title or occupations, and each of his or her positions, titles or job description during the applicable period of time covered by any answer referring to such person, and (ii) when used in reference to a document including, without limitation, any business record, each such term means to provide information of each such document sufficient properly to identify each document in a subpoena pursuant to Rule 33, or by a request to produce pursuant to the *Alabama Rules of Civil Procedure* and shall include, without limitation, and separately stated as to each document its date; the name, address, professional title, job description, position and legal or technical background of its author; the name, address and position of its recipient and each and every person receiving a copy; a general description of its subject matter

and contents (in lieu of such description a copy, properly identified to the relevant interrogatory, may be attached to your answers); the name, file number or other designation or description of each and every file known to contain a copy; the name and address of the present custodian of each copy, including the original, and a description of the circumstances under which it was prepared, issued, mailed, sent or received and to or by whom issued, mailed, sent or received.

6. For each document asserted to be privileged or otherwise excludable from discovery, the basis for such claim of privilege or other ground for exclusion shall be stated. For any document no longer in existence, state how it passed out of existence, and identify each person having knowledge concerning such disposition and state the following:

- a. Identify the documents or information with sufficient particularity to allow the plaintiff to bring the matter before the court;
- b. State the nature of the privilege asserted;
- c. If it is a document or documents, identify its date, author, its addressee, any copy addresses and all persons who have received, copied or otherwise been permitted to see all or any part of the document or any copy thereof;
- d. Describe the subject matter discussed in the document and identify its present custodian.

7. Unless otherwise specified, each interrogatory relates to, covers and requests information for any and all periods prior to the date answers are filed and requires a continuing answer.

8. When an interrogatory requires you to "state the basis of" a particular claim, contention or allegation, state in your answer the identity of each and every communication and each and every legal theory that you think supports, refers to or evidences such claim, contention or allegation.

9. As used herein, the word "or" appearing in an interrogatory should not be read so as to eliminate any part of the interrogatory but, whenever applicable, it should have the same

meaning as the word "and." For example, an interrogatory stating "support or refer" should be read as "support and refer" if any answer that does both can be made.

INTERROGATORIES AND REQUESTS FOR PRODUCTION

1. Is your name correctly stated in the Complaint to this action? If not, please state the legal name by which you may be sued in Alabama courts.

RESPONSE:

2. Please identify the name, address, and telephone number of all your employees that were present at the Center for Reproductive Medicine's clinic on December 20, 2020 at or near the time Baby Aysenne was accessed and killed.

RESPONSE:

3. Please describe in detail all security measures and safeguards you had in place on December 20, 2020 to protect embryos from unauthorized access and destruction.

RESPONSE:

4. Please describe to the best of your current knowledge how the incident described in Plaintiffs' complaint occurred.

RESPONSE:

5. Please produce all Center for Reproductive Medicine's policies and procedures in effect in December of 2020 that relate or refer to the safety and protection of the embryos stored in your facility.

RESPONSE:

6. Please produce all Center for Reproductive Medicine's employee training documents that relate or refer to the safety and protection of the embryos stored in your facility.

RESPONSE:

7. Please produce a copy of all documents provided to law enforcement relating to the incident described in Plaintiffs' complaint.

RESPONSE:

8. Please produce a complete copy of all surveillance video relating to the incident described in Plaintiffs' complaint.

RESPONSE:

9. Please produce all non-privileged documents that you have generated relating in any way to the incident described in Plaintiffs' complaint, including, but not limited to, photographs, videos, memos, letters, correspondence, e-mails, text messages, incident reports, or other documents. If you contend that a certain responsive document/s are privileged, please produce a detailed privilege log sufficiently identifying the document and the basis of your privilege assertion.

RESPONSE:

10. Please produce a copy of all alarm data or other electronic data generated as a result of the eloped Mobile Infirmary patient accessing embryos in your lab.

RESPONSE:

11. Please identify the manufacturer and model of the cryopreservation unit utilized by you to preserve embryos and produce all operator manuals relating to the unit.

RESPONSE:

12. Please produce a complete color copy of your entire original medical chart, including, but not limited to, all nurses notes, all handwritten records and entries, all physician notes, progress notes, and all other notes, memoranda, or other written or printed or electronic information of any description whatsoever relating in any way to the Plaintiffs.

RESPONSE:

13. Please identify all persons known to this Defendant who have any knowledge or any information that supports in any way this Defendant's affirmative defenses, other defenses, claims or assertions relative to Plaintiffs' Complaint, by stating the following with respect to each such person:

- a. First, last and middle legal name;
- b. Affiliation with this Defendant;
- c. Job title or capacity;
- d. Employer;
- e. Address and telephone number; and
- f. Substance of person's knowledge.

RESPONSE:

14. Please identify each expert witness you intend to call at trial by providing the following information and/or producing the following materials:

- a. State the substance of the facts and opinions to which the expert is expected to testify;
- b. State the substance of the facts and opinions upon which the expert may rely in providing his or her opinions;
- c. Describe the expert's qualifications, including but not limited to the expert's field of expertise, education, employment history, and teaching or instructional experience;
- d. Please identify all publications written or edited by the expert;
- e. State the matters for which the expert has been retained to testify in the last five years, including the identity of the individual who retained the expert, the style of the case, the court in which the case was pending, and the identity of all other attorneys involved in the case
- f. State whether the expert has prepared an oral or written report of the expert's findings and/or conclusions;
- g. Produce a current resume or curriculum vitae for the expert;
- h. Produce all documents the expert has reviewed, analyzed, relied upon, or considered in this case; and
- i. Produce the expert's entire file.

RESPONSE:

15. Please identify (by stating the title, date, volume, issue number, page number and author) all publications, books, treatises, journals, pamphlets, texts, literature or other learned treatises upon which you or your expert witnesses may rely in support of opinions regarding allegations contained in Plaintiff's Complaint.

RESPONSE:

16. Please produce a privilege log identifying and describing any documents or portions of any documents (including individual entries) that have been withheld or redacted from any document on the basis of a privilege or work-product claim.

RESPONSE:

17. Please identify all documents or portions of any documents (including individual entries) that you claim have been lost or destroyed, and that relate in any way whatsoever to the above discovery requests.

RESPONSE:

18. Please produce complete copies of any policies of liability insurance of any type (including excess and/or umbrella insurance) that may conceivably provide coverage relative to the allegations and events described in the Complaint. Please ensure that the produced policies include the applicable policy limits.

RESPONSE:

Respectfully submitted,

/s/ Jack Smalley III

JACK SMALLEY III

Attorney for Plaintiffs

(SMA014)

LONG & LONG, PC
3600 Springhill Memorial Drive N
Mobile, Alabama 36608
Phone: (251) 445-6000
Facsimile: (251) 445-0282
Trip@longandlong.com

TO BE SERVED WITH THE COMPLAINT



IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

**FELICIA BURDICK-AYSENNE AND
SCOTT AYSENNE, in their individual
capacities and as parents and next friend of
BABY AYSENNE, deceased embryo/minor,**

Plaintiffs,

v.

**THE CENTER FOR REPRODUCTIVE
MEDICINE, P.C.; MOBILE INFIRMARY
ASSOCIATION d/b/a MOBILE
INFIRMARY MEDICAL CENTER; AND
FICTITIOUS DEFENDANTS A through I,
all of whose names and true legal identities
are otherwise unknown at this time, but who
will be added by amendment when
ascertained, jointly and severally;**

Defendants.

CIVIL ACTION NO.

CV-2021-_____

**TO BE SERVED
WITH THE COMPLAINT**

**PLAINTIFFS' FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION TO DEFENDANT MOBILE INFIRMARY
ASSOCIATION d/b/a MOBILE INFIRMARY MEDICAL CENTER**

COME NOW the Plaintiffs, by and through undersigned counsel, and pursuant to the *Alabama Rules of Civil Procedure*, request Defendant **MOBILE INFIRMARY ASSOCIATION d/b/a MOBILE INFIRMARY MEDICAL CENTER** answer each of the following Interrogatories under oath, in writing, separately, in the fullest detail possible, and in accordance with the definitions and instructions set forth below, the answers shall be signed by the person making them, and a copy of your answers, together with your objections, if any, shall be served no later than forty five (45) days after service of these Discovery Requests.

INSTRUCTIONS

You are under a duty to seasonably supplement your response with respect to any interrogatory directly addressed to (1) the identity and location of persons having knowledge of

discoverable matters, and (2) the identity of each person expected to be called as an expert witness at trial, the subject matter on which he is expected to testify, and the substance of his testimony. In addition, you are under a duty to amend a prior response if you obtain information on the basis of which you know that the response was incorrect when made, or that the response, though correct when made, is no longer true, and the circumstances are such that a failure to amend the response is, in substance, a knowing concealment.

DEFINITIONS

1. As used herein, the terms "you," "your," or "yourself" refer to Defendant, each of you agents, representatives and attorneys and each person acting or purporting to act on your behalf.

2. As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys or other persons acting or purporting to act on behalf of the person in question.

3. As used herein, the term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments and other units therein, and shall include, but not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau or department.

4. As used herein, the term "document" means any medium upon which intelligence or information can be recorded or retrieved and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, report, record,

contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, including, without limitation, computer data files, data files, word-process documents, reports generated by databases, spreadsheets, e-mails, replicant data, file clones, backup data and files, file directories, residual data, deleted files still extent on hard drive, stored in computers, software, back-up tapes, file clones, etc., which are in your possession, custody or control or which were, but are no longer, in your possession, custody or control.

5. Each of the terms "identify," "identity" or "identification" or words of like import, means (i) when referring to a natural person, to provide information sufficient to notice a deposition of such person and to serve such person with process requiring his or her attendance at a place of examination and shall include, without limitation, his or her full name; present or last known address; the last date when such address was known or believed to be correct; his or her present or last known business affiliation, title or occupations, and each of his or her positions, titles or job description during the applicable period of time covered by any answer referring to such person, and (ii) when used in reference to a document including, without limitation, any business record, each such term means to provide information of each such document sufficient properly to identify each document in a subpoena pursuant to Rule 33, or by a request to produce pursuant to the *Alabama Rules of Civil Procedure* and shall include, without limitation, and separately stated as to each document its date; the name, address, professional title, job description, position and legal or technical background of its author; the name, address and position of its recipient and each and every person receiving a copy; a general description of its subject matter

and contents (in lieu of such description a copy, properly identified to the relevant interrogatory, may be attached to your answers); the name, file number or other designation or description of each and every file known to contain a copy; the name and address of the present custodian of each copy, including the original, and a description of the circumstances under which it was prepared, issued, mailed, sent or received and to or by whom issued, mailed, sent or received.

6. For each document asserted to be privileged or otherwise excludable from discovery, the basis for such claim of privilege or other ground for exclusion shall be stated. For any document no longer in existence, state how it passed out of existence, and identify each person having knowledge concerning such disposition and state the following:

- a. Identify the documents or information with sufficient particularity to allow the plaintiff to bring the matter before the court;
- b. State the nature of the privilege asserted;
- c. If it is a document or documents, identify its date, author, its addressee, any copy addresses and all persons who have received, copied or otherwise been permitted to see all or any part of the document or any copy thereof;
- d. Describe the subject matter discussed in the document and identify its present custodian.

7. Unless otherwise specified, each interrogatory relates to, covers and requests information for any and all periods prior to the date answers are filed and requires a continuing answer.

8. When an interrogatory requires you to "state the basis of" a particular claim, contention or allegation, state in your answer the identity of each and every communication and

each and every legal theory that you think supports, refers to or evidences such claim, contention or allegation.

9. As used herein, the word "or" appearing in an interrogatory should not be read so as to eliminate any part of the interrogatory but, whenever applicable, it should have the same meaning as the word "and." For example, an interrogatory stating "support or refer" should be read as "support and refer" if any answer that does both can be made.

INTERROGATORIES AND REQUESTS FOR PRODUCTION

1. Is your name correctly stated in the Complaint to this action? If not, please state the legal name by which you may be sued in Alabama courts.

RESPONSE:

2. Please identify the name, address, and telephone number of the Mobile Infirmary patient that killed Baby Aysenne on or about December 20, 2020.

RESPONSE:

3. Please produce a complete color copy of your entire original medical chart, including, but not limited to, all nurses notes, all handwritten records and entries, all physician notes, progress notes, and all other notes, memoranda, or other written or printed or electronic information of any description whatsoever relating in any way to the person identified in interrogatory number 2 above.

RESPONSE:

4. Please produce a complete electronic "AUDIT TRAIL" and all "AUDIT DATA" showing each and every electronic touch to the person identified in interrogatory number 2 above's electronic medical record ("EMR") and any and all other data captured in the Electronic Medical Record system utilized by you during the treatment and care of this person.

- **THIS REQUEST INCLUDES ANY AND ALL AUDIT DATA CAPTURED AND MAINTAINED PURSUANT TO THE REQUIREMENTS OF 45 CFR § 164.312**
- **THIS REQUEST INCLUDES ANY AND ALL AUDIT DATA SHOWING:**
 - The EMR access and charting activity of all staff and/or physicians
 - Any and all actual or attempted changes, additions, deletions, or modifications of any kind or nature whatsoever to this patient's EMR made by any person, entity, computer program, or through any other means.
 - Every actual or attempted access made to the patient's EMR from December 20, 2020 to the present.
 - Every actual or attempted print, transmit, or delete activity by any user at any time between December 20, 2020 and the present.
 - Every instance in which the patient's bar code was scanned by any user or care provider for any purpose.
 - All patient monitoring data.

THIS REQUEST IS SEEKING A COMPLETE AUDIT TRAIL AND ALL AUDIT DATA FROM EACH COMPUTER SOFTWARE SYSTEM UTILIZED IN THE TREATMENT AND CARE OF THE PATIENT IDENTIFIED IN RESPONSE TO INTERROGATORY NUMBER 2 ABOVE.

5. Please produce a complete electronic "**ACCESS LOG**" that shows the identity of each person who has accessed the patient identified in response to interrogatory number 2 above's electronic medical record and further identifies the location of the computer utilized by each individual to access the electronic medical record and the date and time of each access.

RESPONSE:

6. If on December 20, 2020 Mobile Infirmity Hospital required staff members to wear or utilize a badge or other device that would provide real time staff location, staff response times, staff time in patient rooms, staff time in non-patient areas, and/or other staff information to the

hospital's computer system/s, please identify the name and manufacturer of the staff activity system used and produce:

- A. A list of the specific badge or device number assigned to all hospital staff who were in any way involved in the care and treatment of the patient identified in response to interrogatory number 2,
- B. A complete unredacted color copy all data captured for each identified individual that in any way relates to the care and treatment provided the patient identified in response to interrogatory number 2, including, but not limited to, total number of room visits, the times they entered the patient's room, the time spent in the patient's room, and the times they exited the patient's room.
- C. Please produce a complete color copy all "**Staff Activity Report/s**" or and/or other reports that detail the activity of each identified individual on December 20, 2020 from the time the patient identified in response to interrogatory number 2 was admitted until the incident described in Plaintiffs' complaint. This requests specifically seeks all reports that show the activity and location of each identified individual **for the entire time frame identified above**. Please redact the names and any and all protected personal identifiable healthcare information for any patient other than the patient identified in response to interrogatory number 2.
- D. If any of the above requested staff activity information is no longer available, please describe in detail: (1) why the information is no longer available; (2) when the information was lost or destroyed; (3) the identity of the individuals who destroyed the information; and (4) produce a copy of your hospital's storage and retention policies relevant to the preservation of this information.

RESPONSE:

7. Please produce a copy of all operator logs, call logs, call information sheets, or other data in any way associated with any calls made from the hospital floor where the patient identified in response to interrogatory number 2 was admitted that relate to this patient's care or elopement.

RESPONSE:

8. Please produce a complete unredacted color copy of any and all patient surveillance, staff-to-staff communications, patient-to-staff communications, automatic and

manual message generation, automatic alarm suppression, call cancellation reports, code reports, and all other information captured and/or generated by Mobile Infirmary Hospital's computerized staff clinical workflow management software, staff locating software, nurse call systems and software, asset tracking software, or any other computerized patient care and/or staff reporting systems for any and all care rendered to patient identified in response to interrogatory number 2.

RESPONSE:

9. Please state the full names, addresses, and job titles of each of your agents, servants, and/or employees who provided medical and/or nursing care and/or other services to the patient identified in response to interrogatory number 2 above, and for each person listed, identify the time(s) the care was rendered, the type of care rendered, and the job title or position of the person rendering the care. Please do not respond by simply referring Plaintiffs to the medical records generally unless this Defendant contends that each and every individual identified in the patient's medical records is in fact an agent, servant, and/or employee of this Defendant.

RESPONSE:

10. Please describe to the best of your current knowledge how the incident described in Plaintiffs' complaint occurred.

RESPONSE:

11. Please produce all Mobile Infirmary Hospital policies and procedures in effect in December of 2020 that relate or refer to elopement of hospital patients.

RESPONSE:

12. Please produce all Mobile Infirmary Hospital training documents or computer-based learning modules that were provided to the hospital staff responsible for caring for the

patient identified in response to interrogatory number 2 above prior to December 20, 2020 relating or referring to elopement of hospital patients.

RESPONSE:

13. Please produce a copy of any and all documents provided to law enforcement relating to the patient identified in response to interrogatory number 2 above or the incident that is the basis of Plaintiffs' complaint.

RESPONSE:

14. Please produce a complete copy of all surveillance video showing the actions of the patient identified in response to interrogatory number 2 above or relating in anyway whatsoever to the incident described in Plaintiffs' complaint.

RESPONSE:

15. Please produce all non-privileged documents that you have generated relating in any way to the incident described in Plaintiffs' complaint, including, but not limited to, memos, letters, correspondence, e-mails, text messages, incident reports, or other documents. If you contend that a certain responsive document/s are privileged, please produce a detailed privilege log sufficiently identifying the document and the basis of your privilege assertion.

RESPONSE:

16. Please identify all persons known to this Defendant who have any knowledge or any information that supports in any way this Defendant's affirmative defenses, other defenses, claims or assertions relative to Plaintiff's Complaint, by stating the following with respect to each such person:

- a. First, last and middle legal name;
- b. Affiliation with this Defendant;
- c. Job title or capacity;
- d. Employer;

- e. Address and telephone number;
- f. Substance of person's knowledge.

RESPONSE:

17. Please identify each expert witness you intend to call at trial by providing the following information and/or producing the following materials:

- a. State the substance of the facts and opinions to which the expert is expected to testify;
- b. State the substance of the facts and opinions upon which the expert may rely in providing his or her opinions;
- c. Describe the expert's qualifications, including but not limited to the expert's field of expertise, education, employment history, and teaching or instructional experience;
- d. Please identify all publications written or edited by the expert;
- e. State the matters for which the expert has been retained to testify in the last five years, including the identity of the individual who retained the expert, the style of the case, the court in which the case was pending, and the identity of all other attorneys involved in the case
- f. State whether the expert has prepared an oral or written report of the expert's findings and/or conclusions;
- g. Produce a current resume or curriculum vitae for the expert;
- h. Produce all documents the expert has reviewed, analyzed, relied upon, or considered in this case, and
- i. Produce the expert's entire file.

RESPONSE:

18. Please identify (by stating the title, date, volume, issue number, page number and author) all publications, books, treatises, journals, pamphlets, texts, literature or other learned treatises upon which you or your expert witnesses may rely in support of opinions regarding allegations contained in Plaintiff's Complaint.

RESPONSE:

19. Please produce a privilege log identifying and describing any documents or portions of any documents (including individual entries) that have been withheld or redacted from any document on the basis of a privilege or work-product claim.

RESPONSE:

20. Please identify all documents or portions of any documents (including individual entries) that you claim have been lost or destroyed, and that relate in any way whatsoever to the above discovery requests.

RESPONSE:

21. Please produce complete copies of any policies of liability insurance of any type (including excess and/or umbrella insurance) that may conceivably provide coverage relative to the allegations and events described in the Complaint. Please ensure that the produced policies include the applicable policy limits.

RESPONSE:

Respectfully submitted,

/s/ Jack Smalley III

JACK SMALLEY III

Attorney for Plaintiffs

(SMA014)

LONG & LONG, PC
 3600 Springhill Memorial Drive N
 Mobile, Alabama 36608
 Phone: (251) 445-6000
 Facsimile: (251) 445-0282
Trip@longandlong.com

TO BE SERVED WITH THE COMPLAINT



ELECTRONICALLY FILED
9/16/2021 4:02 PM
02-CV-2021-901640.00
CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA
JOJO SCHWARZAUER, CLERK

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

**FELICIA BURDICK-AYSENNE AND
SCOTT AYSENNE, in their individual
capacities and as parents and next friend of
BABY AYSENNE, deceased embryo/minor,**

Plaintiffs,

v.

**THE CENTER FOR REPRODUCTIVE
MEDICINE, P.C.; MOBILE INFIRMARY
ASSOCIATION d/b/a MOBILE
INFIRMARY MEDICAL CENTER; AND
FICTITIOUS DEFENDANTS A through I,
all of whose names and true legal identities
are otherwise unknown at this time, but who
will be added by amendment when
ascertained, jointly and severally;**

Defendants.

CIVIL ACTION NO.

CV-2021-_____

NOTICE OF DEPOSITION

TO: The Center for Reproductive Medicine, P.C.
c/o Thomas F. Garth (Registered Agent)
2 North Royal St.
Mobile, AL 36602

Mobile Infirmary Association
d/b/a Mobile Infirmary Medical Center
c/o D. Mark Nix (Registered Agent)
5 Mobile Infirmary Circle
Mobile, AL 36607

DEPONENT: GEORGE T. KOULIANOS, M.D.

DATE: TBD

TIME: TBD

LOCATION: TBD

COURT REPORTER: TBD

Please take notice that undersigned counsel for the Plaintiffs in this case will take the deposition of the above-named deponent at the time, date, and location shown above, pursuant to the *Alabama Rules of Civil Procedure* before an officer duly authorized to administer oaths and swear witnesses in said State. You are invited to attend and examine the witness.

The undersigned, by affixing his signature below, certifies that he has served a copy of this notice on counsel for all parties to this proceeding, properly addressed and first class postage prepaid on this 15th day of September, 2021.

Respectfully submitted,

/s/ Jack Smalley III

JACK SMALLEY III

Attorney for Plaintiff

(SMA014)

LONG & LONG, PC
3600 Springhill Memorial Drive N
Mobile, Alabama 36608
Phone: (251) 445-6000
Facsimile: (251) 445-0282
Trip@longandlong.com



ELECTRONICALLY FILED
9/16/2021 4:02 PM
02-CV-2021-901640.00
CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA
JOJO SCHWARZAUER, CLERK

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

**FELICIA BURDICK-AYSENNE AND
SCOTT AYSENNE, in their individual
capacities and as parents and next friend of
BABY AYSENNE, deceased embryo/minor,**

Plaintiffs,

v.

**THE CENTER FOR REPRODUCTIVE
MEDICINE, P.C.; MOBILE INFIRMARY
ASSOCIATION d/b/a MOBILE
INFIRMARY MEDICAL CENTER; AND
FICTITIOUS DEFENDANTS A through I,
all of whose names and true legal identities
are otherwise unknown at this time, but who
will be added by amendment when
ascertained, jointly and severally;**

Defendants.

CIVIL ACTION NO.

CV-2021-_____

NOTICE OF DEPOSITION

TO: The Center for Reproductive Medicine, P.C.
c/o Thomas F. Garth (Registered Agent)
2 North Royal St.
Mobile, AL 36602

Mobile Infirmary Association
d/b/a Mobile Infirmary Medical Center
c/o D. Mark Nix (Registered Agent)
5 Mobile Infirmary Circle
Mobile, AL 36607

DEPONENT: GEORGE B. INGE, M.D.

DATE: TBD

TIME: TBD

LOCATION: TBD

COURT REPORTER: TBD

Please take notice that undersigned counsel for the Plaintiffs in this case will take the deposition of the above-named deponent at the time, date, and location shown above, pursuant to the *Alabama Rules of Civil Procedure* before an officer duly authorized to administer oaths and swear witnesses in said State. You are invited to attend and examine the witness.

The undersigned, by affixing his signature below, certifies that he has served a copy of this notice on counsel for all parties to this proceeding, properly addressed and first class postage prepaid on this 15th day of September, 2021.

Respectfully submitted,

/s/ Jack Smalley III

JACK SMALLEY III

Attorney for Plaintiff

(SMA014)

LONG & LONG, PC
3600 Springhill Memorial Drive N
Mobile, Alabama 36608
Phone: (251) 445-6000
Facsimile: (251) 445-0282
Trip@longandlong.com



ELECTRONICALLY FILED
9/16/2021 4:02 PM
02-CV-2021-901640.00
CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA
JOJO SCHWARZAUER, CLERK

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

**FELICIA BURDICK-AYSENNE AND
SCOTT AYSENNE, in their individual
capacities and as parents and next friend of
BABY AYSENNE, deceased embryo/minor,**

Plaintiffs,

v.

**THE CENTER FOR REPRODUCTIVE
MEDICINE, P.C.; MOBILE INFIRMARY
ASSOCIATION d/b/a MOBILE
INFIRMARY MEDICAL CENTER; AND
FICTITIOUS DEFENDANTS A through I,
all of whose names and true legal identities
are otherwise unknown at this time, but who
will be added by amendment when
ascertained, jointly and severally;**

Defendants.

CIVIL ACTION NO.

CV-2021-_____

NOTICE OF DEPOSITION

TO: The Center for Reproductive Medicine, P.C.
c/o Thomas F. Garth (Registered Agent)
2 North Royal St.
Mobile, AL 36602

Mobile Infirmary Association
d/b/a Mobile Infirmary Medical Center
c/o D. Mark Nix (Registered Agent)
5 Mobile Infirmary Circle
Mobile, AL 36607

DEPONENT: ADELINA M. EMMI, M.D.

DATE: TBD

TIME: TBD

LOCATION: TBD

COURT REPORTER: TBD

Please take notice that undersigned counsel for the Plaintiffs in this case will take the deposition of the above-named deponent at the time, date, and location shown above, pursuant to the *Alabama Rules of Civil Procedure* before an officer duly authorized to administer oaths and swear witnesses in said State. You are invited to attend and examine the witness.

The undersigned, by affixing his signature below, certifies that he has served a copy of this notice on counsel for all parties to this proceeding, properly addressed and first class postage prepaid on this 15th day of September, 2021.

Respectfully submitted,

/s/ Jack Smalley III

JACK SMALLEY III

Attorney for Plaintiff

(SMA014)

LONG & LONG, PC
3600 Springhill Memorial Drive N
Mobile, Alabama 36608
Phone: (251) 445-6000
Facsimile: (251) 445-0282
Trip@longandlong.com



ELECTRONICALLY FILED
9/16/2021 4:02 PM
02-CV-2021-901640.00
CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA
JOJO SCHWARZAUER, CLERK

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

**FELICIA BURDICK-AYSENNE AND
SCOTT AYSENNE, in their individual
capacities and as parents and next friend of
BABY AYSENNE, deceased embryo/minor,**

Plaintiffs,

v.

**THE CENTER FOR REPRODUCTIVE
MEDICINE, P.C.; MOBILE INFIRMARY
ASSOCIATION d/b/a MOBILE
INFIRMARY MEDICAL CENTER; AND
FICTITIOUS DEFENDANTS A through I,
all of whose names and true legal identities
are otherwise unknown at this time, but who
will be added by amendment when
ascertained, jointly and severally;**

Defendants.

CIVIL ACTION NO.

CV-2021-_____

NOTICE OF DEPOSITION

TO: The Center for Reproductive Medicine, P.C.
c/o Thomas F. Garth (Registered Agent)
2 North Royal St.
Mobile, AL 36602

Mobile Infirmary Association
d/b/a Mobile Infirmary Medical Center
c/o D. Mark Nix (Registered Agent)
5 Mobile Infirmary Circle
Mobile, AL 36607

DEPONENT: SUZANNE DEGELOS

DATE: TBD

TIME: TBD

LOCATION: TBD

COURT REPORTER: TBD

Please take notice that undersigned counsel for the Plaintiffs in this case will take the deposition of the above-named deponent at the time, date, and location shown above, pursuant to the *Alabama Rules of Civil Procedure* before an officer duly authorized to administer oaths and swear witnesses in said State. You are invited to attend and examine the witness.

The undersigned, by affixing his signature below, certifies that he has served a copy of this notice on counsel for all parties to this proceeding, properly addressed and first class postage prepaid on this 15th day of September, 2021.

Respectfully submitted,

/s/ Jack Smalley III

JACK SMALLEY III

Attorney for Plaintiff

(SMA014)

LONG & LONG, PC
3600 Springhill Memorial Drive N
Mobile, Alabama 36608
Phone: (251) 445-6000
Facsimile: (251) 445-0282
Trip@longandlong.com



ELECTRONICALLY FILED
9/16/2021 4:02 PM
02-CV-2021-901640.00
CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA
JOJO SCHWARZAUER, CLERK

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

**FELICIA BURDICK-AYSENNE AND
SCOTT AYSENNE, in their individual
capacities and as parents and next friend of
BABY AYSENNE, deceased embryo/minor,**

Plaintiffs,

v.

**THE CENTER FOR REPRODUCTIVE
MEDICINE, P.C.; MOBILE INFIRMARY
ASSOCIATION d/b/a MOBILE
INFIRMARY MEDICAL CENTER; AND
FICTITIOUS DEFENDANTS A through I,
all of whose names and true legal identities
are otherwise unknown at this time, but who
will be added by amendment when
ascertained, jointly and severally;**

Defendants.

CIVIL ACTION NO.

CV-2021-_____

NOTICE OF DEPOSITION

TO: The Center for Reproductive Medicine, P.C.
c/o Thomas F. Garth (Registered Agent)
2 North Royal St.
Mobile, AL 36602

Mobile Infirmary Association
d/b/a Mobile Infirmary Medical Center
c/o D. Mark Nix (Registered Agent)
5 Mobile Infirmary Circle
Mobile, AL 36607

DEPONENT: DAVID HICKMAN

DATE: TBD

TIME: TBD

LOCATION: TBD

COURT REPORTER: TBD

Please take notice that undersigned counsel for the Plaintiffs in this case will take the deposition of the above-named deponent at the time, date, and location shown above, pursuant to the *Alabama Rules of Civil Procedure* before an officer duly authorized to administer oaths and swear witnesses in said State. You are invited to attend and examine the witness.

The undersigned, by affixing his signature below, certifies that he has served a copy of this notice on counsel for all parties to this proceeding, properly addressed and first class postage prepaid on this 15th day of September, 2021.

Respectfully submitted,

/s/ Jack Smalley III

JACK SMALLEY III

Attorney for Plaintiff

(SMA014)

LONG & LONG, PC
3600 Springhill Memorial Drive N
Mobile, Alabama 36608
Phone: (251) 445-6000
Facsimile: (251) 445-0282
Trip@longandlong.com