

**IN THE MISSOURI CIRCUIT COURT  
FOR THE NINETEENTH JUDICIAL CIRCUIT  
COUNTY OF COLE**

MARY DOE, )  
)  
    **Plaintiff,** )  
)  
v. )  
)  
**JEREMIAH JAY NIXON,** )  
**GOVERNOR OF THE STATE OF** )  
**MISSOURI,** )  
)  
**and** )  
)  
**CHRIS KOSTER, ATTORNEY** )  
**GENERAL OF THE STATE OF** )  
**MISSOURI,** )  
)  
**and** )  
)  
**JEFFREY D. CARTER, M.D.,** )  
**DIRECTOR OF THE MISSOURI** )  
**BOARD OF REGISTRATION FOR** )  
**THE HEALING ARTS,** )  
)  
**and** )  
)  
**DAVID E. TANNEHILL, D.O.,** )  
**SECRETARY OF THE MISSOURI** )  
**BOARD OF REGISTRATION FOR** )  
**THE HEALING ARTS,** )  
)  
**and** )  
)  
**JAMES A. DIRENNA, D.O.,** )  
**MEMBER OF THE MISSOURI** )  
**BOARD OF REGISTRATION FOR** )  
**THE HEALING ARTS,** )  
)  
**and** )  
)  
**JADE D. JAMES, M.D.,** )  
**MEMBER OF THE MISSOURI** )  
**BOARD OF REGISTRATION FOR** )

**Case No. 15AC-CC00205**

THE HEALING ARTS, )  
 )  
 and )  
 )  
 DAVID A. POGGEMEIER, M.D., )  
 MEMBER OF THE MISSOURI )  
 BOARD OF REGISTRATION FOR )  
 THE HEALING ARTS, )  
 )  
 and )  
 )  
 SARAH MARTIN-ANDERSON, )  
 PHD, MPP, MPH, PUBLIC )  
 MEMBER OF THE MISSOURI )  
 BOARD OF REGISTRATION FOR )  
 THE HEALING ARTS, )  
 )  
 and )  
 )  
 JOHN DOE I AND JOHN DOE II )  
 )  
 Defendants )

**SECOND AMENDED PETITION**

Plaintiff Mary Doe, through her counsel W. James Mac Naughton and Ronald J. Eisenberg and Robert Schultz of Schultz & Associates LLP, alleges that at all times relevant to this action:

**Parties and Jurisdiction**

1. Plaintiff is an adult and competent woman residing in Missouri.
2. Mary Doe is not Plaintiff’s real name; Plaintiff needs to keep her real name confidential because this action involves her most intimate personal beliefs and she will be subject to personal attack for bringing this action.
3. Defendant Jeremiah Jay Nixon is the Governor of the State of Missouri.
4. Defendant Chris Koster is the Attorney General of the State of Missouri.

5. Defendant Jeffrey D. Carter, M.D. is the Chairman of the Missouri Board of Registration of the Healing Arts (the “Board”).

6. Defendant David E. Tannehill, D.O., is the Secretary of the Board.

7. Defendant James A. DiRenna, D.O., is a Member of the Board.

8. Defendant Jade D. James, M.D., is a Member of the Board.

9. Defendant David A. Poggemeier, M.D., is a Member of the Board.

10. Defendant Sarah Martin-Anderson, PhD, MPP, MPH, is a Member of the Board.

11. Defendants Jeffrey Carter, M.D. David E. Tannehill, D.O., James A. DiRenna, D.O., Jade D. James, M.D., David A. Poggemeier, M.D., and Sarah Martin-Anderson, PhD, MPP, MPH are referred to herein jointly and severally as the Board Defendants.

12. Defendants Jeremiah Nixon, Chris Koster and the Board Defendants are referred to herein jointly and severally as the State Defendants.

13. Defendants John Doe I and John Doe II are medical professionals licensed by the State of Missouri to deliver healthcare services in Missouri (the “Healthcare Defendants”).

14. The Healthcare Defendants are physicians or qualified professionals within the meaning of Mo. Rev. Stat. §§ 188.015, et seq. subject to regulation by the Board Defendants.

15. John Doe I and John Doe II are not the real names of the Healthcare Defendants. Plaintiff does not know the real names of the Healthcare Defendants. Moreover, Plaintiff needs to keep the real names of the Healthcare Defendants

confidential to protect her privacy because this action involves Plaintiff's most intimate personal beliefs and disclosure of the identities of the Healthcare Defendants could subject her and them to personal attack for Plaintiff bringing this action.

16. State Defendants and their agents and officers are responsible for the enforcement of Missouri state law including the Religious Freedom Restoration Act, Mo. Rev. Stat. §§ 1.302, et seq. and the regulation of abortions set forth in Mo. Rev. Stat. §§ 188.015, et seq.

17. Each of the State Defendants is a "government authority" within the meaning of Religious Freedom Restoration Act, Mo. Rev. Stat. §§ 1.302 et seq. for the purposes of regulating abortions pursuant to Mo. Rev. Stat. §§ 188.015, et seq.

18. The Healthcare Defendants jointly and severally implement the regulation of abortions set forth in Mo. Rev. Stat. §§ 188.015, et seq. and are subject to the loss of their license and other sanctions if they fail to implement the regulation of abortions pursuant to Mo. Rev. Stat. §§ 188.015, et seq.

19. Each of the Healthcare Defendants is a "government authority" within the meaning of Religious Freedom Restoration Act, Mo. Rev. Stat. §§ 1.302, et seq. for the purposes of regulating abortions pursuant to Mo. Rev. Stat. §§ 188.015, et seq.

20. This court has jurisdiction under Mo. Rev. Stat. § 478.070.

21. Venue is proper.

### **Plaintiff's Pregnancy and Beliefs**

22. In or about mid February 2015, Plaintiff became pregnant with an "unborn child," as that term is used in Mo. Rev. Stat. § 188.015(9).

23. The “unborn child” carried by Plaintiff was not “viable,” as that term is used in Mo. Rev. Stat. § 188.015(10).

24. For purposes of this Petition, an “unborn child” that is not “viable” is referred to as “Fetal Tissue.”

25. In or about March 2015, Plaintiff learned she was pregnant and began taking the actions necessary for the removal of her Fetal Tissue from her body (the “Removal Procedure”).

26. The Removal Procedure includes, but is not limited to, an “abortion,” as that term is used in Mo. Rev. Stat. § 188.015(1).

27. Plaintiff has deeply held religious beliefs (“Plaintiff’s Tenets”) that:

- a. Her body is inviolable and subject to her will alone; and
- b. She must make decisions regarding her health based on the best scientific understanding of the world, even if the science does not comport with the religious or political beliefs of others; and
- c. Her Fetal Tissue is part of her body and not a separate, unique, living human being; and
- d. She alone decides whether, when and how to proceed with the Removal Procedure; and
- e. She may, in good conscience, have an abortion without regard to the current or future condition of her Fetal Tissue; and
- f. She must not support religious, philosophical or political beliefs that imbue her Fetal Tissue with an existence separate, apart or unique from her body; and

g. She must not support any religious, philosophical or political beliefs that cede to control to a third party over the Removal Procedure; and

h. She must not support any religious, philosophical or political belief that promotes the idea Fetal Tissue is a human being or imbued with an identity separate, apart and unique from her body.

28. All of the actions Plaintiff took or did not take during the course of the Removal Procedure were substantially motivated by Plaintiff's Tenets, except to the extent her actions or inactions were required by the statutory preconditions to an abortion set by Mo. Stat. Rev. §§ 188.027.1(2) and 188.027.3.

#### **The Statutory Preconditions to an Abortion**

29. By operation of Mo. Rev. Stat. §§ 188.015, et seq., an abortion must be performed by a licensed physician subject to certain preconditions.

30. Mo. Rev. Stat. § 188.027.3 requires that, as a precondition for an abortion and as part of the Removal Procedure, "[t]he physician who is to perform or induce the abortion or a qualified professional shall provide [Plaintiff] with the opportunity to view at least seventy-two hours prior to the abortion an active ultrasound of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible."

31. The active ultrasound described in Mo. Rev. Stat. § 188.027.3 is referred to herein as the "Ultrasound."

32. The opportunity to view an active ultrasound of the Fetal Tissue and hear the heartbeat of the Fetal Tissue if the heartbeat is audible is referred to herein as the "Audible Heartbeat Offer."

33. The seventy-two hour period described in Mo. Rev. Stat. § 188.027.3 is

referred to herein as the “Waiting Period.”

34. Mo. Rev. Stat. § 188.027.12 provides that if “the provisions in subsections 1 and 8 of this section requiring a seventy-two-hour waiting period for an abortion are ever temporarily or permanently restrained or enjoined by judicial order, then the waiting period for an abortion shall be twenty-four hours.”

35. For purposes of this Petition, the twenty-four hour waiting period described in Mo. Rev. Stat. § 188.027.12 is included in the definition of the Waiting Period.

36. Mo. Rev. Stat. § 188.027.1(2) requires that prior to obtaining an abortion and as part of the Removal Procedure, Plaintiff be given printed materials prepared by the Missouri Department of Health and Senior Services (“Department”) that

describe the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from conception to full term, including color photographs or images of the developing unborn child at two-week gestational increments. Such descriptions shall include information about brain and heart functions, the presence of external members and internal organs during the applicable stages of development and information on when the unborn child is viable. The printed materials shall prominently display the following statement: “The life of each human being begins at conception. Abortion will terminate the life of a separate, unique, living human being.”

37. The information described in Mo. Rev. Stat. § 188.027.1(2) is printed and distributed by the Department in a booklet, a copy of which is attached as Exhibit A (“Booklet”).

38. The Ultrasound, Audible Heartbeat Offer, Waiting Period and Booklet promote the religious belief promulgated by the State of Missouri that “[t]he life of each human being begins at conception. Abortion will terminate the life of a separate, unique, living human being;” (the “Missouri Tenet”).

39. The Ultrasound, Audible Heartbeat Offer, Waiting Period and Booklet cause doubt, guilt and shame in a pregnant woman who does not believe the Missouri Tenet.

40. The purpose and effect of the Ultrasound, Audible Heartbeat Offer, Waiting Period and Booklet is to discourage a pregnant woman from getting an abortion.

**The Healthcare Defendants’  
Implementation of the Missouri Tenet**

41. The only place in Missouri where a woman can legally get an abortion is at a facility in St. Louis City, Missouri staffed by the Healthcare Defendants.

42. As a precondition to providing an abortion and part of the Removal Procedure, the Healthcare Defendants or their agents acting under their direction give the Booklet to a pregnant woman and requires her to acknowledge its receipt in writing.

43. As a precondition to providing an abortion and part of the Removal Procedure, the Healthcare Defendants require a pregnant woman to have the Ultrasound and receive the Audible Heartbeat Offer.

44. As a precondition to providing an abortion and part of the Removal Procedure, the Healthcare Defendants require a pregnant woman to wait three (3) full calendar days after receiving the Ultrasound, Audible Heartbeat Offer and Booklet before providing an abortion on the fourth calendar day.

45. By adhering to the Ultrasound, Audible Heartbeat Offer, Waiting Period and Booklet preconditions, the Healthcare Defendants implement and give their imprimatur to the promotion of the Missouri Tenet.

46. The Healthcare Defendants are coerced to implement and give their imprimatur to the promotion of the Missouri Tenet because they could suffer the loss of



their licenses and/or other sanctions imposed by the State Defendants if they do not comply with Mo. Rev. Stat. §§ 188.015, et seq.

### **The Removal Procedure**

47. Starting in March 2015 and as part of the Removal Procedure, Plaintiff began gathering the information and money necessary to get an abortion.

48. Plaintiff was a resident of Greene County and learned she would have to travel to St. Louis to get an abortion.

49. Plaintiff learned the Waiting Period required her to stay in St. Louis for at least four (4) calendar days and she needed to make arrangements for her lodging in St. Louis for the duration of the Waiting Period.

50. Plaintiff learned she would be required to get the Ultrasound and receive the Audible Heartbeat Offer as a precondition of getting an abortion.

51. Plaintiff learned she would have to pay Planned Parenthood for the cost of the abortion, which included the Ultrasound and Audible Heartbeat Offer.

52. In March and April 2015, Plaintiff worked to earn the money necessary to pay for:

- a. The cost of traveling to St. Louis; and
- b. The cost of the abortion, including the cost of the Ultrasound and Audible Heartbeat Offer; and
- c. The cost of lodging for the duration of the Waiting Period; and
- d. Other necessary costs of the Removal Procedure.

53. Plaintiff had to work approximately fifteen (15) hours to earn the money necessary to pay for the Ultrasound and Audible Heartbeat Offer.

54. Plaintiff had to work approximately thirty (30) hours to earn the money necessary to pay for the lodging she would need for the duration of the Waiting Period.

55. The approximately forty-five (45) hours Plaintiff worked to earn the money necessary to pay for the Ultrasound, the Audible Heartbeat Offer and lodging costs for the Waiting Period was time spent solely to enable the Healthcare Defendants to provide an abortion that complied with Mo. Rev. Stat. § 188.027.3.

56. Mo. Rev. Stat. § 188.027.3 thus caused Plaintiff to devote approximately forty-five (45) hours of her life to finance the promotion of the Missouri Tenet to herself, a religious doctrine she does not believe.

57. Mo. Rev. Stat. § 188.027.3 thus caused Plaintiff to devote approximately forty-five (45) hours of her life to finance the promotion of the Missouri Tenet to herself, a religious doctrine she does not believe.

58. Mo. Rev. Stat. § 188.027.3 required Plaintiff to engage in conduct in March and April 2015 that restricted Plaintiff's free exercise of Plaintiff's Tenets because Plaintiff was required to:

- a. Cede control to the State of Missouri over when and how she would get an abortion.
- b. Cede control to the State of Missouri over how she would spend the approximately forty-five (15) hours necessary to earn the money required to pay for the Ultrasound, Audible Heartbeat Offer and Waiting Period; and
- c. Earn money necessary to promote to herself that the Missouri Tenet is true.

59. On May 7, 2015, Plaintiff traveled by bus from Greene County to St. Louis.

60. On May 7, 2015, Plaintiff traveled by bus from Greene County to St. Louis.

61. On May 8, 2015, Plaintiff went to the Healthcare Defendants and asked them for an abortion. At that time, Plaintiff delivered a letter to the Healthcare Defendants, a copy of which is attached as Exhibit B (the "Letter").

62. The Letter states in pertinent part:

The State of Missouri claims a compelling interest in ensuring my choice to obtain an abortion is informed, voluntary, given freely and without coercion. To that end, the State of Missouri requires you to provide me with information prepared by the Missouri Department of Health and Senior Services (the "Department") that prominently displays the following statement "The life of each human being begins at conception. Abortion will terminate the life of a separate, unique, living human being" (the "[Missouri Tenet]"). It is my deeply held religious belief that the [Missouri Tenet] is merely a political and religious statement and not based on the best scientific understanding of the world.

The information related to the [Missouri Tenet] is delivered in a booklet prepared by the Department (the "Booklet"). I have already reviewed the Booklet. It makes clear that a fetus is not able survive outside my body as an independent human being prior to twenty-six weeks after the first day of my last normal menstrual period. Please be advised that less than twenty-six weeks have elapsed since my last normal menstrual period. I give you permission to physically examine me to determine that my pregnancy is not in the third trimester as defined in the Booklet.

It is my deeply held religious belief an abortion does not terminate the life of a separate, unique, living human being. I therefore absolve you of any responsibility you may have to deliver the Booklet to me. I also absolve you of any responsibility you may have to wait seventy-two hours before performing an abortion.

This letter is my statement that I chose to have an abortion today – now – and without further review of the Booklet. I make that choice voluntarily, freely, without coercion. I am informed to my satisfaction – both as a religious and scientific matter – that an abortion will not terminate the life

of a separate, unique, living human being.

I respectfully request that you provide me with an abortion today.

63. By the Letter, Plaintiff gave her consent to the Healthcare Defendants to give her an abortion without the Ultrasound, Audible Heartbeat Offer, Booklet or Waiting Period.

64. Notwithstanding its receipt of the Letter, the Healthcare Defendants refused to provide Plaintiff with an abortion unless and until:

- a. Plaintiff acknowledged in writing that she had received the Booklet; and
- b. Plaintiff received the Ultrasound; and
- c. Plaintiff received the Audible Heartbeat Offer; and
- d. Plaintiff waited for the Waiting Period.

65. Plaintiff had read the Booklet on or before May 8, 2015.

66. Plaintiff acknowledged receipt of the Booklet on May 8, 2015.

67. Plaintiff had the Ultrasound and Audible Heartbeat Offer provided by the Healthcare Defendants on May 8, 2015 and paid for it.

68. Plaintiff declined the Audible Heartbeat Offer. She felt guilt and shame for doing so.

69. During the Waiting Period from May 9 to May 12, 2015, Plaintiff stayed in a motel in St. Louis and paid for it.

70. On May 12, 2015, Plaintiff returned to the Healthcare Defendants and had her abortion.

71. Mo. Rev. Stat. §§ 188.027.1(2) and 188.027.3 required Plaintiff, as part of the Removal Procedure, to take the following actions between May 8, 2015 and May 12, 2015:

- a. Acknowledge receipt of the Booklet; and
- b. Subject herself to the Ultrasound; and
- c. Subject herself to the Audible Heartbeat Opportunity; and
- d. Pay for the Ultrasound and Audible Heartbeat Opportunity; and
- e. Wait for three (3) calendar days at a motel in St. Louis; and
- f. Pay for three (3) calendar days lodging at a motel in St. Louis; and
- g. Get an abortion on May 12, 2015 instead of May 8, 2015.

72. The actions Plaintiff was required to take between May 8, 2015 and May 12, 2015 restricted Plaintiff's free exercise of Plaintiff's Tenets because Plaintiff;

- a. Subjected her body to the irrelevant and unwanted Ultrasound, Audible Heartbeat Offer in violation of her belief that her body is inviolable and subject to her will alone; and
- b. Subjected her body to the irrelevant and unwanted Ultrasound, Audible Heartbeat Offer in violation of her belief that she alones decides how and when to proceed with the Removal Procedure; and
- c. Subjected her body to a three (3) day stay in a St. Louis motel in violation of her belief that her body is inviolable and subject to her will alone; and
- d. Subjected her body to a three (3) day stay in a St. Louis motel in violation of her belief that she alones decides how and when to proceed with the Removal Procedure; and

e. Suffered guilt, shame, expense and loss of liberty because she does not believe the Missouri Tenet; and

f. Ceded control to the State of Missouri over when and how she would proceed with the Removal Procedure; and

g. Paid for ceding control to the State of Missouri over when and how she would proceed with the Removal Procedure; and

h. Paid for the delivery to herself of the religious belief of the State of Missouri that the Missouri Tenet is true.

73. Mo. Rev. Stat. § 188.027(11) provides that it is a “compelling state interest” to ensure that Plaintiff’s decision to get an abortion is made “freely, voluntarily and without coercion.”

### **COUNT ONE**

#### **The Ultrasound and Audible Heartbeat Offer Violate Mo. Rev. Stat. § 1.302.1**

74. Plaintiff repeats and realleges paragraphs 1 to 73 above.

75. No medical purpose was served by requiring Plaintiff to obtain the Ultrasound.

76. No medical purpose was served by requiring Plaintiff to receive the Audible Heartbeat Offer.

77. The only governmental interests served by the Ultrasound and Audible Heartbeat Offer are to:

- a. Promote the Missouri Tenet; and
- b. Persuade a pregnant woman seeking an abortion that the Missouri Tenet is true and an abortion is murder; and

c. Cause doubt, guilt and shame in a pregnant woman seeking an abortion who does not believe the Missouri Tenet is true to dissuade her from getting an abortion; and

d. Cause doubt, guilt and shame in a pregnant woman seeking an abortion who does not believe the Missouri Tenet is true to punish her for her beliefs.

78. These are not compelling governmental interests for purposes of Mo. Stat. Rev. § 1.302.1(2).

79. The Ultrasound and Audible Heartbeat Offer succeeded in causing Plaintiff to feel guilt and shame for seeking an abortion.

80. The Ultrasound and Audible Heartbeat Offer restricted Plaintiff's free exercise of religion in violation of Mo. Rev. Stat. § 1.302.1 because;

a. The Ultrasound subjected her body to the will of the State of Missouri; and

b. The Ultrasound and Audible Heartbeat Offer were irrelevant to Plaintiff's health, based on the best scientific understanding of the world; and

c. The Ultrasound and Audible Heartbeat Offer were irrelevant to Plaintiff's Removal Procedure because she could, in good conscience, have an abortion without regard to the current or future condition of her Fetal Tissue; and

d. The Ultrasound and Audible Heartbeat Offer enabled the State of Missouri to decide, for no legitimate medical or other reason, when and how Plaintiff would get an abortion; and

e. The Ultrasound and Audible Heartbeat Offer required Plaintiff to devote time to and pay the expense of a service that was irrelevant and unnecessary according to Plaintiff's Tenets; and

f. The Ultrasound and Audible Heartbeat Offer required Plaintiff to devote time to and pay money for the promotion of the Missouri Tenet to herself and thereby promote the religious belief of the State of Missouri that the Missouri Tenet is true; and

g. The Ultrasound and Audible Heartbeat Offer required Plaintiff to devote time to and pay money for the promotion of the Missouri Tenet to herself and thereby punish her for not believing in the Missouri Tenet; and

h. The Ultrasound and Audible Heartbeat Offer forced Plaintiff to devote time to and consider the religious belief of the State of Missouri that the Missouri Tenet is true; and

i. The Ultrasound and Audible Heartbeat Offer caused guilt and shame in Plaintiff for holding her religious belief that her Fetal Tissue was not a separate, unique living human being.

81. The Ultrasound and Audible Heartbeat Offer violated Plaintiff's right to make her abortion decision freely, voluntarily and without coercion pursuant to Mo. Rev. Stat. § 188.027(11).

82. Plaintiff has been damaged by the loss of money and religious freedom caused by the Ultrasound and Audible Heartbeat Offer.



WHEREFORE, Plaintiff respectfully requests the entry of an order that:

A. Declares Mo. Rev. Stat. § 188.027.3 violates Mo. Rev. Stat. §§ 1.302, et seq. and is null and void as to Plaintiff and any other woman who adheres to Plaintiff's Tenets; and

B. Declares Mo. Rev. Stat. § 188.027.3 violates Mo. Rev. Stat. § 188.027(11) and is null and void as to Plaintiff and any other woman who adheres to Plaintiff's Tenets; and

C. Enjoins State Defendants, their officers and agents from enforcing Mo. Rev. Stat. § 188.027.3 against Plaintiff or any other woman who holds Plaintiff's Tenets; and

D. Declares Plaintiff or any other woman who holds Plaintiff's Tenets may obtain an abortion without complying with Mo. Rev. Stat. § 188.027.3; and

E. Declares that any person lawfully authorized to provide abortions in Missouri, including without limitation the Healthcare Defendants, may provide Plaintiff or any other woman who holds Plaintiff's Tenets with an abortion without complying with Mo. Rev. Stat. §188.027.3; and

F. Grant Plaintiff reasonable attorney fees and cost to be paid by State Defendants; and

G. Grant Plaintiff any additional relief deemed just and proper under the circumstances.

## **COUNT TWO**

### **The Booklet Violates Mo. Rev. Stat. § 1.302.1**

83. Plaintiff repeats and realleges paragraphs 1 to 82 above.

84. No medical purpose was served by compelling delivery of the Booklet to Plaintiff.

85. The only governmental interests served by the Booklet are to:

- a. Promote the Missouri Tenet; and
- b. Persuade a pregnant woman seeking an abortion that the Missouri Tenet is true and an abortion is murder; and
- c. Cause doubt, guilt and shame in a pregnant woman seeking an abortion who does not believe the Missouri Tenet is true to dissuade her from getting an abortion; and
- d. Cause doubt, guilt and shame in a pregnant woman seeking an abortion who does not believe the Missouri Tenet is true to punish her for her beliefs.

86. These are not a compelling governmental interest for purposes of Mo. Stat. Rev. § 1.302.1(2).

87. The Booklet succeeded in causing Plaintiff to feel guilt and shame for seeking an abortion.

88. The compelled delivery of the Booklet restricted Plaintiff's exercise of religion in violation of Mo. Rev. Stat. § 1.302.1 because:

- a. The Booklet was irrelevant to Plaintiff's health, based on the best scientific understanding of the world; and
- b. The Booklet was irrelevant Plaintiff's Removal Procedure because she could, in good conscience, have an abortion without regard to the current or future condition of her Fetal Tissue; and

c. The Booklet enabled the State of Missouri to decide, for no legitimate medical or other reason, when and how Plaintiff would get an abortion; and

d. The Booklet caused guilt and shame in Plaintiff for holding her religious belief that her Fetal Tissue was not a separate, unique living human being.

e. The Booklet contributed to Plaintiff's guilt and shame for her religious belief that her Fetal Tissue was not a separate, unique living human being; and

f. The Booklet forced Plaintiff to consider the religious belief of the State of Missouri that the Missouri Tenet is true.

89. The compelled delivery of the Booklet violated Plaintiff's right to make her abortion decision freely, voluntarily and without coercion pursuant to Mo. Rev. Stat. § 188.027(11).

90. Plaintiff has been damaged by the loss of religious freedom caused by the compelled delivery of the Booklet.

WHEREFORE, Plaintiff respectfully requests the entry of an order that:

A. Declares Mo. Rev. Stat. § 188.027.1(2) violates Mo. Rev. Stat. §§ 1.302 et seq.; and is null and void as to Plaintiff and any other woman who adheres to Plaintiff's Tenets; and

B. Declares Mo. Rev. Stat. § 188.027.1(2) violates Mo. Rev. Stat. § 188.027(11) and is null and void as to Plaintiff and any other woman who adheres to Plaintiff's Tenets; and

C. Enjoins State Defendants, their officers and agents from enforcing Mo. Rev. Stat. § 188.027.1(2) against Plaintiff or any other woman who holds Plaintiff's Tenets; and

D. Declares Plaintiff or any other woman who holds Plaintiff's Tenets may obtain an abortion without complying with Mo. Rev. Stat. § 188.027.1(2);

E. Declares that any person lawfully authorized to provide abortions in Missouri, including without limitation the Healthcare Defendants, may provide Plaintiff or any other woman who holds Plaintiff's Tenets with an abortion without complying with Mo. Rev. Stat. §188.027.1(2);

F. Grant Plaintiff reasonable attorney fees and cost to be paid by State Defendants; and

G. Grant Plaintiff any additional relief deemed just and proper under the circumstances.

**COUNT THREE**

**The Waiting Period Violates Mo. Rev. Stat. § 1.302.1**

91. Plaintiff repeats and realleges paragraphs 1 to 90 above.

92. No medical purpose was served by requiring Plaintiff go through the Waiting Period.

93. The only governmental interests served by the Waiting Period are to:

a. Promote the Missouri Tenet; and

b. Persuade a pregnant woman seeking an abortion that the Missouri

Tenet is true and an abortion is murder; and

c. Cause doubt, guilt and shame in a pregnant woman seeking an abortion who does not believe the Missouri Tenet is true to dissuade her from getting an abortion; and

d. Cause doubt, guilt and shame in a pregnant woman seeking an abortion who does not believe the Missouri Tenet is true to punish her for her beliefs.

94. These are not a compelling governmental interest for purposes of Mo. Stat. Rev. § 1.302.1(2).

95. The Waiting Period caused Plaintiff to devote three (3) calendar days to the promotion of the Missouri Tenet, a religious doctrine she does not believe.

96. The Waiting Period restricted Plaintiff's exercise of religion in violation of Mo. Rev. Stat. § 1.302.1 because:

a. The Waiting Period subjected her body to the will of the State of Missouri; and

b. The Waiting Period was irrelevant to Plaintiff's health, based on the best scientific understanding of the world; and

c. The Waiting Period was irrelevant to Plaintiff's Removal Procedure because she could, in good conscience, have an abortion without regard to the current or future condition of her Fetal Tissue; and

d. The Waiting Period enabled the State of Missouri to decide, for no legitimate medical or other reason when and how Plaintiff would get an abortion; and

e. The Waiting Period required Plaintiff to devote time to and pay for lodging expenses that were irrelevant and unnecessary according to Plaintiff's Tenets; and

f. The Waiting Period required Plaintiff to devote time to and pay for the promotion of the Missouri Tenet to herself and thereby promote the religious belief of the State of Missouri that the Missouri Tenet is true; and

g. The Waiting Period required Plaintiff to devote time to and pay money for the promotion of the Missouri Tenet to herself and thereby punish her for not believing in the Missouri Tenet; and

h. The Waiting Period forced Plaintiff to devote time to and consider the religious belief of the State of Missouri that the Missouri Tenet is true; and

i. The Waiting Period violated Plaintiff's right to make her abortion decision freely, voluntarily and without coercion pursuant to Mo. Rev. Stat. § 188.027(11).

97. Plaintiff has been damaged by the loss of money and religious freedom caused by the Waiting Period.

WHEREFORE, Plaintiff respectfully requests the entry of an order that:

A. Enjoins State Defendants, their officers and agents from enforcing Mo. Rev. Stat. §§ 188.027.3 and 188.027.12 against her or any person who provides her an abortion, including without limitation the Healthcare Defendants;

B. Declares the waiting periods in Sections 188.027.3 and 188.027.12 are null and void;

C. Declares Plaintiff may obtain an abortion without complying with Mo. Rev. Stat. §§ 188.027.3 and 188.027.12;

D. Declares that any person lawfully authorized to provide abortions in Missouri, including without limitation the Healthcare Defendants, may provide Plaintiff with an abortion without complying with Mo. Rev. Stat. §§ 188.027.3 and 188.027.12;

E. Grant Plaintiff reasonable attorney fees and cost to be paid by State Defendants; and

F. Grant Plaintiff any additional relief deemed just and proper under the circumstances.

#### **COUNT FOUR**

##### **Violation of the Establishment Clause**

98. Plaintiff repeats and realleges paragraphs 1 to 97 above.

99. Plaintiff has the right to formulate, hold, change or reject her own belief of whether her Fetal Tissue is the life of a separate and unique human being that begins at conception (the “Freedom to Believe When Human Life Begins”).

100. Plaintiff has the right to exercise her Freedom to Believe When Human Life Begins and act upon her belief without interference or influence by the State of Missouri.

101. The Booklet, the Ultrasound Opportunity, and Waiting Period are referred to herein jointly and severally as the Missouri Lectionary.

102. The purpose of the Missouri Lectionary is to “inform” a woman who has decided to get an abortion that the Missouri Tenet is true.

103. The effect of the Missouri Lectionary is to:

- a. Encourage Plaintiff to believe the Missouri Tenet and forgo an abortion;  
and
- b. Compel Plaintiff to wait and consider the Missouri Tenet for at least three (3) days before getting the abortion; and
- c. Create doubt, guilt and shame in Plaintiff because she does not believe the Missouri Tenet.

104. The purpose and effect of the Missouri Tenet and Missouri Lectionary are to promote the religious belief that Fetal Tissue is, from conception, a separate and unique human being whose destruction is morally wrong.

105. The creation, distribution and enforcement of the Missouri Lectionary promotes the Missouri Tenet in violation of the Establishment Clause of the First Amendment because the State of Missouri is using its power to regulate abortion to promote some, but not all, religious beliefs that Fetal Tissue is, from conception, a separate and unique human being whose destruction is morally wrong.

106. The Missouri Tenet and Missouri Lectionary foster an excessive entanglement between the State of Missouri and adherents to the religious belief that Fetal Tissue is a separate and unique human being from conception whose destruction is morally wrong.

107. Neither the Missouri Tenet nor the Missouri Lectionary promote the religious belief that Fetal Tissue is part of a woman's body that may be removed on demand in good conscience and without consideration of the current or future condition of the Fetal Tissue.



108. The State Defendants are acting under color of state law in the creation, distribution and enforcement of the Missouri Lectionary to promote the Missouri Tenet.

109. The Healthcare Defendants are acting under color of state law in the enforcement and implementation of the Missouri Lectionary to promote the Missouri Tenet.

110. Defendants have infringed on Plaintiff's rights under the Establishment Clause in violation of 42 U.S.C. § 1983 in the creation, distribution and enforcement of the Missouri Lectionary to promote the Missouri Tenet.

111. Plaintiff has been damaged by that violation because she has had to pay unnecessary costs and endure an unnecessary and unreasonable loss of liberty due to the implementation and enforcement of the Missouri Lectionary to promote the Missouri Tenet.

112. Plaintiff has been and will be irreparably injured by that violation because the Missouri Tenet and Missouri Lectionary are forced upon her with the intent and purpose to influence her Freedom to Believe When Human Life Begins.

WHEREFORE, Plaintiff respectfully requests the entry of an order that:

- A. Declares the Missouri Tenet is null and void; and
- B. Declares Mo. Rev. Stat. §§ 188.027.1(2), (4) and (5); 188.027.3; and 188.027.12 are null and void; and
- C. Declares any woman may obtain an abortion without complying with Mo. Rev. Stat. §§ 188.027.1(2), (4), and (5); 188.027.3; and 188.027.12
- D. Declares any person who may lawfully provide a woman with an abortion in Missouri, including without limitation the Healthcare Defendants, can do so

without complying with Mo. Rev. Stat. §§ 188.027.1(2), (4), and (5); 188.027.3; and 188.027.12; and

E. Enjoins State Defendants, their officers and agents from enforcing Mo. Rev. Stat. §§ 188.027.1(2), (4), and (5) and 188.027.3 or 188.027.12 against any woman or any person who provides her an abortion, including without limitation the Healthcare Defendants;

F. Awards Plaintiff damages in an amount to be determined to compensate her for incurring unnecessary costs and enduring an unnecessary and unreasonable loss of her liberty to be paid by State Defendants;

G. Grant Plaintiff her reasonable attorney fees and costs to be paid by State Defendants; and

H. Grant Plaintiff any additional relief the Court deems just and proper.

### **COUNT FIVE**

#### **Free Exercise Violation**

113. Plaintiff repeats and realleges paragraphs 1 to 112 above.

114. The Missouri Tenet and Missouri Lectionary discriminate between a viewpoint that adheres to the Missouri Tenet and those viewpoints that do not. Specifically, but not by way of limitation, the Missouri Tenet and Missouri Lectionary do not mention the Plaintiff's Tenets or the scientific fact that an umbilical cord makes Fetal Tissue part of a woman's body.

115. The Missouri Tenet and Missouri Lectionary interfere with the exercise by Plaintiff of her religious beliefs. That interference includes, without limitation, compelled exposure to religious beliefs she does not have, delaying the implementation

of her decision to abort her Fetal Tissue and imposing unnecessary costs and an unnecessary loss of liberty.

116. The Missouri Lectionary and Missouri Tenet caused Plaintiff to endure delay, doubt, guilt and shame when she exercised their religious beliefs to abort her Fetal Tissue in accordance with Plaintiff's Tenets.

117. Defendants have infringed on Plaintiff's rights under the Free Exercise Clause in violation of 42 U.S.C. § 1983 in the creation, distribution and enforcement of the Missouri Lectionary to promote the Missouri Tenet.

118. Plaintiff has been damaged by that violation because she has had to pay unnecessary costs and endure an unnecessary and unreasonable loss of liberty due to the implementation and enforcement of the Missouri Lectionary to promote the Missouri Tenet.

119. Plaintiff has been and will be irreparably injured by that violation because the Missouri Tenet and Missouri Lectionary interfere with the exercise of Plaintiff's Tenets.

WHEREFORE, Plaintiff respectfully requests the entry of an order that:

- A. Declares the Missouri Tenet is null and void; and
- A. Declares Mo. Rev. Stat. §§ 188.027.1(2), (4), and (5); 188.027.3; and 188.027.12 are null and void; and
- B. Declares any woman may obtain an abortion without complying with Mo. Rev. Stat. §§ 188.027.1(2), (4), and (5); 188.027.3; and 188.027.12
- C. Declares any person who may lawfully provide a woman with an abortion in Missouri, including without limitation the Healthcare Defendants, may do so

without complying with Mo. Rev. Stat. §§ 188.027.1(2), (4), and (5); 188.027.3; and 188.027.12; and

D. Enjoins State Defendants, their officers and agents from enforcing Mo. Rev. Stat. §§ 188.027.1(2), (4), and (5) and 188.027.3 or 188.027.12 against any woman or any person who provides her an abortion, including without limitation the Healthcare Defendants; and

E. Awards Plaintiff damages in an amount to be determined to compensate her for incurring unnecessary costs and enduring an unnecessary and unreasonable loss of her liberty to be paid by State Defendants; and

F. Grants Plaintiff her reasonable attorney fees and costs to be paid by State Defendants; and

G. Grants Plaintiff any additional relief the Court deems just and proper.

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing was eFiled on July 28, 2016, and thus served by email to the following:

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