

1 **MARTINEAU LAW, PLLC**  
2 **J. Stanley Martineau, Esq. (004755)**  
3 **3850 E. Baseline Road, Suite 125**  
4 **Mesa, Arizona 85206**  
5 **P: (480) 512-2679**  
6 [stan@martineau.law](mailto:stan@martineau.law)

7 Attorneys for Plaintiffs

8  
9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
10  
11 **IN AND FOR THE COUNTY OF GILA.**

12 THE ESTATE OF BABY VILLEGAS,  
13 DECEASED, by and through MARIO  
14 VILLEGAS; MARIO VILLEGAS on his  
15 own behalf and on behalf of all survivors  
16 of BABY VILLEGAS, Deceased,

17 Plaintiffs,

18 v.

19 JACKRABBIT FAMILY MEDICINE,  
20 INC., an Arizona corporation , d/b/a  
21 CAMELBACK FAMILY PLANNING;  
22 GABRIELLE J. GOODRICK, M.D., a  
23 single woman; JOHN DOES I-X; JANE  
24 DOES I-X; ABC PARTNERSHIPS I-X;  
25 and XYZ CORPORATIONS I-X.

Defendants.

Case No.: CV202200007

**SECOND AMENDED COMPLAINT**  
**(Wrongful Death)**

Plaintiffs, for their complaint against Defendants, allege as follows:

**JURISDICTION, VENUE AND PARTIES**

1. Jurisdiction and venue are proper in this county under ARS § 36-2153.
2. This case is properly assigned to Tier 3.



1           2.     It is, and at all material times has been, the public policy of the State of  
2 Arizona that unborn children are entitled to the same fundamental human rights that  
3 minors enjoy from birth to majority, and that adults enjoy thereafter, including the rights  
4 to life, freedom, human dignity, human flourishing, and the pursuit of happiness.

5           3.     It is, and at all material times has been, the public policy of the State of  
6 Arizona that a father has a constitutionally protected right to rear his children, born and  
7 unborn, and an enforceable reciprocal duty to do so, consistent with the best interests of  
8 their children.

9           4.     It is, and always has been, the public policy of the State of Arizona to  
10 prohibit all abortions of unborn children except when necessary to save the life of the  
11 pregnant mother.

12          5.     Arizona's statutes regulating abortion services should be strictly interpreted  
13 and applied because abortion is a medical procedure that involves the taking of a human  
14 life by a licensed medical provider without the consent of the aborted human being.

15          6.     At the time of the events complained of, M.S.V. was pregnant with an  
16 unborn child ("BABY VILLEGAS"), the human offspring of MARIO and M.S.V.

17          7.     At all material times, ARS 36-2153 prohibited abortions without the  
18 voluntary and informed consent of the pregnant mother.

19          8.     In order for a patient's abortion consent to be voluntary and informed, the  
20 physician who was to perform an abortion, or a referring physician, was required to give  
21 the patient the information listed in ARS 36-2153(A)(1), orally and in person, at least 24  
22 hours before the abortion.

23          9.     ARS 36-2153(A)(2) lists other information that a patient must be given at  
24 least 24 hours before the abortion, but the delivery of this additional information may be  
25 delegated to other specified medical professionals besides a physician.

1           10.    The above-described consultations of a pregnant woman with her medical  
2 providers 24 hours before the abortion will be referred to herein as the “consent visit”.

3           11.    On July 24, 2018, M.S.V. had her consent visit with Jessica Holmes, M.D.  
4 (“Holmes”), a CAMELBACK employee, after being referred to Defendants by a non-  
5 physician friend.

6           12.    On July 26, 2018, GOODRICK induced M.S.V.’s abortion by giving her  
7 two abortion-inducing drugs, Mifeprex™ and Misoprostol.

8           13.    On July 26, 2018, in reliance on Defendants, M.S.V. took the abortion pills  
9 which induced a medication abortion and caused the death of BABY VILLEGAS.

10          14.    Defendants did not comply with the requirements of ARS 36-2153 before  
11 inducing M.S.V.’s abortion, because:

12           a.    M.S.V.’s consent visit was not with GOODRICK, the physician who  
13 induced the abortion, as required by the statute.

14           b.    Defendants did not inform M.S.V. about the immediate and long-term  
15 medical risks of an abortion, including the loss of the “maternal-fetal” attachment bond  
16 inherent in birthing a child, as required by the statute.

17           c.    Defendants did not inform M.S.V. about the alternatives to abortion, as  
18 required by the statute.

19           d.    Defendants did not inform M.S.V. about the anatomical and physiological  
20 characteristics of her unborn child, as required by the statute.

21           e.    Defendants did not inform M.S.V. of the medical risks associated with  
22 carrying the child to term, including the scientific fact that if not aborted, her unborn child  
23 probably would be successfully delivered at term, as required by the statute.

24           f.    Defendants did not inform M.S.V. about the DHS website with abortion-  
25 related information, as required by the statute.

1 g. Defendants did not offer to give M.S.V. a printed copy of the DHS  
2 website's information, as required by the statute.

3 h. Defendants gave M.S.V. only the information she wanted to hear, not the  
4 information that a hypothetical "reasonable" patient would believe is material to the  
5 decision of whether or not to undergo an abortion, as required by the statute.

6 i. Defendants' customs and practices encouraged M.S.V. to consent to an  
7 abortion before receiving the required information, not after, as required by the statute.

8 j. Defendants informed M.S.V. by reading verbatim from a printed form that  
9 lacked much of the required information, and that misstated other required information.

10 k. The printed form changed the statutory term "the probable gestational age  
11 of the unborn child" to "the probable gestational age of the pregnancy", which misstates  
12 Arizona's legislative determination that every pregnant woman is carrying a human child.

13 15. At all material times, Defendants owed statutory and common law duties  
14 of care to M.S.V., BABY VILLEGAS, and MARIO arising out of their physician/patient  
15 relationship with M.S.V. and BABY VILLEGAS.

16 16. When GOODRICK induced M.S.V.'s abortion, she had an irreconcilable  
17 conflict because the interests of M.S.V. and BABY VILLEGAS were diametrically  
18 opposed.

19 17. GOODRICK intentionally caused the death of BABY VILLEGAS.

20 18. At all material times, M.S.V.'s health and life were not jeopardized by her  
21 pregnancy or by the eventual delivery of BABY VILLEGAS at term.

22 19. At all material times, there was no medical emergency justifying an  
23 abortion within the meaning of ARS 36-2151(6) and ARS 36-2153(A).

24 20. At all material times, neither M.S.V. nor BABY VILLEGAS had any pre-  
25 existing comorbidities that would have increased the risk of a miscarriage or premature

1 birth, or that would have caused BABY VILLEGAS to have less than an average life  
2 expectancy following birth.

3 21. At the time she was aborted, BABY VILLEGAS was a complete and living  
4 human being with a unique, unrepeatable, human genetic code, which made her  
5 biologically and genetically distinct from her mother and father.

6 22. But for the abortion caused by Defendants, BABY VILLEGAS probably  
7 would have successfully delivered at term, probably would have had a normal life span,  
8 and probably would have earned a substantial net income during her lifetime.

9 23. As a direct result of Defendants' alleged conduct, MARIO has been  
10 deprived of the love, affection, comfort, and companionship of his child, BABY  
11 VILLEGAS, and has experienced, and will continue to experience, pain, grief, sorrow,  
12 anguish, stress, and mental suffering.

13 24. As a direct result of Defendants' alleged conduct, MARIO has been  
14 deprived of his constitutionally protected right and duty to parent BABY VILLEGAS.

15 25. As a direct result of Defendants' alleged conduct, MARIO has been  
16 deprived of his constitutionally protected right to the free exercise of his religion, which  
17 included a duty to protect and raise his unborn child to maturity; a duty to protect her  
18 innate right to life, liberty, and the pursuit of happiness which he endowed upon her as  
19 her parent and co-creator; and a duty to promote her flourishing as a human being.

20 26. As a direct result of Defendants' alleged conduct, THE ESTATE has been  
21 deprived of the net income BABY VILLEGAS would have earned during her lifetime.

22 27. Plaintiffs allege upon information and belief that Defendants' abortion of  
23 BABY VILLEGAS without M.S.V.'s voluntary and informed consent, was consistent  
24 with their treatment of most of their patients, and was performed pursuant to customs,  
25 practices, and policies that Defendants knowingly, intentionally, and systematically

1 designed to increase patient volume and profits at the expense of compliance with the  
2 statute.

3 28. At the time of M.S.V.'s consultations with Defendants, MARIO was  
4 opposed to an abortion, and Plaintiffs allege upon information and belief, that Defendants  
5 knew or should have known that MARIO was opposed to an abortion.

6 **COUNT ONE – MARIO'S CLAIM AGAINST DEFENDANTS**  
7 **FOR VIOLATION OF ARS 36-2153**

8 29. MARIO brings this statutory violation claim on his own behalf for damages  
9 caused by Defendants' abortion of BABY VILLEGAS, pursuant to ARS 36-2153.

10 30. Defendants' failure to comply with the requirements of ARS 36-2153  
11 rendered M.S.V.'s purported consent null and void as a matter of law for all purposes.

12 31. The abortion that Defendants induced without M.S.V.'s consent was a  
13 violation of ARS 36-2153; was illegal and wrongful without justification or protection  
14 from federal or state constitutional jurisprudence; and constituted a medical battery upon  
15 both M.S.V. and BABY VILLEGAS.

16 32. ARS 36-2153 entitles MARIO to an award against Defendants of punitive  
17 damages, compensatory damages for all losses caused by the abortion, plus statutory  
18 damages in the amount of \$5,000, reasonable attorney fees, and costs of litigation.

19 **COUNT TWO - MARIO'S COMMON LAW WRONGFUL DEATH CLAIM**  
20 **UNDER ARS 12-611 AND ARS 12-542**

21 33. MARIO brings this common law wrongful death claim on his own behalf  
22 and on behalf of all statutory beneficiaries pursuant to ARS 12-611 and ARS 12-542.

23 34. Defendants violated their common law and statutory medical provider duty  
24 of care, and committed a medical battery upon both M.S.V. and BABY VILLEGAS, by  
25 inducing an abortion without M.S.V.'s consent.

1           35. MARIO is entitled to an award against Defendants of punitive damages,  
2 compensatory damages for all losses caused by the abortion, together with reasonable  
3 costs of litigation.

4                           **COUNT THREE - THE ESTATE'S IMPLIED PRIVATE**  
5                           **CAUSE OF ACTION UNDER ARS 36-2153**

6           36. MARIO brings this survivorship claim on behalf of THE ESTATE  
7 pursuant to ARS 14-3110, asserting an implied private cause of action under ARS 36-  
8 2153, for THE ESTATE's damages caused by Defendants' unlawful abortion of BABY  
9 VILLEGAS.

10           37. ARS 36-2153 protects unborn children by imposing civil liability on any  
11 abortion provider who aborts an unborn child without the mother's consent.

12           38. An implied private cause of action under ARS 36-2153 in favor of the  
13 probate estate of a wrongfully aborted unborn child is consistent with the purposes of the  
14 statute because unborn children, like BABY VILLEGAS, are within the class of persons  
15 protected by the statute.

16           39. An implied private cause of action is necessary to fully protect unborn  
17 children because some parents of a wrongfully aborted child may choose not to assert a  
18 claim against an offending abortion provider because their interests may conflict with the  
19 interests of the unborn child.

20           40. An implied private cause of action is necessary to fully protect unborn  
21 children because the damages recoverable by a parent under the statute may not include  
22 all the losses suffered by the unborn child and her probate estate from the abortion.

23           41. THE ESTATE is entitled to an award against Defendants of punitive  
24 damages, compensatory damages for all losses caused by the abortion, together with  
25 statutory damages of \$5,000, attorney fees, and costs of litigation.



1 **COUNT FOUR - THE ESTATE'S SURVIVORSHIP CLAIM UNDER ARS 14-**  
2 **3110 FOR DEFENDANTS' COMMON LAW MEDICAL NEGLIGENCE AND**  
3 **MEDICAL BATTERY THAT CAUSED THE WRONGFUL DEATH OF BABY**  
4 **VILLEGAS**

4 42. MARIO brings this survivorship claim on behalf of THE ESTATE  
5 pursuant to ARS 14-3110, ARS 12-611, and ARS 12-542.

6 43. Defendants violated their common law and statutory medical provider duty  
7 of care and committed a medical battery upon both M.S.V. and BABY VILLEGAS by  
8 inducing an abortion without M.S.V.'s consent.

9 44. THE ESTATE is entitled to an award against Defendants of punitive  
10 damages, compensatory damages caused by Defendants' breach of their duty of care and  
11 the medical battery they inflicted upon BABY VILLEGAS, plus costs of litigation.

12 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them,  
13 as follows:

14 **MARIO:**

- 15 A. For compensatory damages for all psychological, emotional, and physical  
16 injuries and losses resulting from Defendants' violation of ARS 36-2153.  
17 B. For compensatory damages for MARIO's loss of his relationship with BABY  
18 VILLEGAS as alleged above, in such amounts as may be proven at trial.  
19 C. For compensatory damages for the loss of MARIO's fundamental right to  
20 parent BABY VILLEGAS as alleged above, in such amounts as may be  
21 proven at trial.  
22 D. For compensatory damages for the loss of MARIO's fundamental right to  
23 exercise his religion as alleged above, in such amounts as may be proven at  
24 trial.  
25 E. For punitive damages.

- 1 F. For statutory damages of \$5,000.
- 2 G. For reasonable attorney fees and costs of litigation.
- 3 H. For such other and further relief as the Court deems just.

4 **THE ESTATE:**

- 5 A. For economic and all other recoverable damages suffered by THE ESTATE
- 6 as a result of Defendants' violation of ARS 36-2153.
- 7 B. For economic and all other recoverable damages suffered by THE ESTATE
- 8 because of Defendants' breach of their medical provider duty of care, and the
- 9 medical battery inflicted on BABY VILLEGAS, causing her wrongful death.
- 10 C. For punitive damages.
- 11 D. For statutory damages of \$5,000.
- 12 E. For reasonable attorney fees and costs of litigation.
- 13 F. For such other and further relief as the Court deems just.

14 DATED February 3, 2023.

15  
16 **MARTINEAU LAW, PLLC**

17  
18 */s/ J. Stanley Martineau*  
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20 J. Stanley Martineau  
21 *Attorneys for Plaintiffs*  
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