THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

PLANNED PARENTHOOD OF WISCONSIN, INC.
302 N. Jackson Street
Milwaukee, WI 53202

FREDRIK BROEKHUIZEN, M.D.
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Milwaukee, WI 53202

Plaintiffs,

v. Case No.: 12-cv-913

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Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, Planned Parenthood of Wisconsin, Inc. and *Fredrik* Broekhuizen, M.D., by their attorneys, Cullen Weston Pines & Bach LLP, allege as follows:

I. NATURE OF THE ACTION

1. This action for declaratory and injunctive relief is brought under the U.S. Constitution and 42 U.S.C. § 1983 to challenge the constitutionality of Wis. Stat. §§ 253.10(3)(b), 253.10(5) & (6), and 253.105(1)-(4), as created and amended by 2011 Wis. Act 217. The provisions impose new requirements on medical providers in the administering medications to terminate pregnancy and impose new regulations on the physician-patient relationship in the context of providing services to women seeking to terminate pregnancies. The provisions impose felony criminal sanctions and civil

liability on medical providers for violations of the provisions. Medical providers who fail to comply with the statutory procedures also face professional discipline, up to and including potential license revocation, by the Medical Examining Board. *See* Wis. Stat. § 448.02(3), Wis. Admin. Code § MED 10.02(2)(z).

2. The Plaintiffs seek injunctive relief against the statutory provisions enacted by 2011 Wis. Act 217, as identified below. The substantial ambiguity of the provisions and uncertainty over the scope of the new statutory requirements has forced the Plaintiffs to cease providing medication abortion services at their three clinics in Wisconsin, due to concern that the provisions expose the Plaintiffs and their medical providers to criminal penalties, professional disciplinary sanctions, and civil liability and penalties if they provide such services using established, evidence-based medical protocols.

3. Since the provisions enacted by 2011 Wis. Act 217 became effective on April 20, 2012, the Plaintiffs have been unable provide their patients with a safe, non-invasive, effective medication to terminate a pregnancy in its early stages. The challenged statutory provisions, due to their unconstitutional vagueness, have caused and continue to cause irreparable harm to Plaintiffs and their patients.

II. JURISDICTION AND VENUE

4. The court has jurisdiction under 28 U.S.C. §§ 1331 and 1343 and 42 U.S.C. § 1983, as the complaint alleges the violation of rights guaranteed by the 5th and 14th Amendments of the United States Constitution.

5. The Plaintiffs' action for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202.

6. Venue in this court is proper under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to this action occurred in this district.

III. THE PARTIES

A. Plaintiffs

7. Plaintiff Planned Parenthood of Wisconsin ("PPW") is a Wisconsin non-profit corporation headquartered in Milwaukee, Wisconsin, and operates reproductive health care clinics in Milwaukee, Appleton, and Madison, Wisconsin.

8. The PPW clinics in Milwaukee, Appleton, and Madison all provide services to patients to terminate pregnancy, including both surgical abortions and abortions induced by medication.

9. As a provider of abortion services, PPW is subject to the statutory requirements found in Wis. Stat. ch. 253 relating to abortion procedures, and is exposed as a corporation to criminal penalties, civil penalties, and civil liability for violations of the statutory requirements, as provided in Wis. Stat. ch. 253.

10. Plaintiff Fredrik Broekhuizen, M.D., a medical doctor specializing in obstetrics and gynecology, serves as medical director for Planned Parenthood of Wisconsin. Dr. Broekhuizen provides medications to terminate pregnancy and other reproductive health services to patients at Planned Parenthood of Wisconsin clinics.

11. As a physician who performs and induces abortions, Dr. Broekhuizen is subject to the statutory requirements found in Wis. Stat. ch. 253 relating to abortion

procedures, and is exposed to criminal penalties, civil penalties, and civil liability for violations of the statutory requirements, as provided in Wis. Stat. ch. 253.

12. As a medical provider, Dr. Broekhuizen also faces professional discipline, up to and including potential license revocation, by the Medical Examining Board if he fails to comply with the statutory requirements found in Wis. Stat. ch. 253 relating to abortion procedures. *See* Wis. Stat. § 448.02(3), Wis. Admin. Code § MED 10.02(2)(z).

13. Before the effective date of the statutory provisions enacted by 2011 Wis. Act. 217, the PPW clinics in Milwaukee, Appleton, and Madison offered medications to terminate pregnancy to patients who were determined to be medically eligible and were seeking to terminate a pregnancy within the first 63 days after the patient's last menstrual period.

14. After the April 20, 2012 effective date of 2011 Wis. Act 217, PPW ceased offering abortion-inducing medication to medically eligible patients at all three clinics out of fear that PPW and its medical providers would be exposed to potential criminal penalties, civil liability, and disciplinary sanctions of they continued to provide the medications using established, evidence-based medical protocols.

B. Defendants

15. J.B. Van Hollen is the Attorney General of the State of Wisconsin. As Attorney General, Defendant Van Hollen has statutory authority to prosecute crimes as special prosecutor when requested by a district attorney. *See* Wis. Stat. § 978.045. As the chief law enforcement officer of the state and one of the state's prosecuting

attorneys, Defendant Van Hollen is a government official with authority to prosecute violations of the Act. He is sued in his official capacity.

16. Ismael Ozanne is the elected District Attorney for Dane County, Wisconsin. As District Attorney, Defendant Ozanne has the authority to prosecute violations of the Act occurring in Dane County. *See* Wis. Stat. § 978.05(1). He is sued in his official capacity and as a representative of a class of the 72 elected district attorneys representing each of Wisconsin's counties. Because violations of the Act or elements of such violations could occur in any Wisconsin county, criminal charges under the Act could be brought in any county. The class is so numerous that joinder of all members as defendants is impracticable. The named defendants will fairly and adequately protect the interests of the class. Certification of a class of district attorneys represented by Defendant Ozanne is therefore warranted.

17. Defendants Carolyn H. Bronston, Mary Jo Capodice, Rodney A. Erickson, Jude Genereaux, Suresh K. Misra, Gene Musser, Sandra L. Osborn, Kenneth B. Simons, Timothy Swan, Sridhar Vasudevan, and Sheldon A. Wasserman are all members of the Medical Examining Board of Wisconsin. The Medical Examining Board has the authority to impose disciplinary sanctions, up to and including medical license revocation, on Wisconsin physicians for unprofessional conduct, which is defined to include violations of state law. See Wis. Stat. § 448.02(3), Wis. Admin. Code § MED 10.02(2)(z). The above-listed defendants are sued in their official capacities as members of the Medical Examining Board.

III. FACTUAL ALLEGATIONS

18. Legal abortion is one of the safest procedures in the contemporary practice of medicine. When conducted early in the pregnancy, abortion is significantly safer than any other pregnancy outcome, including carrying a pregnancy to term. Although abortion is a very safe procedure, the risks of the procedure to the patient's health and life increase with the duration of the pregnancy. Delays in performing an abortion may increase the risks to the patient's health and life.

19. First trimester abortions, whether conducted by medication or surgically, have been demonstrated to be extremely safe procedures.

20. Women choose to terminate a pregnancy for a variety of reasons, including medical, emotional, economic, psychological, and familial reasons.

21. Until the Act became effective, the three PPW clinics performed both surgical and medication-induced abortions.

22. The method used at the three PPW clinics for a first trimester surgical abortion is vacuum aspiration. The physician inserts a speculum into the patient's vagina and injects a local anesthetic to the perimeter of the cervix. After administering the anesthetic, the physician dilates the woman's cervix to gain access to the uterus, inserts an aspirator into the uterus, and evacuates the contents of the uterus. The procedure generally is completed within a few minutes.

23. A medication abortion is a nonsurgical method of terminating a pregnancy using medications alone. PPW followed an evidence-based medical protocol in providing medication abortions, i.e., a protocol whose safety and efficacy was scientifically demonstrated through medical studies. The medical protocol

followed by PPW is the most commonly used evidence-based protocol in the United States. The medical protocol requires the use of two separate medications, mifepristone (distributed under the brand name Mifeprex, also known as RU-486) and misoprostol. Mifeprex is an anti-progesterone that blocks the production of progesterone, a hormone necessary for maintaining the pregnancy. Misoprostol is a prostaglandin, which causes the uterus to contract and evacuate its contents.

24. The three PPW clinics provided medication abortions to patients no later than 63 days after the patient's last menstrual period (approximately 7 weeks after the probable time of fertilization[1]), falling well within the first trimester of pregnancy (generally regarded as the first 12 to 13 weeks after the last menstrual period (LMP)).

25. Before Act 217 became effective on April 20, 2012, the three PPW clinics observed the following evidence-based medical protocol when providing patients with medication to terminate a pregnancy:

a. At the patient's first appointment at a PPW clinic, the patient was counseled about surgical and medication abortion procedures; given statutorily mandated information; signed the informed consent form; and underwent an ultrasound examination to determine the probable gestational age of the pregnancy. An appointment for the abortion was scheduled at least 24 hours later, in accordance with Wis. Stat. § 253.10(3)(c)1 (2009-2010), and more typically three to four days later.

[1]The Wisconsin Statutes measure gestational age as "the number of weeks that have elapsed from the probable time of fertilization of the ovum."

b. At the second clinic appointment, the patient was counseled again about the medication abortion procedure. A physician prescribed the two medications, Mifeprex and misoprostol, to the patient. Both medications were dispensed to the patient at the clinic. The patient took the Mifeprex orally while at the clinic and was directed to take the misoprostol buccally (dissolved between the cheek and gum) 24 hours later. The patient was also given prescriptions for antibiotics and pain medication, was provided with an emergency phone number, and was counseled on potential side effects and adverse reactions.

c. A post-procedure appointment was set up for one to two weeks later to confirm that the patient was no longer pregnant. Patients for whom returning to the PPW clinic would impose a hardship, due to distance or other factors, were advised that they could have a follow-up appointment at a local PPW family planning clinic.

26. The above-described regimen, including the self-administration of misoprostol, is followed nationally at all Planned Parenthood health centers that provide medication abortions and by most other providers of medication abortions nationally. It has been demonstrated to be safe and effective in medical research studies and has been given the highest level of recommendation by the American College of Obstetricians and Gynecologists.

27. Before Act 217 took effect, patients at the three PPW clinics who sought to terminate a pregnancy and who were eligible for either a surgical procedure or

medication (i.e., patients within 63 days of LMP) were generally offered the choice of either procedure.

28. In 2011, approximately forty-five (45) percent of PPW patients who were eligible for either a surgical or medication abortion at the time of their initial appointment at a PPW clinic (i.e., patients within 63 days of the LMP) chose to terminate their pregnancies with medication instead of the surgical procedure.

29. According to the ***Reported Induced Abortions in Wisconsin in 2011***, an annual report published in accordance with Wis. Stat. § 69.186, 7,019 women received induced abortions in Wisconsin in 2011. Of that total, 3,847 abortions occurred during the first 8 weeks after gestation, which is approximately the period during which a woman is eligible for a medication abortion.[2] There were 1,675 medication abortions (referred to as "chemically induced abortions" in the report). Thus, in 2011, according to the report, the abortion was chemically induced in approximately 45% of abortions occurring early enough in the pregnancy to permit the use of that method. Abortions were chemically induced in 24% of all abortions conducted in Wisconsin in 2011.

30. Patients choose a medication abortion over the surgical procedure for many different reasons. The patient may want to terminate the pregnancy at home or another private location of her choice, where she may have a greater sense of safety, privacy, comfort, and control over her surroundings, instead of undergoing a surgical procedure in a clinical setting. A patient may want to avoid the physical intrusion

[2] The report notes that the data provided for what is termed "weeks of gestation" in the tables cannot be classified precisely or consistently, because in some cases, it refers to the patient's reported weeks since last menstrual period and in other cases, it is the physician's estimate of weeks since conception. *See* Reported Induced Abortions in Wisconsin 2011, p. 8 (Notes).

inherent in the surgical procedure, may have a fear of surgery, or may prefer medication over a surgical procedure. A patient who has been the victim of a sexual assault may have heightened sensitivity to the physical intrusion of the surgical procedure. Cultural and religious beliefs and practices may have a bearing on the patient's choice to terminate her pregnancy with medication over the surgical procedure.

31. Considerations related to the patient's physical condition may also be relevant in choosing to terminate a pregnancy with medication or a surgical procedure. A medication abortion may be recommended for patients with conditions such as uterine fibroids, uterine scarring, and cervical stenosis, which may make surgical access to and within the uterus difficult.

32. PPW contracts with approximately ten physicians who provide services part-time at its three clinics. All of the physicians who contract with PPW have other medical practices or positions and are not available for full-time clinical work at PPW clinics.

33. None of the three clinics are staffed by a physician forty hours per week or during all clinic open hours. The Jackson Street Clinic in Milwaukee has physicians scheduled for approximately thirty-two hours per week; at the Madison clinic, physicians are scheduled for about twenty hours per week; and at the Appleton clinic, physicians are scheduled for twelve to sixteen hours per week. During one full week each month at the Appleton clinic, no physician is scheduled. At each clinic, physician time is divided between patient counseling and medical or surgical procedures.

34. Some of PPW's contracted physicians who prescribe abortion-inducing medications and perform other services at PPW clinics, including examinations of patients and counseling, are not trained in and do not perform surgical abortions.

35. While PPW consistently and reliably maintains sufficient physician staffing from a *medical* standpoint to deliver abortion services and other reproductive health services at its clinics, and can ensure that a qualified physician is present when abortion-inducing medications are prescribed and dispensed to a patient, PPW cannot ensure that the same physician who provides a patient with a physical examination before the patient receives the mandatory information under Wis. Stat. §253.10(3) will in every case be physically present when the patient returns to the clinic and is given the abortion-inducing medications.

36. PPW's three clinics serve patients from all parts of the state of Wisconsin, as well as many patients from neighboring states. Approximately 25% of PPW patients travel 33 or more miles one way to receive abortion services at a PPW clinic, and over 10% travel over 65 miles.

37. As of April 20, 2012, the date Act 217 took effect, the Plaintiffs stopped providing medication abortion services at the three PPW clinics in Wisconsin, due to concern that the provisions exposed the Plaintiffs and their medical providers to criminal penalties, professional disciplinary sanctions, and civil liability if they continued to provide such services under the established, evidence-based medical protocols.

IV. FACTUAL AND LEGAL ALLEGATIONS REGARDING THE STATUTORY CHANGES ENACTED BY 2011 WISCONSIN ACT 217

38. Before the enactment of Act 217, the statutes did not impose any special or unique requirements solely applicable to medication abortions. The requirements for providing a patient with medication to induce abortion were identical to the provisions for providing a patient with a surgical abortion.

39. Before the enactment of Act 217, the Wisconsin Statutes mandated an informed consent procedure and twenty-four hour waiting period before a patient could be deemed to have given informed and voluntary consent to an abortion. *See* Wis. Stat. § 253.10(3) (2009-2010). The statutes required that at least 24 hours before the abortion is performed or induced, "the physician who is to perform or induce the abortion or any other qualified physician" must orally inform the woman of specified information, including information about the abortion procedure, the gestational age, medical risks associated with the pregnancy and the abortion procedure, and other information. Wis. Stat. § 253.10(3)(c)1.a. – L (2009-2010).

40. The statutes further required that, at least 24 hours before the abortion, "the physician performing or inducing the abortion, a qualified person assisting the physician, or another qualified physician" must orally inform the patient of other information, including certain benefits and services that may be available to women and their children, among other things; and must provide the patient with printed information about public and private agencies that provide such services and

information about fetal development during pregnancy. Wis. Stat. § 252.10(3)(c)2.a. – g. (2009-2010).

41. The law required the informed consent procedure to be documented and acknowledged on a prescribed form signed by the patient. Wis. Stat. § 252.10(3)(c)5 (2009-2010).

42. Act 217 added to the informed consent procedure a requirement that "the physician who is to perform or induce the abortion shall determine whether the woman's consent is, in fact, voluntary. . . . by speaking to the woman in person, out of the presence of anyone other than a person working for or with the physician." Wis. Stat. § 253.10(3)(b) (as amended).

43. Wis. Stat. § 253.10(3)(g) provides that satisfying the mandated informed consent procedures required under Wis. Stat. § 253.10(3)(c) creates a rebuttable presumption that a woman's consent is informed, but that there is no presumption that consent to an abortion is voluntary.

44. A person who violates the voluntary and informed consent procedures required by Wis. Stat. § 253.10(3), which include the requirement that the physician determine that the patient's consent is "in fact, voluntary," is subject to a civil penalty of not less than $1,000 nor more than $10,000. Wis. Stat. § 253.10(5).

45. In addition, a person who violates Wis. Stat. § 253.10(3) is civilly liable to the woman on whom the abortion was performed for damages arising out of the performance or inducement of the abortion, including damages for personal injury and emotional and psychological distress; not less than $1,000 nor more than $10,000 in

punitive damages for a violation that satisfies the standard for punitive damages under Wis. Stat. § 895.043 (3), and the plaintiff's reasonable attorney fees. Wis. Stat. § 253.10(6).

46. There is no scienter element for a physician to be found in violation of Wis. Stat. § 253.10(3), including the requirement that the physician determine that the patient's consent is "in fact, voluntary." Nor does the statute establish an objective standard for determining if a physician has violated the statute. The statute thus appears to impose strict civil liability and civil forfeiture penalties on a physician who fails to correctly ascertain another person's subjective state of mind, regardless of the physician's good-faith attempt to ascertain that the patient's consent was in fact voluntary.

47. The statutory requirement that a physician determine that a patient's consent is "in fact, voluntary," imposes a purely subjective and unattainable standard that flies in the face of the longstanding objective standard for informed consent, applied in virtually all other areas of medical practice, that allows physicians to perform their all-important work without fearing unfair and unpredictable civil liability, civil penalties, and professional discipline.

48. Due to the absence of an objective standard or a scienter requirement in order for civil liability or penalties to be imposed under Wis. Stat. § 253.10(5), the requirement in Wis. Stat. § 253.10(3)(b) that the physician determine that the patient's consent is "in fact, voluntary" fails to clearly define what conduct is prohibited or how a

physician may avoid civil liability and civil penalties when providing abortion services to a patient.

49. Act 217 created a new statutory section that imposes requirements that solely apply to medication abortions. *See* Wis. Stat. § 253.105. This section requires that:

> No person may give an abortion-inducing drug to a woman unless the physician who prescribed, or otherwise provided, the abortion-inducing drug for the woman:
> (a) Performs a physical exam of the woman before the information is provided under s. 253.10(3)(c)1.
> (b) Is physically present in the room when the drug is given to the woman.

Wis. Stat. § 253.105(2).

50. "Abortion-inducing drug" is defined as "a drug, medicine, oral hormonal compound, mixture, or preparation, when it is prescribed to terminate the pregnancy of a woman known to be pregnant." Wis. Stat. § 253.10(2)(am).

51. The Wisconsin Statutes appear to require that the same physician who prescribes abortion-inducing medications to a patient must perform a physical examination of the patient before she is provided with the mandated information at least 24 hours before the abortion is induced. The apparent requirement that the prescribing physician conduct the physical examination at the patient's first appointment conflicts with Wis. Stat. §§ 253.10(3)(c)(1)b & 253.10(2)(e). These statutes provide that the physician who is to perform or induce the abortion ***or any other qualified physician*** orally inform the woman of, among other things, the probable gestational age of the unborn child, based on the information provided by the woman as to the time of her last menstrual period, her medical history, a physical examination

performed by the physician who is to perform or induce the abortion ***or by any other qualified physician*** and any appropriate laboratory tests performed on her. Wis. Stat. §§ 253.10(2)(e).

52. The Wisconsin Statutes does not define the word "given" as it is used in the phrase "when the drug is given to the woman" in Wis. Stat. § 253.105(2).

53. Wis. Stat. § 253.105(2) does not account for the fact that the medication abortion procedure requires the woman to take two different drugs with at least a twenty-four hour interval between them.

54. The requirement in Wis. Stat. § 253.105(2) that the physician who prescribes or provides a drug to induce abortion be "physically present in the room when the drug is given to the woman" is ambiguous and unclear in light of the two-drug regimen entailed by a medication abortion.

55. "Give" is a word with a range of meanings. "Give" can mean "to put into the possession of another for his or her use" or "to convey to another." In the context of medications, "give" also can mean "to administer as a medicine." Merriam-Webster's Dictionary (10th ed. 1993).

56. Under PPW's established, evidence-based procedure for medication abortions, the physician is physically present in the room when the two medications are given to the patient, i.e., when the drugs are dispensed to the patient, but is not physically present when the patient takes the misoprostol 24 hours later.

57. The statute fails to clearly define whether PPW's evidence-based medical protocol for dispensing Mifeprex and misoprostol to patients to terminate their

pregnancies exposes PPW physicians to criminal and civil liability under Wis. Stat. § 253.105(3).

58. If "given" means "administered," then a physician who provides the medications to the patient under the PPW evidence-based medical protocol is in violation of Wis. Stat. § 253.105(2) when the patient takes the misoprostol at home, outside of the physician's presence, 24 hours after taking the Mifeprex.

59. The statute also is ambiguous as to whether misoprostol, when prescribed in combination with Mifeprex, is an "abortion-inducing drug" as defined in Wis. Stat. §253.10(2)(am).

60. As amended by Act 217, the statute requires the physician performing or inducing the abortion or another qualified physician to inform the patient that "if the abortion is induced by an abortion-inducing drug, that the woman must return to the abortion facility for a follow-up visit 12 to 18 days after the use of an abortion-inducing drug to confirm the termination of the pregnancy and evaluate the woman's medical condition." Wis. Stat. § 253.10(3)(c)1.hm.

61. Assuming that Wis. Stat. 253.105(2) requires separate clinic visits for each of the two drugs prescribed for a medication abortion, a woman seeking to terminate her pregnancy by medication is statutorily required to attend four separate appointments at the PPW clinic within specific intervals.

62. Any person who violates the requirements for medication abortions imposed by Wis. Stat. § 253.105(2) is subject to the criminal penalties for a Class I felony, except that no penalty can be assessed against a woman to whom the abortion-

inducing drug is given. Wis. Stat. § 253.105(3). The penalties for a Class I felony are a fine not to exceed $10,000 or imprisonment not to exceed 3 years and 6 months, or both. Wis. Stat. § 939.50(3)(i). The statute does not require proof of recklessness or intentional violation for criminal penalties to apply.

63. Wis. Stat. § 253.105(4) also grants a woman to whom an abortion-inducing drug was given and certain other persons a civil cause of action against any person who intentionally or recklessly violates § 253.105(2). Available relief includes damages arising out of the inducement of the abortion, including damages for personal injury and emotional and psychological distress; punitive damages for a violation that satisfies the standard under s. 895.043 (3), and reasonable attorney fees. Wis. Stat. § 253.105(4)(b), (c).

64. Requiring the patient to return to the PPW clinic to take the misoprostol in the presence of the physician who prescribed and provided the medication is not medically necessary and does not promote the health of the woman. Self-administration of misoprostol has been demonstrated to be safe and it has received the recommendation of the American College of Obstetricians and Gynecologists. Moreover, it may be medically inadvisable for a woman to travel to the clinic to take the misoprostol. The products of conception are expelled within four hours of administration of the misoprostol for about 50% of women. Vaginal bleeding, uterine cramping, nausea, diarrhea, fatigue and other symptoms may begin within an hour of administering the misoprostol. Moreover, women are instructed to closely monitor their bleeding, body temperature, and pain after the administration of misoprostol,

which may be more difficult and uncomfortable if they are traveling in a car or on public transportation. Women likewise may not have as ready access to pain medication and other palliative care for these symptoms while they are traveling. Some patients may have to spend the night away from home, incurring additional cost, discomfort, and loss of privacy.

65. Many women seeking to terminate an unwanted pregnancy do not detect their pregnancies until several weeks after the LMP, and thus have their first appointment at a PPW clinic close to, or after, the expiration of the period during which an abortion may be medically induced, i.e., within 63 days LMP.

66. Because many women seeking an abortion are, at the time of their first appointment at a PPW clinic, nearing the end of the time period during which a medication abortion may be provided, time is of the essence in scheduling a second appointment for the procedure.

67. Before Act 217 took effect, PPW clinics were generally able to schedule women for a second appointment to receive the abortion medications, generally with a different physician, within three to four days after the original appointment at which the patient was examined, received statutorily mandated information, and signed consent forms.

68. PPW cannot guarantee that the same physician will be physically present for three successive appointments within the short intervals and timeframe necessitated by the statute and the medical protocol for medication abortions. Even if the patient's subsequent appointments can initially be scheduled with the same physician,

emergencies or scheduling changes prompted by either the patient or the contracted physician may make it impossible to carry out the medication abortion in strict compliance with the statute.

69. To avoid exposing its staff and contracted physicians to criminal liability under the statute, the PPW clinics have been forced to cease offering medication abortions to patients.

70. As a result, PPW patients within 63 days of their LMP who choose to terminate their pregnancies may no longer may terminate the pregnancy with medication at home or another private location of their choosing, but must undergo a surgical procedure at the clinic.

71. PPW clinics must schedule more physician time per patient for a surgical abortion than was required for a medication abortion (as the procedure was conducted before the enactment of Act 217). Thus, since Act 217 was enacted and PPW began exclusively providing surgical abortions, many patients experience delays of up to 10 days after their original appointment before they can be scheduled for a second appointment for the surgical abortion procedure. Before Act 217 was enacted, the second appointment typically could be scheduled three to four days after the original appointment for either surgical or medication abortions. Thus, the law is having the effect of delaying abortions for many women.

V. FIRST CLAIM FOR RELIEF: THE STATUTORY REQUIREMENT THAT THE PHYSICIAN BE PHYSICALLY PRESENT WHEN A WOMAN IS "GIVEN" AN ABORTION-INDUCING DRUG IS UNCONSTITUTIONALLY VAGUE AND VIOLATES DUE PROCESS

72. The Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 72 above.

73. The requirement in Wis. Stat. § 253.105(2)(b) that the physician who prescribed, or otherwise provided, the abortion-inducing drug must be "physically present in the room when the drug is given to the woman" fails to clearly define what conduct is prohibited and subject to criminal penalties, including imprisonment. It is therefore unconstitutionally vague and violates due process in violation of the Plaintiff's rights under the Fourteenth Amendment to the U.S. Constitution.

VII. SECOND CLAIM FOR RELIEF: REQUIREMENT THAT PHYSICIAN DETERMINE THAT PATIENT'S CONSENT IS ACTUALLY VOLUNTARY IS UNCONSTITUTIONALLY VAGUE AND IN VIOLATION OF DUE PROCESS

74. The Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 72 above.

75. The provisions of Wis. Stat. § 253.10(5) & (6) that subject a physician to strict civil liability and civil penalties for violating the requirement in Wis. Stat. § 253.10(3)(b) that the physician who is to perform or induce the abortion "shall determine whether the woman's consent is, in fact, voluntary" are unconstitutionally vague and violate due process in violation of the Plaintiffs' rights under the Fourteenth Amendment to the U.S. Constitution.

REQUESTED RELIEF

WHEREFORE, Plaintiffs request that this Court:

1. Issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 & 2202 and 42 U.S.C. § 1983 that Wis. Stat. §§ 253.10(3)(b), 253.10(5), 253.10(6), and 253.105(1)-(4) violate the constitutional rights of the Plaintiffs as protected by the Due Process clause of the Fourteenth Amendment of the U.S. Constitution;

2. Issue injunctive relief, without bond, restraining defendants from enforcing the requirements of Wis. Stat. §§ 253.10(3)(b), 253.10(5) & (6), and 253.105(1)-(4);

3. Grant Plaintiff's attorney's fees, costs and expenses pursuant to 42 U.S.C. § 1988; and

4. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted this 11th day of December, 2012.

CULLEN WESTON PINES & BACH LLP

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JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
Planned Parenthood of Wisconsin, Inc. and Fredrik Broekhuizen, M.D.

(b) County of Residence of First Listed Plaintiff Milwaukee
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Cullen Weston Pines & Bach LLP
122 W. Washington Ave., Ste. 900, Madison, Wisconsin 53703
[redacted]

DEFENDANTS
Attorney General J.B. Van Hollen, Dane County District Attorney Ismael Ozanne, Individual Members of the Wisconsin Medical Examining Board (see attached list)

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff) and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Med. Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☒ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee (Prisoner Petition)
- ☐ 465 Other Immigration Actions

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
42 U.S.C. § 1983

Brief description of cause:
Action for declaratory and injunctive relief from unconstitutional provisions of Wis. Stat. §§ 253.10 & 253.105

VII. REQUESTED IN COMPLAINT:

☑ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☑ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*: JUDGE _____ DOCKET NUMBER _____

DATE
12/11/2012

SIGNATURE OF ATTORNEY OF RECORD
Susan M. Crawford

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Attachment to Civil Cover Sheet

Planned Parenthood of Wisconsin, Inc. v. J.B. Van Hollen, et al.

SECTION I. - DEFENDANTS

J.B. VAN HOLLEN
Attorney General of Wisconsin,
in his official capacity
114 East State Capitol
Madison, WI 53702-7857

ISMAEL OZANNE
District Attorney for Dane County,
In his official capacity and as representative of a class of
all District Attorneys in the State of Wisconsin
215 S. Hamilton Street, #3000
Madison, WI 53703-3297

CAROLYN H. BRONSTON
Medical Examining Board Member,
in her official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

MARY JO CAPODICE
Medical Examining Board Member,
in her official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

RODNEY A. ERICKSON
Medical Examining Board Member,
in his official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

JUDE GENEREAUX
Medical Examining Board Member,
in his official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

SURESH K. MISRA
Medical Examining Board Member,
in his official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

GENE MUSSER
Medical Examining Board Member,
in his official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

SANDRA L. OSBORN
Medical Examining Board Member,
in her official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

KENNETH B. SIMONS
Medical Examining Board Member,
in his official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

TIMOTHY SWAN
Medical Examining Board Member,
in his official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

SRIDHAR VASUDEVAN
Medical Examining Board Member,
in his official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

SHELDON A. WASSERMAN
Medical Examining Board Member,
in his official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

TIMOTHY W. WESTLAKE
Medical Examining Board Member,
in his official capacity
1400 East Washington Avenue, Rm 112
Madison, WI 53703

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

.

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

.

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

.

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

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❒ Other *(specify):*

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My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____
Plaintiff

v.

_____
Defendant

) Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

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❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

.

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

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❒ Other *(specify):*

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I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

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Signature of Clerk or Deputy Clerk

Civil Action No.

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❒ Other *(specify):*

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Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

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Civil Action No.

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❒ Other *(specify):*

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Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

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❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

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Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

.

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

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❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

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My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

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❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

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I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

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❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

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_____
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_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
)
v.) Civil Action No.
)
_____)
Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

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❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

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Additional information regarding attempted service, etc: