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MULTNOMAH COUNTY

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IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR MULTNOMAH COUNTY

6	M.H.	)	No. 0609-09732
		)	
7	Plaintiff,	)	ORDER ON DEFENDANTS'
		)	RULE 21 MOTIONS AGAINST
8	v.	)	FIRST AMENDED COMPLAINT
		)	
9	OREGON HEALTH SCIENCE	)	
	UNIVERSITY MEDICAL GROUP,	)	
10	UNIVERSITY MEDICAL GROUP, INC.,	)	
	OREGON HEALTH & SCIENCE	)	
11	UNIVERSITY, and KENNETH BURRY,	)	
	M.D.	)	
12	Defendants.	)	

ENTERED  
MAR - 7 2007  
IN REGISTER NM

14 This case came before the Honorable Henry Kantor on February 21, 2007, on defendants'  
 15 Rule 21 motions against first amended complaint. Plaintiff was represented by Maureen Leonard  
 16 and Jane Paulson. Defendants were represented by Janet M. Schroer and Connie McKelvey.  
 17 The court having examined the records and files of the within case, and hearing arguments of  
 18 counsel,

19 IT IS HEREBY ORDERED as follows:

- 20 1. Defendants' first motion to dismiss the first claim for relief is denied.
- 21 2. On defendants' second motion:
  - 22 (a) Defendants' motion to strike the attorney fees sought in paragraph seven is
  - 23 granted without leave to replead.
  - 24 (b) Defendants' motion to strike plaintiff's request for future economic
  - 25 damages in paragraph seven is granted with the right to replead.
- 26 3. Defendants' third motion is moot.

1           4.       Defendants' fourth motion to dismiss plaintiff's second claim for relief for breach  
2 of contract is granted with the right to replead.

3           5.       Defendants' fifth motion to make more definite and certain the claim for  
4 \$2,000,000 for the special value of plaintiff's sperm is denied as that is an evidentiary question  
5 rather than a pleading question.

6           6.       Defendants' sixth motion to strike plaintiff's third claim for relief for breach of  
7 fiduciary duty is granted. Plaintiff is permitted leave to replead only if plaintiff asserts a different  
8 duty than that alleged in the first amended complaint, and alleged in the professional negligence  
9 claim currently alleged in count number one.

10          7.       Defendants' seventh motion is denied.

11          8.       Defendants' eighth motion dismissing plaintiff's conversion claim is denied  
12 subject to the ruling in motion number nine.

13          9.       Defendants' ninth motion regarding damages alleged in paragraph 27 is granted in  
14 part and denied in part as follows:

15               (a)     Plaintiff's claim for economic damages for attorney fees and costs relating  
16 to establishing paternity is stricken without leave to replead;

17               (b)     Defendants' motion to strike plaintiff's claim for noneconomic damages in  
18 the amount of two million dollars is denied;

19               (c)     Defendants' motion to strike the words "other unknown costs at this date"  
20 from paragraph 27 is granted, but plaintiff is permitted to replead to make the claim for  
21 future economic damages more definite and certain.

22          10.       Defendants' tenth motion to dismiss plaintiff's sixth claim for relief for unlawful  
23 trade practices is allowed without leave to replead.

24          11.       Defendants' motion numbers 11-13, alternative motions regarding the unlawful  
25 trade practices claim, are moot.

26    ////



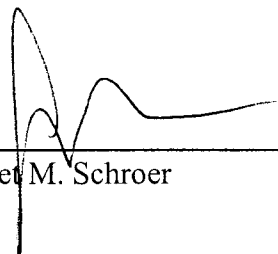
1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 2 day of March 2007, I served the foregoing ORDER ON  
3 DEFENDANTS' RULE 21 MOTIONS AGAINST FIRST AMENDED COMPLAINT, on the  
4 following parties at the following addresses:

5 Jane Paulson  
6 Paulson Law Firm  
7 1000 S.W. Broadway, Suite 1660  
8 Portland, OR 97205

9 Maureen Leonard  
10 520 SW 6<sup>th</sup> Avenue, Suite 920  
11 Portland, OR 97204

12 by mailing to them a true and correct copy thereof, certified by me as such, placed in a sealed  
13 envelope addressed to them at the addresses set forth above, and deposited in the U.S. Post  
14 Office at Portland, Oregon on said day with postage prepaid.

15   
16 Janet M. Schroer  
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