

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

2011 NOV -3 P 4: 04

DENISE FAIRBANKS,

Plaintiff,

v.

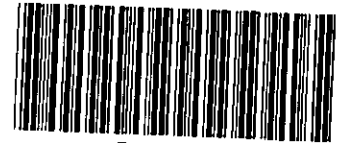
PLANNED PARENTHOOD
SOUTHWEST OHIO REGION, et al.,

Defendants.

Case No. A 0901484

Judge John Andrew West

FILED



D95289116

**DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR DISCOVERY FROM
UNIVERSITY OF DAYTON WITNESSES**

I. PRELIMINARY STATEMENT

The scope of discovery is clear. "Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action."¹ Defendants are entitled to the discovery sought from Dr. Rebecca Cook, a psychologist at the University of Dayton ("UD"), Sara E. Thomas, a former assistant athletic trainer at UD and Cindy Hartmann, a former social worker at UD (collectively, "UD Witnesses"), because it is relevant and, as plaintiff concedes, not privileged.

II. ARGUMENT

"Parties have a right to liberal discovery of information under the Rules of Civil Procedure."² Indeed, the Rules "exemplify a policy of affording attorneys every opportunity and advantage in preparing their case before trial."³ Civ.R. 26(B) "allow[s] for broad discovery of

¹ Civ.R. 26(B)(1).

² *Ward v. Summa Health Sys.*, 128 Ohio St. 3d 212, 2010-Ohio-6275, 943 N.E.2d 514, ¶ 9.

³ *Simeone v. Girard City Bd. of Educ.* (11th Dist.), 171 Ohio App. 3d 633, 2007-Ohio-1775, 872 N.E.2d 344, ¶ 24.

any unprivileged matter relevant to the subject matter of the pending proceeding.”⁴ Plaintiff concedes that she has waived any privilege attached to the UD records.⁵ Instead, she argues that the discovery sought by defendants is not relevant to her damages. The discovery, however, is relevant to plaintiff’s claim for damages, as well as her credibility.

Plaintiff asserts claims for intentional and negligent infliction of *emotional distress* — claims that plaintiff has *not* dismissed. She seeks over \$200 million in damages from defendants for the “horror, suffering and terror [she] experienced during the hundreds of times she was raped by John Blanks after November 15, 2004 and the fear she had during that period of time of being raped again.”⁶ The discovery sought from the UD witnesses is likely to lead to the discovery of admissible evidence regarding plaintiff’s emotional distress claims and her alleged damages.

Plaintiff began taking summer school classes at UD shortly after she disclosed her father’s abuse to her UD basketball coach, who reported the abuse to the police in May 2006.⁷ The UD records produced by plaintiff indicate that while she was at UD, she discussed her father’s abuse with Dr. Cook, Ms. Thomas, and Ms. Hartmann. Although plaintiff has limited the damages she seeks to “the horror, suffering and terror” she experienced from November 15,

⁴ *Ohio Consumers' Counsel v. PUC* (2006), 111 Ohio St. 3d 300, 2006-Ohio-5789, 856 N.E.2d 213, ¶ 83.

⁵ Memo in Opp., p. 2 (“Whether [plaintiff] waived her privilege of confidentiality simply does not matter...”). The party claiming a privilege has the burden to establish it. *Peyko v. Frederick* (1986), 25 Ohio St. 3d 164, 166, 495 N.E.2d 918. Plaintiff’s opposition makes no attempt to do so.

⁶ See Plaintiff’s Responses to Defendants’ First Set of Interrogatories and Requests for Production of Documents to Plaintiff, attached hereto as Exhibit 1, at p. 10; Plaintiff’s Voluntary Dismissal of Certain of Her Claims for Damages (footnote omitted).

⁷ See Complaint at ¶ 53 (“In the spring of 2006...Denise told her future basketball coach of the abuse by her father. The coach reported the abuse to a law enforcement agency...”); See DF 227 attached to Defendants’ Motion to Compel Discovery from UD Witnesses at Exhibit 6 (Listing Start Date at UD as 6/26/06).

2004 (the date she was seen at Planned Parenthood) to May 2006 (the date she disclosed her father's abuse to her basketball coach), the UD witnesses are among the first adults with whom plaintiff discussed the abuse and she did so within only weeks after it ended.

Plaintiff cannot draw an artificial line in the sand between her mental condition during the time when her father's abuse continued and her emotional and psychological condition immediately after it ceased. Evidence pertaining to plaintiff's mental condition when she spoke to the UD witnesses and her reflections on the abuse may be relevant to the jury's determination of what plaintiff suffered during the time that the abuse was ongoing. By bringing claims for her mental and emotional suffering during the period of abuse, plaintiff has put her mental and emotional condition in issue. Defendants are therefore entitled to discover evidence that will reflect upon it.

Plaintiff's communications with the UD Witnesses are also relevant to her credibility. This case hinges on whether the jury finds plaintiff or B.B. more credible. If plaintiff candidly discussed with the UD witnesses her experience at Planned Parenthood, her abortion, or her disclosure of her father's abuse but, as the record indicates, failed to disclose that she had told a Planned Parenthood employee that she "was forced to do things [she] didn't want to do,"⁸ a jury could find it less likely that plaintiff ever made this statement to B.B. In addition, defendants should be permitted to compare what plaintiff said to the UD witnesses about her experience at Planned Parenthood, her abortion, and her father's abuse, against the allegations asserted in her complaint. The jury's determination of plaintiff's credibility would likely be affected if plaintiff's allegations contradict what she disclosed to the UD witnesses.

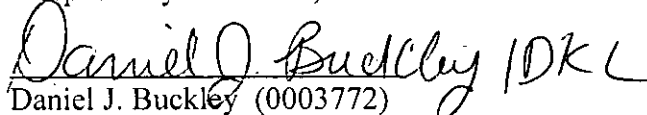
⁸ Complaint, ¶ 49.

Respectfully, defendants believe this (as well as other discovery they have sought and been denied by plaintiff) is basic discovery that any competent attorney representing defendants in this matter would seek. From defendants' perspective, what is making this litigation costly and burdensome is plaintiff's refusal to submit to basic discovery, which has required extensive motion practice.⁹ Plaintiff is represented by *three* significant Cincinnati law firms, with multiple lawyers at two of those firms actively engaged at various stages of the litigation. If her lawyers choose to save expenses by sending only one attorney or by attending depositions outside of Cincinnati by telephone, they may do so. There is no real risk, as her counsel suggests, that plaintiff will be unable to prosecute her claims.

III. CONCLUSION

For the forgoing reasons and the reasons stated in defendants' memorandum in support, the Court should compel compliance with the subpoena duces tecum and for deposition served on Dr. Cook, and a commission for the service of subpoenas duces tecum and for deposition upon Sara E. Thomas and Cindy Hartmann.

Respectfully submitted,

 Daniel J. Buckley (0003772)

Andrew M. Kaplan (0012708)

Dorothea K. Langsam (0082973)

Katherine A. Greiner (0085257)

Vorys Sater Seymour & Pease LLP

221 East Fourth Street, Suite 2000

Cincinnati, OH 45202

Telephone: (513) 723-4002

*Attorneys for Defendants Planned Parenthood
Southwest Ohio Region and B.B.*

⁹ To date, defendants have only taken two depositions in this action and have made every effort to accommodate plaintiff's counsel's schedules. Defendants have also offered to forego certain depositions if plaintiff would agree that she would not call the witnesses at trial. She would not.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served via e-mail and U.S. mail on this 3rd day of November, 2011, to the following:

Brian E. Hurley
Crabbe, Brown & James LLP
30 Garfield Place, Suite 740
Cincinnati, Ohio 45202

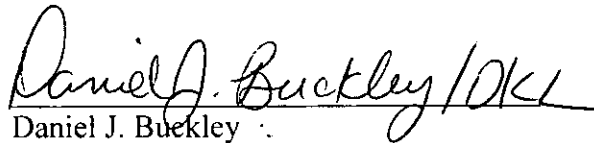
Nicholas E. Bunch
White Getgey & Meyer
1700 Fourth & Vine Tower
One West Fourth Street
Cincinnati, Ohio 45202

Richard L. Creighton, Jr.
William A. Posey
Keating, Muething & Klekamp PPL
One E. Fourth Street, Suite 1400
Cincinnati, Ohio 45202

Attorneys for Plaintiff Denise Fairbanks

John E. Hart
Director of Legal Affairs/University Counsel
300 College Park
Dayton, OH 45469-1660

*Attorney for University of Dayton and
Dr. Rebecca Cook*


Daniel J. Buckley

**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

DENISE FAIRBANKS, : Civ. No. A 09 01484
Plaintiff, : Judge John Andrew West
vs. :
PLANNED PARENTHOOD :
SOUTHWEST OHIO REGION., et al., :
Defendants. :

**PLAINTIFF'S RESPONSES TO
DEFENDANTS' FIRST SET OF INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS TO PLAINTIFF**

1. Denise Fairbanks (hereinafter "Denise") objects to Defendant Planned Parenthood's discovery requests insofar as they seek information which is not relevant to any issue in this lawsuit and which is neither admissible nor reasonably calculated to lead to the discovery of admissible evidence.
2. The parties agreed that all discovery produced in *Fairbanks v. Planned Parenthood Southwest Ohio Region, et al.*, Warren County, Ohio Court of Common Pleas, Case No. 07CV68441 ("*Fairbanks v. PP No. 1*") could be used as if produced in this action. As such, all requests for information and documents that were produced by Denise in *Fairbanks v. PP No. 1* are repetitive and unnecessary.
3. Denise objects to Planned Parenthood's discovery requests to the extent that they are overly broad, oppressive, harassing and/or impose an undue and unreasonable burden and expense upon them.



4. Denise objects to Planned Parenthood's discovery requests to the extent that they seek irrelevant and non-discoverable information protected from disclosure by the patient-physician privilege.
5. Denise objects to Planned Parenthood's discovery requests to the extent that they purport to impose upon her any obligations which are greater than, or inconsistent with, those imposed by the Ohio Rules of Civil Procedure.
6. Denise objects to Planned Parenthood's discovery requests to the extent that they are unreasonably cumulative and duplicative.
7. Denise objects to Planned Parenthood's discovery requests to the extent that they are vague and ambiguous, including, but not limited to, the vagueness and ambiguity of the use of terms that are undefined in the requests.
8. Denise objects to Planned Parenthood's discovery requests to the extent that they are not properly limited as to the time frame involved, including, but not limited to, those document requests that seek documents from periods before the events that she complains of in the Complaint.
9. Denise states that her investigation into the matters requested herein is ongoing and reserves the right to supplement her answers and responses.
10. Denise states that her response to any discovery request shall not constitute an admission regarding the admissibility or relevance of any information or document.
11. Denise states that her agreement to respond to a discovery request is not an acceptance by her of the factual assertions made in the requests, an acceptance by her of the requesting party's definitions of the terms used in the requests, an admission that the information and documents

requested are relevant, material, or admissible, or an agreement that non-privileged documents of the kind described in the request actually exist.

12. The word usage and sentence structure of these objections and responses in some instances is that of the attorneys assisting in her preparation, and, in those instances, is not the precise language of Denise.

13. Denise objects to Defendant's discovery requests to the extent that they seek discovery or production of information or material protected from discovery by the attorney work product doctrine or attorney-client privilege.

14. Denise objects to Defendant's discovery requests to the extent that they seek disclosure of opinions, mental impressions, conclusions or legal theories of Denise's counsel or other representatives.

15. Denise objects to Defendants' discovery requests to the extent they seek to require her to produce documents that are publicly available and readily accessible to Defendant.

16. Denise objects to each discovery request to the extent it seeks to impose upon her a responsibility to produce and/or identify documents not within her possession, custody or control.

17. Denise reserves the right to amend, modify, or supplement the responses made herein upon the receipt of new or different information obtained as the result of discovery and/or any investigation process being undertaken on her behalf. Upon the receipt of information that supplements, corrects or modifies the information provided in these responses, supplemental responses will be prepared and served by Denise.

18. Denise reserves any and all objections to the introduction or use at trial of any information or documentation disclosed herein, including, but not limited to, objections upon the grounds of relevancy and materials.

19. All of the foregoing general objections are incorporated in the following responses to Planned Parenthood's discovery requests, whether or not any general objection is referenced therein.

As to all Objections, above and below


Brian E. Hurley

INTERROGATORIES

INTERROGATORY NO. 1

Identify all persons who tested you for or diagnosed you with a Cognitive Disability or informed you that you had a Cognitive Disability.

OBJECTIONS:

1. See paragraph 19, above.
2. Defendants' assertion that Denise's alleged cognitive disability in any way impaired her ability to remember what occurred on November 15, 2004 is specious. It has been raised to embarrass and intimidate Denise and provide the basis for Defendants to conduct unnecessary discovery in an attempt to make Denise's prosecution of her claims prohibitively expensive.
3. When Defendants took Denise's deposition on August 17, 2007, they questioned her in detail about any alleged cognitive disability or learning problem she may

have had and/or for which she had been tested. Denise was able to understand each question she was asked and properly respond to those questions. As such, this interrogatory is specious, repetitive and unduly burdensome, and by it Defendants seek the production of information that is not discoverable because it is irrelevant and its disclosure will not lead to the discovery of any information that is relevant to an issue in this case.

4. Defendants' breach of their duties under RC §2151.421 occurred on November 15, 2004 when Denise was a junior in high school. As such, the information Defendants seek about Denise relating to her pre and post-high school years is irrelevant, and its production will not lead to the discovery of relevant evidence.

Without waiving her objections, Denise responds to this interrogatory as follows:

When she was in grade school, Denise engaged in disruptive behavior at school and missed a significant amount of school. (See Denise dep., pp. 9, 10.) As a result, Denise believes that the teachers and/or other staff at Denise's schools took a number of steps to determine why she was engaging in disruptive behavior and missed school. (See Denise dep., p. 9.) Denise does not know what, if any, conclusions those teachers and/or staff reached after having taken those steps. (See Denise dep., p. 9.)

It is Denise's understanding that, prior to learning that Denise was being sexually abused by her father, representatives of Mason High School determined that she may have had a cognitive disability. Nonetheless, Denise was still able to meet her academic obligations and graduate from Mason High School and later from college. Denise also directs Defendants to the information and documents she produced in *Fairbanks v. PP No.*

I.

During her high school years Denise was sexually abused by her father 2 to 3 times a week. It is certain that this sexual abuse had a negative effect on Denise's behavior, academics and emotional and psychological states.

Denise has no memory problems now, and she had no such problems on November 15, 2004 when she met with Defendant Becki Baker. (See Denise dep., p. 11.) When Denise was younger, possibly when she was a student at Princeton Junior High, she was tested at a location in the Clifton area, and she believes that the testing may have been done in part to determine if she had any issues recalling things. (See Denise dep., p. 10.) Denise has not recently been tested with respect to her memory abilities, and she does not know the date when her memory abilities were last tested. (See Denise dep., p. 11.) Moreover, any alleged memory problems Denise may have had did not prevent her from being able to successfully complete her studies at Mason High School and the junior colleges and colleges she attended, and it does not prevent her from recalling what she said to Defendant Becki Baker on November 15, 2004.

While Denise was in high school she, along with all of the other students at those schools, took a number of standardized tests that may, in part and in some way, relate to her intellectual and cognitive abilities.

The following are the schools Denise attended after January 1, 2000:

**Princeton City Schools
Mason High School
University of Dayton
Illinois Central College
University of Arkansas - Ft. Smith
Adams State University, Colorado (on-line courses Feb. 2009)
Oklahoma City University**

INTERROGATORY NO. 2

Identify all persons who performed intelligence testing on you or evaluated your cognitive capabilities.

RESPONSE: See Objections and Response to Interrogatory No. 1.

INTERROGATORY NO. 3

Identify all persons who tested you for an Emotional Disturbance or diagnosed you as Emotionally Disturbed or informed you that you were Emotionally Disturbed.

RESPONSE: Objections.

1. See paragraph 19, above.
2. See objection number 2 to Interrogatory No. 1.
3. See objection number 3 to Interrogatory No. 1.
4. See objection number 4 to Interrogatory No. 1.

Without waiving her objections, Denise responds to this Interrogatory by incorporating her responses to Interrogatory Nos. 1 and 11.

INTERROGATORY NO. 4

Identify all persons who tested you for or diagnosed you with a psychological condition or disorder or informed you that you had a psychological condition or disorder.

RESPONSE: See Objections and Response to Interrogatory No. 1.

Objections.

1. See paragraph 19, above.
2. See objection number 2 to Interrogatory No. 1.
3. See objection number 3 to Interrogatory No. 1.

4. See objection number 4 to Interrogatory No. 1.

Without waiving her objections, Denise responds to this Interrogatory by incorporating her responses to Interrogatory Nos. 1 and 11.

INTERROGATORY NO. 5

Identify all persons who prescribed Abilify or any other Psychiatric Drug to you.

RESPONSE: Objections.

1. See paragraph 19, above.
2. See Objection No. 4 to Interrogatory No. 1.

Without waiving her objections, Denise responds to this Interrogatory as follows:

It is Denise's understanding that, while she was in high school, John Blanks informed Mason High School that she had the drug Abilify prescribed to her. Denise does not believe that Abilify was prescribed to her, but if it was, Denise does not know the name of the doctor who prescribed it or why it was prescribed. However, Denise does know that no doctor who examined or evaluated her prior to November 15, 2004 knew that she was being sexually abused by her father 2 to 3 times a week.

INTERROGATORY NO. 6

Identify any Psychiatric Drug you have taken from January 1, 2000 to the present.

RESPONSE: See Objections and Response to Interrogatory No. 5.

INTERROGATORY NO. 7

Identify each school you attended for grades K-6.

RESPONSE: 1. See Objections and Response to Interrogatory No. 1.

2. Defendants' breach of their duties under RC §2151.421 occurred on

November 15, 2004 when Denise was a junior in high school. As such, the information Defendants seek about Denise relating to her grade school years is irrelevant and its production will not lead to the discovery of relevant evidence.

INTERROGATORY NO. 8

Identify each person you intend to call as a witness at any deposition, hearing, mediation, arbitration, trial or other proceeding in this matter and summarize his or her testimony.

RESPONSE: Denise has not yet determined which lay witnesses she will call at trial. At this time, Denise has determined that she will call the following individuals:

1. Denise
2. Becki Baker
3. Susan Momeyer
4. Julia Piercy
5. Laura Providenti
6. Jim Jabir

Defendants' legal counsel has informed Denise's legal counsel that, as part of their defense to Denise's damages claims, they may argue that the horror, suffering and terror Denise experienced while she was being raped was diminished over time because she was raped so often. If Defendants make that argument, Plaintiff will call Kathleen Chard, Ph.D. as an expert witness to rebut that argument.

Defendants have asserted that they intend to present evidence that, prior to being interviewed by attorney Brian Hurley, Denise did not inform anyone of that part of her conversation with Defendant Becki Baker whereby she informed Ms. Baker that the pregnancy was not supposed to happen and she was forced to do things she did not want to do. Depending on what evidence is presented and what arguments relating to that evidence are made at trial, Denise may call Mr. Hurley as a witness to address that

evidence and those arguments.

INTERROGATORY NO. 9

Identify the total amount of damages and the amount of and basis for each item of damage, including all facts and the method of calculation, that you seek in this lawsuit.

RESPONSE: Denise has not yet made a final determination of the dollar amount of damages she seeks in this action. When that determination is made, Denise will promptly supplement this response to this interrogatory. However, Denise is able to state that, after Defendants breached their duties to Denise under RC §2151.421, she was sexually abused by John Blanks on average of two to three times a week until mid-May, 2006. Although it is difficult to place a dollar value on each individual instance of sexual abuse and the constant fear and threats Denise experienced, Denise believes that each such instance of abuse has a value of no less than \$1 million.

INTERROGATORY NO. 10

Identify the basis for and all facts that support, refute or relate to your request for punitive damages and attorneys' fees.

RESPONSE: Because of the Ohio Supreme Court decision in the *Wallace* litigation, Denise is not seeking awards of punitive damages in this action. With respect to a request for attorneys' fees, Denise refers Defendants to her deposition transcript, her responses to these Interrogatories, the testimony of Defendants' employees or former employees and Ohio law that sets forth when attorneys' fees may be awarded to plaintiffs.

INTERROGATORY NO. 11

Identify all physicians, psychologists, therapists, counselors, social workers, or other

mental or physical health providers (including areas of specialization) you saw, consulted, or sought or received counseling or other treatment from related to your father's abuse of you or any physical or emotional injury or condition for which you seek relief in this action. If you are not claiming any damages for physical or emotional injuries, please so state.

RESPONSE: Denise is seeking damages for the suffering, horror and terror she endured each time she was sexually abused by John Blanks after Defendants breached their duties to her under RC §2151.421 and for the fear and threats she experienced during that period of time. Denise is not seeking damages for any psychological illness or condition caused or exacerbated by Mr. Blanks' sexual abuse of her. As such, none of the information Defendants seek by this interrogatory is relevant to any issue in this case and its disclosure will not lead to the discovery of relevant evidence.

INTERROGATORY NO. 12

State the amount for which you settled with Cincinnati Children's Hospital for its failure to report your father's abuse of you.

RESPONSE: See Objections and Response to Interrogatory No. 1. Without waiving her objections, Denise responds to this Interrogatory as follows:

Denise was seen and treated at Cincinnati Children's Hospital before Defendants breached their duties under RC §2151.421 to her. As such, what the Hospital did or did not do and whether Denise has a claim against the Hospital are irrelevant to any claim or issue in this case. In addition, the settlement Denise received from the Hospital was to compensate her for damages she suffered before November 15, 2004, the date Defendants breached their duties under RC §2151.421 Denise is seeking damages for the

suffering, horror and terror she experienced while being raped by John Blanks after November 15, 2004 and not for any psychological illness caused or exacerbated by Mr. Blanks' sexual abuse of her. For these reasons and the reasons set forth in her objection to Interrogatory No. 11, the settlement amount Denise received from Children's Hospital is not relevant to any issue in this case and its disclosure will not lead to the discovery of relevant evidence.

INTERROGATORY NO. 13

Identify all persons who assisted you or with whom you consulted or otherwise communicated in preparing the answers to the Interrogatories, Document Requests, Requests for Admission, and each of the Complaints filed in this action and in *Fairbanks v. Planned Parenthood Southwest Ohio Region, et al.*, Warren County Court of Common Pleas, Case No. 07cv68441.

RESPONSE: Denise's legal counsel drafted the Complaints and assisted Denise in preparing her response to these discovery requests.

DOCUMENT REQUESTS

REQUEST NO. 1

All documents identified, referred to, relied upon, or containing information provided in your answers above to Defendants' First Set of Interrogatories.

RESPONSE: Objection. Defendants' request for the production of documents "containing information provided in" the responses to these interrogatories is so vague that Denise is not able to provide a response to that part of this request.

1. See paragraph 19, above.

2. The only document relied upon to help respond to these discovery requests is the transcript of Denise's August 17, 2007 deposition.

3. With the exception of those documents the production to which Denise has objected, all documents identified or referred to in the responses to the interrogatories have already been produced or will be produced when the agreed protective order is issued.

REQUEST NO. 2

The complete records or file for you from each school identified in response to Interrogatory No. 7.

RESPONSE: Objection.

1. See Objections and Response to Interrogatory No. 1.
2. Defendants' breach of their duties under RC §2151.421 occurred on November 15, 2004 when Denise was a junior in high school. As such, the information Defendants seek about Denise relating to her grade school years is irrelevant and its production will not lead to the discovery of relevant evidence.

REQUEST NO. 3

The complete records or file for you from Princeton Middle School.

RESPONSE: Objection.

1. See Objections and Response to Interrogatory No. 1.
2. Defendants' breach of their duties under RC §2151.421 occurred on November 15, 2004 when Denise was a junior in high school. As such, the information Defendants seek about Denise relating to her middle school years is irrelevant and its

production will not lead to the discovery of relevant evidence.

REQUEST NO. 4

The complete records or file for you from Princeton High School.

RESPONSE: When the agreed protective order has been issued, Denise will produce these documents.

REQUEST NO. 5

The complete records or file for you from Oklahoma City University.

RESPONSE: Objection.

1. See Objections and Response to Interrogatory No. 1.
2. Defendants' breach of their duties under RC §2151.421 occurred on November 15, 2004 when Denise was a junior in high school. As such, the information Defendants seek about Denise relating to her college years is irrelevant and its production will not lead to the discovery of relevant evidence.

REQUEST NO. 6

The complete records or file for you from University of Dayton to extent they were not previously produced in *Fairbanks v. Planned Parenthood Southwest Ohio Region, et al.*, Warren County Court of Common Pleas, Case No. 07cv68441.

RESPONSE: Objection.

1. See Objections and Response to Interrogatory No. 1.
2. Defendants' breach of their duties under RC §2151.421 occurred on November 15, 2004 when Denise was a junior in high school. As such, the information Defendants seek about Denise relating to her college years is irrelevant and its production

will not lead to the discovery of relevant evidence.

REQUEST NO. 7

All documents that refer, relate, or pertain to your cognitive disability or perceived cognitive disability.

RESPONSE: Objection. See Objections and Response to Interrogatory No. 1.

Without waiving her objections, Denise refers Defendants to Mason High School records, and she will produce her Princeton High School records when the agreed protective order has been issued.

REQUEST NO. 8

All documents that refer, relate, or pertain to any testing or evaluation of whether you have a cognitive or learning disability or problems with memory or behavior, including any treatment therefore.

RESPONSE: Objection. See Objections and Response to Interrogatory No. 1.

Without waiving her objections, Denise refers Defendants to her Mason High School records, and she will produce her Princeton High School records when the agreed protective order has been issued.

REQUEST NO. 9

All documents that refer, relate, or pertain to your emotional disturbance or any other psychological condition or disorder with which you have been diagnosed.

RESPONSE: Objection. See Objections to Interrogatory Nos. 3 and 4 and Responses to Interrogatory Nos. 1 and 11 and Document Request Nos. 8 and 9.

REQUEST NO. 10

All documents that refer, relate, or pertain to any testing or evaluation of whether you are emotionally disturbed or have any other psychological condition or disorder, including any treatment therefore.

RESPONSE: Objection. See Objections to Interrogatory Nos. 3 and 4 and Responses to Interrogatory Nos. 1 and 11 and Document Request Nos. 8 and 9.

REQUEST NO. 11

All documents that refer, relate or pertain to intelligence testing performed on you or evaluations of your cognitive capabilities.

RESPONSE: Objection. See Objections and Response to Interrogatory No. 1.

Without waiving her objections, Denise refers Defendants to her Mason High School records, and she will produce her Princeton High School records when an agreed protective order has been issued.

REQUEST NO. 12

All documents that refer, relate, or pertain to you that are maintained by any physician, psychologist, therapist, counselor, social worker, or other mental or physical health provider that you have seen, consulted, been examined by, spoken with, or sought or received care from since January 1, 2000 about your physical, mental, or emotional health.

RESPONSE: Objection. See Objections and Responses to Interrogatory Nos. 1 - 4 and 11.

REQUEST NO. 13

All documents that constitute, refer, or relate to the consultation, treatment, diagnosis, or prognosis from each physician, psychologist, therapist, counselor, or other mental or physical

health provider that you have consulted or seen related to your father's abuse of you or any physical or mental injuries or distress for which you seek damages.

RESPONSE: Objection. See Objections and Responses to Interrogatory Nos. 1 - 4 and 11.

REQUEST NO. 14

All documents constituting, referring to, or relating to reports or written opinions, including drafts, prepared by experts retained by you, whose opinions may be presented at trial in this action.

RESPONSE: No such documents exist at this time.

REQUEST NO. 15

All documents reviewed by any experts retained by you whose opinions may be presented at trial in this action.

RESPONSE: None at this time.

REQUEST NO. 16

All documents that constitute, refer or relate to each item of damage that you seek in this lawsuit.

RESPONSE: Denise will testify at trial about the suffering, horror and terror she endured each time she was sexually abused by John Blanks and November 15, 2004 and the fear and threats she experienced during that period of time. At this time, Denise is not aware of any documents that "constitute, refer or relate" to that testimony.

REQUEST NO. 17

All documents you intend to introduce into evidence or use as exhibits at any deposition, hearing, mediation, arbitration, trial or other proceeding in this matter and all documents that you

intend to rely on at any such deposition, hearing, mediation, arbitration, trial or other proceeding in this matter.

RESPONSE: Denise has not yet determined which documents she intends to introduce into evidence at trial.

REQUEST NO. 18

All documents that you consulted, referred to, reviewed, or relied upon in preparing your answers to the Interrogatories, Document Requests, Requests for Admission, and each of the Complaints filed in this matter and in *Fairbanks v. Planned Parenthood Southwest Ohio Region, et al.*, Warren County Court of Common Pleas, Case No. 07cv68441.

RESPONSE: Objection.

1. Defendants' request for the production of documents "containing information provided in" the responses to these interrogatories is so vague that Denise is not able to provide a response.

2. It has been almost 5 years since Denise and her counsel served their responses to the discovery requests in the Warren County litigation, and, as such, it is not possible to provide anything but a speculative response to this request.

Respectfully submitted,

CRABBE, BROWN & JAMES, LLP



By: Brian E. Hurley (0007827)

Robert J. Gehring (0019329)

Daniel J. Hurley (0034499)

30 Garfield Place, Suite 740

Cincinnati, OH 45202

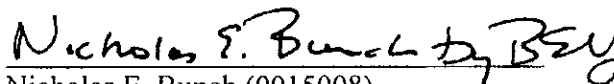
(513) 784-1525 (Telephone)

(513) 784-1250 (Facsimile)

bhurley@cbjlawyers.com

rgehring@cbjlawyers.com

Co-counsel for Plaintiff Denise Fairbanks



Nicholas E. Bunch (0015008)

White Getgey & Meyer Co. LPA

Fourth & Vine Tower

1 W. Fourth Street, Suite 1700

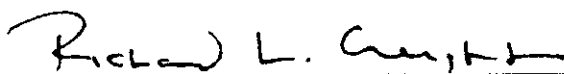
Cincinnati, OH 45202

(513) 241-3685 (Telephone)

(513) 241-2399 (Facsimile)

nbunch@wgmlpa.com

Co-counsel for Plaintiff Denise Fairbanks



Richard L. Creighton, Jr. (0021806)

William A. Posey (0021821)

Keating, Muething & Klekamp PLL

One East Fourth Street

Suite 1400

Cincinnati, OH 45202

(513) 579-6513 (Telephone)

(513) 579-6457 (Facsimile)

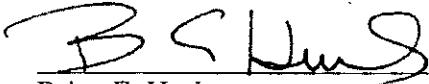
rcreighton@kmlaw.com

Co-counsel for Plaintiff Denise Fairbanks

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served via email on this 27th day
of September, 2011, to the following:

Daniel J. Buckley (0003772)
Andrew M. Kaplan (0012708)
Dorothea K. Langsam (0082973)
Katherine A. Greiner (0085257)
Vorys Sater Seymour & Pease LLP
221 East Fourth Street, Suite 2000
Cincinnati, OH 45202
(513) 723-4002 (Telephone)
(513) 852-7819 (Facsimile)
djbuckley@vorys.com
Trial Attorneys for Defendants



Brian E. Hurley