

KYLE SMITH & KARLEY KEATING

: J.D. OF NORWALK/STAMFORD

V.

: AT STAMFORD

REPRODUCTIVE MEDICINE ASSOCIATES
OF CONNECTICUT, P.C., ILLUME
FERTILITY, PLLC, SPENCER RICHLIN

: MARCH 1, 2024

COMPLAINT

I. RELEVANT FACTUAL ALLEGATIONS

1. At all times relevant to this complaint, Plaintiff, KYLE SMITH, (Hereinafter “KYLE”) was resident of the City of Norwalk, in the County of Fairfield, and the State of Connecticut.
2. At all times relevant to this complaint, Plaintiff, KARLEY SMITH, was a resident of the City of Norwalk, in the County of Fairfield, and the State of Connecticut.
3. At all times relevant to this complaint the Defendant, REPRODUCTIVE MEDICINE ASSOCIATES OF CONNECTICUT, P.C. (RMA) was a Professional Corporation formed under the laws of the State of Connecticut for the purpose of providing infertility services including, but not limited to assisted reproductive technologies including, but not limited to intrauterine insemination, in-vitro fertilization, pre-implantation genetic screening, and the secure cryopreservation and storage of reproductive materials, such as human sperm and eggs.

(ILLUME) was a Professional Corporation formed under the laws of the State of Connecticut for the purpose of providing infertility services including, but not limited to assisted reproductive technologies including, but not limited to: intrauterine insemination, in vitro fertilization, pre-implantation genetic screening, and the secure cryopreservation and storage of reproductive materials, such as human sperm and eggs.

5. At all times relevant to this complaint the Defendant, SPENCER S. RICHLIN, MD (“RICHLIN”) was a board-certified reproductive endocrinologist and the Surgical Director of the Defendants, RMA and/or ILLUME, overseeing the cryopreservation of human reproductive materials.
6. At all times relevant to this complaint, Defendant, RICHLIN, was a partner, manager, director, and/or owner of Defendants, RMA and/or ILLUME.
7. In or about August of 2018, Plaintiff, KYLE was diagnosed with testicular cancer after presenting to the Stamford Hospital Emergency Room for pain in his groin.
8. Stamford Emergency personnel advised Plaintiff, KYLE, to consult with a urologist.
9. In early September Plaintiff, KYLE, presented to a urologist, Dr. Batter, who advised Plaintiff, KYLE, that they would have to remove the affected testicle, and that following same they would know more about the degree of his cancer.
10. On September 19, 2018, Plaintiffs, KYLE and KARLEY were married.
11. In or about October of 2018, Dr. Batter removed the affected testicle from Plaintiff, KYLE

beyond the initially affected, and now removed testicle, to the chord, and Plaintiff, KYLE, was advised to meet with an oncologist.

13. In or about October of 2018 Plaintiff, KYLE, met with an oncologist, Dr. Frank, who advised that the testicular cancer had spread to his cord, abdomen, and lungs.
14. Dr. Frank inquired of Plaintiff, KYLE, if he had children and/or if he wanted to have children in the future.
15. Plaintiff, KYLE, responded that he did not yet have children, and having just been married, wanted to start a family with his new wife.
16. Dr. Frank explained that, due to the amount of chemotherapy that would be performed as treatment for the cancer, that Plaintiff, KYLE, should preserve sperm/ semen cryogenically, for future attempts at pregnancy with his wife.
17. Plaintiffs KYLE and KARLEY researched reproductive facilities in the area which could offer the necessary retrieval, cryogenic freezing, storage, and ultimate fertility treatments that would be required to obtain a successful pregnancy, and decided that Defendants, RMA and/or ILLUME were the best option for them given their geographic location, and other considerations.
18. Plaintiff, KYLE, made an appointment to meet with a technician who was an agent, employee and/or assign of Defendants, RMA and/or ILLUME, to obtain a tour of the

met with same in late October of 2018.

19. In early November of 2018, Plaintiff, KYLE, returned to Defendants, RMA and/or ILLUME'S, Norwalk facility to give his first sample of sperm/semens for cryopreservation to a technician, employee, agent, and/or assign of Defendants, RMA and/or ILLUME.
20. Later on November 14, 2018 Plaintiff, KYLE, went to Defendants, RMA and/or ILLUME Norwalk, CT facility and executed a "Consent for Cryopreservation and/or storage of Semen Epididymal, and/or Testicular Tissue;" and on same date KYLE gave his second sample to technician, employee, agent, and/or assign of Defendants, RMA and/or ILLUME; for cryopreservation by Defendants, RMA and/or ILLUME.
21. Plaintiff KYLE, successfully, deposited fourteen (14) "vials" of healthy sperm with Defendants, RMA and/or ILLUME, and made know to Defendant(s), RMA and/or ILLUME, that he was utilizing their services due to his upcoming chemotherapy for testicular cancer.
22. Pursuant to the November 14, 2018 "Consent for Cryopreservation and/or Storage..." agreement, Plaintiff, KYLE, received the first three (3) months of storage for free, and then paid fifty and 00/100 dollars (\$50.00) per month for storage of his sperm/semens to Defendants, RMA and/or ILLUME.

and learned that he was rendered permanently infertile as a result of the chemotherapy treatments.

- 2.4 In August of 2019, Plaintiff's, KYLE and KARLEY, returned from their honeymoon to begin attempting to get pregnant from the cryopreserved sperm/semen being stored by Defendants, RMA and/or ILLUME, having explained to Defendants that Plaintiff, KYLE, was rendered infertile as a result of his chemotherapy treatments. and Plaintiff, KARLEY, began testing to start attempting fertility treatments.
25. In August 2019, Plaintiff, KARLEY began testing for fertility treatments by Defendant(s), RMA and/or ILLUME, and said testing uncovered the existence of a tumor within her ovary which required subsequent removal and treatments by a specialist.
26. Following the removal of Plaintiff, KARLEY'S, ovary, and all necessary treatments, Plaintiff KARLEY and KYLE presented to Defendants, RMA and/or ILLUME, to continue attempt at using the sperm/semen of Plaintiff, KYLE, currently being stored at Defendants, RMA and/or ILLUME.
27. Unfortunately, as a result of the onset of the COVID-19 pandemic, Defendants, RMA and/or ILLUME, would not work with anyone who was not already "pregnant," so the Plaintiffs, KYLE and KARLEY, had to wait to undergo fertility treatments in the effort to become pregnant until such time as the pandemic guidelines had relaxed.

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