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6 *Attorney for Plaintiffs*

7 **SUPERIOR COURT FOR THE STATE OF ARIZONA**

8 **IN AND FOR THE COUNTY OF PIMA**

9  
10 DEBRA GUILMETTE and KRISTEN  
FINLAYSON,

11 Plaintiffs,

12 vs.

13 DR. JAMES F. BLUTE, III and JANE DOE  
14 BLUTE, husband and wife; JAMES F.  
15 BLUTE III, M.D., P.C., an Arizona  
16 Professional Corporation; TUCSON  
MEDICAL CENTER, an Arizona  
17 corporation; JOHN and JANE DOES I-XX;  
ABC CORPORATIONS I-XX,

18 Defendants.  
19

Case No.

**COMPLAINT  
(Tier 3)**

**(Medical Malpractice, Negligence,  
Negligent Infliction of Emotional  
Distress, Negligence Per Se,  
Intentional Infliction of Emotional  
Distress, Medical Battery, Sexual  
Battery, Fraud, Consumer Fraud,  
Breach of Fiduciary Duty)**

Assigned to: Hon.

20 **PROCEDURAL ALLEGATIONS**

21 Plaintiffs, for their Complaint, allege as follows:

22 1. Plaintiff Debra Guilmette (“Debra”), at the time of the acts alleged, resided  
23 in Pima County, Arizona.

24 2. Plaintiff Kristen Finlayson (“Kristen”), at the time of the acts alleged,  
25 resided in Pima County, Arizona.  
26

1           3.       Defendant Dr. James Blute, III (“Dr. Blute”) is believed to be a married  
2 man who, at the time of the acts alleged, resided in and conducted a medical practice in  
3 Pima County, Arizona.

4           4.       Defendant James F. Blute, III, M.D., P.C., (“The Practice”) was an Arizona  
5 Professional Corporation under which Dr. Blute practiced medicine at the time of the acts  
6 alleged. The Practice was located at 2375 N. Wyatt Dr., #107 in Tucson, Arizona.

7           5.       Defendant Jane Doe Blute is believed to be Dr. Blute’s wife; her identity  
8 and place of residence in unknown.

9           6.       At all times Dr. Blute’s actions benefited his marital community, which is  
10 jointly and severally responsible for all harms caused.

11          7.       Defendant Tucson Medical Center (“TMC”) is an Arizona corporation that  
12 owns and operates a hospital in Pima County, AZ of the same name. Upon information  
13 and belief, at all times relevant to this action, Defendant Dr. Blute was an employee of  
14 and /or agent of Defendant TMC.

15          8.       At all times relevant to this action, Defendant Dr. Blute had privileges at  
16 TMC and was the designated Chief of OB/GYN services.

17          9.       The identities of John and Jane Does I through XX and ABC Corporations I  
18 through XX are presently unknown to the Plaintiffs, and leave of Court will be sought to  
19 amend this Complaint once their true identities are discovered.

20          10.       This matter exceeds the applicable compulsory arbitration limits and is  
21 NOT subject to compulsory arbitration, as the damages exceed \$50,000.

22          11.       This is a Tier 3 Case.

23          12.       This Court has personal and subject matter jurisdiction, and venue is  
24 proper.

25          13.       Plaintiffs demand trial by jury.

26

1 **GENERAL ALLEGATIONS**

2 14. During the 1980s, Debra was a patient of Dr. Blute.

3 15. Dr. Blute and Debra had a Doctor-Patient relationship.

4 16. Dr. Bute is Board Certified in Obstetrics and Gynecology and, at the time,  
5 his practice was in obstetrics and gynecology.

6 17. His practice was located in the area of TMC, and his relationship with the  
7 hospital was well known and marketed.

8 18. Dr. Blute was the Chief of OB/GYN at TMC.

9 19. Debra knew of Dr. Blute's relationship with TMC and relied on his position  
10 of honor, respectability, responsibility and oversight with TMC in selecting him as her  
11 physician.

12 20. As part of his medical practice, Dr. Blute performed artificial insemination  
13 services.

14 21. Dr. Blute held himself out as a professional who could coordinate the  
15 artificial insemination of his patients who were otherwise unable to conceive with their  
16 partner.

17 22. Dr. Blute represented to his patients, including Debra, that anonymously  
18 sourced, third party donors would provide the semen sample.

19 23. Dr. Blute represented to his patients that they could specify traits, such as  
20 ethnicity, which he would satisfy in obtaining the semen to be used in artificial  
21 insemination.

22 24. Debra and her now deceased husband were unable to conceive.

23 25. Knowing Dr. Blute's relationship with TMC, she made an appointment to  
24 visit him to learn more about his artificial insemination services.

25 26. At that appointment, Debra made it clear to Dr. Blute that if she went  
26 forward, she and her husband required a Hispanic donor's sperm.

1           27.    Dr. Blute assured Debra that the request would be honored.

2           28.    At no time did Dr. Blute suggest or receive consent to utilize his own  
3 semen in the artificial insemination process.

4           29.    Given Debra's clear direction and requests to Dr. Blute, and his assurance  
5 that a male of Hispanic background would provide an anonymous sperm donation, Debra  
6 and her husband made the difficult and personal decision to move forward with the  
7 procedure.

8           30.    When a woman pursues artificial insemination, she and her loved ones  
9 entrust their physician with access to, and power over, areas of life that are unusually  
10 intimate and sacred.

11          31.    Debra trusted Dr. Blute over those areas which were unusually intimate and  
12 sacred.

13          32.    Artificial insemination is the deliberate introduction of sperm into a  
14 woman's cervix for the purpose of achieving a pregnancy.

15          33.    The procedure to inseminate Debra involved Dr. Blute positioning Debra so  
16 her genitalia were exposed to him and Dr. Blute physically touching Debra to insert  
17 donor semen in her cervix.

18          34.    Dr. Blute charged Debra for the services he rendered.

19          35.    Dr. Blute successfully inseminated Debra on three occasions producing two  
20 children, also plaintiffs in this action.

21          36.    Dr. Blute represented to Debra and her husband that all sperm was sourced  
22 from the same anonymous Hispanic donor.

23          37.    Debra and her husband relied on Dr. Blute's representation that all sperm  
24 was sourced from the same anonymous Hispanic donor in deciding to move forward.

25          38.    Dr. Blute's representation was a lie.

26          39.    Dr. Blute delivered both of Debra's children.

1           40.    Aaron was born on April 3, 1983.

2           41.    Kristen was born on June 25, 1985.

3           42.    Dr. Blute created a Doctor-Patient relationship with Kristen and Aaron.

4           43.    In 2019, Kristen purchased an Ancestry.com DNA kit.

5           44.    On or about November 2019, Kristen’s DNA was genotyped, and Kristen  
6 learned of the results.

7           45.    The results indicated that Kristen was related to multiple individuals with  
8 the family surname Blute.

9           46.    Kristen, not comprehending the results, then purchased an 23 and Me DNA  
10 kit.

11          47.    The Ancestry.com results confirmed the 23and Me results – also linking her  
12 to a family with the surname Blute.

13          48.    In December 2019, Kristen approached her mother about her 23AndMe test  
14 kit results.

15          49.    It was then that Plaintiffs discovered that what they thought was  
16 anonymous sperm was not at all anonymous, but was Dr. Blute’s own sperm.

17          50.    Plaintiffs were horrified and sickened to learn that their trusted doctor was,  
18 in fact, the hidden father of both of Debra’s children.

19          51.    Upon information and belief, all of the sperm Debra received was not  
20 anonymous donor sperm, but was instead the sperm of her own, trusted doctor, Dr. Blute.

21          52.    Upon information and belief, it was Dr. Blute’s practice to use his own  
22 sperm and not use anonymous sperm when artificially inseminating his patients.

23          53.    Upon information and belief, the Guilmette/Finlayson family is not the only  
24 family who was being treated by Dr. Blute and received Dr. Blute’s sperm.

25          54.    Dr. Blute never informed Debra that he would be using his own sperm.

26









- B. For special damages;
- C. For punitive damages designed to punish and deter similar conduct;
- D. For taxable costs incurred;
- E. For interest on the judgment amount; and
- F. For any other relief the court deems appropriate in this action.

RESPECTFULLY SUBMITTED 9<sup>th</sup> day of September, 2020.

**SCHMIDT, SETHI & AKMAJIAN**

By: /s/ Dev K. Sethi  
Dev K. Sethi  
*Attorneys for Plaintiffs*