

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

THE SATANIC TEMPLE and
MARY DOE

Plaintiffs

Docket No.

-vs-

JEREMIAH JAY NIXON, GOVERNOR
OF THE STATE OF MISSOURI, and
CHRIS KOSTER, ATTORNEY GENERAL
OF THE STATE OF MISSOURI

Defendants

COMPLAINT

Plaintiffs The Satanic Temple and Mary Doe, by their attorney W. James Mac Naughton, allege as follows:

Parties

1. The Satanic Temple is an association of politically aware Satanists, secularists and advocates for individual liberty.
2. Plaintiff Mary Doe is an adult and competent woman residing in Missouri.
3. Plaintiff Mary Doe is a member of The Satanic Temple.
4. Mary Doe is not Plaintiff Mary Doe's real name; Plaintiff Mary Doe needs to keep her real name confidential because this action involves her most intimate personal beliefs and she will be subject to personal attack for bringing this action.
5. Defendant Jeremiah ("Jay") Nixon is the Governor of the State of Missouri.

6. Defendant Chris Koster is the Attorney General of the State of Missouri.

7. Defendants and their agents and officers are responsible for the enforcement of Missouri state law including the regulation of abortions pursuant to Mo. Rev. Stat. §§ 188.015, et seq.

Jurisdiction

8. The Court has jurisdiction over the case pursuant to 28 U.S.C. §1331 as the claims arise under 42 U.S.C. §1983.

Venue

9. Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(2) as the events giving rise to the claims occurred and will occur in this district.

Facts Common to All Counts

10. Members of The Satanic Temple include women who have had or will get an abortion in Missouri.

11. Plaintiff Mary Doe decided and may again decide to get an abortion in Missouri.

12. The only place a woman can get an abortion in Missouri is at the offices of Planned Parenthood of the St. Louis Region and Southwest Missouri (“Planned Parenthood”), in St. Louis City, Missouri.

13. Mo. Rev. Stat. § 188.027.1(2) requires that prior to providing a woman with an abortion, Planned Parenthood must deliver to her a booklet prepared by the Missouri Department of Health and Senior Services (the “Booklet”). A copy of the Booklet is attached as Exhibit A.

14. The Booklet states, in pertinent part, “The life of each human being begins at conception. Abortion will terminate the life of a separate, unique, living human being” (the “Missouri Tenets”).

15. The Missouri Tenets communicate the religious belief that human tissue *in utero* that is not viable (“Human Tissue”) is, starting at conception, a unique human being with a life of its own, separate and apart from the woman whose uterus it occupies. Implicit in this belief is that the destruction of Human Tissue is morally wrong.

16. The Missouri Tenets are believed by some but not all people in Missouri, including without limitation members of the Catholic Church and some evangelical and fundamentalist Christian congregations.

17. The Booklet contains detailed descriptions and images of the anatomical and physiological characteristics of Human Tissue at two-week gestational increments from conception to full term. The description includes statements such as:

- A. “The fetal heartbeat can be detected with a Doppler or heart monitor;”
- B. “The fetal heartbeat can now be heard with a stethoscope;”
- C. “The fetus can blink, grasp, and move its mouth;”
- D. “If the hand floats to the mouth, the fetus may suck its thumb;”
- E. “The fetus hears the mother’s sounds such as her heartbeat, breathing and speaking;”
- F. “The fetus sleeps and wakes regularly;”
- G. “At least by 22 weeks of gestational age, the fetus possesses all the anatomical structures, including pain receptors, spinal cord, nerve tracts, thalamus, and cortex, which are required to feel pain,” a

statement required by Mo. Rev. Stat. § 188.027.1(5).

18. Mo. Rev. Stat. § 188.027.1(4) requires that prior to providing a woman with an abortion, Planned Parenthood “shall provide the woman with the opportunity to view . . . an active ultrasound of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible” (the “Ultrasound Opportunity”). The Ultrasound Opportunity must include “the dimensions of the unborn child, and accurately portray[] the presence of external members and internal organs, if present or viewable, of the unborn child.”

19. Mo. Rev. Stat. § 188.027.1(4) requires Planned Parenthood to wait seventy-two hours after the Ultrasound Opportunity before providing Plaintiff with an abortion (the “72 Hour Waiting Period”).

20. Mo. Rev. Stat. § 188.027.12 requires Planned Parenthood to wait twenty-four hours after the Ultrasound Opportunity before providing a woman with an abortion if the 72 Hour Waiting Period is enjoined by the Court (the “24 Hour Waiting Period.”)

21. Mo. Rev. Stat. § 188.027.3 requires a woman to certify in writing that she has received the Booklet and the Ultrasound Opportunity before she may get an abortion (the “Certification Requirement”).

22. The Booklet, the Ultrasound Opportunity, the 72 Hour Waiting Period, the 24 Hour Waiting Period and Certification Requirement are referred to herein jointly and severally as the Missouri Lectionary.

23. The purpose of the Missouri Lectionary is to “inform” a woman who has decided to get an abortion that the Missouri Tenets are true.

24. The effect of the Missouri Lectionary is to:

- A. Encourage a pregnant woman who has decided to get an abortion to believe the Missouri Tenets and forgo an abortion; and
- B. Compel a woman who has decided to get an abortion to wait and consider the Missouri Tenets and Missouri Lectionary for at least three (3) days before getting the abortion; and
- C. Create doubt, guilt and shame in the mind of a pregnant woman who does not believe the Missouri Tenets.

25. Planned Parenthood is required by law to deliver the Missouri Lectionary to pregnant women who seek its abortion services.

26. The Missouri Lectionary is delivered at a time when a pregnant woman has already decided to get an abortion.

27. Planned Parenthood delivered the Missouri Lectionary to Plaintiff Mary Doe when she was pregnant and sought an abortion in Missouri.

28. Planned Parenthood will deliver the Missouri Lectionary to Plaintiff Mary Doe if she becomes pregnant again and seeks an abortion in Missouri.

29. Planned Parenthood delivered the Missouri Lectionary to pregnant members of The Satanic Temple when they sought an abortion in Missouri.

30. Planned Parenthood will deliver the Missouri Lectionary to pregnant members of The Satanic Temple when they seek an abortion in Missouri.

31. Plaintiffs' religious beliefs (the "Satanic Tenets") are:

- A. A woman's body is inviolable and subject to her will alone;

- B. She makes decisions regarding her health based on the best scientific understanding of the world, even if the science does not comport with the religious or political beliefs of others;
- C. Human Tissue is part of her body; and
- D. She alone decides whether to remove Human Tissue from her body; and
- E. She may, in good conscience, have Human Tissue removed from her body on demand and without regard to the current or future condition of the Human Tissue.

32. Adherents to the Satanic Tenets do not believe the Missouri Tenets are true.

Specifically, they do not believe:

- A. The life of a human being begins at conception; or
- B. Abortion terminates “the life of a separate, unique, living human being;”
or
- C. The removal of Human Tissue from a woman’s body is morally wrong.

33. The Missouri Tenets and Missouri Lectionary are irrelevant to adherents to the Satanic Tenets in making a decision to get an abortion because they believe Human Tissue can be removed from their bodies on demand and, in good conscience, without regard to the current or future condition of the Human Tissue.

34. Neither the Missouri Tenets nor the Missouri Lectionary are medically necessary for an adherent to the Satanic Tenets or any other woman to make an informed decision to get an abortion.

35. Women can and do routinely have safe abortions on demand throughout the country using established medical procedures and without consideration of the Missouri Tenets or the Missouri Lectionary.

First Count – Violation of the Establishment Clause

36. Plaintiffs repeat and reallege ¶¶ 1 to 35.

37. All people have the right to formulate, hold, change or reject their own belief of whether Human Tissue is the life of a separate and unique human being that began at conception (the “Freedom to Believe When Human Life Begins”).

38. All women who are contemplating getting an abortion in Missouri have the right, pursuant to the First Amendment, to exercise their Freedom to Believe When Human Life Begins and act upon their belief without interference or influence by the State of Missouri.

39. The creation, distribution and enforcement of the Missouri Lectionary promotes the Missouri Tenets in violation of the Establishment Clause of the First Amendment because the State of Missouri is using its power to regulate abortion to promote some, but not all, religious beliefs that Human Tissue is, from conception, a separate and unique human being whose destruction is morally wrong.

40. The purpose and effect of the Missouri Tenets and Missouri Lectionary are to promote the religious belief that Human Tissue is, from conception, a separate and unique human being whose destruction is morally wrong.

41. The Missouri Tenets and Missouri Lectionary foster an excessive entanglement between the State of Missouri and adherents to the religious belief that Human

Tissue is a separate and unique human being from conception whose destruction is morally wrong.

42. Neither the Missouri Tenets nor the Missouri Lectionary promote the religious belief that Human Tissue is part of a woman's body that may be removed on demand in good conscience and without consideration of the current or future condition of the Human Tissue.

43. Defendants are acting under color of state law in the creation, distribution and enforcement of the Missouri Lectionary to promote the Missouri Tenets.

44. Defendants have infringed on Plaintiffs' rights under the Establishment Clause in violation of 42 U.S.C. §1983 in the creation, distribution and enforcement of the Missouri Lectionary to promote the Missouri Tenets.

45. Plaintiffs have been and will be irreparably injured by that violation because the Missouri Tenets and Missouri Lectionary are forced upon them with the intent and purpose to influence their Freedom to Believe When Human Life Begins.

WHEREFORE, Plaintiffs respectfully requests the entry of an order that:

- A. Declares the Missouri Tenets null and void; and
- B. Declares Mo. Rev. Stat. §§ 188.027.1(2), (4) and (5); 188.027.3; and 188.027.12 are null and void; and
- C. Declares any woman may obtain an abortion without complying with Mo. Rev. Stat. §§ 188.027.1(2) (4) and (5); 188.027.3; and 188.027.12
- D. Declares any person may provide any woman with an abortion, including without limitation Planned Parenthood, without complying with Mo. Rev. Stat. §§ 188.027.1(2) (4) and (5); 188.027.3; and 188.027.12; and

- E. Enjoins Defendants, their officers and agents from enforcing Mo. Rev. Stat. §§ 188.027.1(2), (4) and (5) and 188.027.3 or 188.027.12 against any woman or any person who provides her an abortion, including without limitation Planned Parenthood;
- F. Grants Plaintiffs their reasonable attorney fees and costs; and
- G. Grants Plaintiffs any additional relief the Court deems just and proper.

SECOND COUNT – FREE EXERCISE VIOLATION

46. Plaintiffs repeat and reallege ¶¶ 1 to 45.

47. The Missouri Tenets and Missouri Lectionary discriminate between a viewpoint that adheres to the Missouri Tenets and those viewpoints that do not. Specifically, but not by way of limitation, the Missouri Tenets and Missouri Lectionary do not mention the Satanic Tenets or the scientific fact that an umbilical cord makes Human Tissue part of a woman's body.

48. The Missouri Tenets and Missouri Lectionary interfere with the exercise by Plaintiffs of their religious beliefs. That interference includes, without limitation, compelled exposure to religious beliefs they do not have and delaying the implementation of their decision to abort Human Tissue.

49. The Missouri Lectionary and Missouri Tenets cause Plaintiff Mary Doe and pregnant members of The Satanic Temple to endure delay, doubt, guilt and shame when they exercise their religious beliefs to abort Human Tissue in accordance with the Satanic Tenets.

50. Defendants have infringed on Plaintiffs' rights under the Free Exercise Clause in violation of 42 U.S.C. §1983 in the creation, distribution and enforcement of the Missouri Lectionary to promote the Missouri Tenets.

51. Plaintiffs have been and will be irreparably injured by that violation because the Missouri Tenets and Missouri Lectionary interfere with the exercise of control over a woman's body in accordance with the Satanic Tenets.

WHEREFORE, Plaintiffs respectfully requests the entry of an order that:

- A. Declares the Missouri Tenets null and void; and
- A. Declares Mo. Rev. Stat. §§ 188.027.1(2), (4) and (5); 188.027.3; and 188.027.12 are null and void; and
- B. Declares any woman may obtain an abortion without complying with Mo. Rev. Stat. §§ 188.027.1(2) (4) and (5); 188.027.3; and 188.027.12
- C. Declares any person may provide any woman with an abortion, including without limitation Planned Parenthood, without complying with Mo. Rev. Stat. §§ 188.027.1(2) (4) and (5); 188.027.3; and 188.027.12; and
- D. Enjoins Defendants, their officers and agents from enforcing Mo. Rev. Stat. §§ 188.027.1(2), (4) and (5) and 188.027.3 or 188.027.12 against any woman or any person who provides her an abortion, including without limitation Planned Parenthood;
- E. Grants Plaintiffs their reasonable attorney fees and costs; and
- F. Grants Plaintiffs any additional relief the Court deems just and proper.

June 23, 2015

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