

Court # - 115
Zeger
MTC
Mary G. Cummings, Esquire
Attorney I.D. No. 59210
Wyoming Valley Health Care Systems, Inc.
575 North River Street
Wilkes-Barre, PA 18764-0001

Police
C.M.S.
if baby dies charges
Civil hospitals notified
Call Mary
Swirch

G-54-D baby

Attorney for Plaintiff WVHCS-Hospital, Inc.

WVHCS-Hospital, Inc. and
Baby Doe,

Plaintiffs,

v.

Jane Doe and John Doe

Defendants.

Court of Common Pleas
Luzerne County, Pennsylvania

Civil Action - Equity

Number: 3-E 2004

FILED
PROTOSTATARY
LUZERNE COUNTY
2004 JAN 14 PM 4:37

John
Droger
779-1618

**SPECIAL INJUNCTION ORDER
AND APPOINTMENT OF GUARDIAN**

NOW, this 14 day of January, 2004, upon consideration of plaintiffs'

application for a special injunction order and appointment of guardian, it is hereby ORDERED
as follows:

1. WVHCS-Hospital, Inc. is hereby appointed as legal guardian for Baby Doe, the unborn fetus of Jane and John Doe, to preserve and protect the rights of Baby Doe regarding its health and survival before, during and after delivery.
2. The defendants Jane and John Doe are hereby temporarily restrained from refusing to consent to a C-section delivery of their unborn fetus, Baby Doe, if the professional medical judgment of WVHCS and the treating obstetrician is that such a procedure is necessary.

3. WVHCS and the treating obstetricians of Jane Doe at WVHCS are permitted to perform a C-section delivery of the unborn Baby Doe, if the professional medical judgment of WVHCS and the treating obstetricians is that such a procedure is necessary.

4. Based upon representations of WVHCS and its counsel, service of the motion for special injunction could not be served upon the defendants because they could not be located in the time before the motion was filed and presented.

5. Service of this Special Injunction Order may be made upon defendants if and when Jane Doe re-presents herself to WVHCS for delivery of her unborn fetus by an officer of WVHCS, or a member of the WVHCS Medical Staff, or the treating obstetrician, handing a copy to Jane Doe as soon as practicable after she is admitted.

6. Security in the nature of a bond is excused.

BY THE COURT

M. V. Connel

J.

Dated:

Mary G. Cummings, Esquire
Attorney I.D. No. 59210
Wyoming Valley Health Care Systems, Inc.
575 North River Street
Wilkes-Barre, PA 18764-0001

Attorney for Plaintiff WVHCS-Hospital, Inc.

WVHCS-Hospital, Inc. and)
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 Plaintiffs,)
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NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Legal Services of Northeastern Pennsylvania, Inc.
410 Bicentennial Building
15 Public Square
Wilkes-Barre, Pennsylvania 18701
(717) 825-8567

or

21 North Church Street
Hazleton, Pennsylvania 18201
(717) 455-9511

Mary G. Cummings, Esquire
Attorney I.D. No.
Wyoming Valley Health Care Systems, Inc.
575 North River Street
Wilkes-Barre, PA 18764-0001

Attorney for Plaintiff WVHCS-Hospital, Inc.

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WVHCS-Hospital, Inc. and
Baby Doe,

Plaintiffs,

v.

Jane Doe and John Doe,

Defendants.

Court of Common Pleas
Luzerne County, Pennsylvania

Civil Action - Equity

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VERIFIED COMPLAINT

For its Complaint, Plaintiff WVHCS-Hospital, Inc. ("WVHCS") alleges as follows:

1. WVHCS is a Pennsylvania not-for-profit corporation organized and existing under Pennsylvania law. WVHCS owns and operates an acute care hospital located at 575 North River Street in Wilkes-Barre, Pennsylvania. As part of its health care mission, WVHCS and members of its medical staff provide obstetrics services.
2. Plaintiff Baby Doe is an unborn fetus with whom defendant Jane Doe is presently pregnant.
3. Defendant Jane Doe is an adult individual who, upon information and belief, resides in North Carolina but who is currently visiting family or in-laws at 131 Academy Street, Plymouth, PA 18651.

4. Defendant John Doe is an adult individual who, upon information and belief, resides in North Carolina but who is currently visiting family or in-laws at 131 Academy Street, Plymouth, PA 18651.

5. Jane Doe and John Doe are married. Because Jane Doe was, and may become again, a medical patient at WVHCS, her real name and the real name of her husband are not disclosed in this Complaint. WVHCS is aware of the real names of the Doe defendants.

6. Jane Doe is pregnant, is at full term, and has been in labor for at least two days.

7. Upon information and belief, on January 13, 2004, Jane Doe presented herself to another acute care hospital in Wilkes-Barre, Mercy Hospital, through the emergency room for care relating to her pregnancy. John Doe was with her. An ultrasound of her unborn fetus was performed, which revealed an estimated fetal weight in excess of 13 pounds. In addition, this is Jane Doe's seventh pregnancy in the last six or seven years. At least one of her previous pregnancies involved a fetal shoulder impairment, probably related to the size of the fetus. The attending obstetrician at Mercy advised the Does that for the protection of the mother and fetus, a Caesarean section ("C-section") delivery should be performed. The Does refused to consent under any circumstances to such a procedure, insisting that the fetus be delivered vaginally. Jane Doe then checked herself out of Mercy.

8. Later on January 13, 2004, in the evening, Jane Doe presented herself to WVHCS, through its emergency room, for care in connection with her pregnancy and ongoing labor.

9. WVHCS requested that Jane Doe sign a release of prior medical information including her six prior pregnancies and deliveries, but she refused.

10. Her attending obstetrician at WVHCS on Tuesday evening (January 13), Dr. Coslett, and her attending physician at WVHCS on January 14, 2004, Dr. Stephen Zeger, have repeatedly advised the Does that in their professional medical judgment, a C-section delivery is necessary to ensure the health of the mother and baby. WVHCS and her attending obstetricians have fully advised the Does of the possible consequences of attempting to deliver the baby vaginally, including death of the mother or the baby, or both, as well as serious complications resulting in serious physical impairment of the baby.

11. The Does have expressly refused to consent to a C-section procedure for the delivery of their baby, regardless of the possible health consequences to Baby Doe, making vague references to their religious beliefs, among other things.

12. In the absence of a C-section procedure, there is great risk to Baby Doe of death or serious physical impairment. Even in the absence of present fetal distress and even with ongoing fetal monitoring, a vaginal delivery of this size fetus could result in complications occurring during the delivery at a point of "no return" to a C-section, and result in unavoidable death or serious impairment to the baby.

13. At approximately 11:00 a.m. on January 14, 2004, Jane Doe voluntarily checked herself out of WVHCS, with John Doe's knowledge and consent. Before she checked herself out, she was informed of the health risks presented to her and to her unborn baby by leaving a hospital. Jane Doe and John Doe were specifically informed that her leaving WVHCS was "against medical advice" of the attending obstetrician, Dr. Zeger.

14. Although Jane Doe has voluntarily left WVHCS, there is more than a remote possibility that she may return to WVHCS to deliver her baby, because, among other things, she may experience a sudden medical emergency in connection with her ongoing labor.

15. Jane Doe and John Doe have made it clear that they are adamant that they will not consent to a C-section, regardless of the danger that a vaginal delivery presents to Baby Doe.

16. Baby Doe, a full term viable fetus, has certain rights, including the right to have decisions made for it, independent of its parents, regarding its health and survival.

17. While Jane Doe and John Doe have certain parental rights, those rights are not absolute.

18. In its professional medical judgment, WVHCS believes that should Jane Doe re-present herself to WVHCS for delivery of her baby and continue to refuse consent to a C-section procedure, Baby Doe's health and survival will be in great jeopardy. The baby may die or suffer serious physical impairment. This is without regard to whether the fetus is in distress at or during a vaginal delivery.

19. There exists the imminent threat of irreparable harm to Baby Doe in the absence of an immediate order permitting WVHCS to perform a C-section delivery of Baby Doe without the consent of the Doe parents. WVHCS and Baby Doe have no adequate remedy at law.

WHEREFORE, plaintiffs WVHCS and Baby Doe respectfully request (1) appointment of WVHCS as a legal guardian for Baby Doe, and (2) an immediate order in the nature of a mandatory special injunction permitting WVHCS to perform a C-section delivery of Baby Doe.

What Religion
Baby v. Parents Rights

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Attorney for Plaintiff WVHCS-Hospital, Inc.

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and)	Luzerne County, Pennsylvania
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 LUZERNE COUNTY
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**MOTION FOR SPECIAL INJUNCTION
 ORDER AND APPOINTMENT OF GUARDIAN**

Plaintiff WVHCS hereby moves for a special injunction pursuant to Pa. R. C. P. 1531 and appointment of a guardian.

WVHCS is a Pennsylvania not-for-profit corporation organized and existing under Pennsylvania law. WVHCS owns and operates an acute care hospital located at 575 North River Street in Wilkes-Barre, Pennsylvania. As part of its health care mission, WVHCS and members of its medical staff provide obstetrics services.

Plaintiff Baby Doe is an unborn fetus with whom defendant Jane Doe is presently pregnant. Defendant Jane Doe is an adult individual who, upon information and belief, resides in North Carolina but who is currently visiting family or in-laws at 131 Academy Street, Plymouth, PA 18651. Defendant John Doe is an adult individual who, upon information and belief, resides

North Carolina but who is currently visiting family or in-laws at 131 Academy Street, Plymouth, PA 18651. Jane Doe and John Doe are married. Because Jane Doe was, and may become again, a medical patient at WVHCS, her real name and the real name of her husband are not disclosed in this Complaint. WVHCS is aware of the real names of the Doe defendants.

Jane Doe is pregnant, is at full term, and has been in labor for at least two days. Upon information and belief, on January 13, 2004, Jane Doe presented herself to another acute care hospital in Wilkes-Barre, Mercy Hospital, through the emergency room for care relating to here pregnancy. John Doe was with her. An ultrasound of her unborn fetus was performed, which revealed an estimated fetal weight in excess of 13 pounds. In addition, this is Jane Doe's seventh or eighth pregnancy in the last six or seven years. At least one of her previous pregnancies involved a fetal shoulder dystocia. The attending obstetrician at Mercy advised the Does that for the protection of the mother and fetus, a Caesarean section ("C-section") delivery should be performed. The Does refused to consent under any circumstances to such a procedure, insisting that the fetus be delivered vaginally. Jane Doe then checked herself out of Mercy.

Later on January 13, 2004, in the evening, Jane Doe presented herself to WVHCS, through its emergency room, for care in connection with her pregnancy and ongoing labor. WVHCS requested that Jane Doe sign a release of prior medical information including her six or seven prior pregnancies and deliveries, but she refused.

Her attending obstetrician at WVHCS on Tuesday evening (January 13), Dr. Lynn Coslett, and her attending physician at WVHCS on January 14, 2004, Dr. Stephen Zeger, have repeatedly advised the Does that in their professional medical judgment, a C-section delivery is necessary to ensure the health of the mother and baby. WVHCS and her attending obstetricians have fully advised the Does of the possible consequences of attempting to deliver the baby

inally, including death of the mother or the baby, or both, as well as serious complications resulting in serious physical impairment to the baby.

The Does have expressly refused to consent to a C-section procedure for the delivery of their baby, regardless of the possible health consequences to Baby Doe, making vague references to religious beliefs, among other things. In the absence of C-section procedure, there is great risk to Baby Doe of death or serious physical impairment. Even in the absence of present fetal distress and even with ongoing fetal monitoring, a vaginal delivery of this size fetus could result in complications occurring during the delivery at a point of "no return" to a C-section, and result in unavoidable death or serious impairment to the baby.

At approximately 11:00 a.m. on January 14, 2004, Jane Doe voluntarily checked herself out of WVHCS, with John Doe's knowledge and consent. Before she checked herself out, she was informed of the health risks presented to her and to her unborn baby by leaving a hospital. Jane Doe and John Doe were specifically informed that her leaving WVHCS was "against medical advice" of the attending obstetrician, Dr. Zeger.

Although Jane Doe has voluntarily left WVHCS, there is more than a remote possibility that she may return to WVHCS to deliver her baby, because, among other things, she may experience a sudden medical emergency in connection with her ongoing labor. Jane Doe and John Doe have made it clear that they are adamant that they will not consent to a C-section, regardless of the danger that a vaginal delivery presents to Baby Doe.

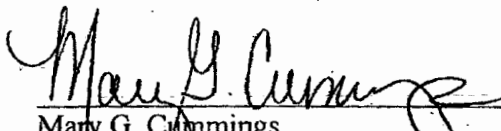
Baby Doe, a full term viable fetus, has certain rights, including the right to have decisions made for it, independent of its parents, regarding its health and survival. *Roe v. Wade*, 410 U.S. 113 (1973). In addition, the Commonwealth has an interest, paramount to parental rights, in the immediate safety and health of children. While Jane Doe and John Doe have certain parental rights, those rights are not absolute. *In the Matter of Cabrera*, 381 Pa. Super.

52 A.2d 1114 (1989), *Jefferson v. Griffin Spalding County Hosp.*, 247 Ga. 86, 274 S.E.2d

In its professional medical judgment, WVHCS believes that should Jane Doe represent herself to WVHCS for delivery of her baby and continue to refuse consent to a C-section procedure, Baby Doe's health and survival will be in great jeopardy. The baby may die or suffer serious physical impairment. This is without regard to whether the fetus is in distress at or during a vaginal delivery.

There exists the imminent threat of irreparable harm to Baby Doe in the absence of an immediate order permitting WVHCS to perform a C-section delivery of Baby Doe without the consent of the Doe parents. WVHCS and Baby Doe have no adequate remedy at law.

WHEREFORE, plaintiffs WVHCS and Baby Doe respectfully request (1) appointment of a legal guardian for Baby Doe, and (2) an immediate order in the nature of a mandatory temporary restraining order permitting WVHCS to perform a C-section delivery of Baby Doe.



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Attorney for Plaintiff WVHCS-Hospital, Inc.

Dated: