

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

Jennifer Goodall

Plaintiff,

vs.

CASE NO. _____

Comprehensive Women's Health Center,
Bayfront Medical Health Group;
Bayfront Health Port Charlotte;
Stephen B. Russell as the State Attorney
for Florida's Twentieth Judicial Circuit;
John Doe in his official capacity as Special
Assistant State's Attorney; Jane Doe(s),
physicians providing obstetric care at
Bayfront Health Port Charlotte.

Defendants.

DECLARATION OF JENNIFER GOODALL

I, Jennifer Goodall, declare as follows:

1. I am 29 years old and am the mother of three children, ages 10, 7, and 3. I live with my children and my husband in Cape Coral, Florida. I am currently nearly 40 weeks pregnant with our fourth child, due this Friday, July 18, 2014.

2. I became a patient of Comprehensive Women's Healthcare on June 13th, 2014 under the care of Dr. Aimee Young. I had transferred to this practice from Dr. Ariel Figueredo at Complete Women's Care, associated with Cape Coral Hospital, because my first three children were delivered via cesarean surgery, and I wanted to avoid more surgery if at all possible. Recovery from cesarean surgery is slower and more difficult than recovery from a

vaginal delivery and with three children to care for and the anticipated fourth, I hoped to be up and about as quickly as possible. As a result, for this fourth pregnancy I want to have a trial of labor and hopefully a vaginal birth after cesarean (known as VBAC). My doctor at Lee Physicians Group was not supportive of my plan to attempt a trial of labor and wanted me to consent in advance to a fourth cesarean surgery whether I actually would need it or not. There is a local chapter of an organization called the International Cesarean Awareness Network here in Florida, and that organization referred me to Comprehensive Women's Health Care because it is known for being supportive of its patients who wish to attempt a trial of labor after having had prior cesarean births.

3. During my first appointment with Dr. Young I was very honest with her about my hope of avoiding surgery and my intention of having a trial of labor and hopefully a successful VBA3C (vaginal birth after 3 prior cesareans). I told Dr. Young I would be transferring my medical records as well as my operative report regarding my last cesarean to Dr. Young for her review. Dr. Young discussed with my husband and me her belief regarding VBA3C and how she felt that it is never a good idea because once you cut into the uterus and sew it closed it clearly is not as strong as if it had never had an incision. She continued to explain that each subsequent time that you have a uterine surgery it has potential to decrease the strength of the uterus. During this time I made her aware of my knowledge of several research studies that have statistically assessed the risk of women attempting a VBAC for uterine rupture. Dr. Young did not give me any statistics, medical research, or any scientific evidence-based information regarding my risk for uterine rupture during this appointment; nor did she give me any statistics, medical research, or any

scientific evidence-based information regarding the risks to me and my baby's health of repeat cesarean surgeries, including a fourth abdominal surgery for cesarean surgery.

4. I had three appointments with Dr. Young over the next few weeks to discuss my plan for a trial of labor and to maintain prenatal care during my pregnancy. During these visits Dr. Young had said, "I'm not thrilled about it [my decision to have a trial of labor], but with that being said I cannot force you to be cut on, no one can force you to be cut on." I acknowledged her feelings but said that I was simply asking her for a trial of labor. I told her that I would not play "Russian roulette" with my baby's life, and that I understood the potential risks involved with both a trial of labor and an elective repeat cesarean surgery. I explained that if any complications did arise that would best be resolved by a cesarean surgery or if my baby were clearly in distress then I will consider consenting to cesarean surgery, but that I simply could not sign myself up in advance for a major abdominal surgery without a current actual (as opposed to possible potential) medical complication to warrant it.

5. At this point Dr. Young and I continued our discussion regarding my labor and came to an agreement that I would have a heparin lock (an intravenous line put in under the skin but not hooked up) to be ready for any emergencies, that I would not receive an epidural unless I needed one for pain control, as well as an agreement surrounding cervical checks. I have never said that I would not consent to a cesarean surgery if my baby or my life was in danger, and have stated more than once that I absolutely will consent to such surgery if there is a complication that arises during my labor that requires this surgical intervention. I am solely asking for the right to allow my body to naturally begin labor and to naturally

progress through labor without any medical augmentations or interventions as long as my vitals and the vitals of the baby are strong and healthy.

6. I had an appointment with Dr. Nay Hoche from Comprehensive Women's Healthcare on July 3rd, 2014. This was an appointment designed only to meet Dr. Hoche, as she is a part of the medical team at the office, and to make sure she was aware of my plans to have a trial of labor with Dr. Young. In the event that she was on call in the labor and delivery department when I was to come in, I wanted to make sure that she had a chance to review my records and be aware of the patient that she would be caring for. During this visit Dr. Hoche explained that she absolutely "does not allow" VBA3C and that she has attended VBAC as well as VBA2C but she does not agree with having a trial of labor after 3 cesareans. I asked her why. She replied that the American Congress of Obstetricians and Gynecologists (ACOG), says "that you can't have a trial of labor after 3 cesareans." To which I quickly informed her that her interpretation of the ACOG guidelines was incorrect and that it does not state anywhere that a woman cannot have a trial of labor. She replied that I was right, but that it isn't recommended. I had learned from my research, before this conversation with Dr. Hoche, that although ACOG's guidelines and/or practice bulletins do not recommend a woman having a trial of labor after three cesareans they also do not suggest that such women should somehow be banned or prohibited from having a trial of labor.

7. I continued my discussion with Dr. Hoche and during our discussion she asked me why I refused cervical checks. (Cervical checks are internal vaginal exams.) I clearly explained that there is supportive evidence that suggests that having cervical checks can cause a

woman's labor to have trouble progressing due to the fact that the cervix was not designed by nature to be touched and that when touched it will cause a physiological reaction that can stall dilation, effacement, and in turn, stall a woman's labor. We agreed that if she was on call that she would agree to stave off cervical checks for 6 hours and would allow me to labor, however she did not agree with my VBA3C attempt. She had also asked me, "If you don't have cervical checks, how will you know when the baby is coming?" I found this a strange question coming from an obstetrician, but I simply answered her, "I will know." I asked Dr. Hoche during this appointment, "If everything is fine, my vitals and the baby's vitals, then what reason is there to have a cesarean?" She did not have an answer for me. Dr. Hoche also told my husband and me that she does not agree with the current guideline of progressing 1 centimeter per hour that many obstetricians abide by during labor and that she doesn't "work that way." After this discussion, although I knew that she wasn't happy about my decision, I left this appointment believing that Dr. Hoche (and Dr. Young) had ultimately accepted my decision to have a trial of labor.

8. Throughout my time as a patient at Comprehensive Women's Healthcare I was never told the risks that are involved with having a fourth cesarean surgery although there is statistical data available for repeat cesarean surgery as well as for someone having a fourth repeat cesarean surgery. I have taken it upon myself to make sure that I am aware of my the risks of both decisions through a vast amount of research. I have found multiple studies that indicate that the increased risk of uterine rupture for undergoing a trial of labor after previous cesarean surgeries is low, while the risks that accompany repeat cesarean surgeries

are concerning enough to me that I will not consent to one in advance unless, as I've explained above, there is some complication during delivery that warrants it.

9. On July 10, 2014 a woman from Comprehensive Women's Healthcare hand delivered a letter addressed to me from Cheryl Tibbett, Chief Financial Officer of Bayfront Health Port Charlotte (attached as Exhibit 1). The letter stated that the hospital's ethics committee had reviewed my case, and that the hospital intends to (1) "contact the Department of Children and Family Services about [my] refusal to undergo a Cesarean section," (2) "begin a process for an Expedited Judicial Intervention Concerning Medical Treatment Procedures . . . relating to the delivery of [my] child," and (3) perform a cesarean section "with or without [my] consent" in the event that I present to the hospital in labor.

10. The letter also "encourage[s]" me to find another physician but contains no referrals to another individual or practice. As noted above, my baby is due on July 18, 2014, so I received the letter just eight days before I am expected to go into labor.

11. Since receiving the letter on July 10, 2014, I have experienced feelings of deep distress, concern, and fear for myself and my pregnancy and my family. I am in the last week of my pregnancy, with three other young children to care for, and rather than resting peacefully to prepare for labor and welcome our new family member into our lives, I have spent the last week trying to contact advocates to help me, and to determine whether there is any possibility of getting help from another practitioner. Although I have heard nothing else from the practice since my attorneys wrote to them on July 11th, 2014, I am very afraid that the hospital may have already contacted child welfare officials to intervene in my family life, and that it may have started judicial proceedings to force me to have surgery against my

will. I am terrified at the prospects of either and cannot imagine what it will mean for my family and my health if the hospital takes this route. I am now very near giving birth without an attending physician and am afraid to go to Bayfront Health Port Charlotte.

12. Bayfront Health Point Charlotte is 45 minutes from my home. The only other hospital that is within driving distance from me is Cape Coral Hospital, the hospital I had transferred from because the obstetrician there did not support my decision either (although that physician never threatened me). I am also concerned that if I go there in labor, that I may face the same kind of pressure and coercion. It is my wish to give birth to this child in a hospital, attended by medical professionals that will respect my rights to decide which health care interventions including surgery that I will have. My baby is due on Friday and I am sincerely afraid that I will be forced, against my will, to have a surgery that I do not want and that I have reasonable and educated reasons to believe poses more risks to me and my baby than if I have a trial of labor, without medical interventions, unless and until such interventions are required by some complication during labor.

I declare, under penalty of perjury, under the laws of the United States of America that the foregoing is true and correct.

Executed on July 17, 2014, at Cape Coral, Florida


Jennifer Goodall

Exhibit

1



PERSONAL AND CONFIDENTIAL
HAND DELIVERED TO RECIPIENT

Ms. Jennifer Goodall
406 N.E. 15 Avenue
Cape Coral, Florida 33909

July 10, 2014

Dear Ms. Goodall:

We wish to again review with you our concerns regarding your impending delivery. You have very clearly expressed your refusal to undergo a Cesarean section and that you will only allow cervical examinations during your labor less frequently than recommended by your physicians. You have also stated that you will not consent to epidural anesthesia.

Over the course of your care in the Comprehensive Women's Center for the last seven weeks, your physicians Dr. Aimee Young and Dr. Nay Hoche have counseled you about the risks of vaginal delivery after three Cesarean Sections:

- Potential for uterine rupture
- Potential for massive bleeding
- Maternal and/or fetal serious injury , up to and including death

You have been advised at each of your prenatal visits of May 16, May 30, June 13, June 30, and July 3 that a vaginal delivery after three Cesarean sections is very high risk and not supported by any medical body or evidence based guidelines.

Our organization and physicians have an ethical and professional duty to do what is necessary to promote the best clinical outcomes for you and your unborn child. Every effort has been made to educate and counsel you as to the risks of attempting a vaginal delivery after three prior Cesarean sections, particularly with your thin uterine wall which presents a high risk of rupture during vaginal delivery. We will continue to offer you education and counseling on the recommended course to ensure the health and safety of you and your baby.

After consideration of your case by our Ethics Committee, we wish to advise you of the following actions:

1. We will contact the Department of Children and Family Services about your refusal to undergo a Cesarean section and other care and treatment recommended by your physicians and the high risks your refusals have on your life and health, as well as the life and health of your unborn child.

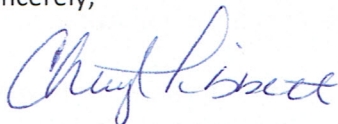
2. We will begin a process for an Expedited Judicial Intervention Concerning Medical Treatment Procedures. This is a proceeding for expedited judicial intervention concerning medical treatment procedures relating to the delivery of your child.
3. If you present to our hospital in labor, and your physician deems it clinically necessary, a Cesarean section will be performed with or without your consent.

We encourage you to find a physician who will agree to your demand for a vaginal delivery. If so, we will be happy to supply the physician with your records in a timely manner so there is no interruption in care.

In summary, while we recognize that you have the right to consent to a Cesarean section, you have elected to refuse this procedure despite the advice of your treating physicians. This decision places both you and your unborn child at risk for death or serious injury. We will act in the best interests of you, your family, and your unborn child. Our decision to take this course of action has been the result of multiple conversations with physicians and other experts within our organization.

We sincerely hope that you will trust your physicians and our staff to do the right thing for you, your unborn child, and family.

Sincerely,



Cheryl Tibbett
CFO

Cc: Dr. Aimee Young
Dr. Nay Hoche
Patient medical record