

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO constitutionality
Senior District Judge Richard P. Matsch

Civil Action No. 09-cv-00610-RPM

ELIZABETH CARDENAS and
GEORGE WITTNER, parents and next friends to Decedent, IAN WITTNER,

Plaintiffs,

v.

BANNER HEALTH, an Arizona nonprofit organization,
d/b/a NORTH COLORADO MEDICAL CENTER;
ROBERT GEORGE RUEGG, M.D.;
SUSAN J. PONDER, R.N.; and
JOHN DOES 1-25,

Defendants.

ORDER DEFERRING RULING ON DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Upon consideration of the defendants' motion for summary judgment asserting qualified immunity based upon the contention that there is no clearly established law concerning the unconstitutionality of involuntarily administering drugs to restrain a person and the cases cited by the defendants, it appears to the Court that some discovery is necessary to determine whether the injections of the decedent Ian Wittner were, under the circumstances, within the scope of professional judgment of qualified medical practitioners such that the Court should defer to their judgment, it is

ORDERED, that ruling on the motion for summary judgment is deferred until sufficient discovery has been completed as to the relevant circumstances.

DATED; December 11th, 2009

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge