

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

Civil Action No. 09-cv-00610-RPM

LIZBETH CARDENAS and
GEORGE WITTNER, as natural parents and next friends to Decedent, IAN WITTNER, and
LIZBETH CARDENAS, as Personal Representative of the Estate of IAN WITTNER,

Plaintiffs,

v.

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

Defendants.

ORDER DENYING DEFENDANTS' MOTION FOR ATTORNEY FEES PURSUANT TO 42
U.S.C. § 1988

On April 5, 2011, the defendants filed a motion seeking their attorney's fees for defending the federal claims in this civil action pursuant to 42 U.S.C. § 1988. While this Court granted summary judgment based on qualified immunity for the individual defendants and the failure to demonstrate a policy or custom of the corporate defendant, Banner Health, as a violation of a constitutionally protected right, the assertion of those claims in this civil action cannot be held to be vexatious, frivolous, or brought to harass or embarrass the defendants. Accordingly, it is

ORDERED that the defendants' motion is denied.

DATED: April 19th, 2011

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge