

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

ELIZABETH MORT and ALEX
RODRIGUEZ,

Civil Action No. 2:10-cv-01438-DSC

Plaintiffs,
vs.

JUDGE DAVID S. CERCONE

LAWRENCE COUNTY CHILDREN
AND YOUTH SERVICES; LAWRENCE
COUNTY; CHRISSY MONTAGUE,
Lawrence County Children and Youth
Services Caseworker; and
JAMESON HEALTH SYSTEM, INC.

Electronically Filed

JURY TRIAL DEMANDED

Defendants.

Fed. R. Civ. P. 26(f) REPORT OF THE PARTIES

1. Identification of counsel and unrepresented parties.

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*Counsel for Defendants, Lawrence County Children and Youth Services, Lawrence County and
Chrissy Montague, Lawrence County Children and Youth Services Caseworker*

2. Set forth the general nature of the case:

Civil rights and state law claims including Fourteenth Amendment substantive due process allegations relating to a parent's right to the care and custody of their children, conspiracy to violate Fourteenth Amendment rights, negligence and false light invasion of privacy. Claims relate to drug test results of plaintiff mother after birth of baby Rodriguez and involvement of hospital and County Children and Youth Services addressing those test results. Defendants deny liability for the claims.

3. Date Rule 26(f) Conference was held, the identification of those participating therein and the identification of any party who may not yet have been served or entered an appearance as of the date of said Conference:

January 13, 2011 @ 2:00 p.m.

4. Date of Rule 16 Initial Scheduling Conference as scheduled by the Court:

February 24, 2011 @ 11:00 a.m.

5. **Identify any party who has filed or anticipates filing a dispositive motion pursuant to Fed. R. Civ. P. 12 and the date(s) by which any such anticipated motion may be filed:**

All defendants have filed or are filing Motions to Dismiss pursuant to Rule 12. Jameson Hospital filed its Motion on December 30, 2010 and the remaining Lawrence County defendants filed their Motion on January 17, 2011. Plaintiffs' responses to the motions are due by February 23, 2011.

6. **Designate the specific Alternative Dispute Resolution (ADR) process the parties have discussed and selected, if any, and specify the anticipated time frame for completion of the ADR process. Set forth any other information the parties wish to communicate to the court regarding the ADR designation:**

The parties agree that some limited discovery would be useful/needed before ADR. As to the form of ADR, plaintiffs prefer Mediation. The Lawrence County defendants prefer Early Neutral Evaluation. Defendant, Jameson Health System, Inc., is agreeable to either form of ADR. Given that some discovery is requested, the time for the completion of ADR may need to be set for the end of May.

7. **Set forth any change that any party proposes to be made in the timing, form or requirements of Fed. R. Civ. P. Rule 26(a) disclosures, whether such change is opposed by any other party, whether any party has filed a motion seeking such change and whether any such motion has been ruled on by the Court:**

None anticipated at this time.

8. **Subjects on which fact discovery may be needed.**

Discovery is anticipated on many items, including but not limited to, plaintiff mother's prenatal history, including healthcare routine, history of drug and alcohol use; plaintiff's interaction with hospital personnel regarding test results and interaction with County Children and Youth Services regarding test results; plaintiff's history of nutrition, including items ingested week prior to the delivery of baby Rodriguez; defendant hospital's policies and procedures relative to drug testing; defendant Lawrence County Children and Youth Services policies and procedures regarding positive drug test reports on newborns or mothers of newborns, as well as policies and procedures regarding intake process for referral from medical professionals; plaintiffs' damages

9. **Set forth suggested dates for the following:**

- a. **Date(s) on which disclosures required by Fed. R. Civ. P. 26(a) have been or will be made:** February 28, 2011

- b. **Date by which any additional parties shall be joined:** Plaintiffs seek time for joinder of additional parties until April 1, 2011
 - c. **Date by which the pleadings shall be amended:** Plaintiffs seek time to amend pleadings until April 1, 2011
 - d. **Date by which fact discovery should be completed:** October 3, 2011
 - e. **If the parties agree that discovery should be conducted in phases or limited to or focused on particular issues, identify the proposed phases or issues and the dates by which discovery as to each phase or issue should be completed:**
N/A
 - f. **Date by which plaintiff's expert reports should be filed:** November 7, 2011
 - g. **Date by which depositions of plaintiff's expert(s) should be completed:**
December 19, 2011
 - h. **Date by which defendant's expert reports should be filed:** December 19, 2011
 - i. **Date by which depositions of defendant's expert(s) should be completed:**
January 30, 2012
 - j. **Date by which third party expert's reports should be filed:** N/A
 - k. **Date by which depositions of third party's expert(s) should be completed:**
N/A
10. **If the parties agree that changes should be made to the limitations on discovery imposed or Local by the Federal Rules of Civil Procedure Rule or that any other limitations should be imposed on discovery, set forth such changes or limitations:**
- None at this time.
11. **Set forth whether the parties have considered the need for special deadlines, procedures or orders of court dealing with discovery of electronically-stored information (electronic discovery), including the need for the preservation of discoverable information and the protection of the right to assert privilege(s) after the production of privileged information and if so, set forth the results of such consideration. In particular, answer the following questions:**
- a. **ESI. Is either party seeking the discovery of ESI in this case?** Yes No
- If disputed, identify the nature of the dispute:** N/A

- b. **Metadata: Will any metadata be relevant in this case?** Yes Not anticipated.

If yes, with respect to what ESI _____

If disputed, identify the nature of the dispute.

- c. **Format. Have the parties agreed on the format(s) for production of ESI?**
 Yes No

No disputes are anticipated.

- d. **Clawback Agreement. Will the parties be using the Form Inadvertent Production Provision of LCvR 16.1.D?** Yes No

If no, will an alternative provision be proposed? Yes (Please attach) No

- e. **Search terms. Have the parties agreed on any protocol for review of electronic data?** Yes No

No issues are anticipated at this time because no search terms are believed needed.

- f. **Accessibility. Have the parties agreed on what ESI is "reasonably accessible" as defined in R. 26(b)(2)(B)?** Yes No

No issues are anticipated at this time.

- g. **Preservation. Are there any unresolved issues pertaining to the preservation of ESI?** No.

If so, please describe _____

- h. **Other. Identify all outstanding issues or disputes concerning ESI.**

12. **Set forth whether the parties have elected to schedule the Post-Discovery Status Conference following the completion of Fact Discovery or Expert Discovery; in either event the parties shall be prepared at the Post-Discovery Status Conference to discuss and/or schedule the following: (The parties are not required during their Rule 26(f) Conference to consider or propose dates for the items identified below. Those dates will be determined, if necessary, at the Post-Discovery Status Conference. Lead trial counsel for each party and each unrepresented party are required to attend the Post-Discovery Status Conference with their calendars in hand to discuss those items listed below that require scheduling. In addition, a representative with settlement authority of each party shall be required to attend;**

representatives with settlement authority of any insurance company providing any coverage shall be available throughout the Conference by telephone):

Yes. The parties elect to have a Post-Discovery Status Conference.

- a. Settlement and/or transfer to an ADR procedure;**
- b. Dates for the filing of expert reports and the completion of expert discovery as itemized in sub-paragraphs 9.f. through 9.k., above, if the parties elected to defer such discovery until after the Post-Discovery Status Conference;**
- c. Dates by which dispositive motions pursuant to Fed. R. Civ. P. 56, replies thereto and responses to replies should be filed;**
- d. Dates by which parties' pre-trial statements should be filed;**
- e. Dates by which *in limine* and *Daubert* motions and responses thereto should be filed;**
- f. Dates on which motions *in limine* and *Daubert* motions shall be heard;**
- g. Dates proposed for final pre-trial conference;**
- h. Presumptive and final trial dates.**

- 13. Set forth any other order(s) that the parties agree should be entered by the court pursuant to Fed. R. Civ. P. 16(b) or 26(c):**

None at this time.

- 14. Set forth whether the parties anticipate that the court may have to appoint a special master to deal with any matter and if so, specify the proposed role of any such master and any special qualifications that such master may require to perform such role:**

No

- 15. If the parties have failed to agree with regard to any subject for which a report is required as set forth above, except for proposed dates required in paragraph 9, above, briefly set forth the position of each party with regard to each matter on which agreement has not been reached:**

Not applicable

16. Set forth whether the parties have considered the possibility of settlement of the action and describe briefly the nature of that consideration:

The parties will consider this in the context of the ADR session.

Respectfully submitted,

Dated: February 9, 2011

s/Quinn A. Johnson

s/Richard J. Kabbert

s/Marie Milie Jones

(Signatures of counsel and unrepresented parties)