

901481.3.

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

ELIZABETH MORT and ALEX )  
RODRIGUEZ, )

Plaintiffs, )

v. )

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

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

Defendants. )

**MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

Plaintiffs, by their undersigned counsel, hereby move pursuant to Fed. R. Civ. P. 15(a) for leave to file a Second Amended Complaint, attached hereto as Exhibit 1, and as grounds therefor aver as follows:

1. Plaintiffs seek leave to file a Second Amended Complaint to add two additional Defendants: Lawrence County Children and Youth Services (“CYS”) Director Jane Gajda (“Ms. Gajda”) and Intake Supervisor Sandy Copper (“Ms. Copper”).

2. These changes to the Amended Complaint are based on information learned during discovery in this case.

3. Specifically, during the course of discovery it has become evident that Ms. Gajda, as the Director of CYS, is responsible for implementing and approving CYS’s policies and practices, including the policy at issue in this case. Therefore, the Plaintiffs seek leave to amend the Amended Complaint to add Ms. Gajda as a defendant to Counts I and II.

4. Additionally, it has been uncovered that Ms. Copper was the individual notified by Defendant Jameson Health System, Inc. (“Jameson”) that Plaintiff Elizabeth Mort’s (“Plaintiff Mort”) confirmation test results were positive for opiates. Further, it has been discovered that it was at the instruction of Ms. Copper that Defendant Chrissy Montague sought a court order on April 30, 2010, permitting CYS to take baby Isabella Rodriguez into emergency protective custody solely on the basis of Jameson’s report to Defendant Copper that Plaintiff Mort had tested positive for opiates. As a result, the Plaintiffs also seek leave to amend their Amended Complaint to add Ms. Copper as a defendant to Counts I and II.

5. The changes made to the Amended Complaint will not prejudice the Defendants because there is still ample time left for discovery in this case, as the Plaintiffs intend to file a motion to extend the deadline to conduct discovery shortly.

6. Further, the two additional Defendants had notice of the claims in this case as employees of one of the originally named Defendants, CYS.

7. Finally, the amendment has been made within the time allowed for amendments in this case and would not result in either “substantial” prejudice to the Defendants or unduly delay the case.

8. Leave to amend “shall be freely given when justice so requires.” Fed. R. Civ. P. 15(a). The Third Circuit has noted that courts should exercise “strong liberality” in allowing amendments under Rule 15(a), *Heyl & Patterson Int’l, Inc. v. D.F. Rich Housing*, 663 F.2d 419, 425 (3d Cir. 1981), and has “held consistently that leave to amend should be freely granted.” *Dole v. Arco Chemical Co.*, 921 F.2d 484, 486 (3d Cir. 1990).

WHEREFORE, Plaintiffs respectfully request that this Court grant leave to file the attached Second Amended Complaint to add Lawrence County Children and Youth Services employees Jane Gajda and Sandy Copper as Defendants.

MEYER, UNKOVIC & SCOTT LLP

By: /s/ Patricia L. Dodge

Patricia L. Dodge  
PA ID No. 35393  
Antoinette Oliver  
PA ID No. 206148  
535 Smithfield Street  
Suite 1300  
Pittsburgh, PA 15222-2315  
(412) 456-2800  
pld@muslaw.com  
aco@muslaw.com

By: /s/ Sara J. Rose

Sara J. Rose  
PA ID No. 204936  
Witold J. Walczak  
PA ID No. 62976  
AMERICAN CIVIL LIBERTIES  
FOUNDATION OF PENNSYLVANIA  
313 Atwood Street  
Pittsburgh, PA 15213  
(412) 681-7864  
srose@aclupa.org  
vwalczak@aclupa.org

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the within Motion For Leave to File Second Amended Complaint was served this 24<sup>th</sup> day of October, 2011, via the Court's electronic transmission facilities pursuant to Fed. R. Civ. P. 5(b)(3) and Local Rule 5.5 upon the following:

John C. Conti, Esquire  
Richard J. Kabbert, Esquire  
Dickie, McCamey & Chilcote  
Two PPG Place, Suite 400  
Pittsburgh, PA 15222  
*(Counsel for Defendant Jameson Health System, Inc.)*

Marie Milie Jones, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
U.S. Steel Tower, Suite 4850  
600 Grant Street  
Pittsburgh, PA 15219  
*(Counsel for Defendants Lawrence County, Lawrence County Children and Youth Services and  
Chrissy Montague)*

By: /s/ Patricia L. Dodge

Counsel for Plaintiffs