

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LASHAUNA LOWRY as Next Friend of
TITUS JERMAINE CROMER, JR.,

Case No.: 19-cv-13293
HON.: Mark A. Goldsmith

Plaintiff,

v.

BEAUMONT HEALTH,

Defendant.

Razor Law Firm, PLLC
James B. Rasor (P43476)
Andrew J. Laurila (P78880)
Attorneys for *Plaintiff*
201 E. 4th Street
Royal Oak, MI 48067
248-543-9000
jbr@razorlawfirm.com
ajl@razorlawfirm.com

Brooks Wilkins Sharkey & Turco, PLLC
Michael R. Turco (P48705)
Michael T. Price (P57229)
Attorneys for *Defendant*
401 S. Old Woodward Ave., Ste. 400
Birmingham, MI 48009
(248) 971-1800
turco@bwst-law.com
price@bwst-law.com

**PLAINTIFF'S MOTION FOR
ENTRY OF PRELIMINARY INJUNCTION**

NOW COMES Plaintiff, LASHAUNA LOWRY, AS NEXT FRIEND OF
TITUS JERMAINE CROMER, JR., a minor, by and through legal counsel, RASOR
LAW FIRM, PLLC, and for her Motion for Preliminary Injunction, states as follows:

1. This is an Emergency action for a Declaratory Judgment, Preliminary
Injunction and Motion for Temporary Restraining Order pursuant to federal law and
Michigan statutory and common law.

2. Titus Jermaine Cromer, Jr., sixteen years of age and a minor child of LaShauna Lowry, is currently in a coma at Beaumont Hospital in Royal Oak, MI.

3. On October 17, 2019, Titus was transported to and admitted by Royal Oak Beaumont Hospital after suffering traumatic injury and it appears that Titus has sustained damage to the brain as a result of low levels of oxygen and cardiac arrest.

4. Titus currently requires a ventilator, tube feeding, and assistance with all activities of daily living.

5. Beaumont Hospital, Royal Oak, believes that Titus suffered an “**irreversible** cessation of all functions of the **entire** brain, including the brain stem” as a result of traumatic injury. See Michigan Determination of Death Act, M.C.L. § 333.1033 (emphasis added).

6. Beaumont Hospital, Royal Oak has indicated that it plans to withdraw Titus’s life-sustaining medical treatment, which includes ventilation and artificial hydration and nutrition if Oakland County Circuit Court had not granted a Temporary Restraining Order on October 28, 2019. In other words, Beaumont believes that it has the right to withdraw life support without Titus’ parents/guardian’s consent.

7. Accordingly, Plaintiff previously filed this case in Oakland County Circuit Court, 19-177547-CZ, which was assigned to Honorable Hala Jarbou.

8. Judge Jarbou initially granted a Temporary Restraining Order (TRO) on October 28, 2019 in which she ordered Defendant Beaumont Hospital to continue providing life support and other life-sustaining care.

9. However, on November 7, 2019, Judge Jarbou entered an order that the Circuit Court lacks jurisdiction over the case and that it will be dismissed on November 12, 2019. (*See* Ex. A of Plaintiff's Brief in Support).

10. The following day, on November 8, 2019, Plaintiff filed this instant case and this Court granted a Temporary Restraining Order ("TRO") on November 8, 2019 to require Beaumont to continue life support for Titus until a hearing on Plaintiff's Motion for Preliminary Injunction on November 19, 2019. (*See* Dkt No. 4, PgID 340-342).

11. During the pendency of the State Circuit Court litigation, Plaintiff obtained independent medical opinions and expert opinions as to the potential for recovery of the Plaintiff and the time frame under which he may seek recovery. These medical opinions indicate that Titus is **NOT** brain dead within the meaning of MCL § 333.1033 and may recover from his brain injury if given additional treatment and time to heal.

12. Titus's mother has expressed a clear desire to maintain life-sustaining medical treatment to the greatest extent possible, without regard to Titus's current condition based upon a reasonable expectation that he has a chance, however slim, for recovery, based upon the independent and expert opinions.

13. Defendant Beaumont Hospital, Royal Oak refuses to follow the directions of Titus's parents. This directly contravenes the general and fundamental right that "parents speak for their minor children in matters of medical treatment." *In re Rosebush*, 195 Mich App 675, 682 (1992). Indeed, MCL § 333.1033 does not authorize a health care provider to remove life support, nor does it state that decision making concerning a incompetent minor child is vested in anyone other than the parent. The statute does, however, immunize a medical provider if they remove life support after a determination of death. *Ibid*.

14. Titus's parents have been working diligently to arrange for Titus to be transported to another facility willing and able to continue such life-sustaining treatment and to obtain independent medical opinions and other expert opinions as to his prognosis, but Beaumont Health refuses to perform medical stabilization of the patient, including a tracheostomy and percutaneous endoscopic gastrostomy (PEG) tube, which is the standard of care for longer term support of breathing and provision of food which would stabilize the patient for transport.

15. During the pendency of the Circuit Court litigation Plaintiff has continued to display medical improvement, including response to physical stimulæ in the form of movement of his fingers while holding hands with relatives.

16. Despite being erroneously adjudged brain dead by Defendant Beaumont Hospital's doctors pursuant to Michigan law, Plaintiff has continued to regulate his own body temperature, produce urine and feces, and has detectable

activity in the hypothalamus. Based upon a review of Titus's medical records, Plaintiff's own doctors have determined that Titus is not brain dead within the meaning of Michigan law, and that he is, in fact, very much alive.

17. If this Court does not grant Plaintiff's Motion for Preliminary Injunction, it is anticipated that Defendant will remove Plaintiff's life support and he will perish shortly thereafter.

18. For the reasons explained herein and in Plaintiff's Brief in Support, Plaintiff seeks not only a preliminary injunction preventing Beaumont from removing Titus's life support but also an Order requiring Beaumont to either perform the necessary surgical procedures for Titus to be transferred to a long-term care facility *or* allow appropriate physicians of Plaintiff's choosing to come into Beaumont to perform these surgical procedures.

WHEREFORE, Plaintiff respectfully requests this Court enter a Preliminary Injunction preventing Beaumont from removing Titus's life support but also an Order requiring Beaumont to either perform the necessary surgical procedures for Titus to be transferred to a long-term care facility *or* allow appropriate physicians of Plaintiff's choosing to come into Beaumont to perform these surgical procedures.

Respectfully Submitted,

RASOR LAW FIRM, PLLC

/s/ James B. Rasor

James B. Rasor (P43476)

Attorney for *Plaintiff*

RASOR LAW FIRM, PLLC

201 East 4th Street

Royal Oak, MI 48067

Dated: November, 11, 2019