

Eastern

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY Eastern District of PA

RUMPA BANNER JEE

(In the space above enter the full name(s) of the plaintiff(s).)

- against -

Philadelphia CHOP

COMPLAINT

Jury Trial: Yes No

(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

2018 JUN 19 A 10:59
U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY
RECEIVED

I. Parties in this complaint:

A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff	Name	<u>RUMPA BANNER JEE</u>
	Street Address	<u>245 Washington Street</u>
	County, City	<u>Burlington County Bordentown</u>
	State & Zip Code	<u>NJ 08505</u>
	Telephone Number	<u>419-575-2622</u>

B. List all defendants. You should state the full name of the defendants, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant can be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Phadelphia Chop
Street Address 3901 Civic Center Blvd
County, City Phadelphia
State & Zip Code PA 19104

Defendant No. 2 Name _____
Street Address _____
County, City _____
State & Zip Code _____

Defendant No. 3 Name _____
Street Address _____
County, City _____
State & Zip Code _____

Defendant No. 4 Name _____
Street Address _____
County, City _____
State & Zip Code _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. There are four types of cases that can be heard in federal court: 1) Federal Question - Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case; 2) Diversity of Citizenship - Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case; 3) U.S. Government Plaintiff; and 4) U.S. Government Defendant.

- A. What is the basis for federal court jurisdiction? (check all that apply)
- | | |
|--|--|
| <input type="checkbox"/> Federal Questions | <input type="checkbox"/> Diversity of Citizenship |
| <input type="checkbox"/> U.S. Government Plaintiff | <input type="checkbox"/> U.S. Government Defendant |

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? _____

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____

Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? _____

B. What date and approximate time did the events giving rise to your claim(s) occur? _____

C. Facts: My child life support system is about to pulled off. ~~IT~~

He is a New Jersey Resident and. He is kept as hostage and trying to pull up the life support system

① Hospital accepting

②

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. _____

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation.

- ① Take ~~him~~ out my child out of chop
- ② Hospital that refused transfer can take him
 - a) Cooper
 - b) Capital Health
 - c) Hack & Sac Meridian Health
 - d) Virtua Voorhes

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19 day of June, 2018.

Signature of Plaintiff Rumpa Baneya
Mailing Address 245 Washington Street

Telephone Number _____
Fax Number (if you have one) _____
E-mail Address _____

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint.

Signature of Plaintiff: Rumpa Baneya

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

(Title of Action)

	:	
Plaintiff,	:	Civil Action No.
v.	:	NOTICE OF MOTION
Defendant.	:	
	:	

PLEASE TAKE NOTICE _____
(Name of Moving Party)

will move before the Honorable _____, U.S.D.J. on

(Motion days are the 1st and 3rd Monday of each month)

for an Order _____
(describe type of relief being sought)

In support of my motion, I will rely on the attached brief (if necessary).

Name

Address

Date: _____

CERTIFICATION OF SERVICE

I. _____, certify that a copy of my motion was served
(Name of Moving Party)
by _____ on _____ upon:
(Mail, Personal Service, etc.) (Date)

(Name of Opposing Party)

(Address of Opposing Party)

Name (Signature)

APPENDIX K. SCHEDULE OF FEESUNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Office of the Clerk

Schedule of FeesThe **Clerk of the District Court** is required to collect the following fees:

Commencing any civil action or proceeding other than an application for writ of <i>habeas corpus</i>	
Filing fee - \$350 plus \$50 Administrative Fee (inapplicable to IFP)	\$ 400.00
Application for a writ of <i>habeas corpus</i>	5.00
Filing a Notice of Appeal in any case	
Fee includes \$5 district court fee (28 U.S.C. § 1917)	505.00
Filing a Notice of Appeal to District Judge from a Judgment of Conviction by a Magistrate Judge in a Misdemeanor Case	37.00
Certificate of Search, per name or item	30.00
Certification of any document	11.00
Exemplification of any document	21.00
Filing miscellaneous paper (any document not related to a pending case or proceeding)	46.00
Registration of foreign judgment	46.00
Admission of Attorney to Practice (including certificate)	200.00
Duplicate Attorney Certificate of Admission	20.00
Certificate of Good Standing to Practice	18.00
Admission to Appear <i>Pro Hac Vice</i> (each case)	150.00
Paper copies made by Clerk (not including certification), per page	.50
Reproduction of audio recording of a court proceeding	30.00
Retrieval of first box of records from Federal Records Center or National Archives	64.00
Retrieval of additional boxes from Federal Records Center or National Archives, per box	39.00
Any payment into the Court which is returned or denied for insufficient funds	53.00
Processing fee for a petty offense charged on a federal violation	25.00
Commencing a civil action under Title III of Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (This fee is in addition to the fee for commencing a civil action.)	6,355.00

**CHECKS AND MONEY ORDERS SHOULD BE MADE PAYABLE TO:
CLERK, UNITED STATES DISTRICT COURT**

May 1, 1987

Amended effective December 18, 1996; April 1, 1997; January 1, 1998; February 1, 2001; July 1, 2001;
October 1, 2002; November 1, 2003; June 1, 2004; February 7, 2005; March 22, 2005; April 9, 2006;
November 1, 2011; June 1, 2012; May 1, 2013; December 1, 2013, December 1, 2014.



MR-109 Rev. 3/17

AUTHORIZATION TO RELEASE/OBTAIN PATIENT INFORMATION

Page 1 of 1

CHAKRABARTI AREEN
14 July 2003
AREEN CHAKRABARTI

This authorizes Children's Hospital of Philadelphia and its affiliates to release/obtain information as described below. For a listing of related entities and medical practices, see Children's Hospital of Philadelphia Notice of Privacy Practices.

1. Patient Name (First, Middle, Last): Areen Chakrabarti
Address of Patient: 245 Washington Street
City, State, Zip: Fieldsboro NJ - 08505
Telephone Number: 419-575-2622 Date of Birth: 14 July 2003

2. What is the name of the person or facility that will be releasing your information? Check the appropriate box below and provide the name, address and telephone number of the person/facility releasing the information.
 Children's Hospital of Philadelphia or Other
Name of Person / Facility: _____
Address: MOM
City, State, Zip: _____
Telephone Number: _____ Fax Number: _____

3. What information will be released? Date of appointment or hospital stay beginning _____ through to _____
 Emergency Department Home Care Outpatient
 Inpatient Immunization (please specify name of department/office)
 Other Information (please specify) _____
If there is any part of the record you do not wish released, please indicate here: _____
If your records contain any information about substance (drug or alcohol) abuse, HIV, or mental health, may this information be released? If yes, please initial next to each type of information to be released:
Drug and/or alcohol treatment or testing _____ HIV _____ Mental Health _____

4. What is the name of the person or facility who is to receive your information? Check the appropriate box below and provide the name, address and telephone number of the person/facility releasing the information.
 Children's Hospital of Philadelphia or Other
Name of Person / Facility: _____
Address: MOM For Personal purposes
City, State, Zip: _____
Telephone Number: _____ Fax Number: _____

5. Please explain why the person or facility above needs this information:
for personal purpose

6. Expiration. Your permission will expire 90 days after you sign this form unless you indicate otherwise. If you would like to extend your permission for longer than 90 days, please tell us when your permission expires. The date cannot be more than a year from now: _____

7. Understanding this Authorization
• This allows the release or obtaining of information that exists in the patient's medical record when the form is signed, as well as information created after the form is signed until it expires.
• I may withdraw my permission at any time by providing written notice to the above-named provider releasing the information. For information being released by Children's Hospital of Philadelphia, see its Notice of Privacy Practices; for instructions on how to withdraw (revoke) an authorization. If I withdraw my permission, any information that was already released cannot be retrieved.
• Information released by Children's Hospital of Philadelphia may be released again by the person or organization that receives it and is no longer protected under federal privacy laws. Children's Hospital of Philadelphia will protect information it obtains as required by federal privacy laws.
• I understand my permission is voluntary and I/my child will receive treatment whether or not I sign this form.

8. Signature. By signing, I understand that I am authorizing Children's Hospital of Philadelphia to release/obtain information as described above.

Rumpa Banerjee Signature RUMPA BANERJEE Printed Name 05/9/2018 Date 2018 Time

Relationship to patient: Patient Parent Legal Guardian Other: _____

Information Released by: _____ Date _____



The Childrens Hospital of Philadelphia
34th St and Civic Center Blvd
Philadelphia PA 19104
Hospital Abstract

Lambda One Hundred And Ten, Lambda
MRN: 56249211, DOB: 1/1/1901, Sex: M
Adm: 4/15/2018, D/C: —

Attending Provider: Woods-Hill, Charlotte Z, MD Allergies: No Active Allergies	Isolation: None Infection: None Code Status: DNR	Ht: 1.59 m (5' 2.6") Wt: 54.5 kg (120 lb 2.4 oz)	Admission Cmt: None Principal Problem: Exposure to smoke, fire and flames [X08.8XXA]
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Admission Information - Hospital Account/Patient Record

Arrival Date/Time:	Admit Date/Time:	04/15/2018 0221	IP Adm. Date/Time:	04/15/2018 0221
Admission Type: Emergent	Point of Origin:	Transport-chop	Admit Category:	
Means of Arrival:	Primary Service:	Critical Care	Secondary Service:	
Transfer Source:	Service Area:	CHOP SERVICE AREA	Unit:	7 WEST PICU
Admit Provider: Lockman, Justin L, MD	Attending Provider:	Woods-Hill, Charlotte Z, MD	Referring Provider:	Provider, Information Not Available

Discharge Information - Hospital Account/Patient Record

Discharge Date/Time	Discharge Disposition	Discharge Destination	Discharge Provider	Unit
None	None	None	None	7 WEST PICU

Final Diagnoses (ICD-10-CM)

Code	Description	POA	CC	HAC	Affects DRG
G93.82 [Principal]	Brain death	Yes			
G93.40	Encephalopathy, unspecified	Yes			
J96.00	Acute respiratory failure, unspecified whether with hypoxia or hypercapnia	Yes			
F84.0	Autistic disorder	Yes			
E23.2	Diabetes insipidus	No			
J70.5	Respiratory conditions due to smoke inhalation	Yes			
G93.5	Compression of brain	Yes			
T68.XXXA	Hypothermia, initial encounter	Yes			
Z86.74	Personal history of sudden cardiac arrest	Exempt from POA reporting			
Z63.5	Disruption of family by separation and divorce	Exempt from POA reporting			
Z66	Do not resuscitate	No			

Assessed/Confirmed On: **6/10/2018** By:
Sollenberger, Amanda L, RN

Allergies as of 6/11/2018

No Active Allergies

Immunizations as of 6/11/2018

No immunizations on file.

Never Reviewed

ED Records



The Children's Hospital
of Philadelphia

The Childrens Hospital of Philadelphia
34th St and Civic Center Blvd
Philadelphia PA 19104
Hospital Abstract

Lambda One Hundred And Ten, Lambda
MRN: 56249211, DOB: 1/1/1901, Sex: M
Adm: 4/15/2018, D/C: —

ED Records (continued)

Attending at Discharge

Discharge Provider (none)	Date/Time (none)	Disposition (none)	Destination (none)
Comments (none)			

MyChart Messages

No messages in this encounter

ED Arrival Info

LAMBDA ONE HUNDRED AND TEN,LAMBDA						MRN: 56249211	Patient:
Expected	Arrival	Acuity	Means of Arrival	Escorted By	Service	Admission Type	
4/14/2018 22:53	-	-	-	-	Critical Care	Emergent	
Arrival Complaint							
-							

ED Current Impression

LAMBDA ONE HUNDRED AND TEN,LAMBDA	MRN: 56249211	Patient:
None		

Diagnosis-----Patient: LAMBDA

ONE HUNDRED AND TEN,LAMBDA	MRN: 56249211
None	

ED Disposition-----Patient: LAMBDA

ONE HUNDRED AND TEN,LAMBDA	MRN: 56249211
None	

ED Notes

Taylor, Laura M, RT (Respiratory Therapist) 5/31/2018 19:41 Emergency

Mother asked this RT about humidification through the ventilator. I told her we use humidification on all ventilated patients and it was set at the appropriate setting for an intubated patient.

Electronically signed by Taylor, Laura M RT at 5/31/2018 7:41 PM

Taylor, Laura M, RT (Respiratory Therapist) 5/30/2018 21:16 Emergency

RT called to bedside by RN to discuss what a positional leak is with aunt. She had questions after her and the RN had turned the pt. Aunt also asked if this could happen with a trach, RT responded that it could happen. No harm to patient, pt was getting appropriate tidal volumes, cuff checked without any issues.

Electronically signed by Taylor, Laura M. RT at 5/30/2018 9:16 PM

Mann, Charles E (Communication Specialist) 5/24/2018 18:12 Emergency

Received a call from AMR.

They got a call from "A family Friend" on behalf of the mother.

They wanted to see if AMR would take this child home in an ambulance.

Generated by Oliphant, Nikkia at 6/11/18 4:32 PM



The Childrens Hospital of Philadelphia
34th St and Civic Center Blvd
Philadelphia PA 19104
Hospital Abstract

Lambda One Hundred And Ten, Lambda
MRN: 56249211, DOB: 1/1/1901, Sex: M
Adm: 4/15/2018, D/C: —

ED Records (continued)

ED Notes (continued)

I spoke with Ryan Morgan, who confirmed that this was not the plan.

AMR Aware

In the future, all Communications about this patient should go throught the Purple Team PICU Attending

Electronically signed by Mann, Charles E at 5/24/2018 6:12 PM

Gagliardi Trans, Kara, RN (Registered Nurse) 5/23/2018 12:26 Emergency

Spoke with Andrew, dispatcher at Romed Ambulance (555-676-4911). At this time the outbound transport has been cancelled.

Electronically signed by Gagliardi Trans, Kara, RN at 5/23/2018 12:26 PM

Moore Trans, Katherine, RN (Registered Nurse) 5/21/2018 17:15 Emergency

Dr. Ryan Morgan from CHOP PICU connected with Dr. Frank Maffe from Geisinger (570-271-6562) on meet me 5 40264 in order to determine if Geisinger will accept patient for transfer for second opinion

Dr. Morgan provided admission history and clinical review of patient to Dr. Maffe

CHOP PICU waiting from courts to see what the next step is due to patient being declared brain dead 4/26

After discussion, Dr. Maffe does not feel that it would be beneficial to transport patient to Geisinger at this time (Dr. Maffe direct #570-394-6986)

Patient is not accepted to Geisinger at this time

Electronically signed by Moore Trans, Katherine, RN at 5/21/2018 5:15 PM

Liebman, Monica, RN (Registered Nurse) 5/4/2018 14:51 Transport

Call from Dr. Diane Sinque, Director for PICU

Dr. Sinque is calling from University Hospital in (973-972-3784)

Review of clinical assessment

Mom has visited this physician to see if they would accept her son to their unit

Mom stated that her religion states that she does not believe in "Brain death"

Dr. Sinque is trying to figure out some of the legal ramifications about a case like this for them

Mom states that she feels her son is moving more

Patient's exam is the same as per Dr. Nishisaki

Mom has filed a motion with the courts after he was declared brain dead

Still on Vasopressin infusion; no pressors

Still intubated

Referring is concerned about if this transfer would be medically appropriate?

Referring is hoping to get back to us within the hour

Electronically signed by Liebman, Monica, RN at 5/4/2018 2:51 PM



The Childrens Hospital of Philadelphia
34th St and Civic Center Blvd
Philadelphia PA 19104
Hospital Abstract

Lambda One Hundred And Ten, Lambda
MRN: 56249211, DOB: 1/1/1901, Sex: M
Adm: 4/15/2018, D/C: —

ED Records (continued)

ED Notes (continued)

Baron, Marc B. RN (Registered Nurse) 5/2/2018 12:46 Transport

Rec'd call from PICU attending Dr. Woods-Hill. Looking to reach Dr. Walker at Virtua at 619-370-6236.

Virtua is declining the case.

Electronically signed by Baron, Marc B, RN at 5/2/2018 12:46 PM

Gentner, David (Communication Specialist) 5/1/2018 18:09 Transport

Meet Me 4 45517 Virtua Attending connected with PICU attending CHOP Charlotte Woods Hill MD to discuss patient.

Electronically signed by Gentner, David at 5/1/2018 6:09 PM

Gentner, David (Communication Specialist) 5/1/2018 17:58 Transport

L/M for Virtua Voorhees attending to call us and when they call in to contact Charlotte Woods Hill MD at 727-385-5870.

Electronically signed by Gentner, David at 5/1/2018 5:58 PM

Gardella, Diane, RN (Registered Nurse) 5/1/2018 14:01 Emergency

Mother has not accepted the diagnosis of confirmed brain death and requested transfer to NJ facility

Per the outside physician, they can not accept a patient who has no rehab goals

Physician is recommending the family call him, or the admission coordinator, who will explain the patient is not an acceptable candidate for any of their programs

Picu Md will discuss with team and determine if call should be recorded

Picu will **not** provide intake # directly to family

Electronically signed by Gardella, Diane, RN at 5/1/2018 2:01 PM

Hall, Amy E (Communication Specialist) 5/1/2018 13:52 Transport

Dr. Woods-Hill connected to MD at Children's Specialized on 45516



The Childrens Hospital of Philadelphia
34th St and Civic Center Blvd
Philadelphia PA 19104
Hospital Abstract

Lambda One Hundred And Ten, Lambda
MRN: 56249211, DOB: 1/1/1901, Sex: M
Adm: 4/15/2018, D/C: —

ED Records (continued)

ED Notes (continued)

Electronically signed by Hall, Amy E at 5/1/2018 1:52 PM

Chandler, Shonda (OTHER) 5/1/2018 13:36 Transport

Connected CHOP PICU Dr. Charlotte Woods-Hill with on 45515 Pediatric Specialized Care-New Brunswick 732-258-7000

Electronically signed by Chandler, Shonda at 5/1/2018 1:36 PM

Gardella, Diane, RN (Registered Nurse) 5/1/2018 13:35 Emergency

Picu Attending Charlie Woods-Hill on meet me 2

Receiving MD unable to come to phone
They will call back

732-258-7060

Electronically signed by Gardella, Diane, RN at 5/1/2018 1:35 PM

Molloy, Robert Michael (Communication Specialist) 4/30/2018 18:29 Transport

At the request of the PICU Purple Attending (70025) I was asked to call Pediatric Specialized Care - New Brunswick (732-258-7000) to set up possible outbound transfer. I contacted the facility and they said that all transfer calls have to happen between 9am - 5pm. CHOP Attending was notified and will try again on 5/1/2018

Electronically signed by Molloy, Robert Michael at 4/30/2018 6:29 PM

Liebman, Monica, RN (Registered Nurse) 4/28/2018 16:54 Transport

Call from Dr. Meena requesting to talk with Dr. Nishisaki
After speaking with her PICU Director

Beth israel will not be accepting this patient

Electronically signed by Liebman, Monica, RN at 4/28/2018 4:54 PM

Liebman, Monica, RN (Registered Nurse) 4/28/2018 16:32 Transport

Connected Dr. Nishisaki with Dr. Meena Kalyanaraman, PICU ATT
Conversation on 45515

Review of clinical assessment

Mom lives in NJ and would like to transfer the patient to NJ and patient can be kept "legally alive"

Dr, Meena states that after the second exam, patients are declared

Dr. Meena needs to talk to her Director; waiting for call back



The Childrens Hospital of Philadelphia
34th St and Civic Center Blvd
Philadelphia PA 19104
Hospital Abstract

Lambda One Hundred And Ten, Lambda
MRN: 56249211, DOB: 1/1/1901, Sex: M
Adm: 4/15/2018, D/C: —

ED Records (continued)

ED Notes (continued)

PICU at Beth Israel is "full"

Electronically signed by Liebman, Monica, RN at 4/28/2018 4:32 PM

Liebman, Monica, RN (Registered Nurse) 4/28/2018 16:02 Emergency

Connected Dr. Nishisaki with PICU MD at Saint Peter's Hospital

Connected Dr. Nishisaki with Dr. Tiong The

Review of clinical information

Patient has been declared brain dead on 4/26/18

No beds are available at Saint Peter's

Administration at Saint Peter's no longer accepts these types of patients at their facility

If the bed situation changes, they still will not accept the patient

Original note by Liebman, Monica, RN at 4/28/2018 16:01

Electronically signed by Liebman, Monica, RN at 4/28/2018 4:02 PM

Liebman, Monica, RN (Registered Nurse) 4/28/2018 16:01 Emergency

Connected Dr. Nishisaki with PICU MD at Saint Peter's Hospital

Connected Dr. Nishisaki with Dr. Tiong The

Review of clinical information

Patient has been declared brain dead on 4/26/18

Saint Peter's will not be accepting this patient

No beds are available at Saint Peter's

Administration at Saint Peter's no longer accepts these types of patients at their facility

Addendum to note by Liebman, Monica, RN at 4/28/2018 16:02

Electronically signed by Liebman, Monica, RN at 4/28/2018 4:01 PM

Liebman, Monica, RN (Registered Nurse) 4/28/2018 15:38 Transport

Call from Akira Nishisaki in regards to this patient

Robert Wood Johnson called to initiate the transport process

Dr. Nishisaki spoke to Dr. Christina Lopez from their PICU

Dr. Lopez stated that she is aware of this patient from the news

RWJ does not have anything more to offer this patient

RWJ will not accept this patient to their facility

Electronically signed by Liebman, Monica, RN at 4/28/2018 3:38 PM

Hall, Amy E (Communication Specialist) 4/28/2018 15:26 Transport

Connected CHOP PICU Attending Dr. Nishisaki to transfer center at Robert Wood Johnson on 40266

Electronically signed by Hall, Amy E at 4/28/2018 3:26 PM

Liebman, Monica, RN (Registered Nurse) 4/27/2018 16:58 Transport

Received 6/15/2018 9:13:11 AM Superior Court Eastern District

ERIK B. JENSEN, ESQUIRE
CHRISTOPHER F. BAGNATO, ESQUIRE † ^

Filed 6/15/2018 9:13:11 AM Superior Court Eastern District
1463 EDA 2018
JENSEN BAGNATO, P.C.
Attorneys at Law
1500 Walnut Street - Suite 1920
Philadelphia, Pennsylvania 19102

† Admitted PA & NJ

^ LL.M. In Trial Advocacy

Of Counsel

Akeem J. Parsons, Esquire
Kimberly Keenen, Esquire †

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Web Page www.jensenbagnatolaw.com

June 14, 2018

JUDGES OF PENNSYLVANIA SUPERIOR COURT
530 Walnut Street
Philadelphia, PA 19106

**Re: A.C., a Minor
1463 EDA 2018**

Dear Judges of Superior Court:

Please find enclosed a Declaration by Dr. Paul A. Byrne as to the immediate recommendation to the Court in regard to Aren. Dr. Byrne is an expert in brain dead matters. Dr. Byrne has included certain procedures for the care of Aren which are listed in the enclosed declaration. The Doctor and the family are immediately requesting these procedures be performed by CHOP.

I appreciate your attention and consideration in this matter.

Respectfully,


CHRISTOPHER F. BAGNATO

CFB/tk
Encl.

cc: Lawrence G. McMichael, Esquire

Paul A. Byrne, M.D.
577 Bridgewater Dr.
Oregon, Ohio 43616
419 779-6727
6/14/2018

Re: Areen Chakrabarti

Declarant, Paul A. Byrne, M.D., states as follows:

1. I have personal knowledge of all the facts contained herein and if called to testify as a witness I would and could competently testify thereto. I would need a complete and full set of records.
2. I am a physician licensed in Missouri, Nebraska and Ohio. I am Board Certified in Pediatrics and Neonatal-Perinatal Medicine. I have published articles on "brain death" and related topics in the medical literature, law literature and the lay press for more than thirty years. I have been qualified as an expert in matters related to central nervous system dysfunction in Michigan, Ohio, New Jersey, New York, Montana, Nebraska, Missouri, South Carolina, and the United States District Court for the Eastern District of Virginia.
3. I have reviewed the medical records provided of Areen Chakrabarti, a 14-year-old boy, who is a patient at CHOP. He is on a ventilator and was declared "brain dead" on April 26, 2018 at 4:10 PM. At the invitation of Pampa Banarjee, I visited Areen in CHOP.
4. Pampa Banarjee, mother of Areen Chakrabarti, does not accept death of her son. She wants her son to continue to live, even if severely disabled and to be given a chance at any recovery which requires longer term care.
5. PA Statute states: "irreversible cessation of all functions of the entire brain, including the brain stem, is legally dead."
6. A prerequisite for consideration of declaration of "brain death" includes no significant endocrine disturbance.
7. The record on 4/18/2018 has T4 result of 0.8 (Ref 1-1.18). This is below normal and represents a significant endocrine disturbance. This needs to be repeated plus TRH, TSH, and T3.
8. Areen is hypothyroid. He needs treatment and should have been treated on April 18, 2018.
9. With proper medical treatment as proposed by his mother, Areen Chakrabarti is likely to continue to live and may find limited to full recovery of brain function, and may possibly regain consciousness.
10. Areen has a beating heart without support by a pacemaker or medications. Areen has circulation and respiration and many interdependent functioning organs including liver, kidneys and pancreas. Despite low thyroid Areen manifests healing. Areen is a living person who passes urine, digests food and has bowel movements. These are functions that do not occur in a cadaver after true death.
11. The criteria for "brain death" are multiple and there is no consensus as to which set of criteria to use (Neurology 2008). The criteria supposedly demonstrate alleged brain damage from which the patient cannot recover. However, there are many patients who have recovered after a declaration of "brain death." Areen is

not deceased; Areen is not a cadaver. Areen has a beating heart with a strong pulse, blood pressure and circulation.

12. The latest scientific reports indicate that patients deemed to be "brain dead" are actually neurologically recoverable. (See below.) I recognize that such treatments are not commonly done. Further it is recognized that the public and the Court must be wondering why doctors don't all agree that "brain death" is true death. Areen, like many others, continues to live in spite of a declaration of "brain death." Areen, like all of us needs thyroid hormone. Many persons are on thyroid hormone because they would die without it.

13. The questions presented here refer to (1) the unreliability of methods that have been used to identify death and (2) the fact that no therapeutic methods that would enable brain recovery have been used so far. In fact, the implementation of nutrition and adequate therapeutic methods are being obstructed in the hope that Areen's heart stops beating, thereby precluding his recovery through the implementation of new therapeutic methodologies.

14. Areen's brain is probably supplied by a partially reduced level of blood flow, insufficient to allow full functioning of his brain, such as control of respiratory muscles and production of a hormone controlled by the brain itself, called thyrotropin releasing hormone, TRH, which causes the anterior pituitary to release thyroid stimulating hormone, which in turn stimulates the thyroid gland to produce its own hormones. With insufficient TSH, Israel has hypothyroidism. The consequent deficiency of thyroid hormones sustains cerebral edema and prevents proper functioning of the brain that control respiratory muscles.

15. On the other hand, partially reduced blood flow to his brain, despite being sufficient to maintain vitality of the brain, is too low to be detected through imaging tests currently used for that purpose. Employing these methods currently used for the declaration of "brain death" confounds NO EVIDENCE of circulation to his brain with actual ABSENCE of circulation to his brain. Both reduced availability of thyroid hormones and partial reduction of brain blood flow also inhibit brain electrical activity, thereby preventing the detection of brain waves on the EEG. The methods currently used for the declaration of "brain death" confound flat brain waves with the lack of vitality of the cerebral cortex.

16. In 2013, Jahi McMath was in hospital in Oakland, CA. When I visited her in the hospital in Oakland, Jahi was in a condition similar to Areen. A death certificate was issued on Jahi on December 12, 2013. Jahi was transferred to New Jersey where tracheostomy and gastrostomy were done, and thyroid medication was given. Multiple neurologists recently evaluated Jahi and found that she no longer fulfills any criteria for "brain death. Since Jahi has been in New Jersey, she has had her 14th, 15th, 16th, 17th and 18th birthdays. The doctors in Oakland declared Jahi "brain dead and issued a death certificate. Jahi's mother said no to taking Jahi's organs and no to turning off her ventilator. Areen's mother is saying no to taking Areen's organs and to taking away his life support. Just like Jahi's mother!

17. Even a person in optimal clinical condition would be at risk of death after weeks of hypothyroidism and sub-optimal nutrition.

18. Areen needs the following procedures done:

- a. Tracheostomy and gastrostomy.
- b. Serum T3, T4, TSH and TRH (thyroid releasing hormone).

- c. Levothyroxine 25 mcg nasogastrically or IV every 6 hours the first day; dose needs to be adjusted thereafter in accord with TSH, T3 and T4.
- d. Samples for lab tests for growth hormone (maybe serum samples can be frozen for future non-STAT tests).
- e. Serum insulin-like growth factor I (IGF-I) to evaluate growth hormone deficiency.
- f. Parathormone (PTH) and 25(OH)D3 to evaluate vitamin D deficiency and replacement.
- g. Continue to follow electrolytes (sodium, chloride, potassium, magnesium, total and ionized calcium), creatinine and BUN.
- h. Continued monitoring of blood gases.
- i. Serum albumin and protein levels.
- j. CBC including WBC with differential and platelet count.
- k. Urinalysis (including quantitative urine culture and 24-hour urine protein).
- l. Continue accurate Intake and Output.
- m. Diet with 40 g of protein per day nasogastrically.
- n. IV fluids (volume and composition to be changed according to daily serum levels of electrolytes (sodium, chloride, potassium, magnesium, total and ionized calcium) and fluid balance.
- o. Water, nasogastrically, if necessary to treat hypernatremia – volume and frequency according to serum sodium.
- p. Fludrocortisone Acetate (Florine®) Tablets USP, 0.1 mg - one tablet nasogastrically per day;
- q. Prednisone 10 mg nasogastrically twice per day;
- r. Vasopressin IM, or Desmopressin acetate nasal spray (DDAVP – synthetic vasopressin analogue) one or two times per day according to urinary output;
- s. Human growth hormone (somatropin) [0.006 mg/kg/day (12 kg = 0.07 mg per day)] subcutaneously;
- t. Arginine Alpha Ketoglutarate (AAKG) powder 10 g diluted in water nasogastrically four times per day;
- u. Pyridoxal-phosphate ("coenzymated B6", PLP) - sublingual administration four times per day;
- v. Taurine 2 g diluted in water nasogastrically four times per day;
- w. Cholecalciferol 20,000 IU three times per day nasogastrically for 3 days. Then 5,000 IU three times per day nasogastrically from day 4.
- x. Riboflavin 20 mg four times per day nasogastrically.

- y. Folic acid 5 mg two times per day nasogastrically.
- z. Vitamin B12 1,000 mcg once per day nasogastrically.
- aa. Concentrate / mercury-free omega-3 (DHA / EPA) 3 cc four times per day nasogastrically.
- bb. Chest physiotherapy
- cc. Blood gases; adjust ventilator accordingly.
- dd. Keep oxygen saturation 92-98%
- ee. Air mattress that cycles and rotates air.
- ff. Pressor agents to keep BP at 70-80/50-60.

19. I am advised that Children's Hospital of Philadelphia is providing patient care according to an alleged standard to legally comply with a STAY judicially issued. To the contrary, the ethical duties that obligate members of the medical profession are clearly stated as "to do no harm". In fact, the limited treatment and care being now provided to a reasonable degree of medical certainty will result in the death of the patient. Such a result validates the hospital's policy of care judicially appraised under Pennsylvania law and is calculated to protect its legal interests, but directly violates legislative protections enacted by the State of New Jersey which run to patient and parent, which have been effectively claimed and violated by Children's Hospital of Philadelphia. Standard medical practice has been repeatedly violated and a simple life saving procedure to allow repeatedly requested discharge has been denied without medical or ethical justification.

20. In a situation such as this where continued provision of life-sustaining measures such as ventilator, medications, water and nutrition are at issue, it is my professional judgment that the decision regarding their appropriateness rests with the family, not the medical profession.

VERIFICATION

I declare under penalty of perjury under the law of the State of California that the foregoing is true and correct.

Executed on 6/14/2018

Signature: Paul A. Byrne MD
Paul A. Byrne, M.D.
Clinical Professor of Pediatrics

References to some of those who have recovered after a declaration of "brain death":

Hospital staff began discussing the prospect of harvesting her organs for donation when she squeezed her mother's hand. Kopf was mistakenly declared dead in hospital but squeezed her mother's hand in 'brehtaking miracle.'

<https://www.dropbox.com/s/dtti4hkx89ikyg/Uber%20shooting%20Victim%20Abigail%20Kopf%20Going%20From%20Victim%20to%20Survivor%20%20NBC%20Nightly%20News.mp4?dl=0>

Zack Dunlap from Oklahoma. Doctors said he was dead, and a transplant team was ready to take his organs — until a young man came back to life

<http://www.msnbc.msn.com/id/23768436/>; <http://www.lifesitenews.com/ldn/2008/mar/08032709.html>, March 2008

Rae Kupferschmidt: <http://www.lifesitenews.com/ldn/2008/feb/08021508.html>, February 2008.

Frenchman began breathing on own as docs prepared to harvest his organs www.msnbc.msn.com/id/25081786

Australian woman survives "brain death" <http://www.lifesitenews.com/news/brain-dead-woman-recovers-after-husband-refuses-to-withdraw-life-support> UTM source=LifeSiteNews.com+Daily+Newsletter&utm_campaign=231fd2c2c9-LifeSiteNews.com_US_Headlines05_12_2011&utm_medium=email

Val Thomas from West Virginia

WOMAN WAKES AFTER HEART STOPPED, RIGOR MORTIS SET IN

<http://www.foxnews.com/story/0,2933,357463,00.html>

<http://www.lifesitenews.com/ldn/2008/may/08052709.html>, May 2008.

An unconscious man almost dissected alive: <http://www.lifesitenews.com/ldn/2008/jun/08061308.html>, June 2008

Gloria Cruz: <http://www.lifesitenews.com/news/brain-dead-woman-recovers-after-husband-refuses-to-withdraw-life-support/>, May 2011

Madeleine Gauron: <http://www.lifesitenews.com/news/brain-dead-quebec-woman-wakes-up-after-family-refuses-organ-donation>, July 2011

References that "brain death" is not true death include:

Joffe, A. Brain Death is Not Death: A Critique of the Concept, Criterion, and Tests of Brain Death. *Reviews in the Neurosciences*, 20, 187-198 (2009), and Rix, 1990; McCullagh, 1993; Evans, 1994; Jones, 1995; Watanabe, 1997; Cranford, 1998; Potts et al., 2000; Taylor, 1997; Reuter, 2001; Lock, 2002; Byrne and Weaver, 2004; Zamperetti et al., 2004; de Mattei, 2006; Joffe, 2007; Truog, 2007; Karakatsanis, 2008; Verheijde et al., 2009. Even the President's Council on Bioethics (2008), in its white paper, rejected the standard rationale for "brain death". Shewmon DA: The brain and somatic integration: insights into the standard biological rationale for equating "brain death" with death. *Journal of Medicine and Philosophy* 26(5):457-478, 2001. Shewmon DA: Brain death or brain dying? (Editorial) *Journal of Child Neurology* 27(1):4-6, 2012.

Sydney Lupkin, "Patient Wakes Up as Doctors Get Ready to Remove Organs," *ABC News* (July 2013), <http://abcnews.go.com>.

6/19/2018

Drafts (12) - btumpa@gmail.com - Gmail

In NJ there is law that as per Department of health patient rights states

" Be transferred to another facility only if the current hospital is unable to provide the level of appropriate medical care or if the transfer is requested by you or your next of kin or guardian."

" Receive treatment and medical services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay or source of payment."

In NJ Brain Dead is not legally dead as my religious belief does not accept Brain Dead as death.

When we requested for my son's transfer, our request was rejected because my son was diagnosed as brain-dead.



The Childrens Hospital of Philadelphia
34th St and Civic Center Blvd
Philadelphia PA 19104
Hospital Abstract

Lambda One Hundred And Ten, Lambda
MRN: 56249211, DOB: 1/1/1901, Sex: M
Adm: 4/15/2018, D/C: —

ED Records (continued)

ED Notes (continued)

Received a call from PICU ATT, Akira Nishisaki
This patient is in the PICU and needs to be transferred out to Cooper Medical Center
Assisted Dr. Nishisaki in getting connected with Cooper Medical Center through their transfer center

Electronically signed by Liebman, Monica, RN at 4/27/2018 4:58 PM

Liebman, Monica, RN (Registered Nurse) 4/27/2018 16:53 Transport

Call from Akira Nishisaki, PICU ATT, requesting to touch
Cooper talked to legal and their medical team

Cooper is not willing to accept this patient t their facility

MD at Cooper is willing to consult on this patient if the parents are willing to allow this to happen
Parents do not agree with the assessment that her child is "brain dead"

Original note by Liebman, Monica, RN at 4/27/2018 16:52

Electronically signed by Liebman, Monica, RN at 4/27/2018 4:53 PM

Liebman, Monica, RN (Registered Nurse) 4/27/2018 16:52 Transport

Call from Akira Nishisaki, PICU ATT, requesting to touch
Cooper talked to legal and their medical team

Cooper is not willing to accept this patient t their facility

MD at Cooper is willing to consult on this patient if the parents are willing to allow this to happen
Parents do not agree with the assessment that her child is "brain dead"

Addendum to note by Liebman, Monica, RN at 4/27/2018 16:53

Electronically signed by Liebman, Monica, RN at 4/27/2018 4:52 PM

Mathews, Cheryl Y () 4/16/2018 09:03

Spoke with Jessica @ Capital Health, informed me that the patient name is Areen Chakrabarti DOB-07/14/2003

- Mini
- Historical
- My Response

New Jersey Medicaid Eligibility

NOTICE: This information is classified as individually identifiable healthcare information and is intended strictly for the confidential use of the authorized requestor. Any unauthorized use or disclosure of this information is prohibited.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Rumpa Banerjee
 Address of Defendant: _____
 Place of Accident, Incident or Transaction: Philadelphia CHOP

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No
- Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No
- Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Yes No
- Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes No

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 06/19/2018 Rumpa _____
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a √ in one category only)

<p>A. Federal Question Cases:</p> <ul style="list-style-type: none"> <input type="checkbox"/> 1. Indemnity Contract, Marine Contract, and All Other Contracts <input type="checkbox"/> 2. FELA <input type="checkbox"/> 3. Jones Act-Personal Injury <input type="checkbox"/> 4. Antitrust <input type="checkbox"/> 5. Patent <input type="checkbox"/> 6. Labor-Management Relations <input type="checkbox"/> 7. Civil Rights <input type="checkbox"/> 8. Habeas Corpus <input type="checkbox"/> 9. Securities Act(s) Cases <input type="checkbox"/> 10. Social Security Review Cases <input type="checkbox"/> 11. All other Federal Question Cases (Please specify): _____ 	<p>B. Diversity Jurisdiction Cases:</p> <ul style="list-style-type: none"> <input type="checkbox"/> 1. Insurance Contract and Other Contracts <input type="checkbox"/> 2. Airplane Personal Injury <input type="checkbox"/> 3. Assault, Defamation <input type="checkbox"/> 4. Marine Personal Injury <input type="checkbox"/> 5. Motor Vehicle Personal Injury <input type="checkbox"/> 6. Other Personal Injury (Please specify): _____ <input type="checkbox"/> 7. Products Liability <input checked="" type="checkbox"/> 8. Products Liability – Asbestos <input type="checkbox"/> 9. All other Diversity Cases (Please specify): <u>CHOP want to pull the</u> <u>life support. I need more</u> <u>time because it was</u> <u>previously on 24th of July</u> <u>and</u>
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ARBITRATION CERTIFICATION
(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Rumpa Banerjee, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

Relief other than monetary damages is sought. from taking off the life support system
and stick to the
other date

DATE: 06/19/2018 _____
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable) af 2

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

July 24th

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

CASE MANAGEMENT TRACK DESIGNATION FORM

Rumpa Banerjee

v.

Phadelphia CHOP

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

06/19/2018

Date

NA

Attorney-at-law

NA

Attorney for

419-575-2622

Telephone

FAX Number

Brunpa@gmail.com

E-Mail Address

Filed 06/18/2018

In Re: A.C., a Minor	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
	:	
	:	
	:	
	:	(C.P. Philadelphia County Control Nos. 181606 & 185361)
	:	
	:	
Appeal of: R.B.	:	No. 1463 EDA 2018

ORDER

Upon consideration of appellant’s “Emergency Petition To Stay Appellees From Proceeding With Ending Life Measures” as to child, A.C. and the trial court’s June 14, 2018 order in response to this Court’s June 4, 2018 remand order, it is hereby **ORDERED**:

1. Appellant’s petition for stay is **DENIED**. Appellant has not successfully demonstrated the satisfaction of all the requirements for issuance of a stay as set forth in ***Pa. Public Utility Cmm’n v. Process Gas Consumers Group***, 467 A.2d 805 (Pa. 1983).
2. The temporary stay entered by this Court on June 4, 2018 **SHALL REMAIN** in place until 5:00 PM Wednesday, June 20, 2018 to allow appellant sufficient time to file for relief with the Pennsylvania Supreme Court.
3. The temporary stay order of June 14, 2018 shall be **LIFTED** on June 20, 2018 at 5:00 PM.
4. Appellee’s application to terminate the temporary stay is **DENIED as moot**.

Per Curiam