

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

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

Plaintiff,

v

**BEAUMONT HEALTH**,

Defendant.

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Case No. 19-cv-13293

Hon. Mark A. Goldsmith  
United States District Judge

Hon. Michael J. Hluchaniuk  
United States Magistrate Judge

**INTERIM ORDER REGARDING PLAINTIFF'S  
MOTION FOR PRELIMINARY INJUNCTION**

This Court referred this case to Magistrate Judge Michael J. Hluchaniuk for mediated discussions and the Court understands that Magistrate Judge Hluchaniuk met with the parties and/or their counsel multiple times, in person or by telephone. As a result of those discussions, and this Court being otherwise fully apprised on the status of this matter, and upon the stipulation of the Parties below:

IT IS HEREBY ORDERED that:

1. Beaumont Health and Beaumont – Royal Oak (collectively “Beaumont”) will arrange for the performance of tracheostomy and percutaneous endoscopic gastrostomy (“PEG”) procedures, (i.e., the procedures), on Titus Jermaine Cromer, Jr. (“Titus”) as soon as reasonably possible after this Court signs this Order;

2. Plaintiff, on her own, as next friend, and on behalf of Titus (i) agrees to hold harmless Beaumont Health, its affiliate hospitals (including Beaumont – Royal Oak), and their individual and collective physicians, nurses, employees, and agents (collectively, the “Beaumont Parties”) from any claim, liability, damage, harm, lien, cost, and/or cause of action arising from the procedures, (ii) covenants not to sue the Beaumont Parties for any claim, liability, damage, harm, lien, cost and/or cause of action arising from the procedures, and (iii) immediately upon completion of the procedures, shall provide a release, waiver, and covenant not to sue any of the Beaumont Parties for any claim, liability, damage, harm, lien, cost, and/or cause of action arising from the procedures in the form attached hereto as Exhibit A;

3. Barring any complication arising from or related to the procedures, as determined by Beaumont in its sole discretion, Plaintiff shall as soon as reasonably possible transfer Titus out of Beaumont – Royal Oak, and to a long-term support facility, Plaintiff’s home, or other location (other than any Beaumont hospital, Beaumont medical facility, or other Beaumont facility), not more than fourteen (14) business days after completion of the procedures. For purposes of this Order, a “business day” is Monday through Friday, excluding federal holidays;

4. If any complication arising from or related to the procedures occurs, as determined by Beaumont in its sole discretion, then Plaintiff shall as soon

as reasonably possible transfer Titus out of Beaumont – Royal Oak and to a long-term support facility, Plaintiff’s home, or other location (other than any Beaumont hospital, Beaumont medical facility, or other Beaumont facility) not more than fourteen (14) business days after such complication is resolved as determined by Beaumont in its sole discretion;

5. If Plaintiff fails to transfer Titus in compliance with this Order, then Beaumont has the option to perform additional medical and neurological tests of Beaumont’s selection (including the apnea test) specified on the Beaumont Determination of Death by Neurological Criteria (Brain Death) policy, with said testing to be completed more than fourteen (14) business days after completion of the procedures, and if possible, no later than four (4) calendar days in advance of a hearing on Plaintiff’s Motion For Preliminary Injunction (ECF 10). Beaumont shall provide Plaintiff with a copy of any record or report that summarizes the test results as soon as reasonably possible after the testing is completed;

6. This Court will schedule Plaintiff’s Motion for Preliminary Injunction (ECF No. 10) and any other Motions pending at the time of this Order (e.g., ECF 23 and ECF 27) for hearing to commence no earlier than January 20, 2020 but as soon as possible thereafter. The parties may supplement the briefs filed in support of or opposition to Plaintiff’s Motion For Preliminary Injunction within seven (7) calendar days prior to the hearing to be scheduled;

7. The Court's temporary restraining order (ECF 4), as amended (ECF 7), shall remain in effect, as further modified in this Order, until further order of this Court;

8. Plaintiff is responsible for locating a long-term care facility and transport for Titus. During the period described in Paragraphs 3 and 4 above, Beaumont – Royal Oak will continue to provide reasonable and customary administrative assistance as Plaintiff attempts to make arrangements to transfer Titus, including: by providing Plaintiff with contact information for facilities in southeast Michigan identified by Plaintiff; sending facilities identified by Plaintiff in southeast Michigan an email or other communication to alert the facility to the fact Plaintiff may be in contact about transferring Titus; by providing copies of existing medical records regarding Titus in response to a long-term care facility's reasonable request; by accurately completing transfer forms that a facility customarily and reasonably requests; and by moving Titus to an area within Beaumont – Royal Oak where a medical transport company selected by Plaintiff may take custody of Titus. Beaumont's care and responsibility for Titus shall end once the medical transport company takes physical custody of Titus;

9. This Order is without prejudice to any claim or defense any party has, had or may assert in this matter, nothing in this Order should be construed

as any party waiving or limiting any claim, defense or argument in this matter, and nothing in this Order shall be deemed an admission by any party.

IT IS SO ORDERED

Dated: December 23, 2019  
Detroit, Michigan

s/Mark A. Goldsmith  
MARK A. GOLDSMITH  
United States District Judge

The Parties, through Counsel, stipulate to Entry of this Order based on the mediated discussions with Magistrate Judge Hluchaniuk.

/s/ James B. Rasor  
James B. Rasor (P43476)  
Attorney for Plaintiff

/s/ Michael R. Turco  
Michael R. Turco (P48705)  
Attorney for Defendant

**EXHIBIT A**

Plaintiff, on her own, as next friend, and on behalf of Titus Jermaine Cromer, Jr. (i) holds harmless Beaumont Health, its affiliate hospitals (including Beaumont – Royal Oak), and their individual and collective physicians, nurses, employees, and agents (collectively, the “Beaumont Parties”) from any claim, liability, damage, harm, lien, cost, and/or cause of action arising from performing a tracheostomy and/or percutaneous endoscopic gastrostomy (“PEG”) procedures, (i.e., the procedures) on Titus, and (ii) releases, waives, and covenants not to sue any of the Beaumont Parties for any claim, liability, damage, harm, lien, cost, and/or cause of action arising from the procedures.

I further represent and warrant that I have the sole legal authority to provide this release.

By: \_\_\_\_\_  
Lashauna Lowry  
In my personal capacity and as next friend  
and legal guardian of Titus Jermaine Cromer, Jr.

Date: