

CAUSE NO. 2020-61396

MARIO TORRES and ANA	§	IN THE DISTRICT COURT
PATRICIA TORRES, individually and	§	
A/N/F of N.T., a minor,	§	
Plaintiffs,	§	HARRIS COUNTY, TEXAS
	§	
v.	§	
	§	
TEXAS CHILDREN'S HOSPITAL,	§	
and DR. JOHN DOE and DR. JANE	§	234TH JUDICIAL DISTRICT
DOE,	§	
	§	
Defendants.	§	

PLAINTIFFS' EMERGENCY MOTION TO EXTEND STAY BY 24 HOURS OF ORDER DENYING PLAINTIFFS' REQUEST FOR A TEMPORARY INJUNCTION

NOW COME the Plaintiffs, MARIO TORRES and ANA PATRICIA TORRES, individually and A/N/F of N.T., ("Plaintiffs"), and files this Petition, Emergency Motion to Extend Stay of Order Denying Plaintiffs Request for a Temporary Injunction, against Defendant TEXAS CHILDREN'S HOSPITAL ("Defendants"), and would respectfully show unto the Court the following:

INTRODUCTION

1. The Court also graciously issued a temporary stay of its interlocutory order until Monday, October 5, 2020 at 12:00 P.M giving Plaintiffs time to file an appeal.
2. The Court additionally extended that stay until Monday, October 5, 2020 at 6:00 P.M.
3. On Friday, October 9, 2020 the Fourteen Court of Appeal of Texas denied our urgent plea seeking emergency relief based on the evidence and arguments on the record during the October 2, 2020 temporary injunction hearing.

4. On October 2, 2020 this Honorable Court, in open court, announced its determination that it was refusing a petition for temporary injunction made by the Plaintiffs. An Order was thereafter signed and entered same date, denying the petition for temporary injunction (“the Order”).

5. The Court also graciously issued a temporary stay of its interlocutory order until Monday, October 5, 2020 at 12:00 P.M giving Plaintiffs time to file an appeal.

6. The Court additionally extended that stay until Monday, October 5, 2020 at 6:00 P.M.

7. On Friday, October 9, 2020 the Fourteenth Court of Appeal of Texas denied our accelerated interlocutory appeal, but continued the Order of October 5, 2020, granting emergency relief, to remain in full force and effect until **today** on October 12, 2020 5:00 P.M.

8. On Friday, October 9, 2020 at approximately 9:59 P.M. Plaintiffs received an official letter from the Harris County Institute of Forensic Sciences, from Deputy Chief Dr. Dwayne A. Wolf. In the letter, Dr. Dwayne confirms that the Harris County Medical Examiner “fully authorizes Texas Children’s Hospital Baylor College of Medicine, and all members of the Texas Children’s Hospital and Baylor College of Medicine medical staffs and faculty to” : (1) allow the removal of Nick from the premises; and (2) release Nick to his parents, Mario Torres and Ana Torres. (See Plaintiffs Exhibit A-Official Medical Examiner Letter). So now there is no legal impediment to transfer Baby Nick home for hospice care.

9. Plaintiffs obtained a sworn statement from a Dr. Joseph Varon, the Chief of Critical Care Services of United Medical Center, who is leading the effort to transfer Baby Nick home in an ambulance. (See Exhibit B Dr. Varon Declaration).

10. Dr. Joseph Varon, due to logistical constraints, would need approximately **twenty-four to forty-eight hours to transfer Baby Nick home.**

11. Dr. Joseph Varon, and the undersigned, are putting together a team to make a safe transfer of Baby Nick back to his home on or about Tuesday, October 13, 2020 in the afternoon at approximately 3:00 P.M. There will be a team of hospice providers to assist with the at home care.

12. Plaintiffs genuinely need twenty-four to forty-eight hours to finalize preparations for transfer.

AUTHORITIES

13. Plaintiffs understand that various legal issues have been settled by the Court of Appeals recent ruling made Friday, October 9, 2020. To the extent possible that this Honorable Court has jurisdiction and would not interfere with or impair the jurisdiction of the appellate court or effectiveness of any relief sought, we humbly request this Court consider a stay of the Order Denying Temporary Injunction. A Twenty-four to forty-eight hours extension could allow for a resolution between the parties that would result in Baby Nick transferred from the hospital and returned home with proper medical care.

PRAYER

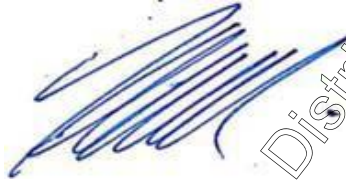
14. Wherefore, premises considered, the Plaintiffs request that this Honorable Court grant and consider a Stay of the Order Denying Plaintiffs Request for a Temporary Injunction and set for an urgent hearing before the Order of October 5, 2020, granting

emergency relief, to remain in full force and effect until 5:00 P.M. on October 12, 2020.

Expires.

Respectfully submitted,

THE GONZALEZ LAW GROUP, PLLC



By: _____

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ATTORNEYS FOR PLAINTIFFS

VERIFICATION BY UNSWORN DECLARATION UNDER PENALTY OF PERJURY

(Tex. Civ. Prac. & Rem. Code § 132.001 & 28 U.S.C. §1746)

My name is Kevin Acevedo. I am an attorney licensed in the State of Texas, Bar No. 24086848. My date of birth is August 16, 1974, and my office address is 7151 Office City Dr., Suite 200, Houston, Texas 77087. I, Kevin Acevedo, do verify under penalty of perjury, that:

1. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct to the best of my ability and knowledge.

2. I have reviewed the attached Plaintiffs' Emergency Motion to Extend Stay of Oder Denying Plaintiffs Request for A Tempoary Injunction and the facts stated therein are either (a) part of the record or (b) within my personal knowledge and are true and correct.

3. Plaintiffs obtained a sworn statement from a Dr. Joseph Varon, the Chief of Critical Care Services of United Medical Center, who is leading the effort to transfer Baby Nick home in an ambulance.

4. Dr. Joseph Varon, due to logistical constraints, would need approximately twenty-four to forty-eight hours to transfer Baby Nick home.

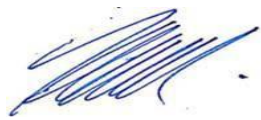
5. Dr. Joseph Varon, and the undersigned, are putting together a team to make a safe transfer of Baby Nick back to his home on or about Tuesday, October 13, 2020 in the afternoon. There will be a team of hospice providers to assist with the at home care.

6. That is why the Court's urgent intervention is so necessary. We therefore need emergency assistance.

7. Also attached is a statements from Dr. Joseph Varon,.

8. I assure this Honorable Court that the attached documents are, to the best of my ability, and limited time, accurate. Time is of the essence.

Pursuant to Tex. Civ. Prac. & Rem. Code § 132.001 & 28 U.S.C. §1746, I hereby submit this Unsworn Declaration Under Penalty of Perjury, in Harris County, Texas, and confirm it by my signature below on October 9, 2020:



By: _____

Kevin Acevedo
Bar No. 24086848

Unofficial Copy Office of Marilyn Burgess District Clerk

CERTIFICATE OF SERVICE

I, Kevin Acevedo, hereby certify that today, October 12, 2020, a copy of the foregoing was served in compliance with the Texas Rules of Civil Procedure via electronic service upon the following:

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