

FILED PSL

Case Type: Civil

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STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF HENNEPIN

CLERK OF DISTRICT COURT
DEPUTY

FOURTH JUDICIAL DISTRICT

Alan and Keri Bearder, individually and as parents and natural guardians of Josiah and Alexa Bearder, minors;

Matthew and Stacy Brzica, individually and as parents and natural guardians of Madeline, Kate, Margaret and Matthew Jr. Brzica, minors;

Ryan and Gabrielle Hagelstrom, individually and as parents and natural guardians of Leif Hagelstrom, a minor;

Wade K. III and Julie Halvorson, individually and as parents and natural guardians of Reid, Benjamin, Gabriel and Wade K. Halvorson IV, minors;

Adam and Andrea Kish-Bailey, individually and as parents and natural guardians of Anna, Meghan and Clinton Kish-Bailey, minors;

Jennifer Nelson, individually and as the mother and natural guardian of Jenna Nelson, Hailey Nelson and Caeden Sobania, minors,

David and Shay Rohde, individually and as parents and natural guardians of Madeline Rohde, a minor;

Anthony and Tracy VanDemark, individually and as Parents and natural guardians of Allison, Asher and Alethea VanDemark, minors;

Brook and Amy VanderLeest, individually and as parents and natural guardians of Maya and Alex VanderLeest, minors;

Plaintiffs,

vs.

State of Minnesota,

and

COMPLAINT

Minnesota Department of Health,

Defendants.

Plaintiffs for their claims, state and allege as follows:

1. That the Minnesota state legislature enacted the 2006 genetic privacy law to protect the genetic privacy and DNA property rights of all Minnesota citizens, including newborn citizens. Plaintiffs allege that the Minnesota Department of Health has refused to comply with the written informed consent requirements of the law, and has twice tried to change the law to eliminate the law's consent protections for newborns.

2. That under the title of "newborn screening", Defendants have taken blood from Plaintiff's babies, and nearly all Minnesota born babies, within 24 to 48 hours after their birth.

3. That the baby's blood was then tested for serious disorders.

4. That once the testing for disorders was completed, Defendants did not destroy the baby's blood, but instead stored the blood and genetic information in a freezer.

5. That Defendants stored baby's blood and genetic information without the consent of the baby's parents, despite Minnesota law that requires consent.

6. That Defendants shared the blood and genetic information with outside private entities and hospitals, without consent of the baby's parents.

7. That the State of Minnesota and the Minnesota Department of Health (MDH) has collected, stored, used, and disseminated Plaintiffs children's blood and genetic information without written informed consent, in violation of Minnesota law, and in particular Minn.Stat. §13.386.

8. That as of December 31, 2008, Defendant Minnesota Department of Health had stored 819,282 dried blood spot baby samples; had stored 1,567,133 records of the results of newborn genetic screening; and had used 52,519 dried blood spot samples for research.

9. That as a direct result of Defendants' violations of Minnesota law, and the collection, storage, use and dissemination of Plaintiffs children's genetic information, Plaintiffs have suffered damages, including but not limited to, the fear of the use of their genetic information by government and unknown private entities.

10. That Plaintiffs are aggrieved persons under Minn.Stat. §13.08, having been treated wrongfully by Defendants, and having been offended by the denial and infringement of their rights, including but not limited to, having their genetic information collected, stored, used, and disseminated by Defendants without their consent.

11. That Defendants' actions as described above, were done knowingly and willfully, and constitute willful violations of the law, pursuant to Minn.Stat. §13.00 et. al.

12. That as a direct result of Defendants' willful violations, Plaintiffs are entitled to exemplary damages as set forth in Minn.Stat. §13.00 et. al., for said each violation by Defendants.

13. That Defendants have waived any claims of immunity by statute, and in particular, Minn. Stat. §13.08.

14. That Plaintiffs are entitled to an injunction against Defendants, to enjoin Defendants from continuing to collect, store, use, and disseminate genetic information without the babies' parents' consent pursuant to Minn.Stat. §13.00 et. al.

15. That Plaintiff's are entitled to a court order compelling Defendants to comply with Minn.Stat. §13.08, and to cease collecting, storing, using and disseminating blood and genetic information without the babies' parents' consent.

16. That as direct result of Defendants' actions as described herein, Plaintiffs are entitled to recover their costs and reasonable attorney fees incurred in this matter.

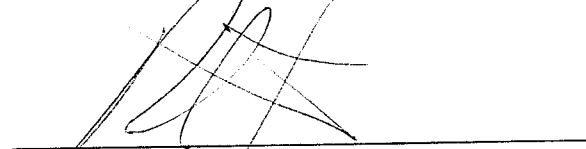
WHEREFORE, Plaintiff prays for the following relief:

1. For exemplary damages pursuant to Minn.Stat. §13.00 et. al., for each and every willful violation of Defendants.
2. For an injunction against Defendants enjoining Defendants from continuing to collect, store, use, and disseminate genetic information without consent.
3. For an order of this court compelling Defendants to comply with the law pursuant to Minn.Stat. §13.08.
4. For Plaintiff's reasonable attorney's fees and costs incurred herein, pursuant to Minn.Stat. §13.00 et. al.
5. For such other and further relief as the court deems appropriate and necessary.

ACKNOWLEDGEMENT: The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. §549.211, to the party against whom the allegations in this pleading are asserted.

Dated: 3-9-9

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