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Judge dismisses Jehovah's Witness' 'wrongful life' lawsuit vs. Staten Island doctor and University Hospital

Published: Monday, August 08, 2011, 8:51 AM Updated: Monday, August 08, 2011, 9:54 AM

By **Frank Donnelly**



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STATEN ISLAND, N.Y. -- She received a life-saving blood transfusion when complications arose after she gave birth to a healthy boy.

Even so, Nancy DiGeronimo, a Jehovah's Witness, sued her doctor and Staten Island University Hospital for medical malpractice alleging the transfusions of another person's blood conflicted with her religious beliefs.

But a Staten Island justice has dismissed the 5-year-old case against Dr. Allen Fuchs and University Hospital, ruling the transfusion didn't deviate from accepted standards of care and that Ms. DiGeronimo had failed to show the infusion of someone else's blood had hurt her.



Advance file photo

A Staten Island judge dismissed a 5-year-old lawsuit vs. a doctor and Staten Island University Hospital.

Ms. DiGeronimo, then 34, was released from the hospital on April 9, 2004, five days after giving birth.

"The plaintiff's argument, taken to its logical conclusion, is that the doctor should have allowed her [the mother of two children] to die rather than give her an 'allogenic' blood transfusion," state Supreme Court Justice Joseph J. Maltese wrote in a decision handed down Thursday. "Since the plaintiff's transfusion saved her life, this action is analogous to one for 'wrongful life' against the doctor. However, there is no cause of action for 'wrongful life' in the state of New York.

"In this case, there is no departure from good and acceptable medical care and there is no proximate cause of a legally recognized injury."

Dr. Fuchs' lawyer, Irene Ziegler of the Bloomfield-based firm of Amabile & Erman, said she was "happy" for him.

"I think the judge made the correct decision," she said on Friday.

Ms. DiGeronimo's attorney and a hospital spokeswoman did not immediately return phone messages left Friday seeking comment.

The lawsuit was filed in state Supreme Court, St. George, in 2006.

According to court papers, Ms. DiGeronimo said she chose Dr. Fuchs, a New Dorp-based

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obstetrician-gynecologist, and University Hospital because they offered bloodless medical and surgical procedures and "cell-saver technology." That procedure collects blood cells from a patient which otherwise would be lost during surgery, processes the cells and re-infuses them into the patient.

A Jehovah's Witness, Ms. DiGeronimo was firmly opposed to receiving "allogenic" blood products, or those derived from another patient, said court papers. She signed a health-care proxy in 1995 explicitly directing she not receive any "allogenic" blood transfusions.

She said she would have accepted an "autologous" transfusion derived from her own blood.

Ms. DiGeronimo never provided the hospital with any of her own blood, nor had she been advised to do so for possible future use. However, because she was already pregnant when she first saw Dr. Fuchs in September 2003 she wasn't a candidate to donate her own blood for storage, court records said.

Ms. DiGeronimo went to the hospital on April 3, 2004, with vaginal bleeding and early onset labor. She was given an antibiotic to fight an infection and medicine to facilitate the vaginal birth.

The next day, Dr. Fuchs performed a cervical incision to aid the delivery and a healthy boy was born, said court papers.

Ms. DiGeronimo continued bleeding heavily after the delivery and surgery and other procedures couldn't stanch the hemorrhaging.

Due to her extreme blood loss, Ms. DiGeronimo was told she would die without an allogenic blood transfusion, could papers said. She nodded her approval, but was too weak to sign a consent form.

Her husband, who had authority as her health-care proxy, signed the form on his wife's behalf, said court records. She later contended to have no recollection of those events.

In support of her claim, Ms. DiGeronimo's expert physician contended a cesarean section should have been performed instead of attempting a vaginal birth. The cesarean would have prevented the uncontrolled hemorrhaging, he maintained, according to court papers.

Those documents said there was no dispute that Ms. DiGeronimo needed the transfusion to live.


Dr. Fuchs' expert physician countered that vaginal delivery was proper and there was no need for a C-section. He maintained the post-birth hemorrhaging couldn't have been anticipated and all appropriate measures were taken to try to treat it. In addition, Ms. DiGeronimo's blood cells couldn't be collected for re-insertion because her blood had been contaminated.

While Ms. DiGeronimo may have been offended or emotionally upset by the transfusion, that distress doesn't rise to the level required in a medical malpractice action, the judge said.

"There is no precedent for finding medical malpractice when a blood transfusion was the proximate cause of saving a life," wrote Maltese.

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dannyhaszard August 08, 2011 at 1:22AM

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Jehovah's Witnesses blood transfusion confusion

Simple fact-The Bible does not prohibit Blood transfusions.If you are bleeding to death it is more dangerous to refuse a blood transfusions than to take one. Bloodless surgeries are great if they can be elective.1/3rd of all trauma deaths are from blood loss.

Jehovah's Witnesses elders will investigate and disfellowship any Jehovah Witness who takes a blood transfusion,to say the issue is a 'personal conscience matter' is subterfuge to keep the Watchtower out of lawsuits..

Jehovah's Witnesses children die every year worldwide due to blood transfusion ban.Rank & file Jehovah's Witness are indoctrinated to be scared to death of blood FYI

1) JW's DO USE many parts aka 'fractions' aka components of blood,so if it's 'sacred' to God why the hypocritical contradiction flip-flop?

2) They USE blood collections that are donated by Red Cross and others but don't donate back,more hypocrisy.

3) The Watchtower promotes and praises bloodless elective surgeries,this is a great advancement indeed.BUT it's no good to me if I am bleeding to death from a car crash and lose much of my blood volume and need EMERGENCY blood transfusion.

Remember the Jehovah's Witnesses use thousands and thousands of pints of blood donated by others.They use 60% of the blood volume as broken down "fractions" then go on Bible thumping rants about how dangerous and sinful blood transfusions are.

(JW do allow organ transplants which has more risk than whole blood transfusions so their arguments of disease transmission is bogus)

Watchtower society will not allow a Jehovah Witness follower to bank their own blood ahead of surgery which is the best cheapest safest.

The Watchtower's rules against blood transfusions will eventually be abolished (very gradually to reduce wrongful death lawsuit liability) even now most of the blood 'components' are allowed.

Estimates range from 150,000-250,000 men,women,children have perished since Jehovah Witness blood ban inception year 1945.

The creeping adapted creed adhered to by the JW in 2011 is based on legal liability to keep the Watchtower from being sued for wrongful deaths. They do not *abstain* from blood they use all kinds of blood derivatives (that are donated by organizations like the Red Cross that they don't support).

They are such hypocrites!

Jehovah Witness blood policy reform site
<http://www.ajwrb.org/basics/abstain.shtml>

Watchtower Jehovah's Witness Whistleblower
 Danny Haszard www.dannyhaszard.com

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wisegray August 08, 2011 at 1:27AM

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I am tired of hearing about religious restraints on the law, science and medicine. A person's religious views are his or hers private concerns. Period. A doctor has an obligation to save a life with whatever medical means are at his or her command. Whether the patient objects is irrelevant to the doctor. An unscientific person has no right to dictate scientific principles to a doctor. Our taxpayer money is used by these egocentric people in court and this has to stop.

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ErNursie August 08, 2011 at 9:21AM

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You are wrong there. It is every patient's right to refuse treatment regardless of the outcome. It has to be an informed decision. If the doctor feels the patient is not able to give informed consent, then he/she must get proof as to why they are unable to do so and document it. The doctor may then go to a Health Care Proxy. Since she had a health care proxy, that person gave consent. She should have made sure her husband knew her wishes. In this case, the doctor made the right decision. As far as refusing treatment, you have every right to do so, as long as you are of sound mind. If a health care provider does something against your will, it may be considered Battery.

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rosebank4evr August 08, 2011 at 1:34AM

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If the JW's are that intent on dying for the cause, let them do it! Maybe it's Gods way of "Thinning The Herd"

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nativegirl53 August 08, 2011 at 1:42AM

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A Judge With Common Sense....We Need More Like Him !!!!!

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bluejams August 08, 2011 at 11:26AM

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The taking of citizens rights is not done blatantly as if one steals a salami from the shop window. It is done gradually as if one steals the salami one piece at a time. You just applauded the theft.

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Last Chance August 08, 2011 at 4:39AM

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Thank the Maker.

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Gerald_Jones_489 August 08, 2011 at 7:32AM

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Readers should understand that this lawsuit was not an isolated instance. The WatchTower CULT is behind individual JWs suing doctors and hospitals for saving their lives -- and often winning hundreds of thousands and even millions of \$\$\$\$\$\$.

The following summaries of nearly 1500 JEHOVAH'S WITNESSES MEDICAL and other COURT CASES will provide the BEST and MOST ACCURATE info about Jehovah's Witnesses, their beliefs, and how they ACTUALLY practice such day to day.

The following website summarizes over 900 court cases and lawsuits affecting children of Jehovah's Witness Parents, including 400 cases where the JW Parents refused to consent to life -saving blood transfusions for their dying children:

DIVORCE, BLOOD TRANSFUSIONS, AND OTHER LEGAL ISSUES AFFECTING CHILDREN OF JEHOVAH'S WITNESSES

jwdivorces.bravehost.com

The following website summarizes over 500 Jehovah's Witnesses Employment related lawsuits, etc, including DOZENS of court cases in which JW Employees refused blood transfusions, and/or other cases involving Worker's Comp, medical, health, and disability issues:

EMPLOYMENT ISSUES UNIQUE TO JEHOVAH'S WITNESS EMPLOYEES

jwemployees.bravehost.com

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photopro2011 August 08, 2011 at 7:42AM

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A judge that made the right decision and an ungrateful mother. Her husband who is her legal next of kin approved of the transfusion and signed the paper. Why didn't she sue her own husband for going against her wishes?

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ErNursie August 08, 2011 at 9:26AM



You are right. She made her husband her proxy. Did he not know her Religious views and personal wishes? Sounds like buyers remorse.

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tompkinsvill August 08, 2011 at 9:10AM



We need more Judges like this man.

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tiredofjerks August 08, 2011 at 9:45AM



Deep down this JERK loves life. Next baby deliver yourself at the Watchtower. If you felt the need to sue the doctor for giving you life saving blood, perhaps you should do a little bloodletting to let the other blood out.

YOU ARE A JERK

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stgeorgelady August 08, 2011 at 10:12AM



Another gold digger. Religious conviction was a handy tool. This is the kind of garbage that keep malpractice and other medical costs high. Kudos to a Judge with the common sense to invoke common law.

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nomorality August 08, 2011 at 10:16AM



"Her husband, who had authority as her health-care proxy, signed the form on his wife's behalf"
case closed
go sue your husband

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robin3663 August 08, 2011 at 10:22AM



The Watchtower Jehovah's Witnesses quote Acts 15:29 St Peter's admonition to 'abstain from blood' this was for those who still upheld the Kosher law and Christians are not bound by Kosher edicts.

MORE over the hypocrites as you said do not in anyway 'abstain' from anything they use mega blood from relief organizations like the Red Cross don't give them any charity back for they are considered 'Satanic'.

The kicker...They will now use COW'S BLOOD call it 'hemopure' change the molecule around and call it magic 'artificial blood'.even though it came from an animal.
The people running the Watchtower are dumb dictators like David Koresh,Warren Jeff,Jim Jones types.

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