

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married couple )  
and L.W.C.H., by his parent and next friend )  
Ruby Henderson, *et al.* )  
 ) 1:15-CV-220-TWP-MJD

Plaintiffs, )

-vs- )

DR. JEROME M. ADAMS, in his official capacity as )  
Indiana State Health Commissioner, *et al.* )

----- )  
NOELL and CRYSTAL ALLEN, a married couple, )  
*et al.* )

Plaintiffs, ) 1:15-cv-01929-TWP-MJD

-vs- )

DR. JEROME M. ADAMS, in his official capacity as )  
Indiana State Health Commissioner, *et al.* )

Defendants. )

**STIPULATED AGREEMENT TO CONSOLIDATE ACTIONS,**  
**WITHDRAW MOTION FOR PRELIMINARY INJUNCTION AND**  
**SUBSTITUTE PARTY**

Come now Plaintiffs Noell and Crystal Allen, a married couple and Jackie and Lisa Phillips-Stackman, a married couple and L.J.P-S, by her mother and next friend, Lisa-Phillips-Stackman, by counsel (“Allen Plaintiffs”); Plaintiffs, Ashlee and Ruby Henderson, a married couple, and L.W.C.H., by his parent and next friend Ruby Henderson; Nicole and Jennifer Singley, a married couple, and H.S. by his parent and next friend, Jennifer Singley; Elizabeth and Tonya Bush-Sawyer, a married couple, and I.J.B-S by his mother and next friend Elizabeth Bush-Sawyer; Lyndsey and Cathy

Bannick, a married couple, and H.B. by his parent and next friend, Lyndsey Bannick; Calle and Sarah Janson, a married couple, and Unborn Baby Doe by his/her next friend and mother-to-be Calle Janson; Nikkole McKinley-Barrett and Donnica Barrett, a married couple, and G.R.M.B., by his mother and next friend, Nikkole McKinley-Barrett, by counsel (“Henderson Plaintiffs”); Defendants Dr. Jerome M. Adams, Commissioner, Indiana State Department of Health, by counsel; Dr. Virginia A. Caine, director and health officer of the Marion County Health Department, a division of the Health and Hospital Corporation of Marion County; Darren Klingler, Administrator of Vital Records for the Marion County Health Department; and, Dr. James D. Miner, Gregory S. Fehribach, Lacy M. Johnson, Charles S. Eberhardt, II, Deborah J. Daniels, Dr. David F. Canal and Joyce Q. Rogers, trustees of the Health and Hospital Corporation of Marion County, by counsel; Defendants, Dr. Jeremy Adler, Health Officer, Tippecanoe County Health Department; Craig Rich, Administrator of the Tippecanoe County Health Department; Glenda Robinette, Vital Records Registrar for the Tippecanoe County Health Department; Pam Aaltonen, Thomas Padgett, Thometra Foster, Karen Combs, Kate Nail, Dr. John Thomas, and Dr. Hsin-Yi Weng, members of the Board of Health of Tippecanoe County, Indiana, by counsel; Dr. Brian Niedbalski, Health Officer, Bartholomew County Health Department; Collis Mayfield, Director, Bartholomew County Health Department; Beth Lewis, Vital Records Registrar, Bartholomew County Health Department; Dennis Stark, Dr. Michael Chadwick, Dr. Susan Sawin-Johnson, Michael Meyer, Dr. Charles Hatcher, Dr. Brooke F. Case, Cindy Boll, and Jim Reed, members, Board of Health of Bartholomew County, Indiana, by counsel; and, Dr. Darren Brucken, Health Officer, Vigo County Health Department; Joni Wise, Administrator, Vigo County Health Department; Terri Manning,

Supervisor of Vital Statistics, Vigo County Health Department; Jeffery DePasse, Dora Abel, Dr. Irving Haber, Brian Garcia, Michael Eldred, Dr. James Turner and Dr. Robert Burkle, members, Board of Health of Vigo County Indiana, by counsel, hereby stipulate as follows:

1. The Henderson Plaintiffs filed their action on February 13, 2015 in the U.S. District Court, Southern District of Indiana, Cause No. 1:15-CV-220 TWP/MJD (“Henderson Action”). Consistent with the deadlines the Court established in the Case Management Plan, Henderson Plaintiffs filed a motion for summary judgment on December 4, 2015, and Defendants filed cross-motions for summary judgment on January 8, 2016. Summary judgment briefing is still ongoing.

2. The Allen Plaintiffs filed their action on December 7, 2015 in the U.S. District Court, Southern District of Indiana, Cause No. 1:15-cv-01929 (“Allen Action”). On December 14, 2015, the Allen Plaintiffs filed a motion seeking a preliminary injunction. A hearing on the motion for preliminary injunction has been set for February 5, 2016 at 9:00 a.m.

3. On January 19, 2016, the Allen Plaintiffs filed a motion to consolidate their action with the Henderson Action. On February 1, 2015, the Defendants filed a memorandum in opposition to the motion to consolidate.

4. The Allen Plaintiffs hereby withdraw their Motion for Preliminary Injunction and will not seek any further preliminary relief in this matter. The Henderson Plaintiffs hereby withdraw any request they have previously made for preliminary relief and will not seek any further preliminary relief in this matter.

5. All parties have now agreed that the Allen Action will be consolidated with the Henderson Action and that the Allen Plaintiffs Action will join the Henderson Plaintiffs' motion for summary judgment.

6. The Allen and Henderson Plaintiffs, with the Court's consent, may attach to their forthcoming summary judgment brief, due February 8, 2016, the exhibits previously offered in support of the Allen preliminary injunction motion. With the Court's consent, all parties agree that the Plaintiffs' February 8, 2016 brief may be up to three pages longer than permitted by the Local Rules to permit inclusion of factual background relating to the Allen Plaintiffs.

7. The Defendants, with the Court's consent, may attach to their forthcoming summary judgment brief, due February 22, 2016, any necessary exhibits. With the Court's consent, all parties agree that the Defendants' February 22, 2016 brief may be up to three pages longer than permitted by the Local Rules to permit Defendants adequate space to respond to Plaintiffs' February 8, 2016 brief.

8. Except for the changes listed above, the briefing schedule in the Henderson Action will be maintained.

9. All parties respectfully request that this Court vacate the hearing currently set on the Motion for Preliminary Injunction in the Allen Action, as the Allen Plaintiffs have withdrawn that Motion and no plaintiffs are now seeking any form of preliminary relief.

10. All parties respectfully request that this Court set the cross-motions for summary judgment for hearing.

11. The parties also agree that F.G.J. shall be substituted for Unborn Baby Doe as a baby was born to Calle and Sarah Janson on December 1, 2015 who was previously identified as Unborn Baby Doe.

IT IS SO STIPULATED.

Respectfully submitted,

For Henderson and Allen Plaintiffs:

s/ Karen Celestino-Horseman  
Karen Celestino-Horseman  
Of Counsel, Austin & Jones, P.C.  
One N. Pennsylvania St.  
Suite 220  
Indianapolis, IN 46204  
Tel: (317) 632-5633  
Fax: (317) 630-1040  
E-mail: [karen@kchorseman.com](mailto:karen@kchorseman.com)

s/ William R. Groth  
William R. Groth  
Fillenwarth Dennerline Groth &  
& Towe, LLP  
429 E. Vermont St.  
Suite 200  
Indianapolis, IN 46202  
Tel: (317) 353-9363  
Fax: (317) 351-7232  
E-mail: [wgroth@fdgtlaborlaw.com](mailto:wgroth@fdgtlaborlaw.com)

s/ Raymond L. Faust  
Raymond L. Faust  
House Reynolds & Faust LLP  
11711 North Pennsylvania St.  
Suite 190  
Carmel, IN 46032  
Tel: (317) 564-8490  
Fax: (317) 564-8499  
Email: [rfaust@housereynoldsfaust.com](mailto:rfaust@housereynoldsfaust.com)

s/ Richard A. Mann  
Richard A. Mann  
Richard A. Mann, P.C.  
3750 Kentucky Ave.  
Indianapolis, IN 46221  
Tel: (317) 388-5600  
Fax: (317) 388-5630  
E-mail: [RMann@mannlaw.us](mailto:RMann@mannlaw.us)

s/ Megan Gehring  
Megan Gehring  
Richard A. Mann, P.C.  
3750 Kentucky Ave.  
Indianapolis, IN 46221  
Tel: (317) 388-5600  
Fax: (317) 388-5630  
E-mail: [MGehring@mannlaw.us](mailto:MGehring@mannlaw.us)

For the State Defendant - Henderson and Allen Actions:

s/ Thomas M. Fisher

Thomas M. Fisher  
Solicitor General  
Office of the Attorney General  
302 W. Washington St., IGCS 5th Floor  
Indianapolis, IN 46204-2770  
Telephone: (317) 232-6255  
Fax: (317) 232-7979  
Email: Tom.Fisher[atg.in.gov]

For Marion County Defendants - Henderson and Allen Actions:

s/Anne K. Ricchiuto

Anne K. Ricchiuto  
Faegre Baker Daniels LLP  
300 North Meridian Street  
Suite 2700  
Indianapolis, Indiana 46204  
Phone: (317) 237-1420  
Fax: (317) 237-1000  
Email: anne.ricchiuto@FaegreBD.com

For Tippecanoe County Defendants - Henderson Action:

s/Douglas J. Masson

Douglas J. Masson  
Hoffman Luhman & Masson PC  
200 Ferry Street, Suite C  
P.O. Box 99  
Lafayette, Indiana 47902  
Phone: (765) 423-5404  
Fax: (765) 742-6448  
Email: djm@hlblaw.com

For Bartholomew County Defendants - Henderson Action:

s/ J. Grant Tucker

J. Grant Tucker  
Jones Patterson & Tucker  
P.O. Box 67  
330 Franklin St.  
Columbus, Indiana 47202-0067  
Phone: (812) 376-8266  
Fax: (812) 376-0981  
Email: gtucker\_2004@yahoo.com

For Vigo County Defendants - Henderson Action:

s/Michael J. Wright

Michael J. Wright  
Wright, Shagley & Lowery, P.C.  
500 Ohio Street  
P.O. Box 9849  
Terre Haute, Indiana 47807-3517  
Phone: (812) 232-3388  
Fax: (812) 232-8817  
Email: mwright@wslfirm.com