

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

APRIL DEBOER, individually and as parent  
and next friend of N.D.-R, R.D.-R., and J.D.-R,  
minors, and JAYNE ROWSE, individually and as parent  
and next friend of N.D.-R, R.D.-R., and J.D.-R,  
minors,

Plaintiffs,

ED Mi No. 12-10285  
Honorable Bernard A. Friedman  
United States District Judge

-vs-

Honorable Michael J. Hluchaniuk  
United States Magistrate Judge

RICHARD SNYDER, in his official capacity as  
Governor of the State of Michigan, and  
BILL SCHUETTE, in his official capacity as  
Michigan Attorney General,

Defendant.

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**DECLARATION OF APRIL DEBOER UNDER 28 USC §1746**

I, April DeBoer, do hereby declare as follows:

1. The statements made in this declaration are based on personal knowledge, I am competent to testify to them and, if called as a sworn witness, my testimony would be consistent with them.

2. I am one of the Plaintiffs in the above-captioned case.

3. I met Jayne Rowse in 1999 through a mutual friend, and fairly quickly we developed a close and supportive friendship, and dated for a period of time. I found Jayne to be an honest and kind person. We made a mutual decision in 2002 not to be involved in a serious relationship at that time in order to focus on school and our careers. We both chose nursing as a career because of our desire to help people, because it would afford us a stable income, and because it would allow for the flexibility required for raising a family. Jayne and I went through nursing school at the same time, we found we had much in common, and we were able to share the trials and tribulations of nursing school together, although we studied at different schools.

4. In 2005, with nursing school behind us, Jayne and I began a serious relationship and I moved into Jayne's home in late 2006. Jayne and I had always discussed our desires to have

children, and we were prepared to start a family in late 2006. I was artificially inseminated in the winter of 2007. We were overjoyed to learn that I had conceived triplets because we both wanted multiple children and this seemed like a blessing. We were devastated when I miscarried all three children in the first trimester.

5. After months of grieving our lost children, we discussed trying again to conceive, and we opted instead to pursue adoption because the physical and emotional strain of trying to conceive and carry another biological child to term was too much for me.

6. During this time period, we decided that it was important to have a commitment ceremony in front of family and friends to honor our relationship, and to provide a more stable home for any child brought into the family. In February of 2007, our friends and both families attended the ceremony to support us, with Jayne's family traveling from Indiana to witness our commitment to each other.

7. Jayne and I each completed an adoption home study in the fall of 2007 (see ¶15, *infra*), and in the winter of 2008, we were matched with a California birth mother, however, that adoption was not successful. In June of 2008, we were matched with another mother, we were present at the birth, the baby was given to us, and we began to bond with the baby. Sadly, the birth mother changed her mind after eight hours and we had to return the child to the birth mother.

8. After our experiences with trying to conceive through insemination, a miscarriage, two failed adoptions, and dwindling funds as a result, we then decided to pursue a license as foster care parents.

9. Following nursing school and through to the present, I have been employed as a nurse in the neonatal intensive care unit ("NICU") at Hutzel Hospital in Detroit, Michigan. Jayne has been employed as an emergency room nurse at Henry Ford Hospital in Detroit, Michigan.

10. In January of 2009, while waiting for the approval of our foster care license, I received a call from a coworker at Hutzel Hospital indicating that she had a birth mother looking to give her child up for adoption and asked if I was interested. Jayne and I met the birth mother a week later, and three weeks later, we coached the birth mother during labor and watched as our son, N, was born. First Jayne and then I held him, with my mother arriving at the hospital shortly thereafter. N was greeted at home by the rest of the family in the days that followed. Jayne became N's adoptive parent November 2, 2009.

11. We cared for N full time by coordinating our nursing work shifts and by receiving help from my mother and father. A colicky baby, N cried constantly. He always had someone to sooth him, but it was a challenge.

12. We both continued to pursue our foster care licenses even after N's birth because we

both loved being parents and we wanted more children. On November 9, 2009, I helped admit and care for a premature infant (J) in the NICU at Hutzel. J weighed one pound, nine ounces at birth, he had many medical complications, and struggled to live, in and out of the NICU, with me as his primary caregiver for much of that time while he was in my unit at Hutzel. I grew to love this child and Jayne was supportive of me as I told her about him. Three months after his birth, in February 2010, the foster agency offered to have J placed with us as a foster child, and he was placed with us shortly thereafter, on March 2, 2010. Despite his many challenges, Jayne and I both accepted the responsibility of becoming J's foster parents (we were certified by the State as suitable foster parents and our foster care license was granted December 9, 2009), and Jayne later adopted him on October 28, 2011. The adoption, in turn, had the legal effect of terminating my foster parent status over J.

13. In February, 2010, an infant girl, "R", was birthed at home and was brought by the mother into the NICU for observation on my shift. The mother indicated to hospital staff that she wanted to give the baby up for adoption under Michigan's "safe haven" law. A doctor on call that evening knew that Jayne and I were looking to adopt a little girl, and the doctor arranged for me to meet with the birth mother and grandmother. The birth mother agreed to allow me to adopt the child. I cared for R for the remainder of my shift, and Jayne met and fed R within 48 hours of R's birth. I became R's adoptive parent on April 6, 2011.

14. By March of 2010, with the help of our families, we were caring for and parenting three children under the age of two, two of them infants.

15. Before Jayne or I could adopt any of the children, (a) we had to file a petition the circuit court for permission to adopt, (b) both Jayne and I were interviewed extensively for each adoption, (c) we were screened by the State for criminal history and, through the Department of Human Services, for any history of abuse or neglect, (d) an assessment was done through the county where the adoptions were to take place, (e) our home was inspected, (f) a temporary placement of each child was made in our home, (g) we were monitored by the State in our home with visits by social workers and, in Jacob's case, nurses, and (h) a determination was made by the circuit court of applicable jurisdiction that we were suitable parents and that the child being adopted was being properly cared for while in the temporary placement. As to two of our children, R and N, at the time of the adoption, the circuit court also had to make "best interest" findings in order to terminate the rights of the birth parents.

16. Jayne and I have always shared equally in the responsibility for chores and for household expenses. We share equally in raising all three children. We continue to schedule work so that one parent is home with the children most of the time. The few instances in which Jayne and I are both working, the children are cared for by my mother and other family members.

17. R and J are special needs children. R requires physical therapy for delays in her gross motor skills. J requires occupational and physical therapy for his many medical complications. Jayne and I share in the responsibility of caring for J's continuing special needs, and for R's need

for physical therapy, with both of us rotating and bringing the children to their various medical appointments, and physical and occupational therapy appointments. We both share in carrying out their prescribed therapies in the home.

18. Because our three children have many special needs, it continues to be problematic for our family that Jayne is not recognized as R's legal parent by medical personnel and other care givers, and conversely, I am not recognized as J and N's legal parent. This becomes an issue as we approach each new treating facility or care giver if I am unable to accompany R, or if Jayne is unable to accompany J and N. Especially in the unexpected emergency medical care situation, where time is of the essence, and decisions have to be made quickly, I have no legal authority with respect to N and J's care, and Jayne would have no legal authority with respect to R's care even though she is an emergency room nurse.

19. I cannot cover Jayne's sons, N and J, on my insurance the way married heterosexual parents and stepparents can. I would have to buy the insurance for them and it is prohibitively expensive.

20. If I were to die while the children are still minors, Jayne would be treated as an unrelated adult to R in the eyes of Michigan's legal system, she would have to start from scratch to either be their foster or adoptive parent. She would have no legal right to visitation or custody of R without pursuing legal action.

21. If I died, N and J have no automatic legal rights of inheritance. If Jayne dies, R has no automatic right of inheritance .

22. If I die or become disabled, N and J are not eligible for social security benefits through me, and if Jayne dies, R is not eligible for social security benefits through Jayne.

23. Jayne and I have made a commitment to each other, and I fully intend to honor that commitment, but if, for whatever reason, we separated as a couple, under Michigan law, I would have no lawful right to custody or even visitation for N and J, a fact that was made painfully evident in the case of Harmon v Davis, MSCt No. 141888, COA No. 297968,

24. We have contemplated all of these circumstances, along with all of the rights, privileges and protections that we lack and that heterosexual married parents take for granted, and this situation create unnecessary stress and anxiety in our lives, and unnecessary risk and instability to our children.

25. Jayne and I have worked very hard to keep our family together and healthy in the face of, at times, overwhelming obstacles. We have made a home for our children. They love both their parents and each other. I feel that we should have the right to be a family in every sense of the word, and that our children should have the full benefits, rights and protections associated

with having two lawful parents.

26. If we were legally able, we would choose to be married in the State of Michigan. We have been advised that, as enunciated in the Harmon case, the Michigan courts have declined to allow second parent adoptions by single persons in this state. We have been advised that the Michigan Court of Appeals and the Michigan Supreme Court have refused even to consider constitutional challenges to the Child Custody Act., MCL 722.21. See Harmon, (Kelly, J., dissenting, \*4). We have also been advised that the Michigan Attorney General has issued an opinion that same sex couples are not allowed to adopt a child as second parent in Michigan regardless whether or not they are legally married in a state that permits same-sex marriages. See OAG, 2004, No 7160 (September 14, 2004). We have also been advised that following instruction from "members of the [Michigan] Supreme Court" petitions for adoption filed by unmarried second parents are not processed by county clerks. See C. Jones, "The Rise and Fall of Second Parent Adoption in Washtenaw County, Michigan", Michigan Child Welfare Law Journal, pp 6-7. For these reasons, we believe that any attempt by Jayne and myself to adopt each others' children, as second parent, would be futile in the State of Michigan.

27. I declare under penalty for perjury under the laws of the United States that the foregoing statement is true.

Dated: 3-9-12

  
April DeBoer