

STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

IN THE MATTER OF AN APPLICATION FOR
AN ORDER RELEASING AUTOPSY REPORTS
PURSUANT TO COUNTY LAW §677(3)(B)

2013 SEP 23 PM 2:21
ALBANY, N.Y.
OFFICE OF THE
CLERK OF THE COURT
COUNTY OF ALBANY
ORDER TO SHOW CAUSE

Index No. 5235-13

ORDER TO SHOW CAUSE

The Court has considered the annexed Petition and Exhibits attached thereto, and all the proceedings had herein and papers submitted herewith. On the basis of these proceedings, papers, and pleadings, the Court is of the opinion that an Order to Show Cause should be granted:

IT IS ORDERED that any person wishing to oppose the Petition shall show cause before a term of this Court to be held at 16 Eagle Street, Albany New York on November 15, 2013, at 10 am/pm or as soon thereafter as counsel can be heard, why an Order should not be made and entered granting the relief sought in its Petition.

IT IS ORDERED that Petitioner shall publish notice of the filing of this Petition and the granting of this Order in the Albany Times Union and Evangelist on or ~~before~~ 10/11, 10/8 and 10/15/13 stating that the Petition may be opposed by filing opposition papers no later than NOVEMBER 8, 2013. Further, the notice shall state in sum and substance:

A petition has been filed in State Supreme Court, County of Albany,

Index No. _____ seeks an Order pursuant to §677(3)(b) of the County Law to establish that the New York licensed organ, eye and tissue banks are a "person having a substantial interest" in autopsy reports when they are a proper donee of an anatomical gift pursuant to the Anatomical Gift Act; and authorizing Albany County Coroners to furnish New York licensed eye and tissue banks with copies of autopsy reports with respect to decedents who have donated tissue, organs and/or other body parts to such organizations for transplantation as soon as practicable following the Coroners' receipt of a written certification (to be provided by personal delivery, mail or facsimile transmission) that the decedent is such a donor pursuant to the Anatomical Gift Act, with said certification to include, if applicable, a photocopy or facsimile copy of a recorded telephone authorization form.

Any and all papers in opposition to or in support of the Petition must be served upon the Albany County Attorney's Office at 112 State Street, Room 1010, Albany, New York 12207 and filed with the Albany County Supreme Court Clerk no later than _____. A copy of the Petition and all supporting papers may be obtained by contacting the Albany County Attorney's Office or on Albany County's website www.albanycounty.com.

IT IS ORDERED that, service of this Order and the supporting papers, as described above, shall be deemed good and sufficient service.

Dated: September 20, 2013

at Albany NY



Justice of the Supreme Court

STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

IN THE MATTER OF AN APPLICATION FOR
AN ORDER RELEASING AUTOPSY REPORTS
PURSUANT TO COUNTY LAW §677(3)(B)

PETITION

Index No. 523573

2013 SEP 23 PM 12:24
ALBANY, N.Y.
CLERK OF
ALBANY COUNTY
SHERIFF'S OFFICE

For a Petition, Petitioners allege as follows:

1. This Petition is brought on behalf of the County of Albany ("County") and the Albany County Office of the Coroners ("Coroners") regarding an Order to allow release of autopsy reports.
2. That there are instances where tissues, organs or other body parts of a decedent have been donated to New York licensed organ, eye and tissue banks for transplantation.
3. Pursuant to New York State Public Health Law §4301 ("Anatomical Gift Act"), certain designated persons are authorized to give all or any part of a decedent's body for transplantation. The manner of executing such an anatomical gift is prescribed by statute (Public Health Law §4303) and includes consent or authorization by recorded telephonic message. Any such gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended [Public Health Law §4301(6)].
4. Prior to transplantation of any human tissues, organs or other body parts, the FDA requires infectious disease testing to determine its medical suitability for use [21 CFR §1270.33(b)]. These resulting medical reports must accompany all anatomical donations being released for transplantation showing they are free from any risk factors or infectious disease [21 CFR §1270.33(d), 21 CFR §1270.21(e)]. Included in these medical records must be copies of any coroner and autopsy reports [21 CFR §1270.3(t)].

5. As such, to assure medical acceptability of the donated tissues, organs or other body parts, it is necessary for New York licensed organ, eye and tissue banks to obtain copies of autopsy reports of decedents who are donors of anatomical gifts.
6. New York State County Law §677(3)(b) provides that, upon application of any person having a substantial interest therein, an Order may be made by a Justice of the Supreme Court releasing an autopsy report. In cases where New York licensed organ, eye and tissue banks are a donee of an anatomical gift pursuant to the provisions of the Anatomical Gift Act cited above, these organizations have a substantial interest in the contents of the autopsy report because, without the autopsy information, they are unable to release the donated tissue, organs and/or other body parts for transplantation.
7. In addition, County Law §677(3)(b) provides that "upon application of the personal representative, spouse or next of kin of the deceased to the coroner or the medical examiner, a copy of the autopsy report...shall be furnished to such applicant."
8. Pursuant to the Anatomical Gift Act, New York licensed organ, eye and tissue banks periodically obtain from spouses or next of kin of decedents a recorded telephonic authorization to make anatomical gifts and consent to release all medical records, coroner/medical examiner reports and other necessary information. As an example, a copy of a tissue bank's standard recorded telephone authorization form is attached hereto as Exhibit A.
9. To aid in the efficient and expeditious release of autopsy reports to New York licensed organ, eye and tissue banks and to ensure that the Albany County Coroners' release of autopsy reports to such organizations is in compliance with County Law §677(3)(b), it would be advantageous for the County and New York licensed organ, eye and tissue banks to have a continuing court order confirming that these organizations are a "person having a substantial interest" in autopsy reports when they are a proper donee of an anatomical gift pursuant to the Anatomical Gift Act, with such order to further authorize and direct release of autopsy reports by the Coroners to these organizations in such cases.

10. Similar orders have been issued in Niagara and Chautauqua Counties, copies of which are attached hereto as Exhibits B and C respectively.

WHEREFORE, Petitioner respectfully requests an Order pursuant to §677(3)(b) of the County Law:

- a) Confirming that New York licensed organ, eye and tissue banks are a "person having a substantial interest" in autopsy reports when they are a proper donee of an anatomical gift pursuant to the Anatomical Gift Act; and
- b) Authorizing and directing the Albany County Coroners to furnish New York licensed organ, eye and tissue banks with copies of autopsy reports with respect to decedents who have donated tissue, organs and/or other body parts to such organizations for transplantation as soon as practicable following the Coroners' receipt of a written certification from the organ, eye or tissue bank (to be provided by personal delivery, mail or facsimile transmission) that the decedent is such a donor pursuant to the Anatomical Gift Act, with said certification to include, if applicable, a photocopy or facsimile copy of a recorded telephone authorization form, an example of which is attached as Exhibit A.

DATED: September 20, 2013

THOMAS MARCELLE, ESQ.
County Attorney
County of Albany
Attorney for Petitioners
112 State Street
Albany, New York 12207
(518)447-7110

By: Catherine E. Brown, of Counsel



MUSCULOSKELETAL TRANSPLANT FOUNDATION

TITLE: Tissue Services Telephone Authorization for Anatomical Donation

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125 May St. – Suite 300 – Edison, NJ 08837

Statline Referral # _____ MTF Donor # _____ TS# _____

Name of Donor: _____	Date of Birth: _____	Date _____
Authorizing Person Phone #: _____	Other Phone Number (next 24 hours): _____	
Authorizing Person Address: _____		

My name is _____ with the Musculoskeletal Transplant Foundation/Center for Donation & Transplant (*circle one*). We are a non-profit agency that works to enable the gift of tissue to enhance the quality of life for tissue recipients.

This conversation is being: tape-recorded witnessed (*Check box { ✓ or X } as appropriate*) and is a legal document of gift under the Uniform Anatomical Gift Act.

You are _____, the _____ and legally
(Name of authorizing person) (Relationship to deceased)

authorized to make this gift.

- Medical POA Spouse Adult Child Parent Adult Sibling
 Legal Guardian Other person authorized by law

Is this information correct? Yes No
(If deviation from hierarchy, explain: _____)

Do you, for humanitarian reasons, hereby grant permission for the removal of the following organs or tissue:
(Check box { ✓ or X } as appropriate):

CORNEAS	Yes	No	N/A	BLOOD VESSELS of the LEGS	Yes	No	N/A
WHOLE EYES	Yes	No	N/A	BONES of the LOWER EXTREMITIES & RELATED CONNECTIVE TISSUE	Yes	No	N/A
SKIN	Yes	No	N/A	BONES of the PELVIS	Yes	No	N/A
HEART for HEART VALVES (with associated vessels/pericardium)	Yes	No	N/A	BONES of the UPPER ARM & RELATED CONNECTIVE TISSUE	Yes	No	N/A
STERNUM w/RIBS and COSTAL CARTILAGE	Yes	No	N/A	BONES of the LOWER ARMS & RELATED CONNECTIVE TISSUE	Yes	No	N/A

MUSCULOSKELETAL TRANSPLANT FOUNDATION

TITLE: Tissue Services Telephone Authorization for Anatomical Donation

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125 May St. – Suite 300 – Edison, NJ 08837

Donor Name: _____ Statline Referral # _____

MTF Donor # _____ TS # _____

Other Tissues (list): _____

Do you authorize MTF/designee/affiliated eye bank to use the above tissues / organs for transplant? Yes No

Do you authorize the use of these tissues/organs for medical research or education? Yes No

Do you authorize the use of the donated tissues specified above in countries other than the United States? Yes No

Are there any limitations or special requests? _____

In order to determine medical suitability of tissue for transplantation, MTF or its designee must perform the following:

- Obtain a Medical / Social History, blood and tissue samples to screen for certain infectious diseases such as AIDS/HIV, Hepatitis and Syphilis and to perform additional tests as necessary. The results of infectious disease tests will be kept confidential except as required or permitted by law.
- Handle the tissue as specified by regulation if it is unsuitable for any of the uses authorized above.
- Obtain copies of relevant medical records, and if performed, autopsy results. Share these reports with other transplant agencies as appropriate.
- Transport the donor, if necessary, for the purpose of tissue retrieval.

Do you understand and consent to the above required actions for donation? Yes No

Do you desire to have a copy of this consent form provided to you? Yes No

MUSCULOSKELETAL TRANSPLANT FOUNDATION

TITLE: Tissue Services Telephone Authorization for Anatomical Donation

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125 May St. – Suite 300 – Edison, NJ 08837

Donor Name: _____ Statline Referral # _____

MTF Donor # _____ TS # _____

This donation is volunteered without obligation of any kind on the part of the recipient, MTF, or any individual. You will not be charged for any services pertaining to the evaluation or recovery of the donated gift(s). This consent is also given without any hope or expectation of compensation of any kind.

Tissue recovery must be initiated within 24 hours of death and is a surgical procedure. Costs related to determining medical suitability and recovery will be paid by the MTF or its designees. MTF or its designees will restore the donor's body in accordance with the family's and / or funeral home requests. In preparing your family member's tissues, MTF works with for-profit and not for profit entities. Tissue may be used for cosmetic and reconstructive procedures.

Do you understand the donation process as it has been explained to you and have you been provided the opportunity to ask questions, and if any, have you received satisfactory answers?

Yes No

Signature of person obtaining consent (witness) _____ Date _____ Print Full Name _____

Signature Witness _____ Date _____ Print Full Name _____

Consent Recorded: Yes No By another agency

Recorder Locator #: _____

Recording Confirmed: Yes No NA

At a Special Term of the County Court, held in and
for the County of Niagara, New York, on the
12th day of Nov., 1999

STATE OF NEW YORK
COUNT COURT : COUNTY OF NIAGARA

IN THE MATTER OF AN APPLICATION FOR
AN ORDER RELEASING AUTOPSY REPORTS
PURSUANT TO COUNTY LAW § 677(3)(b)

ORDER

Upon reading and filing the Petition of Richard C. Kloch, Sr., Assistant County Attorney
and the supporting papers thereto, said Petition being dated on the 12th day of NOVEMBER
1999, it is

ORDERED, that the County Coroners of the County of Niagara are hereby directed to
furnish a copy of the autopsy report of a deceased who has donated tissue and/or organs for
transplantation to the recipient organization thereof, as soon as practically possible upon
receiving or preparing such autopsy report.

Dated: November 12, 1999

ENTER



HON.
ACTING JUDGE OF THE COUNTY COURT

At a Special Term of the Supreme Court,
held in and for the County of Chautauqua,
New York, on the ~~4th~~ day of ~~December~~ ^{January} 2001
~~December, 2000~~

STATE OF NEW YORK
SUPREME COURT; COUNTY OF CHAUTAUQUA

IN THE MATTER OF AN APPLICATION FOR
AN ORDER RELEASING AUTOPSY REPORTS
PURSUANT TO COUNTY LAW § 677(3)(B)

ORDER

Index No. K1-2000-001581

Upon reading the Petition of Stephen M. Abdella, Counsel to the Chautauqua County Legislature, and the supporting papers thereto, said Petition being dated the 17th day of November, 2000, and it being found by this Court that Upstate New York Transplant Services, Inc. ("UNYTS") is a "person having a substantial interest" in autopsy reports when it is a proper donee of an anatomical gift pursuant to the Public Health Law, it is therefore

ORDERED, that the Chautauqua County Coroners are authorized and directed to furnish to UNYTS copies of autopsy reports with respect to decedents who have donated tissue and/or organs to UNYTS for transplantation, as soon as practicable following the Coroner's receipt of UNYTS' written certification (to be provided by UNYTS by personal delivery, mail, or facsimile transmission) that the decedent is such a donor pursuant to the Public Health Law, with said certification to include, if applicable, a photocopy or facsimile copy of UNYTS' recorded telephone authorization form attached as Exhibit "A" to the Petition.

Dated: January 8, 2001

ENTER



HON. JOSEPH GERACE
JUSTICE SUPREME COURT