

## **Donald Downs vs. Ohio Health (Death of Brenda K. Downs)**

Brenda K. Downs, my very active and otherwise healthy wife, tested positive for Covid-19 on 7/28/21 and was admitted to Hocking Valley Community Hospital on 8/2/21. From this hospital she was transferred to Ohio Health Doctors West in Columbus, OH on August 5th. On August 11th it was determined by doctors that her lungs were failing so she was put on a ventilator. Several different doctors and nurses told us that she had no chance to survive. The same day that she was put on a ventilator, a friend of ours contacted us and told us about someone they knew that was able to get off the ventilator with the help of the medicine, Ivermectin. After being told over and over by hospital staff that she had no chance to live, myself and my two daughters felt that we needed to start researching more about Ivermectin in Covid-19 and we found a lot of promising stories. This began our fight to try to save my wife's life.

When I refer to "We" below it is in reference to myself, my daughter Melissa Atkins, and my daughter Cara Bookman that are all part of the agreement between myself and Ohio Health.

### **Here is the timeline of our story:**

**8/11** - We asked Ohio Health Doctors West to administer Ivermectin to my wife.

- spoke with 2 fellow doctors and they said there were numerous studies to show ivermectin is harmful (we asked for examples and they provided no examples).
- we presented an NIH study showing Ivermectin lowered comorbidity in Covid-19.

**8/12** - We requested to speak with hospital administration

- we offered to sign waivers and we were told NO by the hospital admins
- an admin RN told us no pharmacy in Ohio carries ivermectin and can only be purchased at Tractor Supply. (obviously a lie)
- Later that day we contacted attorney Ralph Lorigo out of New York and we hired him that day. Ralph has represented numerous people in their fight for ivermectin for their family members that are hospitalized with Covid-19.
- We spoke to my wife's primary care physician, Dr. Brian Still, to prescribe ivermectin for my wife and he also wrote a letter on how it would benefit her.

**8/16** - An Affidavit seeking emergency and injunctive relief was filed in Franklin County Common Pleas Court. This was filed by a local attorney, Jeffrey Perry. Donald Downs vs. Ohio Health

- Everything was e-filed to the Franklin County Common Pleas Court. Jeffrey Perry, our attorney, requested an emergency ex parte hearing for medical injunctive relief to Paige Kohn who is the staff attorney to Judge Mark Serrott.

**8/17** - Ralph Lorigo was given a pro hac vice registration in order to represent us from New York. Ralph also consulted with Dr. Pierre Kory and he assisted him on what would be the proper dosage of Ivermectin for her.

**8/18** - Our attorneys presented our case before Judge Mark Serrott in the Franklin County Common Pleas Court. Ohio Health Attorneys were present making their case against administering ivermectin. The attorneys went back and forth for several hours. We were not

present during this. The judge called us on the phone and said that they were near an agreement and he explained to us that this would be a Strictly Confidential Settlement and Release Agreement. The judge explained to us that we were not permitted to talk about it to anyone and if we did we would be responsible to pay a lot of money.

- The agreement stated they would administer ivermectin and in return if we breach the agreement Ohio Health shall be entitled to recover the liquidated damages without proof of actual damages in the amount of \$1,000,000 from the violator and/or the Downs Releasers who shall be jointly and severally liable for the same. This agreement included myself (Donald Downs), my daughter Melissa Atkins, and daughter Cara Bookman.

-The judge, Mark Serrott, changed the amount to \$100,000 each.

(This portion of the story is laid out in more detail below under Our Day in Court)

- That day in court Judge Serrott tells us that our attorney, Ralph Lorigo (who was not present due to his location) is the only one keeping us from getting the Ivermectin for my wife because he is refusing to sign this agreement.

-The judge begins putting pressure on us without our lead attorney, Ralph Lorigo, on the phone or knowing what is going on. As we sit there in tears, my daughter Melissa asks if she can call Ralph and talk to him, the judge impatiently tells her that she has 3 minutes to step out of the courtroom and call Ralph Lorigo. In a last ditch effort, I suggest that we fire Ralph if that is what it will take to get her the medicine. It was evident that the judge and Ohio Health attorneys were angry and were not going to cooperate any further. The judge agrees to proceed if we will fire Ralph and the Ohio Health attorneys suggest that Ralph be issued a gag order. The judge agrees to this gag order. The judge then tells us that we will be able to get my wife the medicine as soon as we sign the agreement. Once it was written up by both sides we went to our attorney's office to sign. We were reluctant to sign this agreement due to having this amount of money held over our heads, being silenced and felt as though we were signing our 1st amendment rights away, as well as being given no other option and the pressure put on us by the Ohio Health Attorneys and the Judge. After being told time and time again by the doctors that my wife had no chance to survive, we were desperate to save my wife and their mother.

### **Our Day in Court**

Downs Family vs. Ohio Health in Franklin County Common Pleas Court

August 18, 2021

Our attorneys, Ralph Lorigo and Jeffrey Perry, had been in court most of the day presenting evidence and negotiating a settlement agreement to give my wife the medication, Ivermectin. Judge Mark Serrott calls Melissa on the phone to explain the confidentiality agreement. Melissa placed the call on speaker phone so that the Judge could speak to Melissa, Cara and myself (Don) all together. Judge Serrott explained to us that we were not allowed to speak about the case to anyone or we would be liable to pay \$100,000 each. He told us that Ohio Health wanted a million dollars but he agreed that a million was a ridiculous request. After explaining the confidentiality agreement Judge Serrott said, "When someone asks you about this case you are going to say the judge says I'm not allowed to talk about it." He then proceeds to say, "repeat it back to me, someone has asked you about the case and you say..." We all three repeated to him, "the judge says I'm not allowed to talk about it." He then instructed us to come to the courthouse to sign the settlement agreement.

When we arrived at the courthouse we went into a small conference room outside of the judge's chambers. Our attorney, Jeffrey Perry was there and was coming in and out of the chambers to communicate things with us. He first informed us that they were having a few issues and were no longer in agreement. Ralph Lorigo, our attorney in New York, was communicating with the court over the phone. Ralph was asking that additional things be changed in the settlement agreement. Jeffrey and Ralph spoke on the phone a few times and made a few changes. Attorney Jeffrey Perry, did state that there was someone at Doctors West Hospital that was willing to administer the medication but that Ohio Health would not disclose to us who that person was. Things were not going well inside of the courtroom as far as agreeing upon the changes. The judge finally asked us to come into the courtroom so Melissa, Cara, and myself went in and sat down.

The judge was very visibly and verbally upset because the attorneys could not come to an agreement. He told us how busy he was and how many other cases he had to hear. He even told us a story about a child rape case that he was working on. He stated that he was the only judge in the county that would even look at our case so basically we should be lucky that we were even there. He began getting very heated and stated that our attorney in New York, Ralph Lorigo, was the only thing keeping my wife from getting the medication. As we sat there in desperation, my girls in tears, I raised my hand and asked if I could just fire Ralph if that is what it would take to get the medicine. We were under severe pressure and in desperation to save my wife and my daughter's mother that we would do anything to try to save her. The judge talked back and forth with the Ohio Health attorneys as they were all very aggravated. The Ohio Health attorneys offered up the idea of a gag order to be issued to Ralph if we fired him to try to settle the deal. Judge Serrott accused Ralph of not wanting to agree to the confidentiality due to Ralph wanting the glory and having it out in the news. The judge insinuated that Ralph did not care about my wife's condition and that he was only doing this for fame and did not have our best interest at heart. The judge did not allow our lead attorney, Ralph, to be in communication with us during this time.

Still very concerned about the issues that Ralph was trying to convey to us, in tears and desperation, my daughter Melissa raised her hand and asked to speak. She told the court that we were just trying to save her mother and best friend. They were telling us that she had no chance to live so what did we have to lose by trying Ivermectin. She begged that they please let us try this medicine. She then asked if she could try to talk to Ralph one last time. The judge was very angry but told her yes to leave the courtroom to go call him and that she had only 3 minutes. Melissa, Cara, myself, and Jeffrey Perry leave the courtroom and enter the conference room. Melissa calls Ralph and he's trying to explain to her the terrible things that they could do to us in the settlement agreement that we did not understand. We were begging and pleading with him to sign the agreement knowing that we only had 3 minutes and we did not have time to discuss what Ohio Health was wanting from us. At this point we didn't care what they wanted from us, we only wanted a chance at saving my wife's life. She ended up telling him she had to fire him because the judge was leaving them no other choice. She hung up the phone and we entered the courtroom again. My daughter, Cara, was crying hysterically, Melissa also crying but trying to calm her down tells the judge in desperation and distress that we fired Ralph and to continue on that we will agree to whatever was in the settlement agreement.

The Ohio Health attorneys and the judge agreed that she would get the medicine. The judge told us that first thing the next morning, we would be able to sign the agreement and she would

get the medicine that day. This did not happen. We signed the agreement the very next morning and Ohio Health also signed the agreement, however, Ohio Health did not hold up their end of the agreement. They did not give my wife the medicine that we fought for and they did not give her every chance to live. The way my family was treated in that courtroom was horrific. No one should ever have to go through the duress that they put us under with my wife's life on the line. We were not fully able to understand the settlement agreement due to the mental anguish and the pressing moments with her life hanging in the balance. We were not able to get clear counsel from our lead attorney and we were only given 3 minutes to speak to him all the while my wife's life was at stake.

**8/19** - We go to Jeffrey Perry's office and sign the agreement at 11 am.

-As soon as we leave his office in Dublin we go back to the hospital and wait for my wife to receive the ivermectin.

- At 2:00 we call Jeffrey Perry to check the progress and he states that he spoke to Attorney Paige Kohn (Judge Serrott's staff attorney) and she was pushing everything through as planned.

- One of my wife's nurses begins telling us that the doctors are saying my wife is having cognitive issues and they feel Ivermectin could be harmful. At this point, she was still on high doses of pain medication and sedation medication. To elaborate this new theory they did a C/T scan of her head, told us that one of her pupils was larger than the other (which they later told us was a side effect of one of the meds she was on), and hooked her up to an EEG of her brain where they did not find anything wrong.

-The doctors were trying to force a meeting with us and we told our attorney we did not want to meet with the doctors and we just wanted them to administer the Ivermectin.

-Our attorney asked us if we wanted him to be present but we told him no because we did not want to meet with the doctors. We wanted the medicine given to my wife and we did not want to talk about it any further.

-The doctors denied our request of not meeting and ambushed us in the waiting room anyway without our attorney or their attorney present. Dr. Joseph Gastaldo, Dr. Chowdury, Dr. Emara, and a Pharmacist all came in against our wishes. They used numerous scare tactics with us trying to convince us that the medication could harm her. They continued to provide no evidence of this and used their power over her and us to make us scared. Due to my wife's fever and fear of them saying her cognitive state was not good (which we now know was untrue) we agreed to put the ivermectin off for one day.

-When they left the room we called my wife's primary care doctor, which we had been doing throughout the entire situation, Dr. Brian Still, who was doing extensive research on the Ivermectin and Covid-19 still held strong on his belief that it would not harm her but could help her. Dr. Brian Still also informed us that Dr. Joseph Gastaldo told him that there was no doctor at Doctors West that was willing to administer Ivermectin. We were told by our attorney, Jeffrey Perry, that someone was willing to administer it before we signed the settlement agreement. They would not disclose the name of the doctor who was willing to but we assumed that person was Dr. Joseph Gastaldo, as he was the only doctor mentioned in our settlement agreement.

-When we get off the phone with her doctor, my daughter Melissa gets a call from our attorney, Jeffrey Perry, saying he received a call from Paige Kohn (judge's staff attorney) saying she spoke with Ohio Health attorneys and they said my wife no longer had Covid, and was doing much better.

-My daughter Melissa told him no this was not true and actually she had taken a turn for the worse and we wanted the medicine right then and now. He stated that he would check on it.

-Due to this lie, that was relayed from the Ohio Health attorneys to the judge's staff attorney, the judge then pushed the agreement aside and said we would evaluate tomorrow morning based on the information he had heard. This re-evaluation did not happen. (We believe that the Ohio Health Attorneys, staff attorney and judge were participating in ex-parte communication)

-My wife had not been taken off the ventilator but her hospital room doors were now opened and we no longer had to wear PPE to enter her room.

-My daughter Cara asked Dr. Chowdury how a decision was made that she no longer had covid. Dr. Chowdury responded that it was based on the time frame. Cara then asked if that is different based on patients and Dr. Chowdury stated that it was a standard number of days for every patient.

-After our unwanted meeting with the doctors, Dr. Joseph Gastaldo goes on the news and states that Ivermectin is for horse deworming and you can poison yourself by taking it. Although, in our meeting with Dr. Gastaldo he admitted that Ivermectin may have helped my wife had it been administered at an earlier date. We had requested for the medicine 8 days prior.

-After numerous additional attempts at getting the medicine and continuing to be blocked by Ohio Health doctors and the lies being told to the judge holding up the case for so many days we decided to inquire with our own attorney, Jeffrey Perry, regarding the dismissal of the case. We did not want to be held liable for the \$100,000 each confidentiality agreement knowing that they were still not going to give her the medicine and the judge leaving it in limbo day after day. We also requested that the person telling the lies to the judge be held accountable. Our own attorney ignored that request. Jeffrey Perry also continually began to space out his communication with us taking several days to answer us.

**9/2/21-** My wife passed away on September 2nd and we did not hear anything regarding the dismissal from the judge or our attorney.

**9/7/21-**Our attorney, Jeffrey Perry, files the dismissal with the Franklin County Court due to Ohio Health not following through with their part of the agreement, my wife not getting the medication, and the money tied to the confidentiality agreement being held over our heads.

**9/8/21-** Judge Serrott signs the dismissal.

**9/13/21-** Jeffrey Perry sends us a copy of the dismissal.

Each day we questioned the hospital nurses and doctors on the amount of pain and sedation medications she was being given. We questioned several of her medications because we were concerned as to why they were mixing these types of medications. We were told that she was getting a "Covid trial" medication Remdesivir that we did not want her to have and when we asked about it again they stated that she was not getting that medication. We were also very concerned that nurses and fellow doctors (student doctors), without consulting the lead physician, were making life threatening decisions hourly on turning her medications and ventilator settings up and down. There were several days in a row that she was doing really well and they were able to turn her ventilator settings to the lowest possible and they started weaning her off of the sedation meds. We come in the next morning and without any notification

she is back to the highest settings on the ventilator and is completely sedated again. We requested to speak to Dr. Chowdhury to find answers as to what happened. She would not give us any answers. Something happened that night that they would not discuss or disclose. We would later find out through a medical records review that she had been given more sedation and as soon as they gave it to her, her oxygen levels dropped. Why wouldn't they be honest about this?! Instead of being honest they ran an unnecessary CT Scan of her chest and Dr. Chowdhury showed us the results of that and said, "she just got tired."

After everything we went through, we reached out to Attorney Ralph Lorigo to offer him our sincere apologies for what we felt forced to do in firing him as our lead attorney. Ralph told us that the reason he refused to sign the documents is because he felt that Ohio Health was trying to completely shut down his law firm from fighting for these Ivermectin cases to try to save lives. Ralph expressed that the days of our case were the worst days in his entire 40+ years of practicing law. He said that he did not sleep for several days due to what Judge Serrott and Ohio Health were trying to do to him and us as a family.

We have since found out that we are still held to the confidentiality agreement even though Ohio Health did not honor their part of the deal. We have filed a lawsuit against Ohio Health for breaching the contract we had with them. With the assistance of attorney Warner Mendenhall, we are finally free from the contract after two years of silence.

Ohio Health's response was to countersue us for filing, what they call a "frivolous lawsuit", and have requested that we pay for their attorney fees. They have also requested a motion for sanctions to be issued against our attorney. We have requested that the judge dismiss their countersuit but instead he is allowing this to go to trial.

I am a pastor of a small church, my daughters are both public school teachers in low income districts in Southeast Ohio. The liquidated damages that they were going to charge us with would have bankrupted us all. We were willing to accept this if that is what it would have taken to save my wife and their mother. This entire situation was very traumatic for us and my wife. The pain and suffering that we endured should never have to be experienced by any other human. My wife and their mother passed away on September 2, 2021. Ohio Health, Doctors Hospital, the doctors involved, their attorneys, and Judge Serrott should be held accountable for their actions. We are seeking justice so that no other family has to go through what we did.



