

Same-Sex Consortium Claim to Get Second Look in Med Mal Case

BY SARANAC HALE SPENCER

Of the Legal Staff

A state court judge has effectively revived the loss of consortium claim brought by a same-sex couple in a medical malpractice suit against Temple University Health System by granting immediate appeal from the July order dismissing the claim.

Philadelphia Court of Common Pleas Judge Gregory Smith had sustained Temple University Health System's objection to the



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between one man and one woman and further noted that, contrary to the plaintiffs'

claim, arguing that Pennsylvania law does not recognize a loss of consortium claim for an injury that occurs prior to marriage.

It had cited Pennsylvania's law defining marriage as

suggestion, the current trend is to dismiss an action for loss of consortium in situations of "nonmarital cohabitation."

In his one-page order granting the appeal, Smith said that he would amend his earlier order to include this statement: "This court is of the opinion that this order involves a controlling question of law as to which there is a substantial ground for difference of opinion and that immediate appeal from this order may materially advance the ultimate

Same-Sex continues on 11