

Role Play Case Jack and Jill

Jack and Jill are in their mid-seventies and have been married 35 years. Jack is a lawyer who retired 10 years ago from a successful practice and has been teaching at a small college in south central Pennsylvania. He has two children by a previous marriage that ended in divorce. Jill is a writer who published several successful novels in the late 60's and 70's, but after raising four children from her first marriage, she experienced writer's block and has never again published. Fifteen years ago, she developed severe rheumatoid arthritis, which has now invaded many organs, and although after numerous surgeries she is functional and can control the pain with steroids and analgesics, she has grown weary of life. Jack is a recovered alcoholic who suffers episodic depression, which up to now has been controlled by the routine ingestion of anti-depressants such as Zoloft. In the market crash of 1987, and again in 2007, Jack lost much of his capital and many of his real estate investments were foreclosed. He has a modest pension fund, but it fails to keep pace with any significant inflation; while Jill has a little independent capital, neither of them foresees being able to maintain their modest lifestyle indefinitely. Their genetic profiles plus their present more or less stable state of health indicate that they have significant years left, and both of them worry about "outliving their money." Dr. Feelgood, their joint primary care physician, has been treating them for many years, and has always made it clear to them that he favors taking good care of ALL his patients' needs, and seeing to their comfort.

Jack and Jill have entered into a suicide pact, which they now seek to implement by using Dr. Feelgood's implied promise and accumulating a sufficient supply of tranquilizers and barbiturates for a fatal dose. Dr. Feelgood does no more than supply prescriptions on request for pain and anxiety relief, but because they are able to refill every 90 days, they are able to stockpile. Jill eventually died in her sleep of a fatal dose. Jack, however, while slipping into a totally comatose state, remains alive on respirator, but showing little or no brain activity. After some time, Jack is diagnosed as in a persistent vegetative state, but a brain scan indicates faint response in two brain areas when certain questions are asked.

Jill's four children (all over 18) sue Feelgood for malpractice in furnishing prescriptions for Jill's medication in amounts that are fatal, claiming \$15,000 in actual damages (EMS, hospital and burial expenses) and \$250,000 in punitive damages (Texas limit); Jack's legal guardian, appointed by the same court that refers Mediation, joins the suit on behalf of Jack's estate (Jack having left a will providing for Jill's kids if he survives her). [Alternative consideration: One of the issues the lawyers could be prepared to address is whether this lawsuit is amenable to Mediation, i.e., must the Judge's order be complied with? Use whatever sources you think may be helpful in deciding this issue. Does the Judge have unlimited discretion? Should She have?]