

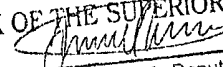


20112898

1 THOMAS E. STILL, ESQ. (SBN 127065)
 2 JENNIFER STILL, ESQ. (SBN 138347)
 3 **HINSHAW, MARSH, STILL & HINSHAW, LLP**
 12901 SARATOGA AVENUE
 4 SARATOGA, CALIFORNIA 95070
 Phone: (408) 861-6500
 Fax: (408) 257-6645
 5 Email: tstill@hinshaw-law.com
 6 jstill@hinshaw-law.com

FILED
 ALAMEDA COUNTY

JUL 06 2017

CLERK OF THE SUPERIOR COURT
 By 
 JAME THOMAS, Deputy

7 Attorneys for Defendant
 8 FREDERICK S. ROSEN, M.D.

9 *(Additional Counsel Listed After Caption)*

10 SUPERIOR COURT OF CALIFORNIA
 11 IN AND FOR THE COUNTY OF ALAMEDA

13 LATASHA NAILAH SPEARS WINKFIELD;
 14 MARVIN WINKFIELD; SANDRA
 15 CHATMAN; and JAHl McMATH, a minor, by
 and through her Guardian Ad Litem,
 LATASHA NAILAH SPEARS WINKFIELD,

16 Plaintiffs,

17 vs.

18 FREDERICK S. ROSEN, M.D.; UCSF
 19 BENIOFF CHILDREN'S HOSPITAL
 20 OAKLAND (formerly Children's Hospital &
 Research Center of Oakland); MILTON
 21 McMATH, a nominal defendant, and DOES 1
 THROUGH 100,

22 Defendants.

Case No. RG15760730

ASSIGNED FOR ALL PURPOSES TO:
 JUDGE STEPHEN PULIDO
 DEPARTMENT 16

**SUPPLEMENTAL DECLARATION OF
 JENNIFER STILL, ESQ., ADDRESSING
 PLAINTIFFS' REFUSAL TO PROVIDE
 AUTHENTICATION OF THE VIDEO
 RECORDINGS**

Reservation #: R-1838158

Date: July 13, 2017

Time: 3:00 p.m.

Dept: 16

Complaint Filed: March 3, 2015

Date of Trial: None set

1 G. PATRICK GALLOWAY, ESQ. (SBN 49442)
2 **GALLOWAY, LUCCHESI, EVERSON &**
3 **PICCHI, APC**

4 2300 Contra Costa Blvd., Suite 30
5 Pleasant Hill, CA 94523-2398

6 Phone: (925) 930-9090

7 Fax: (925) 930-9035

8 Email: PGalloway@glattys.com

9 Attorneys for Defendant

10 UCSF BENIOFF CHILDREN'S HOSPITAL
11 OAKLAND

12 THOMAS J. DOYLE, ESQ. (SBN 114485)

13 **SCHUERING ZIMMERMAN & DOYLE, LLP**

14 400 University Avenue

15 Sacramento, CA 95825-6502

16 Phone: (916) 567-0400

17 Fax: (916) 567-0400

18 Email: tjd@szs.com

19 Attorneys for Defendant

20 ALICIA HERRERA, M.D.

21 SCOTT E. MURRAY, ESQ. (SBN 104741)

22 **DONNELLY NELSON DEPOLO & MURRAY**

23 A Professional Corporation

24 201 North Civic Drive, Suite 239

25 Walnut Creek, CA 94596-3879

26 Phone: (925) 287-8181

27 Fax: (925) 287-8188

28 Email: SMurray@DNDMLawyers.com

Attorneys for Defendant

JAMES PATRICK HOWARD, M.D.

ROBERT HODGES, ESQ. (SBN 95033)

MCNAMARA NEY BEATTY SLATTERY

BORGES & AMBACHER, LLP

1211 Newell Avenue, #2

Walnut Creek, CA 94596-5238

Phone: (925) 939-5330

Fax: (925) 939-0203

Email: Robert.Hodges@McNamaralaw.com

Attorneys for Defendant

ROBERT M. WESMAN, M.D.

1 I, Jennifer Still, Esq., declare:

2 1. I am an attorney at law duly licensed to practice before the courts of the State of
3 California. I am a member of the law offices of Hinshaw, Marsh, Still & Hinshaw LLP, attorneys
4 for defendant Frederick Rosen, M.D., herein.

5 2. Plaintiffs' allegation that Jahi McMath is not dead is based primarily on video
6 recordings that were allegedly taken by McMath's family members and allegedly provided to
7 Dr. Shewmon, by plaintiffs' attorney Christopher Dolan, sometime in late 2014, i.e., prior to Dr.
8 Shewmon's declaration dated December 10, 2014, that is appended to my initial declaration at
9 Exhibit F. Dr. Shewmon's declaration dated December 10, 2014, reflects that Mr. Dolan provided
10 him with 22 videotapes. Dr. Shewmon's recent declaration reflects that he was provided a total of
11 49 video recordings. There is no explanation for the discrepancy in the two declarations.

12 3. To date, plaintiffs and their counsel have refused to provide defense counsel with
13 the actual video recordings that were provided to Dr. Shewmon despite my repeated and numerous
14 attempts to obtain the recordings. Plaintiffs and their counsel further refuse to provide any
15 information that authenticates or lays the requisite foundation for the admissibility of the
16 recordings. Video recordings, like writings, must be authenticated. (See Evid. Code §§ 250,
17 1401.) No chain of custody has been shown. Even my lay person's review of the selection of
18 video recordings produced by plaintiffs demonstrates that McMath's body movements could be
19 easily manipulated. Not once is her entire body in the frame. She is typically covered up with
20 blankets, so it is impossible to know if someone is providing tactile stimulation to another part of
21 her body. Often the camera only shows a convenient angle, such as a close up of her foot or hand,
22 causing the viewer to wonder whether a part of her body outside the camera is being stimulated,
23 thereby causing, spinal reflexive movements. Dr. Shewmon states in his declaration, at p. 5, that
24 "Every video file has been subjected to expert forensic video analysis and certified to contain no
25 evidence of post-recording alteration." This is a patently false statement. Plaintiffs and their
26 counsel refuse to provide any authentication as to the veracity of the recordings, much less a
27 "certified" forensic video analysis.

28

1 4. In response to Dr. Rosen's initial document request, on July 13, 2016, plaintiffs
2 produced a disc containing 15 video recordings and 2 audio recordings, dated December 14 or
3 December 15, 2015. On August 15, 2016, plaintiffs produced a disc containing 34 video
4 recordings, many of which were duplicates, all but one of which are dated in 2015 and 2016. The
5 dates on the video recordings post-date the date of Dr. Shewmon's review of the videos in 2014.
6 Plaintiffs' counsel have refused to provide any authenticating information for the video recordings
7 on the grounds the information is protected by the attorney client privilege. Nor have they
8 provided information as to which videos were provided to Dr. Shewmon.

9 5. On August 23, 2016, I wrote to plaintiffs' counsel requesting production and
10 identification of the 22 video recordings that Dr. Shewmon was provided in connection with his
11 December 10, 2014, declaration. (Ex. A, hereto.) No response was forthcoming.

12 6. On August 25, and August 29, 2016, I sent several emails to plaintiffs' attorney
13 requesting production and identification of the 22 videotapes which Dr. Shewmon claimed he
14 reviewed prior to writing his December 10, 2014, declaration. I further requested that counsel
15 provide authenticating information. (See Ex. B, hereto.) I explained:

16 Regarding the videos, I am asking your office to provide or identify the 22
17 videotapes that are alleged in the FAC. These are the video recordings that Dr.
Shewmon viewed and relied upon.

18 And as for all video recordings, I'm requesting the dates and locations of the
19 recordings, as well as the identity of the recorder. There defendants are not able to
20 categorize the videos. It is impossible to tell when or where they were taken and
the circumstances of the recordings. (Ex B, hereto.)

21 7. Due to plaintiffs' failure to provide authenticating information for the video
22 recordings, on August 23, 2016, I propounded custom interrogatories that required plaintiffs to
23 provide the requisite authenticating and foundation information. (Ex. C, hereto.)

24 **Custom Interrogatory No. 22:** With regard to the disc produced by plaintiffs on
25 August 15, 2016, containing 34 video recordings of JAHl MCMATH, state the date
of each recording, the location of each recording, and the identity of the individual
who made the recording.

26 **Custom Interrogatory No. 23:** With regard to the disc produced by plaintiffs on
27 July 13, 2016, containing 15 video recordings and 2 audio recordings, state the date
of each recording, the location of each recording, and the identity of the individual
28 who made the recording.

1 8. Rather than provide the requested authenticating and foundation information,
2 plaintiffs' provided the following objection to Custom Interrogatories Nos. 22 and 23:

3 **Objection:** This interrogatory seeks information that is protected by the attorney
4 work-product and attorney client privileges. Expert discovery is not yet
5 appropriate pursuant to Code of Civil Procedure § 2030. To the extent that this
6 information is known to Plaintiffs, that information has already been provided to
7 Defendant in that certain recordings have been dated. Discovery is continuing.
8 (Ex. D, hereto.)

9 9. Again, the dates on the recording post-date the date that Dr. Shewmon claims he
10 reviewed the video recordings in late 2014.

11 10. On August 23, 2016, I also propounded a request for production of documents that
12 asked plaintiffs to produce the specific all video recordings that were provided to Dr. Shewmon.
13 (See Document Request No. 10, at Ex. E, hereto.)

14 11. Rather than provide the requested video recordings that were provided to Dr.
15 Shewmon, plaintiffs served the following objection to Document Request No. 10:

16 **Objection:** This request seeks documents that are not in the possession of Plaintiff.
17 The request seeks documents that are protected by the attorney work product and
18 attorney client privileges, and further seek documents which are not yet
19 discoverable in this litigation pursuant to Code of Civil Procedure § 2030.
20 Attached please find the Objection of Christopher Dolan to Request for Production
21 of Documents. (Ex. F, hereto)

22 12. The appended objection of Christopher Dolan's states:

23 Christopher Dolan, Esq., lawyer for Jahi McMath in the above referenced Federal
24 Court Action, hereby files this objection to the request, served upon Plaintiff's
25 counsel in the State Court Action, for production of videotapes taken by Dolan's
26 personnel and shown to Dr. Shewmon. Attorney Brusavich has been diligent in his
27 pursuit of documents and records from Dolan and his firm. Dolan has complied to
28 the best of his ability. Location and delivery of some of the requested documents
was made difficult due to the departure of a former employee who had stored some
of the documents/photographs and videos in a computer not accessible through the
main file server/mainframe.

Dolan objects on the basis of the of the attorney work product doctrine. Any videos
contains [sic] attorney work product and attorney client privileged material. Any
video seen by Dr. Shewmon would have proceeded Dr. Shewmon's visit with Jahi.
Any video shown to Dr. Shewmon was showing by an employee of Dolan's not
authorized to show Dr. Shewmon any video and, as such, it was an inadvertent
production. The employee was not an attorney and did not understand the
implications of showing portions of videotape to Dr. Shewmon. It is unclear to
Dolan what materials have been shown to Dr. Shewmon. As such Dolan cannot
comply with Attorney Brusavich's request. Moreover, some of the material
contained on the video contains a discussion between Dolan and his client.
Therefore Dolan also objects also on the basis of the attorney client privilege. (Ex.
G, hereto.)

1
2 13. On September 27, 2016, my law office served a Deposition Subpoena for
3 production of business records subpoena on the Dolan Law Firm, requesting production of all
4 video recordings of McMath that were allegedly provided to D. Alan Shewmon, M.D., in October
5 2014, as well as the 8 hours of video recording of Dr. Shewmon's alleged examination of McMath
6 on December 2, 2014 and December 3, 2014, as stated in Dr. Shewmon's declaration dated
7 December 10, 2014, at p. 7. (See Ex. H, hereto.)

8 14. Mr. Dolan refused to comply with the subpoena. In a letter dated October 19,
9 2016, he stated that the requested video recordings that he provided to Dr. Shewmon (and other
10 materials), to the extent they exist, is the work product of his office and/or is covered by the
11 attorney-client privilege or the physician-patient privilege. He stated that the video recordings
12 provided by Dr. Shewmon were prepared by or for his office for the purpose of litigation which is
13 unrelated to the state medical malpractice case; for which the material apparently is sought. (See
14 Ex. I, hereto.)

15 15. Exhibits A through I, appended hereto are true and correct copies of the original
16 documents.

17 16. The foregoing demonstrates that I have made numerous efforts to obtain and the
18 video recordings that Dr. Shewmon allegedly relies upon to conclude that McMath is not dead.
19 Plaintiffs and their counsel (including Bruce Brusavich and Christopher Dolan) have refused to
20 identify and provide the video recordings that were given to Dr. Shewmon. Nor have they
21 provided any information that authenticates the video recordings. To date, I have no idea of the
22 dates the video recordings were taken, where they were made, who took the recordings, who else
23 was present in the room, whether they have been altered, forged, or manipulated, etc.

24 I declare under penalty of perjury under the laws of the State of California that all of the
25 foregoing is true and correct, and as to those matters stated on my information and belief, I believe
26 them to be true, and if called upon to testify to the matters herein I can competently testify thereto.

27 Executed on July 6, 2017, at Saratoga, California.

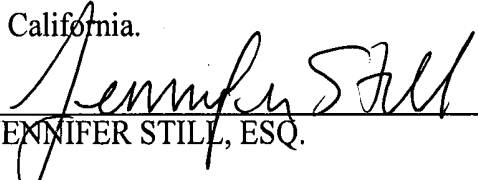
28 By 
JENNIFER STILL, ESQ.

Exhibit A

BARRY C. MARSH
THOMAS E. STILL
BRADFORD J. HINSHAW
JENNIFER STILL
JENNIFER A. WAGSTER
SCOTT R. KANTER
PATRICK C. STOKES
TASCHA C. HAUT
THERESA A. DILLARD

LAW OFFICES OF
HINSHAW, MARSH, STILL & HINSHAW, LLP
12901 SARATOGA AVENUE
SARATOGA, CALIFORNIA 95070-9998

TELEPHONE
(408) 861-6500
FAX
(408) 257-6645
E-MAIL
jstill@hinshaw-law.com

EDWARD A. HINSHAW - 1937 - 2016

August 23, 2016

Via Email: ab@agnewbrusavich.com and U.S. Mail

Bruce M. Brusavich, Esq.
AGNEW & BRUSAVICH
20355 Hawthorne Blvd., 2nd Floor
Torrance, CA 90503

Re: *McMath, et al., vs. Rosen, M.D., et al.*
Meet & Confer Letter

Dear Mr. Brusavich:

We have not yet received plaintiffs' original verifications to their initial responses. Kindly provide them at your earliest convenience.

We have reviewed Latasha Winkfield's Supplemental Responses to Request for Production and Inspection of Documents and Responses to Custom Interrogatories, as well as McMath's Supplemental Responses to Requests for Admission, Supplemental Responses to Form Interrogatories and Responses to Requests for Production and Inspection of Documents.

We have also received a disc containing the following items:

1. Medical Records from St. Peter's University Hospital for "Leah Disanzo" (9048 pages)
2. EEG Report dated 9/1/14
3. NJ Medicaid bill
4. NJ Medicaid letter
5. 34 videos (all undated)
6. 285 photographs (all undated)

Unfortunately, the disc is corrupted. We cannot print or transfer any of the pdfs, i.e., the EEG report, medical records and NJ Medicaid records. **Kindly produce these records on another disc at your earliest convenience.**

Bruce M. Brusavich, Esq.

August 23, 2016

Page 2

Re: *McMath, et al., vs. Rosen, M.D., et al.*

A. Outstanding Items to Be Produced

Plaintiffs failed to produce the following items:

1. The video recordings of McMath taken by her family at Children's Hospital as referred to by Chris Dolan in his Declaration filed in Federal Court on December 30, 2013 in support of Winkfield request for a TRO. Please identify which video recordings were taken at Children's Hospital.

2. The transcript of the hearing on 12-24-13 before Judge Grillo. Dr. Byrne recites the testimony verbatim in his Declaration filed on December 30, 2013 in the Federal Court action, at p. 3, lines 15-28.

3. The 8 hours of video recordings of the Dr. Shewmon's examination on December 2 and 3, 2014 at the New Jersey apartment.

4. The video recording of the EEG performed on 9-1-14 at the New Jersey apartment.

5. The video recordings of the EEG, MRI and MRA performed on 9-26-14 at Rutgers/University Hospital.

6. Produce and/or identify the 22 video recordings that were reviewed by Dr. Shewmon and plaintiffs' other consultants in October 2014.

7. The MRI and MRA imaging studies performed on McMath on September 26, 2014.

8. The EEG recording taken at the NJ apartment on 9-1-14.

9. The EEG recording taken at Rutgers/University Hospital on 9-26-2014.

10. The EEG Report for the recording taken at Rutgers/University Hospital on 9-26-2014.

11. Exhibit C to Machado's Declaration.

12. The home care records from Bayada, Maxim, Epic and Caring Connections. Dr. Shewmon stated he reviewed these records, and plaintiffs responded that they are relying on these records in support of their claim that McMath is not brain dead.

Bruce M. Brusavich, Esq.

August 23, 2016

Page 3

Re: *McMath, et al., vs. Rosen, M.D., et al.*

13. Alieta Eck's medical records. Plaintiffs responded that they produced the reports, medical records, exam notes, tests and other documents prepared by Dr. Eck, however, nothing was produced. (RFP#64.) Nothing was produced. Please produce the Declaration prepared by Alieta Eck, MD., and all other material prepared by Dr. Eck, or at the behest of Dr. Eck, including correspondence with Chris Dolan.

14. The CV's for plaintiffs' consultants Machado, Labkovsky, DeFina, Shewmon, Pretigiaco, Mikolaenko and Eck. Plaintiffs responded that they produced the CV's of Machado, Labkovsky, DeFina, Shewmon, Pretigiaco, Mikolaenko and Eck. (RFP# 68.) No CV's were produced.

15. The Terry Shaiavo Life and Hope Network records. Plaintiffs responded that they produced records pertaining to the Terri Schiavo Life and Hope Network. (RFP#53.) Nothing was produced.

16. Medicare documents. Plaintiffs responded that they produced records to and from Medicare. (RFP#50.) No records were produced.

17. Documentation of donations. Plaintiffs responded that they produced documents reflecting donations to McMath and Winkfield. (RFP #48 and 49.) No documents were produced.

18. Life flight records for McMath's transfer to New Jersey.

19. The medical records documenting McMath's menarche and breast development. (Dr. Shewmon stated at page 4 of his declaration that "*the medical and nursing records document that around 8 months after the formal diagnosis of brain death, Jahi underwent menarche and had her first menstrual period beginning August 6. In the second week of September, she had her second menstrual period, around a month after the first. ...*") Plaintiff did not produce the medical and nursing records documenting McMath's menarche and breast development despite representations to the contrary.

20. Correspondence between Judge Grillo and Dolan. (Plaintiffs responded that they produced correspondence between Chris Dolan and Judge Grillo and/or his staff. (RFP #24.)

21. Dr. Shewmon's chart/examination notes, and communications with Chris Dolan. Dr. Shewmon stated in his declaration that he had many communications with Mr. Dolan and Winkfield prior to his December 2, 2014 examination. Undoubtedly, many of the communications were in writing, i.e., email or letters. No such documents were produced.

Bruce M. Brusavich, Esq.

August 23, 2016

Page 4

Re: *McMath, et al., vs. Rosen, M.D., et al.*

22. The specific records and 22 video recordings that Dr. Shewmon was provided in connection with his examination and declarations.

23. All records associated with the EEG, MRA and MRI performed on September 26, 2014, including billing records, records of admission to the facility where the procedure was performed, the admitting physician, procedure records, records showing who was present, etc.

24. Evidence that McMath moves when hearing Chris Brown, etc. Plaintiffs responded that they would produce evidence that McMath moves while listening to Chris Brown or hearing her best friend on the phone. (RFP #85.) No such evidence was produced.

25. With regard to the disc produced by plaintiffs on July 13, 2016, the last two recordings on the disc contain only audio. Please produce the video recordings, or advise that there is no video component to these recordings.

B. Response to Form Interrogatory No. 6.4

In the response to Form Interrogatory subpart (c), plaintiffs advise that McMath was a patient at St. Peter's University Hospital from June 6, 2014 to August 26, 2015, and that Alieta Eck, M.D., has been the primary care physician since September 2015.

However, the St. Peter's University Hospital records just produced by plaintiff indicate that McMath was discharged in mid-August 2014. If McMath was discharged in August 2015, please produce the St. Peter's medical chart showing care from August 2014 to August 2015. If McMath was discharged in August 2014, please amend the response the subpart (c).

In addition, if McMath was discharged in August 2014, who was her primary care physician from August 2014 to September 2015, when Alieta Eck, MD, assumed care and treatment?

C. McMath's Supplemental Response to Form Interrogatory No. 12.4 subparts (a) - (e)

Chatham and Winkfield failed to amend their response to Form Interrogatory No. 12.4. Do they intend to provide a supplemental response?

Form Interrogatory No. 12.4 asks whether plaintiffs know of any photographs, films or videotapes. In the supplemental answer, plaintiff McMath responded that 285 photographs and 33 video clips were taken of McMath at Children's Hospital, at Rutgers during the MRI/MRA and at the New Jersey apartment. Plaintiffs responded that the images were taken in December 2013, and from August to September 2014.

Bruce M. Brusavich, Esq.

August 23, 2016

Page 5

Re: *McMath, et al., vs. Rosen, M.D., et al.*

We are requesting further responses for the following reasons:

Please answer subpart (a)-(e) with respect to each video recording. Please provide the dates of the recordings, the location of the recording, and the identity of the video recorder.

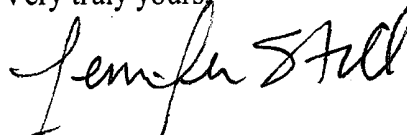
According to Dr. Shewmon's October 2014 declaration, *two* EEG's have been performed on McMath, one in the apartment on September 1, 2014, and a second at Rutger's on September 26, 2014. Neither recording has been produced. Please provide a verified response to No. 12.4 (a)-(d), that includes the requested information about all images and video recordings, and produce all images and video recordings.

D. Chatham Notes

Please provide better copies of the three pages of notes produced by Ms. Chatham. They are quite dark and the right side is cut off.

Please give me a call at your earliest convenience to discuss the outstanding items to be produced.

Very truly yours,


JENNIFER STILL

js/6-347

Lp.meet.confer.disc.resp.8.22.16.wpd D:8.22.16

Renee Infantino

From: Renee Infantino <rinfantino@hinshaw-law.com>
Sent: Tuesday, August 23, 2016 1:10 PM
To: ab@agnewbrusavich.com
Subject: McMath, et al. v. Rosen, M.D., et al.
Attachments: CCE08232016_00005.pdf

Please see attached correspondence from Jennifer Still.

Renee Infantino
Legal Assistant to Thomas E. Still
and Patrick C. Stokes
Hinshaw, Marsh, Still & Hinshaw
12901 Saratoga Avenue
Saratoga, CA 95070
T: (408) 861-6500
F: (408) 257-6645

B

Jennifer Still

From: Jennifer Still <jstill@hinshaw-law.com>
Sent: Thursday, August 25, 2016 2:07 PM
To: schneier@agnewbrusavich.com
Cc: ab@agnewbrusavich.com; 'Tom Still'
Subject: McMath production

Hi Terry,

Thank you for calling me today to discuss the plaintiffs' production of documents. As we discussed, plaintiffs have not produced and/or identified the evidence alleged in their complaint that is the basis of the claim that McMath is not brain dead, i.e., the 22 video recordings, the EEG recordings, the 9-26-14 brain imaging studies, and documentation of puberty. Plaintiffs have had possession, custody and/or control of these materials for nearly two years.

You agreed to follow-up on the following requests:

1. Identification of the 22 videotapes which plaintiffs allege demonstrates McMath is not brain dead. These are the video recordings that Dr. Shewmon reviewed in October 2014.
2. Identify the dates, and locations of the video recordings produced to date.
3. The transcript of the hearing on December 24, 2014. Mrs. Winkfield's expert, Paul Byrne, MD, quoted verbatim from the transcript, therefore, it would seem the transcript is in plaintiffs' custody or control.
4. The 8 hours of video recordings of Shewmon's Dec. 2 & 3, 2014 exam.
5. The video recordings of the EEG's performed on 9-1-14 and 9-26-2014.
6. The EEG recording on 9-2-14
7. The EEG recording on 9-26-14
8. The imaging studies for the brain MRI, brain MRA and brain MRV on 9-26-14
9. The radiologist's reports for the brain MRI, brain MRA and brain MRV on 9-26-14
10. The report for the EEG recording on 9-26-14
11. Exhibit C to Machado's declaration
12. The home care records from Bayada, Maxim, Epic and Caring Connections.
13. Alieta Eck's medical chart, and correspondence with plaintiffs, Chris Dolan and Alieta Eck, MD
14. The CV's for plaintiffs' consultants
15. Life flight records
16. Documentation of McMath's puberty.
17. The University Hospital/Rutger' medical chart
18. Confirm whether there is a video component to the last two recordings on the first disc.
19. The recordings that show McMath's moves to Chris Brown and hearing her friend

Please keep me updated on the status of the above.

Thank you again for your agreement to search for the requested items.

Jennifer

Jennifer Still, Esq.
Hinshaw, Marsh, Still & Hinshaw, LLP
12901 Saratoga Ave.
Saratoga, CA 95070
t. 408-861-6500
f. 408-257-6645

Jennifer Still

From: Jennifer Still <jstill@hinshaw-law.com>
Sent: Monday, August 29, 2016 2:51 PM
To: schneier@agnewbrusavich.com
Cc: ab@agnewbrusavich.com
Subject: McMath Production of Documents

Hi Terry,

I'm following up again on plaintiffs' deficient production of documents and other items demanded by Dr. Rosen in his Request for Production of Documents served on March 31, 2016.

I confirmed with the Galloway office that you did not provide their office with the imaging studies, radiology reports or any other records for the studies performed at University Hospital/Rutgers on September 26, 2014. You had suggested to me during our phone call on August 25, 2016, that you believed you sent those materials to the Galloway office and that we should receive them shortly. I have not received anything from you since the production on August 15, 2016.

Again, plaintiffs have failed to produce the evidence that plaintiffs are relying on to show McMath is not brain dead, i.e., the 22 videotapes, the EEG recording, the brain MRI, the brain MRA, the reports of those studies, and the evidence of puberty etc.

Please see the full list of outstanding items in my email to you dated August 25, 2016.

Thank you,
Jennifer

Jennifer Still, Esq.
Hinshaw, Marsh, Still & Hinshaw, LLP
12901 Saratoga Ave.
Saratoga, CA 95070
t. 408-861-6500
f. 408-257-6645

Jennifer Still

From: Jennifer Still <jstill@hinshaw-law.com>
Sent: Monday, August 29, 2016 4:44 PM
To: 'Terry S Schneier'
Cc: brusavich@agnewbrusavich.com
Subject: RE: McMath Production of Documents

Hi Terry,

I wrote to you because you indicated during our phone call that you sent us imaging studies and reports from the tests performed on 9/26/14. I wanted to let you know we did not receive these materials. I spoke to Pat Galloway this morning and he does not believe you provided his office with an MRA report from University Hospital.

Have you had time to prepare a disc containing the Saint Peter's records and other pdfs (EEG report, and Medicaid records) that we were unable to fully open/transfer?

Could not fully open the 9/1/14 EEG report. I have also requested the 9/26/14 EEG report, as well as the actual recordings for both EEGs. We have also requested the video recordings that were taken while these exams were being performed.

Regarding the videos, I am asking your office to provide or identify the 22 videotapes that are alleged in the FAC. These are the recordings that Dr. Shewmon viewed and relied upon.

And as for all video recordings, I'm requesting the dates and locations of the recordings, as well as the identity of the recorder. The defendants are not able to categorize the videos. It is impossible to tell when or where they were taken, and the circumstances of the recordings.

Thank you for your prompt attention to this matter and the open extension on the motion to compel. Please understand my position. The defense cannot evaluate plaintiffs' claim until the evidence that plaintiffs are relying on is produced. The requested items have been in plaintiffs possession, custody of control for two years. We requested them five months ago, and you are only now getting around to looking for the requested items. Plaintiffs responded that they produced the materials, yet they did not. I am sure that you can understand my concern that plaintiffs are intentionally delaying production in order to obtain some sort of tactical advantage.

Thank you,

Jennifer

From: Terry S Schneier [mailto:schneier@agnewbrusavich.com]
Sent: Monday, August 29, 2016 3:35 PM
To: 'Jennifer Still' <jstill@hinshaw-law.com>
Cc: brusavich@agnewbrusavich.com; 'Terry S Schneier' <schneier@agnewbrusavich.com>
Subject: RE: McMath Production of Documents

Hi Jennifer,

I am working on the further production as we discussed. As you know, I am obtaining documentation from many different sources and it takes some time.

We produced, in response to Mr. Galloway's discovery, an additional MRA report from University Hospital dated 9/26/14. I was mistaken that it was the additional EEG report.

You misstate the state of Plaintiff's production to date. We have produced numerous videos to you. Instead of reviewing them yourself, you want us to segregate them into categories for you. The photographs of Jahi demonstrating puberty will be produced once the Protective Order is signed by you (and other counsel) in order to protect Jahi's privacy. You have the 9/1 EEG report. We are working on obtaining the other.

We spoke on Thursday last week – today is Monday. I will provide any additional materials to you once I receive them.

You have already received an open extension to file a motion to compel.

Terry

From: Jennifer Still [<mailto:jstill@hinshaw-law.com>]
Sent: Monday, August 29, 2016 2:51 PM
To: schneier@agnewbrusavich.com
Cc: ab@agnewbrusavich.com
Subject: McMath Production of Documents

Hi Terry,

I'm following up again on plaintiffs' deficient production of documents and other items demanded by Dr. Rosen in his Request for Production of Documents served on March 31, 2016.

I confirmed with the Galloway office that you did not provide their office with the imaging studies, radiology reports or any other records for the studies performed at University Hospital/Rutgers on September 26, 2014. You had suggested me during our phone call on August 25, 2016, that you believed you sent those materials to the Galloway office and that we should receive them shortly. I have not received anything from you since the production on August 15, 2016.

Again, plaintiffs have failed to produce the evidence that plaintiffs are relying on to show McMath is not brain dead, i.e., the 22 videotapes, the EEG recording, the brain MRI, the brain MRA, the reports of those studies, and the evidence of puberty etc.

Please see the full list of outstanding items in my email to you dated August 25, 2016.

Thank you,
Jennifer

Jennifer Still, Esq.
Hinshaw, Marsh, Still & Hinshaw, LLP
12901 Saratoga Ave.
Saratoga, CA 95070
t. 408-861-6500
f. 408-257-6645

Jennifer Still

From: Jennifer Still <jstill@hinshaw-law.com>
Sent: Friday, September 16, 2016 3:40 PM
To: 'Terry S Schneier'
Cc: brusavich@agnewbrusavich.com; tstill@hinshaw-law.com
Subject: RE: McMath Production of Documents

Thank you Terry. I look forward to receiving the outstanding materials.

Jennifer

From: Terry S Schneier [mailto:schneier@agnewbrusavich.com]
Sent: Friday, September 16, 2016 2:17 PM
To: 'Jennifer Still' <jstill@hinshaw-law.com>
Cc: brusavich@agnewbrusavich.com; tstill@hinshaw-law.com; 'Terry S Schneier' <schneier@agnewbrusavich.com>
Subject: RE: McMath Production of Documents

Jennifer,
I am waiting for one last thing before our production. I hope to be able to produce additional documents, etc on Monday.

Terry

From: Jennifer Still [mailto:jstill@hinshaw-law.com]
Sent: Friday, September 16, 2016 1:01 PM
To: 'Terry S Schneier'
Cc: brusavich@agnewbrusavich.com; tstill@hinshaw-law.com
Subject: FW: McMath Production of Documents

Hi Terry and Bruce,

Nearly three weeks have passed since we last corresponded on plaintiff's production of documents.

What is the status of plaintiff's production? Do you intend to produce anything else? If not, you leave me no option but to file a motion to compel.

Jennifer

From: Jennifer Still [mailto:jstill@hinshaw-law.com]
Sent: Monday, August 29, 2016 4:44 PM
To: 'Terry S Schneier' <schneier@agnewbrusavich.com>
Cc: brusavich@agnewbrusavich.com
Subject: RE: McMath Production of Documents

Hi Terry,

I wrote to you because you indicated during our phone call that you sent us imaging studies and reports from the tests performed on 9/26/14. I wanted to let you know we did not receive these materials. I spoke to Pat Galloway this morning and he does not believe you provided his office with an MRA report from University Hospital.

C

1 THOMAS E. STILL, ESQ. - State Bar No. 127065
2 JENNIFER STILL, ESQ. - State Bar No. 138347

3 LAW OFFICES OF
4 **HINSHAW, MARSH, STILL & HINSHAW, LLP**
5 12901 SARATOGA AVENUE
6 SARATOGA, CALIFORNIA 95070
7 (408) 861-6500
8 FAX (408) 257-6645

9 Attorneys for Defendant FREDERICK S. ROSEN, M.D.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

11 LATASHA NAILAH SPEARS
12 WINKFIELD; MARVIN WINKFIELD;
13 SANDRA CHATMAN; and JAHI
14 McMATH, a minor, by and through her
15 Guardian Ad Litem, LATASHA NAILAH
16 SPEARS WINKFIELD,

17 Plaintiffs,

18 vs.

19 FREDERICK S. ROSEN, M.D.; UCSF
20 BENIOFF CHILDREN'S HOSPITAL
21 OAKLAND (formerly Children's Hospital &
22 Research Center of Oakland); MILTON
23 McMATH, a nominal defendant, and DOES
24 1 THROUGH 100,

25 Defendants.

No. RG15760730

**CUSTOM INTERROGATORIES, SET
TWO**

Complaint Filed: March 3, 2015

26 PROPOUNDED TO: Plaintiff LATASHA NAILAH SPEARS WINKFIELD and
27 her attorney of record

28 PROPOUNDED BY: Defendant FREDERICK S. ROSEN, M.D., and his attorney
of record

SET NO.: TWO

Pursuant to California Code of Civil Procedure Section 2030.010 et seq., the above-named Defendant ("Defendant") requests that the above-named Plaintiff ("Plaintiff") answer the following Custom Interrogatories, Set No. Two, separately and fully, in writing, and under penalty of perjury, within 30 days after service.

1 INTERROGATORY NO. 22: With regard to the disc produced by plaintiffs on August 15,
2 2016, containing 34 video recordings of JAHl McMATH, state the date of each recording, the
3 location of each recording, and identity of the individual who made the recording.

4 INTERROGATORY NO. 23: With regard to the disc produced by plaintiffs on July 13,
5 2016, containing 15 video recordings, and 2 audio recordings, state the date of each recording, the
6 location of each recording, and identity of the individual who made the recording.

7 INTERROGATORY NO. 24: Identify by name and address, the "various health care
8 practitioners" at St. Peter's University Hospital who support plaintiffs' claim that JAHl McMATH
9 did not meet the criteria for brain death in accordance with the accepted medical standards on
10 December 12, 2013. (See Jahl McMATH's response to Request for Admission No. 11, and
11 Supplemental Response to Form Interrogatory No. 17.1(c), with respect to Request for Admission
12 No. 11.)

13 INTERROGATORY NO. 25: Identify by name, address and specialty, the "various health
14 care practitioners" at Rutgers University Medical Center who support plaintiffs' claim that JAHl
15 McMATH did not meet the criteria for brain death in accordance with the accepted medical
16 standards on December 12, 2013. (See Jahl McMATH's response to Request for Admission No. 11,
17 and Supplemental Response to Form Interrogatory No. 17.1(c), with respect to Request for
18 Admission No. 11.)

19 INTERROGATORY NO. 26: Identify by name and address, the "home caregivers" who
20 support plaintiffs' claim that JAHl McMATH did not meet the criteria for brain death in accordance
21 with the accepted medical standards on December 12, 2013. (See Jahl McMATH's response to
22 Request for Admission No. 11, and Supplemental Response to Form Interrogatory No. 17.1(c), with
23 respect to Request for Admission No. 11.)

24 INTERROGATORY NO. 27: Identify by name and address every physician who has
25 examined JAHl McMATH from the time of discharge from St. Peter's University Hospital until
26 September 2015, when Alieta Eck, M.D., began treating JAHl McMATH.

27 INTERROGATORY NO. 28: Identify by name and address every physician who has
28 performed a neurological examination on JAHl McMATH since her discharge from
Children's Hospital Oakland, including the date and location of the examination.

INTERROGATORY NO. 29: Identify by name and address every physician who has

1 performed a brain death evaluation on JAHl McMATH applying the criteria set forth in the
2 "Guidelines for the Determination of Brain Death in Infants and Children: An Update of the 1987
3 Task Force Recommendations."

4 INTERROGATORY NO. 30: By time in chronological order, state the entirety or, if you
5 cannot state the entirety, state all that you can recall or, if you cannot recall any of the words stated,
6 state the gist or substance of what was said by all participants (including you) in each and every
7 conversation (in person or on the telephone) that you had with defendant FREDERICK S. ROSEN,
8 M.D., including therein anyone that you or your attorneys contend to be an agent, servant or
9 employee of defendant FREDERICK S. ROSEN, M.D., that occurred on the date of June 21, 2013.

10
11
12 Dated: August 23, 2016

HINSHAW, MARSH, STILL & HINSHAW

13
14
15 By: 

16 THOMAS E. STILL
17 JENNIFER STILL
18 Attorneys for Defendant
19 FREDERICK S. ROSEN, M.D.

20
21
22
23
24
25
26
27
28
H:\McMath\discover\lc2.Winkfield.wpd

PROOF OF SERVICE
(C.C.P. §§ 1013a, 2015.5)

I, the undersigned, say:

I am now and at all times herein mentioned have been over the age of 18 years, a resident of the State of California and employed in Santa Clara County, California, and not a party to the within action or cause; my business address is 12901 Saratoga Avenue, Saratoga, California 95070.

I am readily familiar with this firm's business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, mailing via Federal Express, hand delivery via messenger service, and transmission by facsimile machine. I served a copy of each of the documents listed below by placing said copies for processing as indicated herein.

CUSTOM INTERROGATORIES, SET TWO

XX If MAILED VIA U.S. MAIL, said copies were placed in envelopes which were then sealed and, with postage fully prepaid thereon, on this date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the U.S. Postal Service at Saratoga, California on this date in the ordinary course of business; and there is delivery service by U.S. Postal Service at the place so addressed.

_____ If MAILED VIA FEDERAL EXPRESS, said copies were placed in Federal Express envelopes which were then sealed and, with Federal Express charges to be paid by this firm, on this same date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the Federal Express Corp. on this date following ordinary business practices; and there is delivery service by Federal Express at the place so addressed.

_____ If HAND DELIVERED, said copies were provided to _____ a delivery service, whose employee, following ordinary business practices, did hand deliver the copies provided to the person or firm indicated herein.

_____ If VIA FACSIMILE TRANSMISSION, said copies were placed for transmission by this firm's facsimile machine, transmitting from (408) 257-6645 at Saratoga, California, and were transmitted following ordinary business practices; and there is a facsimile machine receiving via the number designated herein, and the transmission was reported as complete and without error. The record of the transmission was properly issued by the transmitting fax machine.

RECIPIENTS:

Bruce M. Brusavich, Esq.
Puneet K. Toor, Esq.
AGNEW & BRUSAVICH
20355 Hawthorne Blvd., 2nd Floor
Torrance, CA 90503

Andrew N. Chang, Esq.
ESNER, CHANG & BOYER
234 East Colorado Blvd., Suite 750
Pasadena, CA 91101

G. Patrick Galloway, Esq.
Karen Sparks, Esq.
Galloway, Lucchese, Everson & Picchi
2300 Contra Costa Blvd., Suite 30
Pleasant Hill, CA 94523-2398

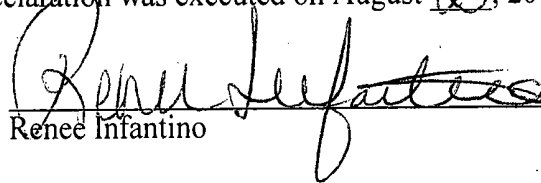
1 Thomas J. Doyle
SCHUERING ZIMMERMAN & DOYLE, LLP
2 400 University Avenue
Sacramento, CA 95825-6502

3 Scott E. Murray
4 Vanessa L. Efremsky
DONNELLY NELSON DEPOLO & MURRAY
5 A Professional Corporation
201 North Civic Drive, Suite 239
6 Walnut Creek, CA 94596-3879

7 Robert Hodges
McNAMARA NEY BEATTY SLATTERY BORGES & AMBACKER, LLP
8 1211 Newell Avenue, #2
Walnut Creek, CA 94596-5238

9 Kenneth Pedroza, Esq
10 Cole Pedroza
2670 Mission Street, Suite 200
11 San Marino, CA 91108

12 I certify (or declare) under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct and that this Declaration was executed on August 23, 2016.

14 
15 Renee Infantino

16
17
18
19
20
21
22
23
24
25
26
27 Court: Alameda County Superior Court
Action No: RG 15760730
28 Case Name: Spears (McMath) v. Rosen, M.D., et al.

D

AGNEW BRUSAVICH
LAWYERS

20355 HAWTHORNE BOULEVARD · TORRANCE, CALIFORNIA 90503-2401
TELEPHONE: (310) 793-1400 FACSIMILE: (310) 793-1499 E-MAIL: ab@agnewbrusavich.com

1 Bruce M. Brusavich, State Bar No. 93578
Terry S. Schneier, State Bar No. 118322
2 **AGNEWBRUSAVICH**
A Professional Corporation
3 20355 Hawthorne Boulevard
Second Floor
4 Torrance, California 90503
(310) 793-1400

5
6 Andrew N. Chang
ESNER, CHANG & BOYER
Southern California Office
7 234 East Colorado Boulevard
Suite 750
8 Pasadena, CA 91101
(626) 535-9860121
9

10 Attorneys for Plaintiffs
11

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF ALAMEDA

14
15 LATASHA NAILAH SPEARS WINKFIELD;
MARVIN WINKFIELD; SANDRA CHATMAN;
16 and JAHl McMATH, a minor, by and
through her Guardian ad Litem, LATASHA
17 NAILAH SPEARS WINKFIELD,

18 Plaintiffs,

19 vs.

20 FREDERICK S. ROSEN, M.D.; UCSF BENIOFF
CHILDREN'S HOSPITAL OAKLAND
21 (formerly Children's Hospital & Research
Center at Oakland); MILTON McMATH, a
22 nominal defendant, and DOES 1
THROUGH 100,
23

24 Defendants.

CASE NO. RG 15760730

ASSIGNED FOR ALL PURPOSES TO:
JUDGE STEPHEN PULIDO - DEPT. "16"

**PLAINTIFF LATASHA NAILAH SPEARS
WINKFIELD'S RESPONSES TO CUSTOM
INTERROGATORIES, SET TWO**

Date Action Filed: 03/03/15

25 PROPOUNDING PARTY: Defendant, FREDERICK S. ROSEN, M.D.

26 RESPONDING PARTY: Plaintiff, LATASHA NAILAH SPEARS WINKFIELD

27 SET NO.: TWO
28

1 COMES NOW plaintiff LATASHA NAILAH SPEARS WINKFIELD, who hereby
2 responds to the interrogatories propounded by defendant, FREDERICK S. ROSEN,
3 M.D., as follows:

4 INTRODUCTORY STATEMENT

5 IT SHOULD BE NOTED that this responding party has not fully completed
6 discovery in this action and has not fully completed trial preparation. All of the
7 answers contained herein are based only upon such information and documents
8 as are presently available to and are specifically known to this responding party
9 and disclose only those contentions which presently occur to such responding
10 party. It is anticipated that further discovery, independent investigation, legal
11 research and analysis will supply additional facts, add meaning to known facts,
12 and establish entirely new factual conclusions and legal contentions, all of which
13 may lead to substantial additions to, changes in, and variations from the
14 contentions herein set forth. The following interrogatory responses are given without
15 prejudice to responding party's rights to produce evidence of any subsequently
16 discovered fact or facts which this responding party may later recall. Responding
17 party accordingly reserves the right to change any and all answers herein given as
18 additional facts are ascertained, analyses are made, legal research is completed,
19 and contentions are made. The answers contained herein are made in a good
20 faith effort to supply as much factual information and as much specification of
21 legal contentions as are presently known, but should in no way prejudice plaintiff
22 with respect to further discovery, research or analyses.

23 Plaintiff relies upon well-established California authority to the effect that
24 interrogatories cannot unilaterally be denominated as continuing in nature and
25 plaintiff serves notice that he/she will not voluntarily provide further responses to
26 these interrogatories if additional information is acquired after these responses are
27 served. (See, Smith v. Superior Court, 189 Cal.App.2d 6.)

28 To the extent that defendant attempts in these interrogatories to extend

AGNEW BRUSAVICH
LAWYERS

20355 HAWTHORNE BOULEVARD · TORRANCE, CALIFORNIA 90503-2401
TELEPHONE: (310) 793-1400 FACSIMILE: (310) 793-1499 E-MAIL: ab@agnewbrusavich.com

1 plaintiff's responsibilities beyond the scope of discovery established by California
2 Code of Civil Procedure, plaintiff declines to accept such an attempt. Moreover,
3 plaintiff will not accept any specialized meanings or definitions ascribed by
4 defendant in these interrogatories, and will interpret all words in their ordinary and
5 customary meanings.

6 Plaintiff objects to these interrogatories to the extent that they seek
7 information privileged or protected by the attorney-client privilege or the work-
8 product doctrine. Plaintiff will not repeat this objection in each response and
9 furnishes these responses and all documents referred therein without prejudice to
10 this objection.

11 These introductory comments shall apply to each and every answer given
12 herein, and shall be incorporated by reference as though fully set forth in all of the
13 interrogatory responses appearing in the following pages:

14
15 RESPONSES TO CUSTOM INTERROGATORIES
16

17 22. Objection: this interrogatory seeks information that is protected by the
18 attorney work-product and attorney-client privileges. Expert discovery is not yet
19 appropriate pursuant to Code of Civil Procedure §2030. To the extent that this
20 information is known to Plaintiffs, that information has already been provided to
21 Defendant in that certain of the recordings have been dated. Discovery is
22 continuing.

23 23. Objection: this interrogatory seeks information that is protected by the
24 attorney work-product and attorney-client privileges. Expert discovery is not yet
25 appropriate pursuant to Code of Civil Procedure §2030. To the extent that this
26 information is known to Plaintiffs, that information has already been provided to
27 Defendant in that certain of the recordings have been dated. Discovery is
28 continuing.

1 24. Objection: this interrogatory seeks information that is protected by the
2 attorney work-product and attorney-client privileges. Expert discovery is not yet
3 appropriate pursuant to Code of Civil Procedure §2030. Defendants have equal
4 access to the St. Peter's University medical chart and Plaintiffs are not required to
5 provide Defendants with a compilation or list derived from those records. Discovery
6 is continuing.

7 25. Objection: this interrogatory seeks information that is protected by the
8 attorney work-product and attorney-client privileges. Expert discovery is not yet
9 appropriate pursuant to Code of Civil Procedure §2030. Defendants have equal
10 access to the Rutgers University Medical Center medical chart and Plaintiffs are
11 not required to provide Defendants with a compilation or list derived from those
12 records. Discovery is continuing.

13 26. Objection: this interrogatory seeks information that is protected by the
14 attorney work-product and attorney-client privileges. Expert discovery is not yet
15 appropriate pursuant to Code of Civil Procedure §2030. Defendants have equal
16 access to the home health records and Plaintiffs are not required to provide
17 Defendants with a compilation or list derived from those records. Discovery is
18 continuing.

19 27. Objection: this interrogatory seeks information that is protected by the
20 attorney work-product and attorney-client privileges. Defendants have equal
21 access to Jahi's medical records Plaintiffs are not required to provide Defendants
22 with a compilation or list derived from those records. Discovery is continuing.

23 28. Objection: this interrogatory seeks information that is protected by the
24 attorney work-product and attorney-client privileges. Defendants have equal
25 access to Jahi's medical records Plaintiffs are not required to provide Defendants
26 with a compilation or list derived from those records. Discovery is continuing.

27 29. Objection: this interrogatory seeks information that is protected by the
28 attorney work-product and attorney-client privileges. Defendants have equal

1 access to Jahi's medical records Plaintiffs are not required to provide Defendants
2 with a compilation or list derived from those records. Discovery is continuing.

3 30. Plaintiff does not have a specific memory of this visit with Dr. Rosen, other
4 than that she and Jahi answered questions about Jahi's history and a sleep study
5 was ordered.

6 DATED: September 26, 2016

AGNEWBRUSAVICH
A Professional Corporation

By: 

BRUCE M. BRUSAVICH
Attorneys for Plaintiffs

AGNEW BRUSAVICH

LAWYERS

20355 HAWTHORNE BOULEVARD · TORRANCE, CALIFORNIA 90503-2401
TELEPHONE: (310) 793-1400 FACSIMILE: (310) 793-1499 E-MAIL: ab@agnewbrusavich.com

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION (CCP 446, 2015.5)

I declare that:

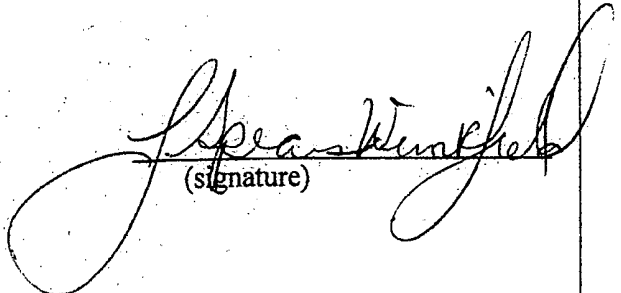
I am the plaintiff in the above-captioned matter. I am familiar with the contents of the
foregoing PLAINTIFF LATASHA NAILAH SPEARS WINKFIELD'S RESPONSES TO CUSTOM
INTERROGATORIES, SET TWO

The information supplied therein is based on my own personal knowledge and/or has been supplied
by my attorneys or other agents and is therefore provided as required by law.

I declare under penalty of perjury under the laws of the state of California that the
information contained in the foregoing document is true, except as to the matters which were provided
by my attorneys or other agents, and as to those matters, I am informed and believe that they are true.

DATED: September 27, 2016

By LATASHA NAILAH SPEARS WINKFIELD



(signature)

AGNEW BRUSAVICH
LAWYERS
20355 HAWTHORNE BOULEVARD • TORRANCE, CALIFORNIA 90503-2401
TELEPHONE: (310) 793-1400 FACSIMILE: (310) 793-1499 E-MAIL: ob@agnewbrusavich.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is AGNEW BRUSAVICH, 20355 Hawthorne Blvd., 2nd Floor, Torrance, California. On September 27, 2016, I served the within document **PLAINTIFF LATASHA NAILAH SPEARS WINKFIELD'S RESPONSES TO CUSTOM INTERROGATORIES, SET TWO**

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Torrance, California, addressed as set forth below:
- by placing a true copy thereof enclosed in a sealed envelope(s), and caused such envelope(s) to be delivered by hand delivery addressed pursuant to the document(s) listed above to the person(s) at the address(es) set forth below.
- by electronic service. Based on a court order or an agreement of the parties to accept service by electronic transmission. I caused the documents to be sent to the persons at the electronic notification addresses as set forth below:

AGNEW BRUSAVICH
LAWYERS

20355 HAWTHORNE BOULEVARD · TORRANCE, CALIFORNIA 90503-2401
TELEPHONE: (310) 793-1400 FACSIMILE: (310) 793-1499 E-MAIL: ab@agnewbrusavich.com

15 16 17 18 19	Andrew N. Chang ESNER, CHANG & BOYER Southern California Office 234 East Colorado Boulevard Suite 750 Pasadena, CA 91101 achang@ecbappeal.com	ASSOCIATE ATTORNEY FOR PLAINTIFFS LATASHA NAILAH SPEARS WINKFIELD; MARVIN WINIKFIELD; SANDREA CHATMANH; and JAH McMATH, a minor, by and through her Guardian ad Litem, LATASHA NAILAH SPEARS WINKFIELD (626) 535-9860 FAX (626) 535-9859
20 21 22	Thomas E. Still HINSHAW, MARSH, STILL & HINSHAW 12901 Saratoga Avenue Saratoga, CA 95070-9998 tstill@hinshaw-law.com	ATTORNEYS FOR FREDERICK S. ROSEN, M.D. (408) 861-6500 FAX (408) 257-6645
24 25 26 27	G. Patrick Galloway GALLOWAY, LUCCHESI, EVERSON & PICCHI 2300 Contra Costa Boulevard Suite 350 Pleasant Hill, CA 94523-2398 pgalloway@glatlys.com	ATTORNEYS FOR DEFENDANT UCSF BENOIFF CHILDREN'S HOSPITAL (925) 930-9090 FAX (925) 930-9035
28	/// ///	

AGNEW BRUSAVICH
LAWYERS

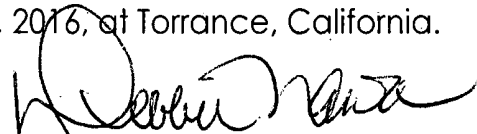
20355 HAWTHORNE BOULEVARD · TORRANCE, CALIFORNIA 90503-2401
TELEPHONE: (310) 793-1400 FACSIMILE: (310) 793-1499 E-MAIL: ab@agnewbrusavich.com

1 2 3 4 5 6	<p>Scott E. Murray Vanessa L. Efremsky DONNELLY NELSON DEPOLO & MURRAY A Professional Corporation 201 North Civic Drive, Suite 239 Walnut Creek, CA 94596-3879 Smurray@dndmlawyers.com vefremsky@dndmlawyers.com</p>	<p>ATTORNEYS FOR DEFENDANT JAMES PATRICK HOWARD, M.D., Ph.D.</p> <p>(925) 287-8181 FAX (925) 287-8188</p>
7 8 9 10	<p>Robert Hodges McNAMARA NEY BEATTY SLATTERY BORGES & AMBACKER, LLP 1211 Newell Avenue, #2 Walnut Creek, CA 94596-5238 robert.hodges@mcnamaralaw.com karen.merick@mcnamaralaw.com</p>	<p>ATTORNEY FOR ROBERT M. WESMAN, M.D.</p> <p>(925) 939-5330 FAX (925) 939-0203</p>
11 12 13 14 15	<p>Thomas J. Doyle Chad Couchet SCHUERING ZIMMERMAN & DOYLE, LLP 400 University Avenue Sacramento, CA 95825-6502 tjd@szs.com ccc@szs.com</p>	<p>ATTORNEY FOR DEFENDANT ALICIA HERRERA, M.D.</p> <p>(916) 567-0400 FAX (916) 568-0400</p>
16 17 18 19 20	<p>Kenneth R. Pedroza Dana L. Stenvick COLE PEDROZA LLP 2670 Mission Street Suite 200 San Marino, CA 91108. kpdroza@colepedroza.com dstenvick@colepedroza.com</p>	<p>ASSOCIATE COUNSEL FOR FREDERICK S. ROSEN, M.D. and UCSF BENIOFF CHILDREN'S HOSPITAL OAKLAND</p> <p>(626) 431-2787 FAX (626) 431-2788</p>

21 I am readily familiar with the firm's practices of collection and processing
22 correspondence for mailing. Under that practice, it would be deposited with the
23 U.S. Postal Service on that same day with postage thereon fully prepaid in the
24 ordinary course of business. I am aware that on motion of the party served,
service is presumed invalid if post cancellation date or postage meter date is
more than one day after date of deposit for mailing in affidavit.

- 25 (State) I declare under penalty of perjury under the laws of the State of
California that the above is true and correct.
- 26 (Federal) I declare that I am employed in the office of a member of the
27 bar of this court at which direction the service was made.

28 Executed this 27th day of September, 2016, at Torrance, California.


DEBBIE NAWA

E

1 THOMAS E. STILL, ESQ. - State Bar No. 127065
JENNIFER STILL, ESQ. - State Bar No. 138347

2 LAW OFFICES OF
HINSHAW, MARSH, STILL & HINSHAW, LLP
12901 SARATOGA AVENUE
3 SARATOGA, CALIFORNIA 95070
(408) 861-6500
4 FAX (408) 257-6645

Attorneys for Defendant FREDERICK S. ROSEN, M.D.

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

10 LATASHA NAILAH SPEARS
WINKFIELD; MARVIN WINKFIELD;
11 SANDRA CHATMAN; and JAHI
McMATH, a minor, by and through her
12 Guardian Ad Litem, LATASHA NAILAH
SPEARS WINKFIELD,

13 Plaintiffs,

14 vs.

15 FREDERICK S. ROSEN, M.D.; UCSF
16 BENIOFF CHILDREN'S HOSPITAL
OAKLAND (formerly Children's Hospital &
17 Research Center of Oakland); MILTON
McMATH, a nominal defendant, and DOES
18 1 THROUGH 100,

19 Defendants.

No. RG15760730

**REQUESTS FOR PRODUCTION AND
INSPECTION OF DOCUMENTS, SET
TWO**

Complaint Filed: March 3, 2015

20 _____/

21 TO: Plaintiff, JAHI McMATH, a minor, by and through her
Guardian Ad Litem, LATASHA NAILAH SPEARS
22 WINKFIELD, and their attorney of record

23 DEMANDING PARTY: Defendant FREDERICK S. ROSEN, M.D., and his attorneys
of record

24 PRODUCTION DATE: September 27, 2016

25 TIME: 10:00 a.m.

26 PLACE: LAW OFFICES OF HINSHAW,
27 MARSH, STILL & HINSHAW, LLP
12901 Saratoga Avenue
28 Saratoga, CA 95070

1 SET NUMBER: TWO

2 Pursuant to the provision of C.C.P. section 2031.010 et seq., defendant FREDERICK S.
3 ROSEN, M.D., represented by the Law Offices of Hinshaw, Marsh, Still & Hinshaw, LLP, requests
4 that you produce and permit inspection and copying of the following documents at the date, time and
5 place specified above for inspection and/or copying.

6 10. All videotapes provided to D. Alan Shewmon, M.D.

7 11. All home care records provided to D. Alan Shewmon, M.D.

8 12. All medical records provided to D. Alan Shewmon, M.D.

9 13. All imaging studies provided to D. Alan Shewmon, M.D.

10 14. Produce or identify by Bates Stamp Number if already produced by plaintiffs, the
11 specific records from Children's Hospital Oakland that support plaintiffs' claim that JAH
12 McMATH did not meet the criteria for brain death in accordance with the accepted medical
13 standards on December 12, 2013. (See Jahi McMath's response to Request for Admission No. 11,
14 and Supplemental Response to Form Interrogatory No. 17.1(d), with respect to Request for
15 Admission No. 11.)

16 15. Produce or identify by Bates Stamp Number if already produced by plaintiffs, the
17 specific records from St. Peter's Medical Center that support plaintiffs' claim that JAH
18 McMATH did not meet the criteria for brain death in accordance with the accepted medical standards on
19 December 12, 2013. (See Jahi McMath's response to Request for Admission No. 11, and
20 Supplemental Response to Form Interrogatory No. 17.1(d), with respect to Request for Admission
21 No. 11.)

22 16. The medical records of Robert Wesman, M.D.

23 This Request is made upon the ground that each of the documents requested is relevant to
24 the subject matter of this action or is reasonably calculated to lead to the discovery of admissible
25 evidence to this action.

26 Failure to comply with this Request will result in a formally noticed motion to compel
27 production of said documents, and all costs incurred in bringing said motion will be requested.

28 NOTICE IS FURTHER HEREBY GIVEN that this demanding party is not requesting the

1 responding party to make any copies of any of the above-requested items. Should the responding
2 party make copies, this demanding party does not consent or agree to be liable for the reproduction
3 costs of the same.

4 Dated: August 23, 2016

HINSHAW, MARSH, STILL & HINSHAW

5
6 By: *Jennifer Still*
7 THOMAS E. STILL
8 JENNIFER STILL
9 Attorneys for Defendant
10 FREDERICK S. ROSEN, M.D.

11 H:\McMath\discover\RP.2.Jahi.wpd

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

28 Law Offices of
HINSHAW, MARSH,
STILL & HINSHAW, LLP
12901 Saratoga Avenue
Saratoga, CA 95070
(408) 861-6500

PROOF OF SERVICE
(C.C.P. §§ 1013a, 2015.5)

I, the undersigned, say:

I am now and at all times herein mentioned have been over the age of 18 years, a resident of the State of California and employed in Santa Clara County, California, and not a party to the within action or cause; my business address is 12901 Saratoga Avenue, Saratoga, California 95070.

I am readily familiar with this firm's business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, mailing via Federal Express, hand delivery via messenger service, and transmission by facsimile machine. I served a copy of each of the documents listed below by placing said copies for processing as indicated herein.

REQUESTS FOR PRODUCTION AND INSPECTION OF DOCUMENTS, SET TWO

XX If MAILED VIA U.S. MAIL, said copies were placed in envelopes which were then sealed and, with postage fully prepaid thereon, on this date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the U.S. Postal Service at Saratoga, California on this date in the ordinary course of business; and there is delivery service by U.S. Postal Service at the place so addressed.

_____ If MAILED VIA FEDERAL EXPRESS, said copies were placed in Federal Express envelopes which were then sealed and, with Federal Express charges to be paid by this firm, on this same date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the Federal Express Corp. on this date following ordinary business practices; and there is delivery service by Federal Express at the place so addressed.

_____ If HAND DELIVERED, said copies were provided to _____ a delivery service, whose employee, following ordinary business practices, did hand deliver the copies provided to the person or firm indicated herein.

_____ If VIA FACSIMILE TRANSMISSION, said copies were placed for transmission by this firm's facsimile machine, transmitting from (408) 257-6645 at Saratoga, California, and were transmitted following ordinary business practices; and there is a facsimile machine receiving via the number designated herein, and the transmission was reported as complete and without error. The record of the transmission was properly issued by the transmitting fax machine.

RECIPIENTS:

Bruce M. Brusavich, Esq.
Puneet K. Toor, Esq.
AGNEW & BRUSAVICH
20355 Hawthorne Blvd., 2nd Floor
Torrance, CA 90503

Andrew N. Chang, Esq.
ESNER, CHANG & BOYER
234 East Colorado Blvd., Suite 750
Pasadena, CA 91101

G. Patrick Galloway, Esq.
Karen Sparks, Esq.
Galloway, Lucchese, Everson & Picchi
2300 Contra Costa Blvd., Suite 30
Pleasant Hill, CA 94523-2398

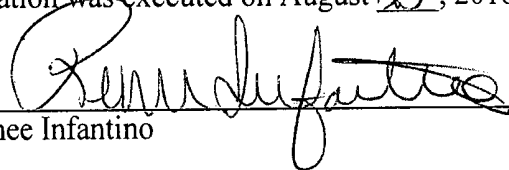
1 Thomas J. Doyle
SCHUERING ZIMMERMAN & DOYLE, LLP
2 400 University Avenue
Sacramento, CA 95825-6502

3
4 Scott E. Murray
Vanessa L. Efremsky
DONNELLY NELSON DEPOLO & MURRAY
5 A Professional Corporation
201 North Civic Drive, Suite 239
6 Walnut Creek, CA 94596-3879

7 Robert Hodges
McNAMARA NEY BEATTY SLATTERY BORGES & AMBACKER, LLP
8 1211 Newell Avenue, #2
Walnut Creek, CA 94596-5238

9
10 Kenneth Pedroza, Esq
Cole Pedroza
2670 Mission Street, Suite 200
11 San Marino, CA 91108

12 I certify (or declare) under penalty of perjury under the laws of the State of California that the
foregoing is true and correct and that this Declaration was executed on August 23, 2016.

13
14 
15 _____
Renee Infantino

16
17
18
19
20
21
22
23
24
25
26
27 Court: Alameda County Superior Court
Action No: RG 15760730
28 Case Name: Spears (McMath) v. Rosen, M.D., et al.

F

1 Bruce M. Brusavich, State Bar No. 93578
Terry S. Schneier, State Bar No. 118322
2 **AGNEWBRUSAVICH**
A Professional Corporation
3 20355 Hawthorne Boulevard
Second Floor
4 Torrance, California 90503
(310) 793-1400

5 Andrew N. Chang
6 ESNER, CHANG & BOYER
Southern California Office
7 234 East Colorado Boulevard
Suite 750
8 Pasadena, CA 91101
(626) 535-9860121

9
10 Attorneys for Plaintiffs

11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF ALAMEDA

14
15 LATASHA NAILAH SPEARS WINKFIELD;
MARVIN WINKFIELD; SANDRA CHATMAN;
16 and JAHl McMATH, a minor, by and
through her Guardian ad Litem, LATASHA
17 NAILAH SPEARS WINKFIELD,
18
Plaintiffs,

19 vs.

20 FREDERICK S. ROSEN, M.D.; UCSF BENIOFF
CHILDREN'S HOSPITAL OAKLAND
21 (formerly Children's Hospital & Research
Center at Oakland); MILTON McMATH, a
22 nominal defendant, and DOES 1
THROUGH 100,
23
Defendants.

CASE NO. RG 15760730

ASSIGNED FOR ALL PURPOSES TO:
JUDGE STEPHEN PULIDO - DEPT. "16"

**PLAINTIFF JAHl McMATH, a minor by
her GAL, LATASHA NAILAH SPEARS
WINKFIELD'S RESPONSE TO REQUESTS
FOR PRODUCTION AND INSPECTION
OF DOCUMENTS, SET TWO**

Date Action Filed: 03/03/15

24
25 PROPOUNDING PARTY: Defendant, FREDERICK S. ROSEN, M.D.

26 RESPONDING PARTY: Plaintiff, JAHl McMATH, a minor, by her GAL, LATASHA
27 NAILAH SPEARS WINKFIELD

28 SET NO.: TWO

AGNEW BRUSAVICH
LAWYERS
20355 HAWTHORNE BOULEVARD · TORRANCE, CALIFORNIA 90503-2401
TELEPHONE: (310) 793-1400 FACSIMILE: (310) 793-1499 E-MAIL: ab@agnewbrusavich.com

1 IT SHOULD BE NOTED that this responding plaintiff has not fully completed
2 investigation of the facts relating to this case, has not completed discovery in this
3 action, and has not completed preparation for trial. Therefore, the responses
4 contained herein are based only on such documents as are presently available to
5 and specifically known by the responding party. It is anticipated that further
6 discovery, independent investigation, and legal research and analysis may supply
7 additional documents which may lead to substantial addition to, changes in, and
8 variation from the responses herein set forth. The following responses to defendant's
9 Demand for Production of Documents is given without prejudice to responding
10 party's rights to produce evidence of any documents subsequently discovered,
11 and responding party reserves the right to change any and all responses herein as
12 additional documents are discovered.

13 Plaintiff JAHI McMATH, a minor by her GAL, LATASHA NAILAH SPEARS
14 WINKFIELD responds to the Requests for Production as follows:

15 10. Objection: This request seeks documents that are not in the possession of
16 Plaintiff. The request seeks documents that are protected by the attorney work
17 product and attorney client privileges, and further seek documents which are not
18 yet discoverable in this litigation pursuant to Code of Civil Procedure §2030.
19 Attached please find the Objection of Christopher Dolan to Request for Production
20 of Documents.

21 11. Objection: This request seeks documents that are not in the possession of
22 Plaintiff. The request seeks documents that are protected by the attorney work
23 product and attorney client privileges, and further seek documents which are not
24 yet discoverable in this litigation pursuant to Code of Civil Procedure §2030.
25 Attached please find the Objection of Christopher Dolan to Request for Production
26 of Documents.

27 12. Objection: This request seeks documents that are not in the possession of
28 Plaintiff. The request seeks documents that are protected by the attorney work

1 product and attorney client privileges, and further seek documents which are not
2 yet discoverable in this litigation pursuant to Code of Civil Procedure §2030.
3 Attached please find the Objection of Christopher Dolan to Request for Production
4 of Documents.

5 13. Objection: This request seeks documents that are not in the possession of
6 Plaintiff. The request seeks documents that are protected by the attorney work
7 product and attorney client privileges, and further seek documents which are not
8 yet discoverable in this litigation pursuant to Code of Civil Procedure §2030.
9 Attached please find the Objection of Christopher Dolan to Request for Production
10 of Documents.

11 14. Objection: This request seeks documents protected by the attorney work
12 product and attorney client privileges. The request seeks premature discovery of
13 expert witness information. The request seeks a compilation of records which
14 Plaintiff is not required to produce. These records are equally available to
15 Defendant through discovery. Discovery is continuing.

16 15. Objection: This request seeks documents protected by the attorney work
17 product and attorney client privileges. The request seeks premature discovery of
18 expert witness information. The request seeks a compilation of records which
19 Plaintiff is not required to produce. These records are equally available to
20 Defendant through discovery. Discovery is continuing.

21 16. Objection: This request seeks documents which are equally available
22 to Defendant through discovery. Discovery is continuing.

23
24 DATED: September 26, 2016

AGNEWBRUSAVICH
A Professional Corporation

25
26
27 By: 

BRUCE M. BRUSAVICH
Attorneys for Plaintiffs

Christopher B. Dolan (SBN 165358)
Aimee E. Kirby (SBN 216909)
THE DOLAN LAW FIRM
1438 Market Street
San Francisco, California 94102
Tel: (415) 421-2800
Fax: (415) 421-2830

Attorneys for PLAINTIFF
JAHl MCMATH, a minor
and NAILAH WINKFIELD in the
United States District Court,
Northern District of California,
Case Number 3:15-cv-06042 HSG

ALAMEDA COUNTY SUPERIOR COURT

SPEARS

Plaintiffs,

v.

Rosen, et al

Defendants.

Case No. RG15760730

**OBJECTION OF CHRISTOPHER
DOLAN TO REQUEST FOR
PRODUCTION OF DOCUMENTS**

Christopher Dolan Esq., lawyer for Jahi McMath in the above referenced Federal Court Action, hereby files this objection to the request, served upon Plaintiff's counsel in the State Court Action, for production of videotapes taken by Dolan's personnel and shown to Dr. Shewmon. Attorney Brusavich has been diligent in his pursuit of documents and records from Dolan and his firm. Dolan has complied to the best of his ability. Location and delivery of some of the requested documents was made difficult due to the departure of a former employee

**OBJECTION OF CHRISTOPHER DOLAN TO REQUEST FOR PRODUCTION OF
DOCUMENTS**

who had stored some of the documents/photographs and videos in a computer not accessible through the main file server/mainframe. Most of the documentation requested by Mr. Brusavich in his efforts to comply with the Defendant's requests made in the State Court Action has been provided despite the fact that no subpoena has been served on Dolan. Videos provided by Ms. Spears/Winkfield have been produced. Any videos taken by the Dolan Law Firm are not being produced based upon the following objections:

Dolan objects on the basis of the attorney work product doctrine. Any videos contains attorney work product and attorney client privileged material. Any video seen by Dr. Shewmon would have preceded Dr. Shewmon's visit with Jahi. Any video shown to Dr. Shewmon was shown by an employee of Dolan's not authorized to show Dr. Shewmon any video and, as such, it was an inadvertent production. The employee was not an attorney and did not understand the implications of showing portions of a videotape to Dr. Shewmon. It is unclear to Dolan what materials have been shown to Dr. Shewmon. As such Dolan cannot comply with Attorney Brusavich's request. Moreover, some of the material contained on the video contains discussion between Dolan and his client. Therefore Dolan also objects also on the basis of the attorney client privilege.

Dolan also objects on the basis that the request calls for the premature disclosure of expert witness information and neither Dolan nor Brusavich has, to Dolan's knowledge, disclosed expert witnesses. No time for trial has been set and, therefore, the demand for expert disclosure, if there was one (which there isn't), would be premature and, therefore, any

OBJECTION OF CHRISTOPHER DOLAN TO REQUEST FOR PRODUCTION OF DOCUMENTS

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is AGNEW BRUSAVICH, 20355 Hawthorne Blvd., 2nd Floor, Torrance, California. On September 27, 2016, I served the within document **PLAINTIFF JAHl McMATH, a minor by her GAL, LATASHA NAILAH SPEARS WINKFIELD'S RESPONSE TO REQUESTS FOR PRODUCTION AND INSPECTION OF DOCUMENTS, SET TWO**

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Torrance, California, addressed as set forth below:

by placing a true copy thereof enclosed in a sealed envelope(s), and caused such envelope(s) to be delivered by hand delivery addressed pursuant to the document(s) listed above to the person(s) at the address(es) set forth below.

by electronic service. Based on a court order or an agreement of the parties to accept service by electronic transmission. I caused the documents to be sent to the persons at the electronic notification addresses as set forth below:


<p>15 Andrew N. Chang 16 ESNER, CHANG & BOYER 17 Southern California Office 18 234 East Colorado Boulevard 19 Suite 750 20 Pasadena, CA 91101 21 achang@ecbappeal.com</p>	<p>ASSOCIATE ATTORNEY FOR PLAINTIFFS LATASHA NAILAH SPEARS WINKFIELD; MARVIN WINKFIELD; SANDREA CHATMANH; and JAHl McMATH, a minor, by and through her Guardian ad Litem, LATASHA NAILAH SPEARS WINKFIELD</p> <p>(626) 535-9860 FAX (626) 535-9859</p>
<p>20 Thomas E. Still 21 HINSHAW, MARSH, STILL & HINSHAW 22 12901 Saratoga Avenue 23 Saratoga, CA 95070-9998 24 tstill@hinshaw-law.com</p>	<p>ATTORNEYS FOR FREDERICK S. ROSEN, M.D.</p> <p>(408) 861-6500 FAX (408) 257-6645</p>
<p>24 G. Patrick Galloway 25 GALLOWAY, LUCCHESI, EVERSON & 26 PICCHI 27 2300 Contra Costa Boulevard 28 Suite 350 Pleasant Hill, CA 94523-2398 pgalloway@glattys.com</p>	<p>ATTORNEYS FOR DEFENDANT UCSF BENOIFF CHILDREN'S HOSPITAL</p> <p>(925) 930-9090 FAX (925) 930-9035</p>
<p>/// ///</p>	

1 2 3 4 5 6	Scott E. Murray Vanessa L. Efremsky DONNELLY NELSON DEPOLO & MURRAY A Professional Corporation 201 North Civic Drive, Suite 239 Walnut Creek, CA 94596-3879 Smurray@dndmlawyers.com vefremsky@dndmlawyers.com	ATTORNEYS FOR DEFENDANT JAMES PATRICK HOWARD, M.D., Ph.D. (925) 287-8181 FAX (925) 287-8188
7 8 9 10	Robert Hodges McNAMARA NEY BEATTY SLATTERY BORGES & AMBACKER, LLP 1211 Newell Avenue, #2 Walnut Creek, CA 94596-5238 robert.hodges@mcnamaralaw.com karen.merick@mcnamaralaw.com	ATTORNEY FOR ROBERT M. WESMAN, M.D. (925) 939-5330 FAX (925) 939-0203
11 12 13 14 15	Thomas J. Doyle Chad Couchet SCHUERING ZIMMERMAN & DOYLE, LLP 400 University Avenue Sacramento, CA 95825-6502 tjd@szs.com ccc@szs.com	ATTORNEY FOR DEFENDANT ALICIA HERRERA, M.D. (916) 567-0400 FAX (916) 568-0400
16 17 18 19 20	Kenneth R. Pedroza Dana L. Stenvick COLE PEDROZA LLP 2670 Mission Street Suite 200 San Marino, CA 91108 kpdroza@colepedroza.com dstenvick@colepedroza.com	ASSOCIATE COUNSEL FOR FREDERICK S. ROSEN, M.D. and UCSF BENIOFF CHILDREN'S HOSPITAL OAKLAND (626) 431-2787 FAX (626) 431-2788

21 I am readily familiar with the firm's practices of collection and processing
 22 correspondence for mailing. Under that practice, it would be deposited with the
 23 U.S. Postal Service on that same day with postage thereon fully prepaid in the
 24 ordinary course of business. I am aware that on motion of the party served,
 service is presumed invalid if post cancellation date or postage meter date is
 more than one day after date of deposit for mailing in affidavit.

- 25 (State) I declare under penalty of perjury under the laws of the State of
 California that the above is true and correct.
- 26 (Federal) I declare that I am employed in the office of a member of the
 27 bar of this court at which direction the service was made.

28 Executed this 27th day of September, 2016, at Torrance, California.


 DEBBIE NAWA

G

Christopher B. Dolan (SBN 165358)
Aimee E. Kirby (SBN 216909)
THE DOLAN LAW FIRM
1438 Market Street
San Francisco, California 94102
Tel: (415) 421-2800
Fax: (415) 421-2830

Attorneys for PLAINTIFF
JAHl MCMATH, a minor
and NAILAH WINKFIELD in the
United States District Court,
Northern District of California,
Case Number 3:15-cv-06042 HSG

ALAMEDA COUNTY SUPERIOR COURT

SPEARS

Plaintiffs,

v.

Rosen, et al

Defendants.

Case No. RG15760730

**OBJECTION OF CHRISTOPHER
DOLAN TO REQUEST FOR
PRODUCTION OF DOCUMENTS**

Christopher Dolan Esq., lawyer for Jahi McMath in the above referenced Federal Court Action, hereby files this objection to the request, served upon Plaintiff's counsel in the State Court Action, for production of videotapes taken by Dolan's personnel and shown to Dr. Shewmon. Attorney Brusavich has been diligent in his pursuit of documents and records from Dolan and his firm. Dolan has complied to the best of his ability. Location and delivery of some of the requested documents was made difficult due to the departure of a former employee

**OBJECTION OF CHRISTOPHER DOLAN TO REQUEST FOR PRODUCTION OF
DOCUMENTS**

who had stored some of the documents/photographs and videos in a computer not accessible through the main file server/mainframe. Most of the documentation requested by Mr. Brusavich in his efforts to comply with the Defendant's requests made in the State Court Action has been provided despite the fact that no subpoena has been served on Dolan. Videos provided by Ms. Spears/Winkfield have been produced. Any videos taken by the Dolan Law Firm are not being produced based upon the following objections:

Dolan objects on the basis of the attorney work product doctrine. Any videos contains attorney work product and attorney client privileged material. Any video seen by Dr. Shewmon would have preceded Dr. Shewmon's visit with Jahi. Any video shown to Dr. Shewmon was shown by an employee of Dolan's not authorized to show Dr. Shewmon any video and, as such, it was an inadvertent production. The employee was not an attorney and did not understand the implications of showing portions of a videotape to Dr. Shewmon. It is unclear to Dolan what materials have been shown to Dr. Shewmon. As such Dolan cannot comply with Attorney Brusavich's request. Moreover, some of the material contained on the video contains discussion between Dolan and his client. Therefore Dolan also objects also on the basis of the attorney client privilege.

Dolan also objects on the basis that the request calls for the premature disclosure of expert witness information and neither Dolan nor Brusavich has, to Dolan's knowledge, disclosed expert witnesses. No time for trial has been set and, therefore, the demand for expert disclosure, if there was one (which there isn't), would be premature and, therefore, any

OBJECTION OF CHRISTOPHER DOLAN TO REQUEST FOR PRODUCTION OF DOCUMENTS

information exchanged with any expert is attorney work product until and unless he is designated as such an expert, and he indicates that not only has reviewed, but relied upon, the material.

Signed this 22nd day of September, 2016,


CHRISTOPHER B. DOLAN

Attorney for Plaintiffs

OBJECTION OF CHRISTOPHER DOLAN TO REQUEST FOR PRODUCTION OF DOCUMENTS

4

WorkOrder#: 209357.020

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):

Thomas E. Still, Esquire, SBN: 127065

Hinshaw, Marsh, Skill & Hinshaw

12901 Saratoga Avenue

Saratoga, CA 95070-9998

TELEPHONE NO.: (408) 861-8500 FAX: (408) 257-8845

ATTORNEY FOR (NAME): Defendant Frederick Rosen, M.D.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

STREET ADDRESS: 1225 Fallon Street

MAILING ADDRESS: 1225 Fallon Street

CITY AND ZIP CODE: Oakland, CA 94612

BRANCH NAME: MAIN

PLAINTIFF/PETITIONER: McMath

DEFENDANT/RESPONDENT: Rosen, M.D.

DEPOSITION SUBPOENA
FOR PRODUCTION OF BUSINESS RECORDSCASE NUMBER:
RG 15760730THE PEOPLE OF THE STATE OF CALIFORNIA, TO: *The Custodian of Records for:*

The Dolan Law Firm

1438 Market Street, San Francisco, CA 94102

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

TO (name of deposition office): US Legal Support Inc.

ON (date)/ AT (time): 10/19/2016 9:00AM

LOCATION: 20970 Warner Center Ln. Suite C, Woodland Hills, CA 91367

Do not release the requested records to the deposition officer prior to the date and time stated above.

- a. by delivering a true, legible and durable copy of business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
- b. by delivering a true, legible and durable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code Section 1563(b).
- c. by making the original business records described in item 3 available for inspection at your business address by the attorney's representative and permitting copying at your business address under reasonable conditions during normal business hours.
2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code Section 1561.
3. The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):

SEE ATTACHMENT 3.

 Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1986.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date Issued: 09/27/2016

Thomas E. Still, Esquire

(TYPE OR PRINT NAME)

/s/ Thomas E. Still, Esquire

(SIGNATURE OR PERSON ISSUING SUBPOENA)

ATTORNEY-AT-LAW

(TITLE)

(Proof of service on reverse)

Page 1 of 2

ATTACHMENT 3

Re: Jahl McMath, DOB: 10/24/2000, SSN: XXX-XX-1015

- All video recordings of McMath that were allegedly provided to D. Alan Shewmon, MD, in October 2014.
- The digital recordings of the EEG allegedly performed on McMath on 9-1-14 and 9-26-14.
- The 8 hours of video recordings of Dr. Shewmon's alleged examination of McMath on 12/2/14 and 12/3/14. (Dr. Shewmon states at p. 7 of his declaration, that all 8 hours of his examination of McMath in Winkfield's apartment were recorded on video by Chris Dolan's professional videographer, Matthew Kimmons.)
- The report for the EEG allegedly performed on McMath on 9-26-14.
- All video recordings and photographs of the EEG allegedly performed on McMath on 9-1-13 at the New Jersey apartment.
- All video recordings of the testing (EEG, MRI, etc.) allegedly performed at University Hospital (aka Rutgers) in Newark, New Jersey, on 9-26-14.

WorkOrder#: 209357.020

PLANTIFF/PETITIONER: McMath	CASE NUMBER: RG 15760730
DEFENDANT/RESPONDENT: Rosen, M.D.	

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:

- a. Person served (name):
- b. Address where served: **The Dolan Law Firm, 1438 Market Street
San Francisco, CA 94102
Phone: (415) 421-2800**
- c. Date of delivery :
- d. Time of delivery:
- e. (1) Witness fees were paid.
Amount..... \$ _____
- (2) Copying fees were paid.
Amount..... \$ _____
- f. Fee for service..... \$ _____

2. I received this subpoena for service on : (date)

3. Person serving:

- a. Not a registered California process server.
- b. California sheriff, marshal, or constable.
- c. Registered California process server.
- d. Employee or independent contractor of a registered California process server.
- e. Exempt from registration under Bus. & Prof. Code section 22350(b).
- f. Registered professional photocopier.
- g. Exempt from registration under Bus. & Prof. Code section 22451.
- h. Name, address, and telephone number, and if applicable, county of registration and number:

**US Legal Support Inc.
20970 Warner Center Ln. Suite C
Woodland Hills, CA 91367
Phone: (818) 878-9227**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

Date:

(SIGNATURE)

(SIGNATURE)

US Legal Support Inc.

20970 Warner Center Lane, Suite C
Woodland Hills, CA 91367

Phone: (818) 878-9227 Fax: (818) 878-9851

WorkOrder#: 209357.020

CSR: Frank Thatcher

DECLARATION OF CUSTODIAN OF RECORDS

RECORDS ON: Jahl McMath D.O.B.: 10/24/2000 S.S.N.: XXX-XX-1015

LOCATION: The Dolan Law Firm

I being the duly authorized custodian of records and having the authority to certify the records, declare the following:

1. DESCRIPTION OF RECORDS PRODUCED: (Must select at least one)

Medical Billing Radiological Images Radiological Reports Insurance Employment Payroll
 Academic Dental Other

The records were prepared by the personnel of the business in the ordinary course of business at or near the time of the act, condition, or event.

2. THE RECORDS INDICATED BELOW WERE REQUESTED BUT DO NOT EXIST:

Medical Billing WCAB Recs Insurance Physical Therapy Sign-in Sheets Employment
 Pathology reports/materials Prescription/Pharmacy Photographs Videotapes Paramedic/Ambulance
 Psychiatric Payroll Academic Radiological Images Radiological Reports

Billing records can be obtained from: _____

Other/Explanation _____

3. IN WHAT MANNER WERE THE PRODUCED RECORDS PREPARED: (Must select at least one)

Data/Computer Generated Typed/Hand Written Notes Summary Radiological
 Audio/Video Pathological Other

4. CERTIFICATION OF RECORDS COPIED OR OBTAINED: (Must select at least one)

The produced records is a true copy of all the records described in the Deposition Subpoena, Subpoena Duces Tecum or Authorization.

Pursuant to Evidence Code Section 1560(e), the original records described in the Deposition Subpoena/Subpoena Duces Tecum was delivered to the Attorney or the Attorney's representative for copying at the witness' place of business.

The following records were omitted or could not be produced at this time for the following reason: _____

5. CERTIFICATION OF NO RECORDS: (Must select at least one)

A thorough search of our files, carried out under my direction revealed no documents, records or other material called for in the Subpoena or Authorization searched by Name, SSN, DOB, etc.

Existing records not within the time limitation set forth in the request.

All records have been destroyed in accordance with our document retention policy which is _____ years.

The following information does not match what we have [] DOB [] SSN [] NAME [] Other _____

Additional information is needed such as: _____

Other explanation: _____

Under penalty of perjury and under the laws of California, I the CUSTODIAN of RECORDS, declare that the foregoing is true and correct.

Custodian
→ Signature

Date: _____ City _____, California

Print name _____ Signed: _____

(OFFICE USE ONLY) CERTIFICATION OF PROFESSIONAL PHOTOCOPIER

I, the undersigned, declare under penalty of perjury that the foregoing is true and correct:

I made true copies of all the original records that were given to me by the Custodian of Records at the above named location.

The records provided are a true and complete copy of those received from the Custodian of Records via:

Email Fax Online Repository Other: _____

Executed on _____ At _____, California

Print Name _____ Signed _____

WARNING: Original Document Has Watermark

CHECK NO. 4116166307

20970 Warner Center Lane, Suite C
Woodland Hills, CA 91367
(818) 878-9227

Cadence Bank, N.A.
81-8287822
Order No. : 209357.020

DATE 9/26/2016

Records Pertaining To:
Jahi McMath

DOLLARS

Fifteen and No/100 *****

AMOUNT * 15.00

VOID AFTER 180 DAYS

US LEGAL SUPPORT

PAY

TO THE ORDER OF:

The Dolan Law Firm
1438 Market Street
San Francisco, CA 94102

⑈4⑈6⑈6⑈30⑈9⑈ ⑆062206295⑆ 5500057368⑈

I

THE DOLAN BUILDING
1438 MARKET STREET
SAN FRANCISCO, CA 94102

CBD

THE DOLAN LAW FIRM, PC

CHRISTOPHER DOLAN
(415) 421-2800 TEL
(415) 421-2830 FAX

October 19, 2016

To:
Thomas E. Still, Esq.
12901 Saratoga Ave
Saratoga CA 95070

Via US Mail and Fax – 408-257-6645

Re: Jahi McMath – Subpoena for records.

Dear Mr. Still:

This letter responds to your request for the following items:

ATTACHMENT 3

Re: Jahi McMath, DOB: 10/24/2000, SSN: XXX-XX-1015

- All video recordings of McMath that were allegedly provided to D. Alan Shewmon, MD, in October 2014.
- The digital recordings of the EEG allegedly performed on McMath on 9-1-14 and 9-26-14.
- The 8 hours of video recordings of Dr. Shewmon's alleged examination of McMath on 12/2/14 and 12/3/14. (Dr. Shewmon states at p. 7 of his declaration, that all 8 hours of his examination of McMath in Winkfield's apartment were recorded on video by Chris Dolan's professional videographer, Matthew Kimmons.)
- The report for the EEG allegedly performed on McMath on 9-26-14.
- All video recordings and photographs of the EEG allegedly performed on McMath on 9-1-13 at the New Jersey apartment.
- All video recordings of the testing (EEG, MRI, etc.) allegedly performed at University Hospital (aka Rutgers) in Newark, New Jersey, on 9-26-14.

Each and every item thereby requested, to the extent that such items in fact exist, is the work product of this office and/or is covered by the attorney-client privilege or the physician-patient privilege. Each and every such item was prepared by or for this office for the purpose of litigation which is unrelated to the state medical malpractice case, for which the material apparently is sought. Therefore, this office is unable to provide any of the requested material at this time.

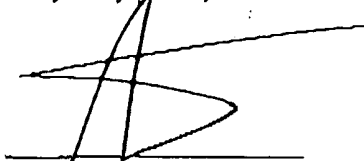
DOLAN LAW FIRM, PC

Experts have not been disclosed in the Federal case, and I do not believe that experts have been disclosed in the State case. The attorney-client privilege that Evidence Code § 952 affords to client communications with attorneys extends to an attorney's agents, including experts/consultants. (*People v. Gurule* (2002) 28 Cal.App.4th 557, 594.) A consultant's report to an attorney regarding a client's condition is also privileged as a communication on behalf of the client. (*City & County of San Francisco v. Sup. Ct.* (1951) 37 Cal.2d 227, 238.) The California Code of Civil Procedure further recognizes a work product protection that preserves the rights of an attorney to prepare cases for trial "with that degree of privacy necessary to encourage them to prepare their cases thoroughly and to investigate not only the favorable but the unfavorable aspects" of their cases. (Code of Civil Procedure § 2018.020.) Writings that reflect "an attorney's impressions, conclusions, opinions, or legal research or theories is not discoverable under any circumstances." (Code of Civil Procedure § 2018.030.) Mr. Dolan can be heard on the video. His impressions, conclusions, opinions, legal research, and/or theories would be on display to anyone who reviews the video.

Please appreciate that we represent Jahi McMath and Nailah Winfield in very important federal litigation, which is only in its initial phases. We are still in the pleading stage, and discovery has not yet started. Federal Courts consider communications in the video to be attorney-client privileged communications (See FRCP 26(b)(1) and *Rehling v. City of Chicago*, 207 F.3d 1000 (7th Cir. 2000).), The videos themselves are also protected by the attorney work product doctrine. (FRCP 26(b)(3).) Voluntary disclosure of the video in the state proceeding would be a waiver of the attorney-client privilege and work product doctrines under state law and would likewise be considered a waiver under federal law. (See FRE 502(c).)

As such, and for the preceding reasons, we will not be providing any of the requested material at this time.

Very truly yours,



Christopher B. Dolan
DOLAN LAW FIRM, PC

209357.020 PLAINTIFF/PETITIONER: McMath	CASE NUMBER:
DEFENDANT/RESPONDENT: Rosen, M.D.	RG 15760730

PROOF OF SERVICE OF NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION

(Code Civ. Proc., §§ 1985.3, 1985.6)

Personal Service Mail

- At this time of service I was at least 18 years of age and not a party to this legal action.
- I served a copy of the *Notice to Consumer or Employee and Objection* as follows (check either a or b):
 - Personal service. I personally delivered the *Notice to Consumer or Employee and Objection* as follows:
 - Name of person served; SEE ATTACHED SERVICE LIST
 - Address:
 - Date served: 09/28/2016
 - Time served:

b. Mail. I deposited the *Notice to Consumer or Employee and Objection* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

- Name of person served;
- Address:
- Date of mailing:
- Place of mailing:

(5) I am a resident of or employed in the county where the *Notice of Consumer or Employee and Objection* was mailed.

c. My residence or business address is (specify): 20970 Warner Center Ln. Suite C, Woodland Hills, CA 91367

d. My phone number is (specify): (818) 878-9227

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 09/28/2016

Angie Salvatierra

(TYPE OR PRINT NAME OF PERSON WHO SERVED)

ISI

(SIGNATURE OF PERSON WHO SERVED)

PROOF OF SERVICE OF OBJECTION TO PRODUCTION OF RECORDS

(CODE OF CIV. PROC., §§ 1985.3, 1985.6)

Personal Service Mail

- At this time of service I was at least 18 year of age and not a party to this legal action.
- I served a copy of the *Objections to Production of Records* as follow (complete either a or b):
 - ON THE REQUESTING PARTY

(1) Personal service. I personally delivered the *Objection to Production of Records* as follows:

- Name of person served;
- Address;
- Date served;
- Time served;

(2) Mail. I deposited the *Objection to Production of Records* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

- Name of person served: Thomas Hill
- Address: 12901 Serrano Ave
- Date served: 10/19/16
- Time served:

(v) I am resident of or employed in the county where the *Objection to Production of Records* was mailed.

b. ON THE WITNESS:

(1) Personal service. I personally delivered the *Objection to Production of Records* as follows:

- Name of person served;
- Address;
- Date served;
- Time served;

(2) Mail. I deposited the *Objection to Production of Records* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

- Name of person served;
- Address;
- Date served;
- Time served;

3. My residence or business address is: (specify)

4. My phone number is: (specify)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 10/11/16

Christina Ayala

(TYPE OR PRINT NAME OF PERSON WHO SERVED)

(SIGNATURE OF PERSON WHO SERVED)

PROOF OF SERVICE
(C.C.P. §§ 1013a, 2015.5)

I, the undersigned, say:

I am now and at all times herein mentioned have been over the age of 18 years, a resident of the State of California and employed in Santa Clara County, California, and not a party to the within action or cause; my business address is 12901 Saratoga Avenue, Saratoga, California 95070.

I am readily familiar with this firm's business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, mailing via Federal Express, hand delivery via messenger service, and transmission by facsimile machine. I served a copy of each of the documents listed below by placing said copies for processing as indicated herein.

**SUPPLEMENTAL DECLARATION OF JENNIFER STILL, ESQ., ADDRESSING
PLAINTIFFS' REFUSAL TO PROVIDE AUTHENTICATION OF THE VIDEO
RECORDINGS**

_____ If MAILED VIA U.S. MAIL, said copies were placed in envelopes which were then sealed and, with postage fully prepaid thereon, on this date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the U.S. Postal Service at Saratoga, California on this date in the ordinary course of business; and there is delivery service by U.S. Postal Service at the place so addressed.

XX _____ If MAILED VIA FEDERAL EXPRESS, said copies were placed in Federal Express envelopes which were then sealed and, with Federal Express charges to be paid by this firm, on this same date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the Federal Express Corp. on this date following ordinary business practices; and there is delivery service by Federal Express at the place so addressed.

_____ If HAND DELIVERED, said copies were provided to _____, a delivery service, whose employee, following ordinary business practices, did hand deliver the copies provided to the person or firm indicated herein.

_____ If VIA FACSIMILE TRANSMISSION, said copies were placed for transmission by this firm's facsimile machine, transmitting from (408) 257-6645 at Saratoga, California, and were transmitted following ordinary business practices; and there is a facsimile machine receiving via the number designated herein, and the transmission was reported as complete and without error. The record of the transmission was properly issued by the transmitting fax machine.

RECIPIENTS:

Bruce M. Brusavich, Esq.
Puneet K. Toor, Esq.
AGNEW & BRUSAVICH
20355 Hawthorne Blvd., 2nd Floor
Torrance, CA 90503

1 Andrew N. Chang, Esq.
2 ESNER, CHANG & BOYER
3 234 East Colorado Blvd., Suite 975
4 Pasadena, CA 91101

5 I certify (or declare) under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct and that this Declaration was executed on July 10, 2017.

7 Jessica Picone

8 Jessica Picone
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

27 Court: Alameda County Superior Court

Action No: RG15760730

28 Case Name: *Spears/Winkfield, et al. v. Rosen, M.D., et al.*

PROOF OF SERVICE
(C.C.P. §§ 1013a, 2015.5)

I, the undersigned, say:

I am now and at all times herein mentioned have been over the age of 18 years, a resident of the State of California and employed in Santa Clara County, California, and not a party to the within action or cause; my business address is 12901 Saratoga Avenue, Saratoga, California 95070. My electronic service address is: jpicone@hinshaw-law.com.

I am readily familiar with this firm's business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, mailing via Federal Express, hand delivery via messenger service, electronic service and transmission by facsimile machine. I served a copy of each of the documents listed below by placing said copies for processing as indicated herein.

**SUPPLEMENTAL DECLARATION OF JENNIFER STILL, ESQ., ADDRESSING
PLAINTIFFS' REFUSAL TO PROVIDE AUTHENTICATION OF THE VIDEO
RECORDINGS**

_____ If MAILED VIA U.S. MAIL, said copies were placed in envelopes which were then sealed and, with postage fully prepaid thereon, on this date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the U.S. Postal Service at Saratoga, California on this date in the ordinary course of business; and there is delivery service by U.S. Postal Service at the place so addressed.

_____ If MAILED VIA FEDERAL EXPRESS, said copies were placed in Federal Express envelopes which were then sealed and, with Federal Express charges to be paid by this firm, on this same date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the Federal Express Corp. on this date following ordinary business practices; and there is delivery service by Federal Express at the place so addressed.

_____ If HAND DELIVERED, said copies were provided to _____, a delivery service, whose employee, following ordinary business practices, did hand deliver the copies provided to the person or firm indicated herein.

_____ If VIA FACSIMILE TRANSMISSION, said copies were placed for transmission by this firm's facsimile machine, transmitting from (408) 257-6645 at Saratoga, California, and were transmitted following ordinary business practices; and there is a facsimile machine receiving via the number designated herein, and the transmission was reported as complete and without error. The record of the transmission was properly issued by the transmitting fax machine.

XX If ELECTRONIC SERVICE, I electronically served the documents listed above as follows:

RECIPIENTS:

Robert Hodges
McNAMARA NEY BEATTY SLATTERY BORGES & AMBACKER, LLP
1211 Newell Avenue, #2
Walnut Creek, CA 94596-5238
Email: Robert.Hodges@McNamaraLaw.com

1 Kenneth Pedroza, Esq
2 Cole Pedroza
3 2670 Mission Street, Suite 200
4 San Marino, CA 91108
5 Email: kpdroza@colepedroza.com

6 G. Patrick Galloway, Esq.
7 Galloway, Lucchese, Everson & Picchi
8 2300 Contra Costa Blvd., Suite 30
9 Pleasant Hill, CA 94523-2398
10 Email: PGalloway@glattys.com

11 Thomas J. Doyle
12 SCHUERING ZIMMERMAN & DOYLE, LLP
13 400 University Avenue
14 Sacramento, CA 95825-6502
15 Email: tjd@szs.com

16 Scott E. Murray
17 DONNELLY NELSON DEPOLO & MURRAY
18 201 North Civic Drive, Suite 239
19 Walnut Creek, CA 94596
20 Email: smurray@dndmlawyers.com

21 I certify (or declare) under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct and that this Declaration was executed on July 6, 2017.

23 Jessica Picone
24 Jessica Picone

25
26
27 Court: Alameda County Superior Court
28 Action No: RG15760730
Case Name: *Spears/Winkfield, et al. v. Rosen, M.D., et al.*