1st Civil No.; Alameda Superior Court Case No. RP 13-707598

**COURT OF APPEAL OF THE STATE OF CALIFORNIA**
**SECOND APPELLATE DISTRICT**

JAHI McMATH,
Petitioner, by and through her Guardian Ad Litem, LATASHA WINKFIELD

SUPERIOR COURT OF CALIFORNIA FOR
THE COUNTY OF ALAMEDA,
Respondent.

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CHILDREN'S HOSPITAL & RESEARCH CENTER AT OAKLAND,
Real Party in Interest.

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Alameda Superior Court, Case No. RP13-707598
Honorable Evelio Grillo, Presiding

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# PETITION FOR WRIT OF MANDATE/PROHIBITION OR OTHER APPROPRIATE RELIEF AND EMERGENCY MOTION FOR EMERGENCY STAY; MEMORANDUM OF POINTS AND AUTHORITIES [ACCOMPANIED BY TABLE OF CONTENTS FOR SUPPORTING DOCUMENTS VOL. 1]


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their staff.

On December 9, 2013, MCMATH had a tonsillectomy performed at CHO. Following the tonsillectomy MCMATH began to bleed excessively out of her mouth and nose. Within minutes of excessively bleeding, while her family members pled with the hospital staff for help, MCMATH went into cardiac arrest and later went into a coma. MCMATH was put on a ventilator on December 9, 2013.

On December 11, 2013, Dr. Shanahan, a physician from CHO, declared that MCMATH was brain dead. Dr. Heidersbach, another CHO physician verified Dr. Shanahan's findings. The family was asked shortly after these findings to allow CHO to remove MCMATH from life support based on *Health and Safety Code*, Section 7180. At this point, Plaintiff LATASHA WINKFIELD, the mother of MCMATH, demanded her child's medical records, a second independent opinion, and for her daughter to be maintained on life support. CHO did not honor WINKFIELD's requests.

On December 20, 2013, Plaintiff WINKFIELD, filed a verified petition and *ex parte* application in the Superior Court of Alameda. WINKFIELD requested an Order to (1) authorize the Petitioner (LATASHA WINKFIELD) to make medical care decisions for MCMATH and for an injunction preventing Respondent from withholding life support

from MCMATH. The lower Court set the application for hearing the same day, at 1:30 p.m., in Department 31. The Court asked that CHO submit opposition papers after the filing was made in the morning.

At the hearing, which for the most part took place in chambers without a court reporter, CHO argued that pursuant to *Health and Safety Code*, Section 7180, MCMATH was brain dead. In support of their position CHO submitted the Declarations of Robert Heidersbach, MD, Sharon Williams, MD, and Robin Shanahan, MD. Of these three physicians, Dr. Hidersbach and Dr. Shanahan were doctors who examined Jahi and testified by way of declaration that Jahi suffered irreversible cessation of all functions of her entire brain, including her brain stem. CHO argued that the two doctors meet the requirement of *Health and Safety Code* Section 7181.[1]

During oral arguments on December 20, 2013, over an objection by Real Party in Interest's counsel, the court found that Drs. Heidersbach and Shanahan did not satisfy the requirements of *Health and Safety Code* Section 7180 and 7181. Both of these doctors indicated in their Declarations, respectively, that they were "a member in good standing of the medical staff at Children's Hospital and Research Center at Oakland." Further, the Court found both of the physicians had hospital privileges at

1. *Health and Safety Code* Section 7181 states that a diagnosis of brain death requires confirmation of the findings by a second, independent physician.

CHO.

At the December 20, 2013 hearing, the Court ordered the parties to meet and confer regarding an independent physician to examine MCMATH and her medical records pursuant to *Health and Safety Code* Section 7181. After a brief discussion the parties agreed to a list of five physicians affiliated with the University of California San Francisco Medical School.

The lower court then ordered, on December 20, 2013 that CHO be temporarily restrained from changing MCMATH's level of medical support and continued the hearing until December 23, 2013. On December 23, 2013, the parties informed the Court that all five physicians had declined to offer a second opinion pursuant to *Health and Safety Code* Section 7181. As an alternate, the parties agreed to Paul Fisher, MD, the Chief of Child Neurology for the Stanford University Medical Center. Counsel for MCMATH's family at this hearing also requested that Dr. Byrne, be allowed to examine and provide an opinion on her status. The Court declined this request.

On December 23, 2013, an Order was made appointing Dr. Fisher the independent section 7181 physician. On December 23, 2013, Dr. Fisher examined MCMATH pursuant to the Order. On December 24, 2013, during a closed session, testimony was received from Dr. Fisher and Dr. Shanahan.

The Court also received into evidence the following documents: Exhibit 1 (Dr. Fisher's examination notes); Exhibit 2 (Guidelines for Determination of Brain Death in Infants and Children: An Update of the 1987 Task Force Recommendations); Exhibit 3 (Pediatrics, Official Journal of American Academy of Pediatrics, August 28, 2011, Guidelines for Determination of Brain Death in Infants and Children: An Update of the 1987 Task Force Recommendation); Exhibit 4 (Table 3 of Exhibit 3); Exhibit 5 (Checklist, Brain Death Examination for Infants and Children); Exhibit 6 (Shanahan Declaration filed 12/20/13), Exhibit 7 (Consultation and Examination notes of Robin Shanahan MD dated 12/11/13). The Court later augmented the record and included the vita curriculas of Dr. Fisher and Dr. Byrne as Exhibit 8 and 9 respectively.

Counsel for the Petitioners was given the opportunity to cross examine Dr. Shanahan, but because he had just received the completed records on December 23, 2013, and had not had time to review them completely nor have an expert review them, he requested additional time to complete an effective cross examination. The lower court denied this request, and then took the mater under submission during a brief recess. The court later ruled to dissolve the TRO effective December 30, 2013, allowing the parties time to appeal.

If this relief is not granted, the minor Petitioner will suffer irreparable harm at **<u>5:00 p.m. today</u>**. A post-judgment appeal will never restore to her the harm she will suffer from the forced removal of her life support and the violations of her constitutional rights.

**PETITION FOR WRIT**

1. Petitioner JAHI MCMATH, PLAINTIFF, by and through her guardian ad litem, LATASHA WINKFIELD, are the plaintiffs in a suit now pending in the Respondent Superior Court of Alameda County, entitled *LATASHA WINKFIELD, the mother of Jahi McMath, a Minor vs. Children's Hospital of Oakland, et al.*, bearing Alameda Superior Court Case No. RP13-707598. That action was commenced by Petition filed by Petitioner on December 20, 2013, a true and correct copy of which appears as Exhibit 1 to the Supporting Documents (hereinafter "SD").

2. On December 20, 2013, Petitioner filed an Ex Parte Application with the Court pursuant to Probate Code section 3200 et seq. and 4600 et seq., seeking an order (1) authorizing the petitioner (MCMATH's mother) to make medical care decisions for MCMATH, and for an injunction to prohibit Respondent CHO from withholding life support. A true and correct copy of the Ex Parte appears as Exhibit 2 to the SD.

3. The Court after ordering an independent examination of MCMATH by a mutually agreed upon physician, denied Petitioner's request to continue life support on December 23, 2013 finding clear and convincing evidence established that MCMATH was brain dead pursuant to *Health and Safety Code* Section 7180, et. seq. The court gave the parties until 5pm on December 30, 2013 to appeal the findings. A true and correct copy of the Ex Parte Order appears as Exhibit 3.

4. The action of the Respondent Superior Court in denying MCMATH continued life support violates her Freedom of Religion and Privacy Rights. Here MCMATH's Guardian Ad Litem requested a tracheotomy tube and a gastric tube be installed to allow her to transport her daughter to a facility who would take her. The Court refused to grant this request, or to extend the obligation to the hospital that caused this horrible occurrence to find another environment where Jahi could be transported to.

5. The actions of the Respondent Superior Court violated Jahi's Due Process rights by allowing hearing when CHO failed to provide Jahi's records to Jahi's counsel until the day of hearing, which severely limited counsel for the Petitioner to the extent he could cross examine Dr. Shanahan, to determine if the testing she did was within the scientifically expected perimeters. The records that were produced were limited and were

not the entire set of MCMATH's records. Further, Dr. Shanahan could not testify, based on the records she had, as to what medications MCMATH was on that could have disqualified the examination she performed.

6. Petitioner has no plain, speedy or adequate remedy at law other than the relief sought in this petition. Petitioner may seek review of it only by extraordinary writ or by appeal from a final judgment disposing of the entire action after the action has been fully tried. Obviously, MCMATH does not have time for a trial on the merits of this issue, as her life support will be discontinued at 5:00 p.m. today. There is a facility ready to take Jahi, provide for her care and transport in New York as indicated in Petitioner's Evidence in Support of this Writ. Also, new facts were found by another examining doctor that indicates that Jahi is not suffering irreversible brain damage.

## CONCLUSION

WHEREFORE, Petitioner prays as follows:

1. That this Court issue a Peremptory Writ of Mandate and/or Prohibition directing the Respondent Superior Court to set aside and vacate its order dated December 26, 2013
2. That this Court issue an alternative Writ of Mandate and/or Prohibition commanding the Respondent Superior Court to show

cause at a time and place to be specified by this Court why a Peremptory Writ should not issue compelling the Respondent Superior Court to set aside and vacate its order granting, and directing the Respondent Superior Court to grant said motion instead;

3. That this Court award Petitioner costs of this proceeding; and,

4. That this Court grant Petitioner such other and further relief as the Court may deem just and proper including staying the lower court's proceedings.

DATED: December 30, 2013

**THE DOLAN LAW FIRM**

By______________________
Christopher Dolan, Esq.
Aimee Kirby, Esq.
Attorneys for Petitioner

## VERIFICATION OF COUNSEL

I, CHRISTOPHER DOLAN, declare:

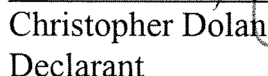
1. That I am an attorney at law licensed to practice before all courts of the State of California. I am the principal in the Dolan Law Firm, the counsel of record for Petitioner JAHI MCMATH, PLAINTIFF, by and through her guardian ad litem LATASHA WINKFIELD in the present action Alameda Superior Court Case No. RP 13-707598.

2. I make this Verification as attorney for Petitioner because I am more familiar with the proceedings in this action and the facts alleged in the present Petition than are Petitioners/Plaintiffs. The facts set forth herein are within my personal knowledge, excepting those stated to be on information and belief.

3. I have read the foregoing Petition for Writ of Mandate And/Or Prohibition and know the contents thereof. The allegations thereof are true and correct to my knowledge.

4. Attached are true and correct copies of exhibits, including declarations, in support of this brief.

I declare under penalty of perjury that the foregoing is true and correct and that this Verification was executed on this 30th day of December, 2013, at San Francisco, California.



Christopher Dolan
Declarant

## LEGAL ARGUMENT

### I. INTRODUCTION

Ms. Jahi McMath, 13, is a patient at respondent Children's Hospital, California. On December 9, 2013, she underwent an elective tonsillectomy and adenoidectomy. Dr. Frederick Rosen was the operating surgeon and Dr. Thi Nguyen is MCMATH's pediatrician. Originally the surgery was uneventful and MCMATH awoke from sedation in the recovery room speaking with her mother, Petitioner LATASHA WINKFIELD asking for a popsicle. Not long thereafter, MCMATH was taken to the ICU and her mother was told to wait several minutes while they fixed her IV.

After being told several times that it would just be another 10 minutes, approximately 25-45 minutes after MCMATH was brought into the ICU, WINKFIELD went back and found her daughter sitting up in bed bleeding from her mouth. It was evident that this had been transpiring for some time. The nursing staff said "it was normal" and the mother stayed bedside as the bleeding grew increasingly worse. The nurses gave WINKFIELD a cup/catch basin for MCMATH to bleed from her mouth into. WINKFIELD asked for assistance and was told that this was normal and was given paper towels to clean the blood off herself and MCMATH.

The bleeding intensified to where copious amounts of blood were being expelled from MCMATH's mouth and then nose. MCMATH's stepfather was also present and assisted in the attempts to stem/collect the blood.

Again, WINKFIELD asked for assistance, and a doctor, and was only given a bigger container to collect the blood and, later, a suction device to suction the increasing volume of blood. The stepfather continued to suction while the mother went and got her mother, a nurse, to take over for her. The grandmother saw what was happening and made multiple requests, and then a loud demand, for a doctor.

MCMATH shortly thereafter suffered a heart attack and fell into a comatose state. She later was pronounced "brain dead" yet her heart still beats, her kidneys function, she reacts to touch, and she appears to be quietly sleeping. No one from CHO has explained to Petitioner why this massive bleeding happened or was allowed to continue to the point where it caused a heart attack and brain damage. MCMATH is currently aided by a ventilator which provides her physical body life-support. If the ventilator is removed, MCMATH dies as her heart will stop beating without a supply of oxygen.

MCMATH's care is now managed by a team of doctors at Children's Hospital Oakland under the supervision of the Chief of

Pediatric Medicine, Vice President of Children's Hospital, Respondent David Durand M.D. Dr. Durand has expressed that he speaks for Children's Hospital Oakland as it relates to the plan of care for MCMATH. He is the most senior physician who met with the mother, father, stepfather, uncle and grandmother on December 19, 2013, indicating that Children's Hospital Oakland intended to remove Jahi from life support "quickly" "meaning not days weeks or months." In that meeting Petitioner's request to not take action until after Christmas was summarily rejected as was a request that she could be given 2 court days prior notice before disconnecting life support so she could seek a restraining order/injunction.

The Petitioner requested, on December 17, 2013, that Respondents provide her minor child MCMATH with a feeding tube, to provide essential hydration and nutrition as well as all other life sustaining care including antibiotics and other medicines to continue to support the functions of her organs and to prolong her life. She also requested that Respondents continue to provide respiratory support in the form of a ventilator which is currently attached to MCMATH through a breathing tube. On December 19, 2013, Children's Hospital Oakland, through Dr. Durand, told Petitioner that he will not authorize a feeding tube and that he

wishes to remove MCMATH from life support emphatically telling Petitioner, that there is no life support being provided because MCMATH is "dead, dead, dead, dead."[2]

## II. STATEMENT OF FACTS

### A. Petitioner JAHI MCMATH, then 13 Years-Old, Suffers a Massive, Life-Altering Brain Injury Because of the Defendant's Negligence.

On December 9, 2013, after a routine procedure to remove MCMATH's tonsils, she began bleeding immensely, went into cardiac arrest and slipped into a coma. (See Exhibit 1.) At issue here was whether the hospital had an obligation to honor MCMATH's mother's wishes to (1) find a hospital where MCMATH could be transported to, and (2) install the feeding tube and tracheotomy tube as fundamental to MCMATH's right to privacy and free exercise of religion. In addition, Petitioner asks this Court to examine whether due process was afforded to MCMATH when the doctor that made the first determination of her being brain dead did not bring in the file and could not testify to key issues that effected the reliability of her opinion.

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2. The Petitioner emphasizes that Children's Hospital Oakland, thought these treatments, that they now wish to deny, were appropriate when they first administered them less than two weeks ago. Rather than being a professional medical judgment, the decisions of Children's Hospital Oakland and Dr. Durand to discontinue treatment are arbitrary in these circumstances.

## III. ARGUMENT

### A. The Uniform Death Act as Codified under Health and Safety Code Section 7180 violates the Petitioner's Freedom of Religion and Privacy as guaranteed by the California Constitution.

In the case of *Conservatorship of Drabick* (1988) 200 Cal.App.3d 185, the court, addressed the issue of whether Drabick, who suffered a brain injury in a car accident, and had been in a nursing home, unconscious and in a persistent vegetative state for five years, would be allowed to die based on his conservator's decision to withhold medical treatment. Drabick's conservator sought a petition to withhold life support. The trial court denied the petition. The Appellate Court reversed detailing a citizen's rights to dictate his or her medical treatment. Although *Drabick* dealt with a situation wherein a conservator sought to withdraw medical treatment which would hasten death, its rational and analysis are analogous to the case at bar in which the Petitioner seeks to maintain life- supporting equipment. Both cases deal with the right of a patient or their conservator/guardian to control their healthcare decisions: a right that survives the patient's consciousness or mental function.

In *Drabick* the court analyzed the right of individuals to make end-of-life decisions. The court stated the fact that ". . . each person has a right

to determine the scope of his own medical treatment—is well established in this State." (*Id.* at 206.) Indeed, the court stated "there is substantial authority in California for the general proposition that incompetent persons retain certain fundamental rights." (*Id.* at 207.) Citing a host of California Appellate decisions, including the California Supreme Court, the court stated "The right is grounded both in the constitution and common law. (*Id.* at fn 206.)

"The California Legislature has also recognized the right to control one's own medical treatment and declared it to be fundamental." (*Id.*) The court recognized that such a fundamental right survives incompetence stating "[n]everthess, there is substantial authority in California for the general proposition that incompetent persons retain certain fundamental rights. (*Id.* at 207.) The court, citing the case of *In conservatorship of Valarie N.* (1985) 40 Cal.3d 143, stated "incompetence does not cause the loss of a fundamental right from which the incompetent person can still benefit." (*Drabick* at 208.) The court recognized that "medical care decisions must by guided by the individual patient's interests and values. Allowing persons to determine their own medical treatment is an important way in which society respects persons as individuals. Moreover, the respect due to persons as individuals does not diminish simply because they

have become incapable of participating in treatment decisions . . . Lacking the ability to decide, [s]he has a right to a decision that takes [her] interests into account." (*Id.* at 208.)

When considering statutory impacts on medical decision making, the *Drabick* court reasoned that the "Legislature did not attempt to eliminate other mechanisms for exercising the fundamental right to determine one's own medical treatment. Indeed, choice in medical care decisions is not a privilege granted by the state and subject to a waiver through technical omissions. **To the contrary, the right in question is "exclusively" the conservatee's and one over which "neither the medical profession nor the judiciary have any veto power**." (*Id* at 216 [*Citation omitted, emphasis added.*].)

*Drabick* provides guidance in the instant case. Just as prohibiting *Drabick's* conservator from withdrawing life support would interfere with his fundamental right to make decisions regarding his healthcare while incompetent, allowing CHO to withdraw life support from Jahi would interfere with her fundamental right to make decisions regarding her health care - through her guardian, her mother.

In another case, *Bartling v. Superior Court* (1984) 163 Cal.3d 186, the court dealt with the flip side of the instant argument. Bartling suffered

from a serious illness and was on a ventilator. Wishing to discontinue his ventilator he had pulled out his vent tubes several times. As a result the doctors put him in soft restraints so he could not do so again. As a result, Bartling sought a petition to force his doctors to take him off a respirator to hasten his death. His physicians, unlike these here, opposed his wishes and, unfortunately Bartling died the day before his petition could be heard. The court, recognizing the importance of the issues raised, addressed the merits notwithstanding Bartling's death. The Court stated that the individual, well recognized, legal right to control one's medical treatment predates legislative action to regulate end of life care. (*Id.* at 194.)

The *Bartling* court held that:

> the right of a competent adult patient to refuse medical treatment has its origins in the constitutional right of privacy. This right is specifically guaranteed by the California Constitution (art. I, § 1) and has been found to exist in the "penumbra" of rights guaranteed by the Fifth and Ninth Amendments to the United States Constitution. (*Griswold v. Connecticut*, 381 U.S. 479, 484.) "In short, the law recognizes the individual interest in preserving 'the inviolability of the person.' " ( *Superintendent of Belchertown School v. Saikewicz, supra,* 370 N.E.2d 417, 424.) The constitutional right of privacy guarantees to the individual the freedom to choose to reject, or refuse to consent to, intrusions of his bodily integrity.( *Id.,* 370 N.E.2d at p. 427.)

(*Id* at 195.)

If it is true that a patient can choose a course of medical decision making designed to end their life doesn't it lie as a matter of equal or greater importance that a person, acting through their guardian has the right to make decisions, free of state influence, regarding the preservation of their life? It is a fundamental right of privacy, an"individual interest" in preserving "the inviolability of the person." (*Id.*) The *Bartling* court stated "**[h]owever if the right of the patient to self-determination as to his own medical treatment is to have any meaning at all, it must be paramount to the interests of the patient's hospital and doctors.**" (*Id.* at 196.) Here the hospital's desire to dispose of Ms. McMath is clearly subordinate of her right to self determination through her guardian.

This court must agree that if a person has a constitutional right to end their life they have an equal, if not greater right to undertake measures to prolong their life. There are numerous reports of people recovering from medically diagnosed "brain death." Latasha Winkfield has the fundamental right, over the feeble interests of MCMATH's doctors, who it cannot be forgotten created the critical condition faced by MCMATH, to make decisions regarding MCMATH's life.

These decisions stem from her beliefs both as a mother as well as

from her religious beliefs. Were it her choice, no one would dispute her right to remove the ventilator but, for some unfathomable reason, her decision to continue the ventilator is somehow trumped by the Hospital's desire not to put its doctors in the position of treating a "dead body" which is "unethical." Remarkably, while seeking to deprive this mother and child of their rights to religious expression, privacy, and holding on to life, they have put forth no declaration from any physician stating that they believe that providing treatment to Jahi is causing them to violate their code of ethics.

### B. Petitioner's Procedural Due Process rights were violated by Respondent by failing to allow a continuance in order for counsel to review the medical records provided on the day of the hearing, and limiting the cross of the witnesses.

"The essence of procedural due process is notice and an opportunity to respond. (Citation.) 'The purpose of notice under the Due Process Clause is to apprise the affected individual of, and permit adequate preparation for, an impending hearing.'" *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1279; *Memphis Light, Gas and Water Division v. Craft* (1978) 436 U.S. 1, fn. omitted.)"[T]he central meaning of procedural due process is that parties whose rights are to be affected are entitled to be heard at a meaningful time and in a meaningful manner. (Citation.)" (*People v.*

*Sutton* (1993) 19 Cal.App.4th 795, 803.)

Here, the petitioner was not given MCMATH's medical records until the day of the hearing. (*See* Exhibit 3.) In addition, the records provided were limited and incomplete. (*Id.*) Upon receiving the records, counsel for the Petitioner requested a brief continuance so he could review them and have an expert give guidance to him so he could effectively cross the first doctor who declared MCMATH brain dead. The court denied this request. Without all the records the first physician was not able to advise the court what medications that MCMATH was on that would directly affect her ability to be tested at the time, pursuant to the guidelines set forth and admitted into evidence by the Court. (*See* Exhibit 3.)Without this information Petitioner was not given an opportunity to fully present his case. (*See* Exhibit 3.)

## IV. REVIEW BY APPEAL IS INADEQUATE AND IRREPARABLE HARM WILL RESULT IF THIS WRIT IS NOT GRANTED.

Unless this Court issues the requested Writ, minor Petitioner will suffer irreparable harm that will not be cured by the possible post-verdict appeal. The Respondent Court's order is a forced waiver of the minor Petitioner's constitutional rights. A prerogative writ is appropriate to protect privacy rights or statutory privileges against forced waivers by trial

courts. (*Save-On Drugs, Inc. v. Superior Court* (1975) 15 Cal.3d 1, 5; *Palay v. Superior Court* (1993) 18 Cal.App.4th 919, 925 ["We issued the alternative writ because this case involves a claim of privilege and the issue raised is one of first impression and of general importance to the trial court and the profession."].)

Additionally, "exceptional circumstances" exist that warrant writ review on the particular issues presented in this Petition. Petitioner is unaware of any published California decision addressing some of the issues raised in this Petition.

For example, Petitioner is unaware of any published California appellate decision defining the precise contours Health and Safety Code Sections 7180 and 7181. There is no case law that adequately defines whether court has jurisdiction to evaluate the findings to determine if they meet the medically accepted standard, or whether the doctor's making the finding our truly independent. Lastly, there is no procedure outlined as to what hearing is to take place, what evidence is presented and when, and lastly, how much time a family has before a hospital terminates life-support after a tragedy such as this one and whether the family can discharge their loved one and receive care at another facility if their religious views differ from the medical community as to the definition of death.

Thus, this Petition presents issues of first impression that are likely to produce guidelines for future cases. (*Oceanside Union School Dist. v. Superior Court* (1962) 58 Cal.2d 180, 185-186.)

## V. PETITIONER ASKS THAT THE LOWER COURT PROCEEDINGS BE STAYED.

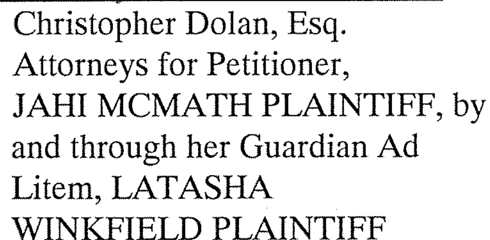
As a general rule, a court has the inherent power, in its discretion, to stay civil proceedings when the interests of justice seem to require such action. (*Keating v. Office of Thrift Supervision*, 45 F.3d 322, 324 (9th Cir.), cert. denied, 116 S. Ct. 94 (1995) (quoting *Securities & Exchange Comm'n v. Dresser Indus.*, 628 F.2d 1368, 1375 (D.C. Cir.), cert. denied, 101 S. Ct. 529 (1980)) (other citation omitted).)

## CONCLUSION

For the reasons set forth above, Petitioner urges this Court to grant her the requested relief so that she irreparable harm of the erroneous and forced privacy invasion does not occur.

DATED: December 30, 2013

**THE DOLAN LAW FIRM**



By______________________
Christopher Dolan, Esq.
Attorneys for Petitioner,
JAHI MCMATH PLAINTIFF, by and through her Guardian Ad Litem, LATASHA WINKFIELD PLAINTIFF

**CERTIFICATE OF COMPLIANCE PURSUANT TO CALIFORNIA RULES OF COURT, RULE 8.520**

Pursuant to California Rules of Court, Rule 8.520(c)(1), and in reliance on the word count feature of the Word Perfect software used to prepare this document, I certify that this Petition Writ of Mandate, Prohibition or Other Appropriate Relief contains 5416 words, excluding those items identified in Rule 8.520(c)(3).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 30th day of December, 2013, at San Francisco, California.

Christopher Dolan, Esq.
Declarant