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Attorneys for Plaintiff

FILED
ALAMEDA COUNTY

FEB 15 2018

CLERK OF THE SUPERIOR COURT

By *[Signature]* Deputy

FILED

AGNEW BRUSAVICH
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

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

Plaintiffs,

vs.

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

Defendants.

CASE NO. RG 15760730

ASSIGNED FOR ALL PURPOSES TO:
JUDGE STEPHEN PULIDO - DEPT.
"517"

PLAINTIFFS' OPPOSITION TO THE EX
PARTE APPLICATION OF DEFENDANT
UCSF BENOIIT CHILDREN'S HOSPITAL
FOR AN ORDER CONTINUING
PLAINTIFFS' MOTION TO BIFURCATE;
REPLY TO THE JOINDER OF
DEFENDANTS JAMES PATRICK
HOWARD, M.D. AND ALICIA
HERRERA, M.D.; AND PLAINTIFFS'
SUGGESTION

DATE: February 15, 2018
TIME: 2:30 p.m.
DEPT: 517
Reservation No.: R-1935569

Date Action Filed: 03/03/15

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1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that plaintiffs object to the Ex Parte Application to
3 continue the hearing on plaintiffs' Motion to Bifurcate indefinitely. Plaintiffs also
4 respond to defendants Patrick Howard, M.D.'s and Alicia Herrera's joinder to the
5 extent that it attacks plaintiffs' counsel as deliberately attempting to circumvent the
6 Court's Order of November 19, 2017, by setting this matter before the further Case
7 Management Conference on March 16, 2018.

8 At the time of the Court's November 19, 2017 Case Management
9 Conference, the hearing date of March 8, 2018 for Plaintiffs' Motion to Bifurcate had
10 already been reserved and all the moving papers had already been served on the
11 parties. In fact, the Court noted the reserved date during the November 19, 2017
12 Case Management Conference and specifically set the CMC after the hearing
13 date of March 8, 2018.

14 Plaintiffs suggest that the Court move the hearing date on Plaintiffs' Motion
15 to Bifurcate from March 8, 2018 to March 16, 2018, at the time of the currently
16 scheduled Case Management Conference. Plaintiffs believe that with this Motion
17 to Bifurcate fully briefed by the parties, the Court would be in a much better
18 position to evaluate the future course of this litigation. The issue of whether or not
19 the ANN Guidelines are consistent with California's statutory definition of death must
20 be addressed at some point by the Court. Plaintiffs' position is that it should be the
21 first issue addressed. The Court could decide to defer ruling on the Motion to

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Bifurcate at the March 16, 2018 CMC, but having the issue fully briefed would help elucidate for the Court this issue which plaintiffs contend should be addressed before anything else.

DATED: February 14, 2018

AGNEWBRUSAVICH
A Professional Corporation

By: 

BRUCE M. BRUSAVICH
Attorneys for Plaintiffs

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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 February 14, 2018, I served the within document **PLAINTIFFS' OPPOSITION TO THE EX PARTE APPLICATION OF DEFENDANT UCSF BENOIT CHILDREN'S HOSPITAL FOR AN ORDER CONTINUING PLAINTIFFS' MOTION TO BIFURCATE; REPLY TO THE JOINDER OF DEFENDANTS JAMES PATRICK HOWARD, M.D. AND ALICIA HERRERA, M.D.; AND PLAINTIFFS' SUGGESTION**

- 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:

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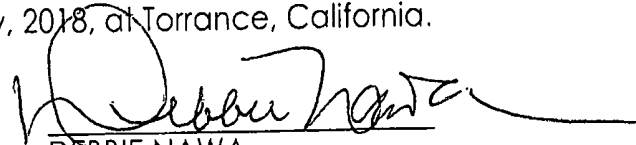
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16 17 18 19 20	Kenneth R. Pedroza Dana L. Stenvick COLE PEDROZA LLP 2670 Mission Street Suite 200 San Marino, CA 91108 kpdroza@colepedroza.com dstenvick@colepedroza.com	ASSOCIATE COUNSEL FOR FREDERICK S. ROSEN, M.D. and UCSF BENIOFF CHILDREN'S HOSPITAL 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 14th day of February, 2018, at Torrance, California.


DEBBIE NAWA