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Superior Court of California, County of Alameda
Rene C. Davidson Alameda County Courthouse

Spears <p style="text-align: center;">Plaintiff/Petitioner(s)</p> <p style="text-align: center;">VS.</p> Rosen <p style="text-align: center;">Defendant/Respondent(s) (Abbreviated Title)</p>	No. <u>RG15760730</u> Order Demurrer Overruled
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The Demurrer was set for hearing on 08/02/2016 at 03:00 PM in Department 16 before the Honorable Stephen Pulido. The Tentative Ruling was published and has not been contested.

IT IS HEREBY ORDERED THAT:

The tentative ruling is affirmed as follows: The Demurrer of Defendant Alicia Herrera, M.D. to the First Cause of Action of the First Amended Complaint of Plaintiffs Latasha Latasha Nailah Spears Winkfield, Marvin Winkfield, Sandra Chatman, and Jahi McMath, a minor, by and through her Guardian Ad Litem, Latasha Nailah Spears, pursuant to CCP § 430.10(e), is **OVERRULED**.

Defendant's contention that Plaintiffs are estopped from alleging in the First Amended Complaint that Jahi McMath is still alive, and therefore has standing to sue for medical malpractice, is not accepted. The Court has already ruled that Defendant's collateral estoppel argument cannot be resolved at the pleading stage, and that ruling was recently affirmed by the court of appeal in an order filed on July 12, 2016. The Court hereby takes judicial notice of the July 12, 2016 order.

The Court will prepare the order. Plaintiffs shall promptly file and serve the Notice of Entry of Order. Defendant Herrera shall file and serve her Answer to the First Amended Complaint within ten (10) days of the date of service of the Notice of Entry of Order.

NOTICE: Effective June 4, 2012, the Court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). See amended Local Rule 3.95.

Dated: 08/02/2016

facsimile


Judge Stephen Pulido

SHORT TITLE:

Spears VS Rosen

CASE NUMBER:

RG15760730

ADDITIONAL ADDRESSEES

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Case Number: RG15760730
Order After Hearing Re: of 08/02/2016

DECLARATION OF SERVICE BY MAIL

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 1225 Fallon Street, Oakland, California.

Executed on 08/03/2016.

Chad Finke Executive Officer / Clerk of the Superior Court

By  ^{digital}

Deputy Clerk