

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Scott E. Murray, Esq. (SBN 104741) Sonja M. Dahl, Esq. (SBN 130971) Donnelly Nelson Depolo Murray & Efremsky 201 North Civic Drive, Suite 239 Walnut Creek, CA 94596 TELEPHONE NO.: (925) 287-8181 FAX NO. (Optional): (925) 287-8188 E-MAIL ADDRESS (Optional): smurray@dndmlawyers.com ATTORNEY FOR (Name): James Patrick Howard, M.D., Ph.D.</p>	<p>FOR COURT USE ONLY</p> <p>FILED BY E-DELIVERY</p> <p>ALAMEDA COUNTY</p> <p>September 25, 2017</p> <p>CLERK OF THE SUPERIOR COURT By Keisha Ghee, Deputy</p> <p>CASE NUMBER: RG15760730</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1225 Fallon Street, Room 109 MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612-4280 BRANCH NAME: Northern Division Office</p>	
<p>PLAINTIFF/PETITIONER: LATASHA NAYLAH SPEARS WINKFIELD, et al. DEFENDANT/RESPONDENT: FREDERICK S. ROSEN, M.D., et al.</p>	
<p>CASE MANAGEMENT STATEMENT</p> <p>(Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)</p>	<p>CASE NUMBER: RG15760730</p>
<p>A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: October 10, 2017 Time: 3:00 p.m. Dept.: 517 Div.: Room: Address of court (if different from the address above): Hayward Hall of Justice, 3rd Floor, 24405 Amador Street, Hayward, CA</p> <p><input type="checkbox"/> Notice of Intent to Appear by Telephone, by (name):</p>	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. This statement is submitted by party (name): James Patrick Howard, M.D., Ph.D.
 - b. This statement is submitted jointly by parties (names):

2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date):
 - b. The cross-complaint, if any, was filed on (date):

3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
 - c. The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

4. **Description of case**
 - a. Type of case is complaint cross-complaint (Describe, including causes of action):

 First Amended Complaint for Damages for Medical Malpractice

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4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

The plaintiffs allege that defendants were negligent in treating Jahi McMath. Defendant Howard denies that he was negligent in Ms. McMath's care and treatment. The case includes an unusual claim for "Personal Injury" on behalf of one who has been legally determined to be dead under California law.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request a jury trial a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

a. The trial has been set for (date):

b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain): This case has highly unusual claims that will require intensive expert analysis and an IME carried out by or in the presence of multiple expert witnesses.

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

Trials: 12/5/17; 1/8/18; 2/13/18; 8/13/18.

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

a. days (specify number): 25

b. hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

Additional representation is described in Attachment 8.

9. Preference

This case is entitled to preference (specify code section):

10. Alternative dispute resolution (ADR)

a. **ADR Information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation** (if available).

(1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

The amount in controversy exceeds arbitration limits.

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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form are willing to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

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11. Insurance

- a. Insurance carrier, if any, for party filing this statement (name): Medical Insurance Exchange of California
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (explain):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy Other (specify):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case: Matter of Jahi McMath
 - (2) Name of court: Alameda County Superior Court
 - (3) Case number: RP13707598
 - (4) Status: closed
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (name party):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons): Defendants plan to file a Motion to Bifurcate the Trial of the issue of whether Jahi McMath is legally dead under California law, as this is the primary driving issue in the case.

15. Other motions

- The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):
 - Motion to Bifurcate Trial.
 - Motion to Compel Independent Medical Examination.

16. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (describe all anticipated discovery):

Party	Description	Date
Defendant Howard	Independent Medical Examination	8/30/18
	Written discovery	Ongoing
Defendant Howard	Plaintiffs' depositions	8/30/18
	Depos of treating physicians and percipient witnesses	12/30/18
Defendant Howard	Depositions of Expert Witnesses	Per Code

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (specify): Defendants will need to conduct extensive discovery regarding the origin and authentication of the "videos" of Ms. McMath taken by family members or others.

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17. Economic litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify): Defendants suggest that the court consider appointing an independent expert witness, whose credentials are acceptable to all parties, to assist with, oversee, or otherwise participate in an Independent Medical Examination of Ms. McMath under appropriate circumstances and conditions.

19. Meet and confer

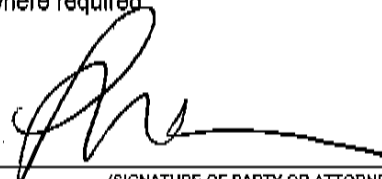
- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): 1

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: September 25, 2017

Sonja M. Dahl, Esq.
(TYPE OR PRINT NAME)

▶ 
(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

SHORT TITLE: Winkfield v. Rosen	CASE NUMBER:
	RG15760730

ATTACHMENT (Number): 13a

(This Attachment may be used with any Judicial Council form.)

ATTACHMENT TO CASE MANAGEMENT STATEMENT OF DEFENDANT PATRICK HOWARD, M.D., Ph.D.

13.a. Related cases, consolidation and coordination

Additional cases:

2. JAHl McMATH, a minor; NAILAH WINKFIELD, an individual, as parent, as guardian, and as next friend of JAHl McMATH, a minor v. STATE OF CALIFORNIA, et al.

In the United States District Court for the Northern District of California, San Francisco Division

Case no. 3:15-cv-06042-HSG

Status: ongoing.

3. In the United States District Court for the Northern District of California

Case no. 4:13-CV-05993

Status: closed

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

DONNELLY NELSON DEPOLO MURRAY & EFREMSKY
A Professional Corporation

PROOF OF SERVICE BY MAIL – C.C.P. §§1013(A), 2015.5

I declare under penalty of perjury that:

I am a citizen of the United States, and am a resident or employed in the County of Contra Costa. I am over the age of eighteen years and not a party to the within action. My business address is 201 North Civic Drive, Suite 239, Walnut Creek, CA 94596.

On September 25, 2017 I served the within Case Management Statement on the parties in this action by placing a true copy thereof in a sealed envelope for collection and mailing, following our ordinary business practices at Walnut Creek, California. I deposited the envelope(s) with the United States Postal Service. On the same day that document(s) is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope/package with postage fully prepaid, addressed as follows:

Bruce M. Brusavich, Esq. Counsel for Plaintiffs
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Thomas E. Still, Esq. Counsel for Defendant Frederick S. Rosen,
Jennifer Still, Esq. M.D.
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Saratoga, CA 95070

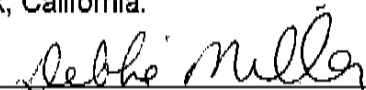
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Executed on September 25, 2017 at Walnut Creek, California.


Debbie Miller