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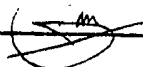
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Attorneys for Plaintiff
LATASHA WINKFIELD

FILED
ALAMEDA COUNTY

OCT 08 2014

CLERK OF THE SUPERIOR COURT
By  Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA
UNLIMITED CIVIL JURISDICTION

LATASHA WINKFIELD,

Plaintiff,

v.

CHILDREN'S HOSPITAL, et al.

Defendants.

RPI3
Case No.: PR13-707598

**PETITIONER'S NOTICE OF MOTION AND
MOTION TO CONTINUE HEARING TO
PRESENT ADDITIONAL EVIDENCE TO
ADDRESS LETTER OF DR PAUL FISCHER;
REQUEST FOR EVIDENTIARY HEARING
AND OPPORTUNITY TO EXAMINE DR
FISCHER**

Reservation No: R-1559164

On October 6, 2014, the Court appointed Dr. Paul Fischer, pursuant to Evidence Section 720, as a court expert in this matter that involves brain death. Dr. Fischer prepared and presented a letter to the court stating that, although the evidence presented by Petitioner, provided by independent experts in brain death, including Dr. Calixtor Machado who has held six international conferences on the subject of brain death, was backed by objective evidence, Dr. Fischer stated that certain tests were not done to his satisfaction or to a standard he indicates is necessary for him to consider that Jahi is brain dead.

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Given Dr. Fischer's expression that there are deficiencies in the Petitioner's proffered evidence. Petitioner would like an opportunity to request that the physicians, and neuroscientists who have examined her would undertake some of the testing which Dr. Fischer says is missing such as the on-site serial neurological evaluations radio nucleotide cerebral blood flow brain scan, etc.

As these matters involve matters of scientific, medical and neurologic knowledge, far beyond that of Petitioner's counsel and/or perhaps the Court itself (stated only because the court appointed Dr. Fischer as an expert) Petitioner would, in an effort to try and remove this discussion from the usual adversarial system involved with court process, request the Court would permit, and Dr. Fischer would accept, an opportunity for a frank and unscripted dialogue with the experts who are opining that the newly obtained evidence supports a finding that Jahi is not brain dead. Such a open and candid dialogue would, in the end, provide a better opportunity for consensus on some or all of the points of disagreement.

Petitioner requests that the court grant Petitioner the opportunity for an evidentiary hearing with live, or telephonic, testimony wherein the petitioner would have no more than four hours to present highly reputable expert testimony from some of the world's most respected neurologists to (not available at the time of the original, fast paced, hearing so as to fully inform and assist the court. In this hearing, on this new evidence, the Petitioner suggests that the court might wish to ask the experts, directly, the basis of their opinions so as to be fully informed on this most important matter before reaching a decision. Petitioner requests for four weeks to provide the requested information as Dr. Defina is in Europe and the Middle East and Dr. Machado is in Cuba (but can travel to the U.S. for scientific and humanitarian reasons.)

Finally, should the Court deny Petitioner the requests above, Petitioner requests the ability to have witnesses appear on Thursday, telephonically (as Petitioner's Counsel informed the court last week, several of these witnesses are out of the country and the others are in the East Coast and Chicago and the right to examine Dr. Fischer, as was provided in the former hearing in December.

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Hopefully the Court recognizes that Petitioner, by suggesting the open communication between the neurologists and neuroscientists, and the opportunity for the court to hear testimony and cross examine any witness it so desires, is trying to provide the court not facts filtered by advocacy, but, instead a pool of information from which the court can reflect and craft a full understanding. Petitioner is confident that upon a more in-depth analysis the court will be persuaded that had it the information now available it could not have found, by a standard of clear and convincing evidence, that Jahi McMath is brain dead.

Electronically signed this 7th day of October, 2014

Christopher B Dolan Esq.

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7 Attorneys for Plaintiff
8 **LATASHA WINKFIELD**

9 **SUPERIOR COURT OF CALIFORNIA**
10 **COUNTY OF ALAMEDA**

11 **LATASHA WINKFIELD**, an individual
12 parent and guardian of Jahi McMath, a
13 minor

14 Plaintiff,

15 v.

16 **CHILDREN'S HOSPITAL & RESEARCH**
17 **CENTER AT OAKLAND**, Dr. David
18 Durand M.D. and DOES 1 through 10,
19 inclusive

20 Defendants.

Case No. PR13-707598

PROOF OF SERVICE

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PROOF OF SERVICE

Latasha Winkfield v. Children's Hospital & Research Center at Oakland, et al.
Alameda County Superior Court Case No. PR13-707598

I, Guillermo Bustillo, declare that:

I am employed in the County of San Francisco, State of California. I am over the age of 18, and am not a party to this action. My business address is 1438 Market Street, San Francisco, California 94102. On October 7, 2014, I served:

PETITIONER'S MOTION TO CONTINUE HEARING TO PRESENT ADDITIONAL EVIDENCE TO ADDRESS LETTER OF DR PAUL FISCHER; REQUEST FOR EVIDENTIARY HEARING AND OPPORTUNITY TO EXAMINE DR FISCHER

PETITIONER'S OBJECTION TO THE APPOINTMENT OF DR PAUL FISCHER AS COURT APPOINTED EXPERT

in said cause addressed as follows:

Douglas C. Straus Brian W. Franklin Noel M. Caughman ARCHER NORRIS A Professional Law Corporation 2033 North Main St., Suite 800 Walnut Creek, Ca. 94596-3759 Facsimile: (925) 930-6620 dstraus@archemorris.com alder@archemorris.com bfranklin@archemorris.com	<i>Attorneys for Defendant Children's Hospital & Research Center at Oakland</i>
David Nefouse Andrea Weddle Alameda County Sheriff's Office Coroner's Bureau 480 4th Street Oakland, CA 94607 david.nefouse@acgov.org andrea.weddle@acgov.org	<i>Alameda County Coroner's Office</i>
California Department of Public Health Office of Legal Services 1415 L Street Sacramento, CA 95814	<i>California Department of Public Health</i>

/XX/ (BY OVERNIGHT MAIL) By enclosing a true copy of the documents in a Fedex envelope addressed to the above recipient(s), sealing and depositing the envelope, with delivery fees prepaid or provided for, and instructions to deliver overnight, at a box maintained by Federal Express in San Francisco, California following ordinary business practices.

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/XX/ (BY ELECTRONIC MAIL) Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above.

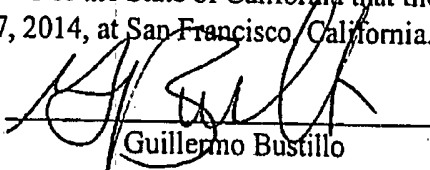
// (BY MAIL) By placing a true copy thereof enclosed in a sealed envelope. I placed each such sealed envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing at San Francisco, California, following ordinary business practices.

// (BY PERSONAL SERVICE) By placing a true copy thereof enclosed in a sealed envelope. I caused each such envelope to be delivered by hand to the addressee(s) noted above.

// (BY PROFESSIONAL MESSENGER SERVICE) By placing a true copy thereof in a sealed envelope, and causing said envelope to be delivered by professional messenger service to the addressee(s) listed above.

// (BY FACSIMILE) I caused the said document to be transmitted by facsimile machine to the number indicated after the addressee(s) noted above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 7, 2014, at San Francisco, California.


Guillermo Bustillo