



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
 Thomas E. Still, Esq. / SBN 127065  
 HINSHAW, MARSH, STILL & HINSHAW, LLP  
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 E-MAIL ADDRESS (Optional): tstill@hinshaw-law.com  
 ATTORNEY FOR (Name): Defendant FREDERICK S. ROSEN, M.D.

FOR COURT USE ONLY

**FILED**  
**ALAMEDA COUNTY**  
**MAR 21 2016**

CLERK OF THE SUPERIOR COURT  
 By Michelle P Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda  
 STREET ADDRESS: 1221 Oak Street  
 MAILING ADDRESS: 1221 Oak Street  
 CITY AND ZIP CODE: Oakland, CA 94612  
 BRANCH NAME: Administration Building

PLAINTIFF/PETITIONER: LATASHA NAILAH SPEARS, et al.  
 DEFENDANT/RESPONDENT: FREDERICK S. ROSEN, M.D., et al.

**CASE MANAGEMENT STATEMENT**

(Check one):  **UNLIMITED CASE**  
 (Amount demanded exceeds \$25,000)  **LIMITED CASE**  
 (Amount demanded is \$25,000 or less)

CASE NUMBER:  
 RG 15760730

A CASE MANAGEMENT CONFERENCE is scheduled as follows:  
 Date: April 8, 2016 Time: 11:00 a.m. Dept.: 20 Div.: Room:  
 Address of court (if different from the address above):

Notice of Intent to Appear by Telephone, by (name): Thomas E. Still, Esq.

**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): FREDERICK S. ROSEN, M.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 in  complaint  cross-complaint (Describe, including causes of action):  
 Medical malpractice

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DEFENDANT/RESPONDENT: FREDERICK S. ROSEN, M.D., et al.	RG 15760730

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.)

Alleged negligent surgical treatment of sleep apnea. Defendant denies any wrongdoing. Defendant met the standard of care at all times.

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

7. **Estimated length of trial**

- The party or parties estimate that the trial will take (check one):
- a.  days (specify number): 20 (twenty) court days
  - 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: Thomas E. Still, Esq.
  - b. Firm:
  - c. Address:
  - d. Telephone number:
  - e. E-mail address:
  - f. Fax number:
  - 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):

PLAINTIFF/PETITIONER: LATASHA NAILAH SPEARS, et al. DEFENDANT/RESPONDENT: FREDERICK S. ROSEN, M.D., et al.	CASE NUMBER: RG 15760730
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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 <b>are willing to</b> participate in the following ADR processes ( <i>check all that apply</i> ):	If the party or parties completing this form in the case <b>have agreed to</b> participate in or have already completed an ADR process or processes, indicate the status of the processes ( <i>attach a copy of the parties' ADR stipulation</i> ):
(1) Mediation	<input checked="" type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete mediation by ( <i>date</i> ): <input type="checkbox"/> Mediation completed on ( <i>date</i> ):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete settlement conference by ( <i>date</i> ): <input type="checkbox"/> Settlement conference completed on ( <i>date</i> ):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete neutral evaluation by ( <i>date</i> ): <input type="checkbox"/> Neutral evaluation completed on ( <i>date</i> ):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete judicial arbitration by ( <i>date</i> ): <input type="checkbox"/> Judicial arbitration completed on ( <i>date</i> ):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete private arbitration by ( <i>date</i> ): <input type="checkbox"/> Private arbitration completed on ( <i>date</i> ):
(6) Other ( <i>specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete ADR session by ( <i>date</i> ): <input type="checkbox"/> ADR completed on ( <i>date</i> ):

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11. Insurance

- a.  Insurance carrier, if any, for party filing this statement (name): Cooperative of American Physicians
- 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:
  - (2) Name of court:
  - (3) Case number:
  - (4) Status:
- 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): Unknown at this time.

15. Other motions

- The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):  
 Motion for Summary Judgment on Standard of Care; standing to bring negligence action by Ms. Jahi McMath.

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):
 

<u>Party</u>	<u>Description</u>	<u>Date</u>
Frederick S. Rosen, M.D.	Written Discovery	Unknown -
	Depositions of Plaintiffs	Pending a
	Percipient Witness Discovery	resolution of
	Expert Discovery	pleadings
		issues
- c.  The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (specify):

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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): Timing of further CMC as three new defendants have yet to file an appearance, doctors Howard, Wesman and Herrera. Also, there will be a challenge to the Complaint of Milton McMath by way of Demurrer.

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: March 16, 2016

THOMAS E. STILL  
 \_\_\_\_\_  
 (TYPE OR PRINT NAME)

▶   
 \_\_\_\_\_  
 (SIGNATURE OF PARTY OR ATTORNEY)

\_\_\_\_\_  
 (TYPE OR PRINT NAME)

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 (SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

**UNAVAILABLE DATES FOR COUNSEL FOR  
DEFENDANT FREDERICK S. ROSEN, M.D.**

**TRIALS/ADMIN HEARINGS:**

April 11-20, 2016	Johnson/MBC	OAH-Sacramento
Aug. 8-10, 2016	Sanders/BBC	OAH-Sacramento
Sept. 6-16, 2015	Albaum v. Baumann, MD	San Mateo Superior Court
Nov. 7-18, 2016	Granger v. Rasi	Santa Cruz Superior Court
Dec. 5-16, 2016	Carrillo-Aguilar v. Renfer	Monterey Superior Court
Dec. 12-30, 2016	Foster v. McMillan, MD	San Francisco Superior Court
Jan. 9-20, 2017	Clary v. EBCV	Contra Costa Superior Court

**PREPAID VACATION**

May 8-19, 2016

**PROOF OF SERVICE**  
(C.C.P. §§ 1013a, 2015.5)

I, the undersigned, say:

I am now and at all times herein mentioned have been over the age of 18 years, a resident of the State of California and employed in Santa Clara County, California, and not a party to the within action or cause; my business address is 12901 Saratoga Avenue, Saratoga, California 95070.

I am readily familiar with this firm's business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, mailing via Federal Express, hand delivery via messenger service, and transmission by facsimile machine. I served a copy of each of the documents listed below by placing said copies for processing as indicated herein.

**CASE MANAGEMENT STATEMENT and COURTCALL APPEARANCE SERVICE COPY**

XX If MAILED VIA U.S. MAIL, said copies were placed in envelopes which were then sealed and, with postage fully prepaid thereon, on this date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the U.S. Postal Service at Saratoga, California on this date in the ordinary course of business; and there is delivery service by U.S. Postal Service at the place so addressed.

\_\_\_\_\_ If MAILED VIA FEDERAL EXPRESS, said copies were placed in Federal Express envelopes which were then sealed and, with Federal Express charges to be paid by this firm, on this same date placed for collection and mailing at my place of business following ordinary business practices. Said envelopes will be deposited with the Federal Express Corp. on this date following ordinary business practices; and there is delivery service by Federal Express at the place so addressed.

\_\_\_\_\_ If HAND DELIVERED, said copies were provided to \_\_\_\_\_, a delivery service, whose employee, following ordinary business practices, did hand deliver the copies provided to the person or firm indicated herein.

\_\_\_\_\_ If VIA FACSIMILE TRANSMISSION, said copies were placed for transmission by this firm's facsimile machine, transmitting from (408) 257-6645 at Saratoga, California, and were transmitted following ordinary business practices; and there is a facsimile machine receiving via the number designated herein, and the transmission was reported as complete and without error. The record of the transmission was properly issued by the transmitting fax machine.

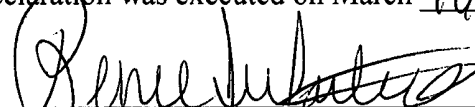
**RECIPIENTS:**

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G. Patrick Galloway, Esq.  
Karen Sparks, Esq.  
Galloway, Lucchese, Everson & Picchi  
2300 Contra Costa Blvd., Suite 30  
Pleasant Hill, CA 94523-2398

1 I certify (or declare) under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct and that this Declaration was executed on March 16, 2016.

3   
4 Renee Infantino

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Court: Alameda County Superior Court  
Action No: RG 15760730  
Case Name: Spears (McMath) v. Rosen, M.D., et al.