



**FILED**  
ALAMEDA COUNTY

**JUN 29 2017**

CLERK OF THE SUPERIOR COURT  
By *Stephanie Johnson* Deput

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10 Attorneys for Plaintiff

11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF ALAMEDA

14 LATASHA NAILAH SPEARS WINKFIELD;  
15 MARVIN WINKFIELD; SANDRA  
CHATMAN; and JAHI McMATH, a minor,  
16 by and through her Guardian ad Litem,  
LATASHA NAILAH SPEARS WINKFIELD,  
17

18 Plaintiffs,

19 vs.

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

23 Defendants.  
24

CASE NO. RG 15760730

**FAX FILE**

ASSIGNED FOR ALL PURPOSES TO:  
JUDGE STEPHEN PULIDO - DEPT.  
"16"

**DECLARATION OF ALIETA ECK, M.D.**

[Filed Concurrently with Plaintiffs'  
Opposition to Motion for Summary  
Judgment and Separate  
Statement of Disputed and  
Undisputed Material Facts in  
Opposition to Motion for Summary  
Judgment

Date Action Filed: 03/03/15

26 I, Alieta Eck, M.D., declare:

27 1. I am a medical doctor licensed to practice medicine in the State of New  
28 Jersey, and maintain a practice in the field of internal medicine. I have treated

1 Jahi McMath since November 15, 2014 and regularly see her every three months  
2 at her family's apartment. I have personal knowledge of the facts stated here,  
3 and if called as a witness I could and would testify competently to them.

4 2. By way of history, Jahi suffered from ischemic brain damage following a  
5 tonsillectomy on 12/9/9/13 at Children's Hospital of Oakland, California. Following  
6 the surgery, she began to bleed excessively out of her mouth and nose. She had  
7 a cardiac arrest and was resuscitated, but became comatose and was declared  
8 brain dead on 12/12/2013 and a death certificate was filed. She was given IV  
9 fluids until 1/5/14 when she was transferred to St. Peter's Hospital in New  
10 Brunswick, N.J. There, she was given a tracheostomy and a gastrostomy tube.  
11 She remained on a ventilator. She was transferred to a private residence in  
12 November 2014 where she has private duty nurses around the clock. Her mother  
13 supervises her being moved every 4 hours to prevent decubiti.

14 3. I am in regular contact with her mother, and order blood tests and x-  
15 rays when needed. I perform physical examinations, review laboratory data, and  
16 review nursing records from the home health nurses. I have sufficient data to  
17 opine as to whether or not Jahi McMath is a deceased person.

18 4. Jahi McMath has experienced menarche and has now entered  
19 puberty. Jahi had a menstrual period in August and September of 2014, lasting  
20 five days, and had some spotting in October 2014. She began to grow pubic hair  
21 in August 2015. This involves the hypothalamus. Puberty starts when the  
22 hypothalamus releases a hormone called the gonadotropin releasing hormone.  
23 These hormones cause the pituitary gland to make hormones that control other  
24 glands and many of the body's functions. The hormones produced by the  
25 pituitary gland signal the start of sexual development in both females and males.

26 5. The hypothalamus is in a part of the brain. If it is functioning, as it is in this  
27 case, then there is brain function.

28 6. I have been physically present and have observed occasions when

1 Nailah Winkfield has directed Jahi to move a specific finger, her third, on a  
2 specific hand, and Jahi has responded by doing so. She is responsive to noxious  
3 stimuli, pulling away from something that hurts. In September 2015 she was having  
4 muscle spasms, but these stopped when her in-grown toenail was fixed by a  
5 visiting podiatrist.

6 7. While Jahi McMath has suffered a serious and significant brain injury,  
7 and exhibits the presentation of one who has suffered serious brain trauma, Jahi  
8 McMath is not dead. She exhibits signs of brain function.

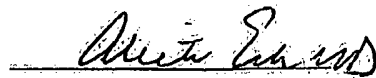
9 8. As Jahi McMath's treating physician, based upon my examinations of  
10 her, my review of her medical documentation and my experience, training,  
11 experience and expertise, it is my opinion, to a reasonable degree of medical  
12 certainty, that Jahi McMath is not dead, including not brain dead.

13 I declare under penalty of perjury under the laws of the States of New  
14 Jersey and California that the foregoing is true and correct.

15 Executed this 28th day of June, 2017 at Piscataway, New Jersey.

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Alieta Eck, M.D., declarant

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