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**Superior Court of California, County of Alameda
Hayward Hall of Justice**

Spears <p style="text-align: right;">Plaintiff/Petitioner(s)</p> VS. Rosen <p style="text-align: right;">Defendant/Respondent(s) (Abbreviated Title)</p>	No. <u>RG15760730</u> Order Motion to Bifurcate/Sever Complaint Denied
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The Motion to Bifurcate/Sever Complaint was set for hearing on 04/19/2018 at 03:00 PM in Department 517 before the Honorable Stephen Pulido. The Tentative Ruling was published and was contested.

Moving Party Latasha Nailah Spears Winkfield represented by Brusavich, Bruce M. via conference call; Andrew Chang and Christopher Dolan. Moving Party Marvin Winkfield represented by Brusavich, Bruce M. via conference call; Andrew Chang and Christopher Dolan. Moving Party Sandra Chatman represented by Brusavich, Bruce M. via conference call; Andrew Chang and Christopher Dolan. Moving Party Jahi McMath represented by Brusavich, Bruce M. via conference call; Andrew Chang and Christopher Dolan. Opposing Party Frederick S. Rosen, M.D. appeared by counsel Still, Jennifer and Kenneth Pedroza. Opposing Party UCSF Benioff Children's Hospital Oakland appeared by counsel Richard Carroll and David Pruett. James Patrick Howard, M.D., PhD. appeared by counsel Dahl, Sonja M. Alicia Herrera MD appeared by counsel Doyle, Thomas J. and Sarah Gosling via conference call. Robert M. Wesman MD appeared by counsel Hodges, Robert W..

Court Reporter, Nancy Present-McDonald, CSR#9906 (510-757-8550) present.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The motion is denied.

TRIAL SETTING ORDER

Please read the entire order carefully and comply with each of its requirements.

- **TRIAL DATE**

This matter is set for trial on Monday February 11, 2019 at 8:30 am in Department 517 of the Hayward Hall of Justice, 24405 Amador Street, Hayward, California. The date set forth above has been set with the input and consent of all parties and their counsel. Requests for trial continuances are strongly disfavored and seldom granted except under extraordinary circumstances.

- **JURY FEES**

In cases in which a jury is demanded, the party making the demand is required to post initial jury fees timely. At the beginning of the second day and each subsequent day of jury service, the demanding

party is to post jury fees with the Department 517 clerk. If more than one party has demanded a jury, the parties will share equally in the payment of jury fees unless otherwise ordered by the Court. Failure to do so will result in a waiver of the right to a jury.

- **MANDATORY SETTLEMENT CONFERENCE**

The parties are ordered to comply with Rule 3.1380 of the California Rules of Court, and shall appear in Department 303 on January 10, 2019 at 2:30 pm for a Mandatory Settlement Conference (MSC). California Rules of Court, Rule 3.1380.

Settlement Conference Statement

By close of business on January 3, 2019 (five court days before the MSC), each party must submit (email nor fax copies are permitted) with Department 303 and serve each party with a mandatory settlement conference statement containing:

- A good faith settlement demand by plaintiff(s);
- An itemization of economic and non-economic damages by each plaintiff;
- A good faith offer of settlement by each defendant; and
- A statement identifying and discussing in detail all facts and law pertinent to the issues of liability and damages involved in the case as to that party. California Rules of Court, Rule 3.1380(c).

Persons Attending

Trial counsel, parties, and persons with full authority to settle the case must personally attend the conference unless, after a timely, written request to appear by telephone served on all parties, and for good cause shown, the Court permits telephonic appearance. If any consent to settle is required for any reason, the party with that authority must be personally present at the conference. California Rules of Court, Rule 3.1380(b).

- **PRE-TRIAL CONFERENCE**

The parties are ordered to comply with Rule 3.35 (a) - (n) of the Local Rules of the Alameda County Superior Court, and shall appear in Department 517 on February 1, 2019 at 8:30 am for a Pre-Trial Conference. Alameda County Superior Court Local Rule 3.35(a) - (n).

Meet and Confer Obligation

The parties shall meet and confer sufficiently in advance of the Pre-Trial Conference to allow each party to prepare fully for the hearing and submit with the Courtroom Clerk in Department 517 the below-described documents in timely fashion. (email nor fax copies are permitted)

Attendance

The personal appearance of the lead trial attorney for each party is required at the Pre-Trial Conference. No telephone appearances are permitted.

Trial Brief and Other Documents

On or before January 25, 2019 each party must file and deliver a courtesy copy of the same to Department 517 a trial brief not to exceed ten (10) pages succinctly setting forth undisputed facts, disputed facts, and the law upon which that party will rely. In addition, having met and conferred to avoid duplication, each party shall submit with the Courtroom Clerk on or before the above date all documents referred to in Alameda County Superior Court Local Rule 3.35 (b) - (m) including:

- An index of exhibits to be offered at trial. (Rule 3.35 (b)).
- Excerpts of depositions and/or other discovery responses. (Rule 3.35 (c) (1) and (2)).
- Transcripts of any audio or video presentations. (Rule 3.35(d)).
- Witness lists consisting of the name of each witness proposed to be called and a succinct statement of that witness' admissible, non-cumulative testimony. (Rule 3.35(f)). Failure to comply with this requirement could result in the disallowance of witness testimony.
- Redacted exhibits, if redaction is necessary. (Rule 3.35(g)).
- A proposed neutral statement of the case. (Rule 3.35(h)).
- Proposed jury instructions. (Rule 3.35(i)).
- Proposed jury verdict forms. (Rule 3.35(j)).
- Supplemental voir dire questions and/or any proposed jury questionnaire. (Rule 3.35(k)).
- A glossary of unusual terms, if necessary. (Rule 3.35(l)).
- Electronic copies of proposed juror questionnaires, jury instructions and/or verdict forms. (Rule 3.35(m)).

- **MOTIONS IN LIMINE**

Motions in limine are governed by the law governing motions, including CRC 3.1112-3.1116 and Local Rule 3.35(e) as amended effective July 1, 2014. Each motion in limine must be filed separately from any other motion in limine and may not be aggregated or consolidated into a single paper or "motion." Each motion in limine must be separately numbered (e.g. plaintiff's motion in limine No. 1, plaintiff's motion in limine No. 2, etc.) Each motion in limine must be accompanied by a separate memorandum as defined in CRC 3.113(b.) A motion in limine need not be accompanied by a notice of hearing. No motion reservation number is required. Motions in limine will be heard by the court at the pretrial conference or on such later date as set by the trial judge. The following in limine motions shall not be filed but will be deemed to have been ORDERED:

- exclude all witnesses until testimony completed;
- no reference to or evidence of settlement discussions or mediation;
- no reference to or evidence of insurance;
- no reference to or evidence of other claims/suits/actions against a party; and
- no reference to or evidence of wealth or lack thereof of any party except in a punitive damage phase of a case.

Exceptions to the foregoing must be raised at the Pre-Trial Conference. Any party wishing to respond in writing to a motion in limine must do so no later than close of business the Wednesday before the Friday Pre-Trial Conference.

Courtesy Copies

Unless otherwise ordered by the trial judge, courtesy copies of any moving papers, as well as any opposition and reply papers, shall be delivered to the trial department on the date of filing (email nor fax copies are permitted).

- **DOCUMENTS TO BE LODGED AT TRIAL; OTHER TRIAL OBLIGATIONS**

At the beginning of the trial, unless otherwise ordered, each party is to comply with the following:

- Exhibit Binders

Counsel for each party is to provide to all opposing counsel an exhibit binder with all exhibits, pre-marked in numerical order, with two binders to be lodged with the court (one for the judge and one for witnesses). Physical exhibits (objects) are to be photographed with the image placed in the binder in lieu of the physical item. For exhibits in excess of fifteen (15) pages, counsel are to meet and confer, in advance of the Pre-Trial Conference, so as to be able to limit the exhibit to only those pages relevant to the case and to which counsel intends to refer during the trial. For audio/CD/DVD exhibits, a summary of the lengthy document/audio/CD/DVD shall be placed in the binder in lieu of the exhibit identifying each page/portion/segment to which counsel intends refer during trial.

- Court Reporters

This department no longer provides certified shorthand reporters for civil trials. Parties wishing a certified record of the proceedings in civil trials must arrange for their own reporter. The Court Clerk can provide the names and contact information of reporters familiar with the proceedings in this department, but litigants in civil trials are free to hire any reporter they wish as long as that person is able to provide appropriate certified real-time shorthand reporter services. Arrangements to compensate reporters for civil trials should be made ahead of time among the parties. Any reporter retained must be available for the entirety of each court session from the commencement of the trial through verdict and for any and all post-trial proceedings in the case in which a record is required.

- **TRIAL SCHEDULE**

The trial schedule in Department 517 is Monday through Thursday, 8:30 am to 1:30 pm with appropriate breaks. Counsel will be expected to be ready to start trial promptly each day and to have witnesses ready to take the stand at the start of the trial day and at the conclusion of each recess. When the testimony of a witness has been completed, the next witness must be immediately available to testify. Failure to abide by this requirement could result in an order deeming a party to have rested its case.

- **TRIAL DECORUM**

Counsel, parties and witnesses are expected to conduct themselves at all times - on or off the record and whether or not in the presence of a jury - in a professional and courteous manner during trial.

- **FAILURE TO COMPLY**
FAILURE TO COMPLY WITH THE OBLIGATIONS SET FORTH IN THIS ORDER MAY RESULT IN SANCTIONS APPROPRIATE TO THE GRAVITY OF THE FAILURE - INCLUDING BUT NOT LIMITED TO MONETARY FINES AND/OR TERMINATING SANCTIONS.

Dated: 04/19/2018

facsimile


Judge Stephen Pulido

SHORT TITLE:

Spears VS Rosen

CASE NUMBER:

RG15760730

ADDITIONAL ADDRESSEES

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Superior Court of California, County of Alameda
Hayward Hall of Justice


Case Number: RG15760730
Order After Hearing Re: of 04/19/2018

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 24405 Amador Street, Hayward, California.

Executed on 04/23/2018.

Chad Finke Executive Officer / Clerk of the Superior Court

By  ^{digital}

Deputy Clerk