

# DOLAN LAW FIRM



## McMATH HEARING POSTPONED TO PROVIDE ADDITIONAL MEDICAL EVIDENCE

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Press Release Re continuance

10/06/2014 Fisher's Letter

Dr. Charles J. Prestigiacom, CV

Dr. Calixto Machado, CV

Dr. Phil Defina, CV

Dr. Alan Shewmon, CV

Dr. Ivan Mikolaenko, CV

Signed Declaration of Dr. Calixto Machado

Signed Declaration of Dr Alan Shewmon

Signed Declaration of Dr Charles J. Prestigiacom

Signed Declaration of Dr. Defina

Signed Declaration of Ivan Mikolaenko, M.D.

Petitioner's Objection

**FOR IMMEDIATE RELEASE**  
**McMATH HEARING POSTPONED TO PROVIDE ADDITIONAL MEDICAL EVIDENCE**

Christopher Dolan, McMath family attorney, has asked Alameda County Superior Court Judge Emillo Grillo to postpone tomorrow's hearing regarding Jahi McMath's status as brain dead so that the team of international brain death experts presented by McMath's attorneys can have time to read and react to a new statement issued by Dr. Paul Fischer, the physician who originally testified as to Jahi's brain death. This comes following yesterday's [re-appointment](#) of Dr. Fischer as a court consultant by Judge Grillo. McMath's attorneys have [objected to Dr. Fischer's appointment](#) saying that Fischer had a conflict of interest, and a legal bias, as it is his original determination which is being examined in light of the new facts. No decision on the objection to Dr. Fischer has been issued.

Fischer, immediately upon re-appointment by the court issued a [letter](#) supporting his earlier determination stating that the fact that the brain had not liquified, Jahi had started her period (menarche), the evidence that there was cerebral blood flow, the recorded movements of Jahi's body in response to commands, and the presence of electrical activity in her brain as recorded by EEG had no effect on his opinion.

Despite the sworn declarations of [Dr. Calixto Machado](#), who's [CV](#) demonstrates he is internationally recognized as a Board Certified expert on brain death; [Dr. Alan Shewmon](#), a former Chief of Neurology at UCLA-Olive Medical Center who's [CV](#) details vast experience as an expert on pediatrics and brain death in children; Dr. [Charles Prestigiacomo](#) who's [CV](#), shows his expertise in brain injury as a Board Certified Neurologic surgeon and Chair of Department of Neurosurgery at Rutgers University; [Dr Ivan Mikolaenko](#), who's [CV](#) details his expertise in brain injury as a Johns Hopkins trained Neurointensiveist/Neurological Consultant; and [Dr. Phil DeFina](#), who's [CV](#) demonstrates his education and experience as the Chief Scientific Officer of the International Brain Research Foundation, Dr. Fischer has indicated that none of the information provided by these experts, *who all swear that Jahi McMath is not brain dead*, has any effect on his prior opinion.

McMath's lawyer, Christopher Dolan, asked to have tomorrow's hearing taken off calendar and be rescheduled for the near future stating "we want to address any concerns that Dr. Fischer has in an effort to demonstrate that, with an open and transparent dialogue between healthcare professionals, only one conclusion can remain: that Jahi McMath is not brain dead." Dolan said "I can understand what a difficult place Dr. Fischer finds himself in as he is the doctor who originally diagnosed Jahi as brain dead. We are not seeking to fault Dr. Fischer's original exam. Experts say that Jahi's brain swelling would have given the impression of brain death at that time. What we do want to do is to bring all the evidence forward to be looked at critically, and not defensively, as this is an important medical and legal debate which goes far beyond Jahi. In that regard, in the past, I had approached Dr. Fischer to share this information with him. He did not return my communications. So it is just within the last 24 hours that I have learned of Dr. Fischer's concerns. To avoid this lapse in communication in the future, today I have requested that the Court permit all of the doctors to conference together as this is an area of science and medicine, with many world class scholars and practitioners involved."



Dolan said “We would like to take this out of the arena of adversarial proceedings and into an area of open dialogue and discussion between health care professionals. I’m a lawyer, not a doctor, it would be nice if the doctors could work as doctors without lawyers involved.” Children’s Hospital has objected to Dolan’s request. In response to Children’s Hospital’s objection Dolan stated “the McMath family hopes that a way can be found to have the medical community, including Dr. Fischer, productively and thoughtfully engage with Drs. Machado, Shewmon, Mikolaenko, Prestigiacomo, DeFina and Labkovsky and others who have sworn that she is not brain dead. These world class physicians, in saying that Jahi is not brain dead, do not do so lightly, Indeed, Dr. Machado is a staunch defender of the concept of brain death he just believes, unequivocally, in this case, Jahi is not brain dead.”

Dolan said, “the stakes are so high Jahi’s request to be restored to the status of a living person should not be determined technically by the choice of one test over another but, instead, based on well accepted medical principals and Jahi’s presentation which is consistent with a person who is not brain dead. To make sure that the Court has all information, including that which Dr. Fischer says is lacking, we are postponing tomorrow hearing and we will be approaching the court for a further hearing date in the near future.”

Tonight the family will hold a prayer vigil for Jahi praying that minds may open, that truth will prevail, and that Jahi will be coming home. The service is scheduled for 7:00 p.m. tonight, October 8, 2014, at Yeshua Our Lord, 1406 Miller Street, Oakland California.

Further inquiry can be directed to Chris Dolan at [Chris@cdblaw.com](mailto:Chris@cdblaw.com) or by text to 415-279-2604 or questions can be asked of the family and their attorney before the service this evening