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5 Attorneys for Defendant  
 6 CHILDREN'S HOSPITAL & RESEARCH  
 CENTER AT OAKLAND

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 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

11 LATASHA WINKFIELD, as an  
 12 Individual, and as Guardian Ad Litem and  
 mother of Jahi McMath,

13 Plaintiff,

14 v.

15 CHILDREN'S HOSPITAL & RESEARCH  
 16 CENTER AT OAKLAND; DR. DAVID  
 DURAND, and Does 1-100, inclusive,

17 Defendants.

Case No. 4:13-cv-05993-SBA

**DECLARATION OF DR. SIDNEY M.  
 GOSPE, JR. OPPOSING PETITIONER'S  
 REQUEST FOR COURT ORDER  
 COMPELLING CHILDREN'S HOSPITAL  
 TO PERFORM TRACHEOSTOMY AND  
 INSERT GASTROINTESTINAL TUBE**

Date: 1/7/14  
 Time: 1:00 P.M.  
 Location: Dept. 1, 4<sup>th</sup> Flr.  
 1301 Clay St., Oakland  
 Judge: Hon. Sandra Brown Armstrong

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I, Sidney M. Gospe, Jr. M.D.,Ph.D., hereby declare as follows:

1. I am a physician licensed in the State of California, the State of Washington and the State of Alaska. I am board certified in "General Pediatrics" by the American Board of Pediatrics and in "Neurology with Special Qualification in Child Neurology" by the American Board of Psychiatry and Neurology. I am on the medical staffs at Seattle Children's Hospital (Seattle Children's) and the University of Washington Medical Center. I am also the Head of the Division of Pediatric Neurology at the University of Washington.

2. I hold BS and MS degrees from Stanford University and attended Duke University as a member of the MD-PhD program, completing my studies in 1981. I completed my residency training in both pediatrics and child neurology at Baylor College of Medicine in Houston (Texas Children's Hospital). Prior to my association with Seattle Children's and the University of Washington in 2000, I was a member of the medical school faculties of the Albany Medical College and the University of California, Davis. At Seattle Children's, I provide care to patients in the general neurology clinic and the neuromuscular clinic and to hospitalized pediatric patients. I also oversee the clinical, research and educational programs of the Division of Neurology. I have over 25 years of experience in the evaluation and care of children with neurological and neuromuscular disorders.

3. I have not provided any treatment, care, or consultation with respect to Jahi McMath ("McMath"), but have reviewed the December 30, 2013 declaration of Paul Byrne filed by the Petitioner in this matter. Specifically, I

reviewed the assertion of Dr. Byrne that the squirming arm and leg movement of Ms. McMath's body allegedly signifies that she is not brain dead.

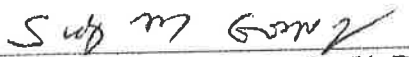
4. While I have not examined Ms. McMath, based on my knowledge and expertise, movements such as this are consistent with "brain death-associated reflexes" and "automatisms" (automatic behavior) and do not signal that Ms. McMath is alive.

5. Although the exact reasons for these types of reflexes are not completely known, it is understood that these reflexes are generated from the spinal cord rather than from brain activity. The Society of Critical Care Medicine, The American Academy of Pediatrics and the Child Neurology Society established criteria for the diagnosis of brain death in infants and children and also describe movements that may be present despite brain death, including reflex withdrawal to stimuli and spinal myoclonus. The American Academy of Neurology also describes movements that may be present despite brain death including "facial myokymia (fine facial movements), transient bilateral finger tremor, repetitive leg movements, ocular microtremor (eye tremors), and cyclical constriction and dilatation in light-fixed pupils (abnormal exaggeration of the rhythmic contraction and dilation of the pupil, independent of changes in illumination or in fixation of the eyes)."

6. In many instances in my practice over the last 25 years, I have seen such movements in comatose patients whose examination and clinical history are consistent with a diagnosis of brain death. The presence of these movements do not indicate that the patient is not brain dead, or that the patient is alive. In my

experience, once a patient has been clinically determined to be brain dead, he or she will never regain brain function and these types of observed movements are consistent with spinal reflexes.

I declare under the penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed this 2nd day of January, 2014 at Seattle, Washington.

  
Sidney M. Gospe, Jr., M.D., Ph.D.