
Exhibit D

1 Christopher B. Dolan, Esq. (SBN 165358)
 2 Aimee E. Kirby, Esq. (SBN 216909)
 3 THE DOLAN LAW FIRM
 4 1438 Market Street
 5 San Francisco, California 94102
 6 Tel: (415) 421-2800
 7 Fax: (415) 421-2830

8 Attorneys for Plaintiff
 9 LATASHA WINKFIELD

10 SUPERIOR COURT OF CALIFORNIA
 11 COUNTY OF ALAMEDA

12 LATASHA WINKFIELD, an individual
 13 parent and guardian of Jahi McMath, a
 14 minor

15 Plaintiff,

16 v.

17 CHILDREN'S HOSPITAL & RESEARCH
 18 CENTER AT OAKLAND, Dr. David
 19 Durand M.D. and DOES 1 through 10,
 20 inclusive

21 Defendants.

Case No. PR13-707598

DECLARATION OF IVAN
 MIKOLAENKO, M.D., IN SUPPORT OF
 PLAINTIFF'S WRIT OF ERROR CORAM
 NOBIS AND REQUEST FOR REVERES
 OF JUDICIAL DETERMINATION OF
 BRAIN DEATH OF JAHl McMATH

22 I, Ivan Mikolaenko, M.D., declare as follows:

23 1. I am a Board Certified Physician in Neurology with a subspecialty fellowship training
 24 and certification in NeuroCritical Care also known as a neurointensivist. I make this declaration of
 25 my own personal knowledge in support of Plaintiff's Petition regarding the status of Jahi McMath
 26 concerning brain death.

27 2. Attached to this Declaration is a true and correct copy of my Curriculum Vitae as
 28 Exhibit "A." It is incorporated herein, is made of my own personal knowledge.

DECLARATION OF IVAN MIKOLAENKO, M.D.



1 3. I obtained my medical education from Bukovynian State Medical University in
2 Western Ukraine. Following graduation I was a research assistant at the University of Alabama in
3 Birmingham, Alabama and then post doctorate fellow in the Department of Neurology at Johns
4 Hopkins School of Medicine, Baltimore, Maryland. I then continued my clinical training as an
5 intern at the Department of Internal Medicine at the University of Tennessee in Memphis and later
6 as a resident at the Department of Neurology at the University of Tennessee in Memphis. I
7 finished my neurology training as a senior resident at the Case Western Reserve University School
8 of Medicine in Cleveland, Ohio. After graduating from Case Western University I became a
9 clinical fellow and a neurology instructor in the Department of Neurology and Neurosurgery,
10 Division of Neurocritical Care at the University of Virginia in Charlottesville, Virginia. I am a
11 member in good standing of the American Academy of Neurology, the Neurocritical Care Society,
12 and Johns Hopkins Medical and Surgical Association. I am on the Peer Review Committee for
13 papers submitted to the Neurocritical care Journal.
14

15
16 4. I have affiliations with the following hospitals: Winthrop University Hospital in
17 Mineola, NY, South Nassau Communities Hospital; North Shore University Hospital; Huntington
18 Hospital; Glen Cove Hospital; Syosset Hospital; Long Island Jewish Medical Center; and Mercy
19 Medical Center
20

21 5. I have reviewed the following material: (1) the MRI slide of Jahi McMath's Brain from
22 Dr. Calixto Machado report, (2) the MRA slide of Jahi McMath's Brain from Dr. Calixto
23 Machado report and; (3) the EEG report of Jahi's brain performed by Elena Labkovsky, PhD.
24

25 6. I have the following opinions to a reasonable degree of medical certainty and
26 probability:

27 7. According to the reports I have read Ms. Jahi McMath on December 9th, 2013 suffered
28 massive blood loss and subsequent cardiac arrest after surgery for treatment of sleep apnea. This

1 event lead to a drop in cerebral perfusion and severe anemia, which caused her brain to be
2 deprived of oxygen (hypoxia) and sugar (hypoglycemia) supply, and subsequently led to critical
3 shortage of energy (energy crisis) for neurons. At the same time decreased blood flow to her brain
4 caused decreased removal of lactic acid and other toxic metabolites, which altogether led to
5 permanent damage of certain areas of her brain. But following global ischemia neurons in her
6 brain did not die suddenly and all at once. Many neurons underwent necrosis and apoptosis (self-
7 destruction), but some survived and recovered some function after brain edema resolved and brain
8 blood flow was restored. This happened most likely due to brain cells selective vulnerability: some
9 neurons are more vulnerable to lack of oxygen and energy than others.

11 8. The brain structure evidenced in her MRI is not consistent with an MRI of a patient that
12 has been brain dead over nine (9) months. By definition, the so called "respirator brain" is non-
13 perfused brain, which develops due to a major global ischemic event and in which cerebral
14 perfusion is not restored. This patient's MRA shows that there is some cerebral blood flow which
15 was restored some time after the event. Also the slide of her brain MRI does not show so called
16 "liquefied brain", which by definition is brain with necrotic and autolytic (self-destruction)
17 changes, simply sad the sterile decay of the brain that has mostly died while the rest of her body
18 was kept alive. I could not identify complete disintegration of her brain tissue from the slide I saw,
19 and I did not see complete autolysis (enzymatic auto-digestion) which usually ends in liquefaction
20 of brain. Such brain most vital functions should be ceased and there should not be any generation
21 of electrical activity by dead neurons

24 9. The EEG done by Dr. Labkovsky and her report shows some electrical brain wave
25 activity.

27 10. Based on my review of all information submitted to me and of the testing results
28 performed by other expert witness specialists on Jahi McMath, it is my opinion that she without

1 any doubt has suffered a very significant brain injury which most certainly led to permanent and
2 severe brain damage. However, it is my opinion that she at this time does not meet the criteria for
3 brain death, because she seems to be not in coma anymore as her testing results and some video
4 material showed some evidence of responsiveness to commands
5

6 11. I declare under the penalty of perjury under the laws of the State of California that the
7 forgoing is true and correct. Signed October 7, 2014, in Miracosta, CA.

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11 IVAN MIKOLAENKO, M.D.

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Exhibit E

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18 CENTER AT OAKLAND, Dr. David
19 Durand M.D. and DOES 1 through 10,
20 inclusive

21 Defendants.

Case No. PR13-707598

DECLARATION OF CHARLES J.
PRESTIGIACOMO, M.D., IN SUPPORT
OF PLAINTIFF'S WRIT OF ERROR
CORAM NOBIS AND REQUEST FOR
REVERES OF JUDICIAL
DETERMINATION OF BRAIN DEATH
OF JAHl McMATH

22 I, Charles J. PrestigiacoMo, M.D., declare as follows:

23 1. I am a Board Certified Physician in Neurological Surgery . I make this declaration of
24 my own personal knowledge in support of Plaintiff's Petition regarding the status of Jahi McMath
25 concerning brain death.

26 2. Attached to this Declaration is a true and correct copy of my Curriculum Vitae as
27 Exhibit "A." It is incorporated herein, is made of my own personal knowledge and constitutes a
28 Business Record under the California Evidence Code.

3. In 1993, I graduated from the Columbia University College of Physicians and



1 Surgeons. I then went on to complete my Residency in Neurological Surgery at the Neurological
2 Institute of New York, Columbia-Presbyterian Medical Center. I followed my Residency with a
3 fellowship in Endovascular Neurosurgery at Beth Israel Medical Center, New York, Institute of
4 Neurology and Neurosurgery, Center for Endovascular Surgery.

5 4. Currently, I am a Professor in the Department of Neurological Surgery and Radiology,
6 at the New Jersey Medical School. I am also the Director of Cerebrovascular and Endovascular
7 Neurosurgery at the University Hospital, and the Program Director of the Neurosurgical
8 Residency Program at the New Jersey Medical School. Lastly, I am a Research Professor in the
9 Department of Biomedical Engineering at the New Jersey Institute of Technology.

11 5. I have reviewed the following material: (1) the MRI of Jahi McMath's Brain, (2) the
12 MRA of Jahi McMath's Brain both conducted at University Hospital.

14 6. I have the following opinions to a reasonable degree of medical certainty and
15 probability:

16 7. The brain structure evidenced in the MRI is not consistent with an MRI of a patient
17 that has been brain dead over nine (9) months.

18 8. The MRA shows that there is intracranial blood flow which is inconsistent with the
19 standard definition of brain death imaging (REFERENCE)

20 9. Based on my review of the testing performed on Jahi McMath it is my opinion that she
21 has suffered a very significant brain injury which will most certainly lead to permanent and severe
22 brain damage however, it is my opinion that, at present, she does not meet the imaging criteria for
23 brain death
24

25 10. I declare under the penalty of perjury under the laws of the State of California that the
26 forgoing is true and correct.

27 11. Signed October 8, 2014, in Newark, NJ.



Charles J. Prestigiacomo, M.D.

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