



FILED
LEWIS COUNTY THE HONORABLE JAMES W.

2022 MAY 31 AM 11:00 Date of Hearing: June 1, 2022 @ 9:00 a.m.

SUPERIOR COURT
CLERK'S OFFICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON, LEWIS COUNTY

SCOTT HAMILTON, as guardian ad litem for Z.H.,)	
)	NO. 20-2-00543-21
Plaintiffs,)	
vs.)	REPLY DECLARATION OF
)	SUSAN MACHLER IN SUPPORT
LINDA AMONDSO-N-MULLER, Personal Representative of the ESTATE of LAURA HAMILTON,)	OF PLAINTIFF'S MOTIONS IN
)	LIMINE
Defendants.)	

SUSAN MACHLER, under penalty of perjury under the laws of the State of Washington, makes the following declarations:

1. My name is Susan Machler, and I am competent to testify to matters contained herein. I am one of the attorneys of record in the above-entitled case.
2. Attached hereto as Exhibit 1 is a true and correct copy of an excerpt from the deposition of Michael Freeman.
3. Attached hereto as Exhibit 2 is a true and correct copy of an excerpt from the deposition of Edith Gurewitsch Allen.

Dated this 30th day of May, 2022, at Seattle, Washington.

Susan Machler

REPLY DECLARATION OF SUSAN MACHLER IN
SUPPORT OF PLAINTIFF'S MOTIONS IN LIMINE - 1

OSBORN MACHLER
2025 First Avenue, Suite 1140
Seattle, WA 98121
206-441-4110 (Tel)
206-441-4220 (Fax)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury under the laws of the State of Washington that I caused the foregoing to serve upon the following in the manner indicated below:

Attorneys for Defendant:

Donna Moniz
925 4th Ave, Ste. 2300
Seattle, WA 98104

- Via Electronic Filing
 Via Legal Messenger
 Via U.S. Mail
 Via E-Mail: monizd@jgkmw.com;
vasquezb@jgkmw.com; randp@jgkmw.com;
sproulj@jgkmw.com
 Via Fax:

Dated this 31 day of May, 2022 at Seattle, Washington.



Susan Machler

Exhibit 1

02:36:50 1 A. I assume because somebody asked me to.

02:36:57 2 Q. But you don't remember if you were paid?

02:37:01 3 A. I don't have any recollection of the
02:37:03 4 circumstances of them.

02:37:12 5 Q. Have we generally reviewed the opinions you
02:37:15 6 plan to express in this case?

02:37:16 7 A. I think we have.

02:37:18 8 Q. Okay. Let's pull up a couple more
02:37:24 9 exhibits. And let's get the letter from Western
02:37:36 10 States Chiropractic College. We'll mark this I
02:37:44 11 think Exhibit 9.

02:37:57 12 (Whereupon Exhibit 9 was marked for
02:37:57 13 identification by the Court Reporter.)

02:37:57 14 Q. BY MS. MONIZ: Do you recognize this
02:37:57 15 letter?

02:37:59 16 A. People have shown it to me. I don't have
02:37:59 17 any recollection from it that goes back to the date
02:37:59 18 that it was supposedly sent or was supposedly made.
02:38:03 19 My understanding is the school doesn't have a record
02:38:05 20 of it either.

02:38:08 21 Q. Dr. Freeman, you have been asked about this
02:38:11 22 letter before, both in court and in depositions. Do
02:38:15 23 you deny that this letter at some point back in the
02:38:19 24 '80s was addressed to you?

02:38:22 25 A. No. Exactly what I just said. I have no

02:38:26 1 recollection of this letter. I don't have any
02:38:26 2 record of it. I don't have a recollection of what I
02:38:29 3 got at the time. It's almost 40 years old. That's
02:38:35 4 my answer.

02:38:37 5 Q. But you do agree that you were suspended
02:38:40 6 from chiropractic school for claiming to do
02:38:45 7 treatment on patients that you did not actually
02:38:47 8 treat. Correct?

02:38:49 9 A. I think it was exams maybe. Maybe it was
02:38:52 10 treatment. I don't recall. But yeah, I certainly
02:38:54 11 was suspended from that school. It was a terrible
02:38:57 12 school.

02:39:01 13 Q. All right. Let's take that one down.

02:39:03 14 And then I think there's at least one other
02:39:07 15 exhibit I want to look at. And that would be --
02:39:31 16 actually, I think Mr. Rand was going to put up
02:39:37 17 another one, the rebuttal article. So we can take
02:39:41 18 that down. And would you go ahead and send that,
02:39:49 19 Pierce. We'll mark that Exhibit 10.

02:39:56 20 (Whereupon Exhibit 10 was marked for
02:39:56 21 identification by the Court Reporter.)

02:40:16 22 MS. MONIZ: All right. Let's go off the record
02:40:18 23 for a minute.

02:40:20 24 THE VIDEOGRAPHER: The time is 2:40 P.M. We're
02:40:24 25 off the record.

Exhibit 2

18:28:07 1 Hamilton fell below the standard of care in how she
18:28:11 2 managed the shoulder dystocia in this case; correct?

18:28:17 3 A Yes.

18:28:19 4 Q And you believe that Laura Hamilton used
18:28:22 5 excessive force, based on the findings of the ruptured
18:28:31 6 nerves in the brachial plexus in the child; correct?

18:28:36 7 A So you're using the word, "Excessive."
18:28:40 8 Excessive applies a standard of care issue, so I
18:28:43 9 would -- I -- I would probably agree that it was
18:28:47 10 excessive in this case. But using the word, "Excessive"
18:28:51 11 because it's an amount outside the standard of care that
18:28:55 12 was not justified by the clinical circumstances.

18:29:00 13 Q So in your opinion, there are times when
18:29:05 14 ruptured nerves in the brachial plexus could be caused
18:29:11 15 by appropriate force of the clinician, but this is not
18:29:16 16 one of those cases in your opinion?

18:29:18 17 MS. MACHLER: Object to the form.

18:29:19 18 THE WITNESS: That's exactly correct.

18:29:21 19 BY MS. MONIZ:

18:29:22 20 Q Okay. And when you look at the clinical
18:29:26 21 circumstances, you're looking at the medical records, as
18:29:31 22 well as the testimony regarding the time that the
18:29:35 23 shoulder dystocia occurred; right?

18:29:39 24 A And the degree to which the fetus -- or the
18:29:42 25 infant required resuscitation.