



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

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
OF PLAINTIFF'S MOTION RE:
EXPERT TESTIMONY

LINDA AMONDSON-MULLER, Personal)
Representative of the ESTATE of LAURA)
HAMILTON,)

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 the CV of Sandra
Wilkinson, plaintiff's midwife expert.

3. Attached hereto as Exhibit 2 is a true and correct copy of the Court's October
12, 2015, order precluding Allan Tencer from testifying about causation in *Myhre v. Hamilton*.

4. Attached hereto as Exhibit 3 are true and correct copies of excerpts from the
deposition transcript of Dr. Michael Freeman.

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

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3 _____
4 Susan Machler

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CERTIFICATE OF SERVICE

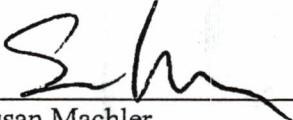
The undersigned hereby certifies under penalty of perjury under the laws of the State of Washington that I caused the foregoing to serve upon the following in the manner indicated below:

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 31st day of May, 2022 at Seattle, Washington.



Susan Machler

Exhibit 1

Sandra Wilkinson, CNM, RNP, SANE-P

1809 Shady Brook Drive
Thousand Oaks, CA 91362
Cell: 805 444 2624

SUMMARY:

Midwife who has delivered over 11,000 babies. Registered Nurse. Nurse Practitioner. Forensic nurse in sexual assaults. Clinical teacher at both USC and UCLA. Experienced expert witness in both civil and criminal cases.

WORK EXPERIENCE:

Southern California Permanente Medical Group, Panorama City, CA (November 1990-present)

Full scope midwifery care providing physical exams, gynecological care across the lifespan, prenatal care, intrapartum, first assist cesarean sections, labor and delivery management, vaginal deliveries, genital injury repair and management of fetal heart rate monitoring. Delivered more than 11,000 babies.

Wilkinson Byrne Forensic Nurse Consultants, Thousand Oaks, CA (2009-present)

Legal nurse consultant in both civil and criminal cases. Working for both plaintiff, prosecution and defense. Testified in court about 70 times. Deposed 16 times

Center for Assault Treatment Services, Northridge Medical Center, Van Nuys, CA

(June 2001-present) Forensic nurse examiner (sexual assault, physical abuse domestic violence physical exams). Comprehensive forensic interviews, examinations and evidence collection from children, adolescents, adults and suspects.

Planned Parenthood Los Angeles, Los Angeles, CA (1994-2001)

Nurse practitioner, providing gynecological and antepartum obstetrical care.

Valley Community Clinic, North Hollywood, CA (1993-1996)

Provided gynecological and colposcopy examinations.

Valley Hospital, Van Nuys, CA (1986-1990)

Registered nurse. Labor and delivery.

Security Forces Hospital, Riyadh, Saudi Arabia (1983-1984)

Senior midwife providing intrapartum care and vaginal deliveries to Saudi nationals.

Blacktown District Hospital, Blacktown NSW, Australia (1980-1982)

Clinical and didactic instructor of pupil midwives.

Blacktown District Hospital, Blacktown NSW, Australia (1978-1980)

Staff midwife in labor/delivery and special care baby unit.

Leyte Baptist Clinic, Hilongos, Leyte del Sur, Philippines (1978 and 1980)
Volunteered and provided midwifery and nursing care to Filipina nationals for 2 months in 1978 and 2 months in 1980.

CERTIFICATIONS:

Sexual Assault Nurse Examiner-Pediatrics - International Association of Forensic Nurses

Certified Nurse Midwife - American College of Nurse Midwives

Colposcopy of the Lower Genital Tract - American Society of Colposcopy and Cervical Pathology

Limited Office Gynecological and Obstetrical Ultrasound - Nurses' Association of the American College of Obstetricians and Gynecologists

Advanced Fetal Monitoring - Association of Women's Health, Obstetric and Neonatal Nurses

Neonatal Resuscitation - American Heart Association

Basic Life Support - American Heart Association

EDUCATION:

Bachelors in Health Sciences (Nursing) 1997
Charles Sturt University, Wagga Wagga NSW, Australia

Precertification of Foreign Trained Nurse Midwives 1990
The Frontier School of Nurse Midwifery, Hyden, Kentucky

Midwifery Program September 1977- August 1978
Blacktown District Hospital School of Midwifery, Blacktown NSW, Australia

Nursing Program May 1974 - April 1977
Blacktown District Hospital School of Nursing, Blacktown NSW, Australia

LICENSES:

Certified Nurse Midwife, California 1990 MW 807

Nurse Practitioner, California 1997 RNP 393503

Registered Nurse, California 1986 RN 393503

TEACHING:

Kaiser Permanente Panorama City 1990-present
Clinical instruction of student nurses, student midwives, and student nurse practitioners in outpatient clinic and labor delivery.

University of California Los Angeles 2007-present
Clinical teaching Year 2 OB/GYN residents.

University of Southern California 2007-present
Clinical teaching of Year 3 OB/GYN residents in labor and delivery.

Planned Parenthood Los Angeles 1994-2001
Clinical instructor for OB/GYN and family practice residents and student nurse practitioners in OB/GYN outpatient clinic. Including colposcopy and gynecological management.

Blacktown Hospital School of Midwifery 1980-1982
Clinical and didactic teaching of pupil midwives.

MEMBERSHIPS:

American College of Nurse Midwives 1990 to present

International Association of Forensic Nurses 2012 to present

California Nurse Midwives Association 2009 to present

Exhibit 2

Received & Filed
LEWIS COUNTY, WASH
Superior Court

OCT 12 2015

By Kathy A. Brack, Clerk
Deputy

Honorable James W. Lawler

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF LEWIS

LEVI ZANE MYHRE, a minor, by and
through his Guardian ad Litem, WILLIAM
L. E. DUSSAULT,

Plaintiff,

vs.

LAURA HAMILTON, individually and her
marital community; LAURA HAMILTON
LICENSED MIDWIFE, a Washington
business.

Defendants.

No. 14-2-01043-3

ORDER GRANTING
DEFENDANT HAMILTON'S
MOTION TO ALLOW THE
TESTIMONY OF ALLAN
TENCER, PH.D.

This matter having come before the Court upon Defendant Hamilton's Motion to Allow the Testimony of Allan Tencer, Ph.D., and the Court having reviewed the materials filed in support and opposition of the motion, including:

1. Defendant Hamilton's Motion to Allow the Testimony of Allan Tencer, Ph.D., dated September 24, 2015;
2. Declaration of Michael B. McDermott, with attached exhibits, dated September 24, 2015;
3. Plaintiff's Response to Defendant Hamilton's Motion to Allow the Testimony of Allan Tencer, Ph.D., dated October 8, 2015;

ORDER GRANTING DEFENDANT HAMILTON'S
MOTION TO ALLOW THE TESTIMONY OF ALLAN
TENCER, PH.D. - 1

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KEAY, MONIZ & WICK, LLP
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- 4. Declaration of Ron Perey in Support of Plaintiff's Response to Defendant Hamilton's Motion to Allow the Testimony of Allan Tencer, Ph.D., with attached exhibits, dated October 8, 2015;
- 5. Defendant Hamilton's Reply Re: Motion to Allow the Testimony of Allan Tencer, Ph.D., dated September 24, 2015;
- 6. _____;
- 7. _____.

And being fully apprised of the facts and the law, and hearing oral argument from the parties, it is hereby **ORDERED** that Defendant Hamilton's Motion to Allow the Testimony of Allan Tencer, Ph.D. is **GRANTED**. *He will not testify regarding causation.*

DATED this 12 day of October, 2015.

James W. Lawler

HONORABLE JAMES W. LAWLER

Presented by:
 JOHNSON, GRAFFE, KEAY,
 MONIZ & WICK, LLP

Donna M. Moniz

 Donna M. Moniz, WSBA #12762
 Karin J. Mitchell, WSBA #44101
 Attorneys for Defendant
 Laura A. Hamilton

Approved as to form:

Perey Law Group, PLLC
Ron Perey

 Ron Perey, WSBA #2273
 Attorneys for Plaintiff

Exhibit 3

11:57:30 1 going to get into all of his opinions because I'm
11:57:33 2 only addressing his opinions that relate to the
11:57:37 3 literature.

11:57:41 4 Q. Well, Dr. Scher didn't say that in no
11:57:48 5 circumstances could traction added to the natural
11:57:52 6 forces cause injury, did he?

11:58:00 7 A. No, he did not say that.

11:58:03 8 Q. What is your understanding of his reference
11:58:05 9 to the chemoreflex activation during labor that's
11:58:11 10 illustrated by this article?

11:58:17 11 A. It goes to a hypothetical explanation that
11:58:21 12 hypotonia is in some way related to the risk of
11:58:24 13 injury when there is a dystocia or without a
11:58:29 14 dystocia because of an article that found a
11:58:32 15 50 percent increased risk of hypotonia in brachial
11:58:36 16 plexus cases.

11:58:40 17 Q. So you believe that the statement that
11:58:47 18 hypotonia increases the risk of injury to the
11:58:51 19 brachial plexus is a false one?

11:58:54 20 A. Oh, most certainly is. It's a case of
11:58:56 21 reverse causation. The brachial plexus injury
11:59:01 22 causes the hypotonia. There is no evidence
11:59:04 23 whatsoever that an intrapartum hypotonia contributes
11:59:08 24 to the risk of this injury. That's --

11:59:13 25 Q. So if an expert said that the presence of