

Honorable Laura Inveen
Oral Argument: 1:30 July 30, 2010

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IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR KING COUNTY

JANE DOE,

Plaintiff,

vs.

KING COUNTY,

Defendant.

No. 10-2-22810-1 SEA

DECLARATION OF DR. PHILIP G.
LINDSAY IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION

I, Philip G. Lindsay declare as follows:

1. I am over 18 years old and competent to testify.
2. I am Board Certified in Psychiatry and Neurology and have been licensed to practice since 1970. I am familiar with the files and records herein. My C.V. is attached hereto.
3. Jane Doe was seen by me for a head injury on June 8, 2010. She had been the victim of a hit and run driver at fifty (50) mph and had suffered a concussion. She called 911 twice. However, they did not respond. The report of the accident and is attached hereto as Exhibit A with Ms. Doe's name and identifying information redacted. Ms. Doc exhibited

DECLARATION OF PHILIP G. LINDSAY - 1

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1 numerous signs of a concussion which I documented. She had a loss of memory from before
2 and after the accident, a loss of consciousness, she became confused and disoriented, she
3 stared vacantly, she had slurred speech and lack of coordination. She also evidenced
4 personality changes consistent with a head injury. I documented a bruise and knot on her
5 forehead, and also bruising on her arms from the officer. I sent her to Swedish Hospital
6 where she was diagnosed with Post Concussive Syndrome (which only arises from the more
7 severe concussions) and a CT scan showed fluid in Ms. Doe's brain. I saw Ms. Doe again
8 after the accident and saw an injury behind her ear which directly corresponded to the area of
9 her brain where fluid was found. It is my opinion not only that Ms. Doe suffered a severe
10 concussion, but also that her accident caused brain injury and fluid in her brain.

11 4. My opinion is also based upon the fact that Ms. Doe had been at a dinner
12 meeting before her accident and exhibited none of these symptoms at that time. See witness
13 interviews attached hereto as Exhibits B, C, D, E, and F.

14 5. Symptoms of brain injury can be mistaken for symptoms of intoxication, and
15 include the following:

- 16 ■ Vacant stare;
- 17 ■ Delayed verbal and motor responses (slow at answer questions or follow
18 instructions);
- 19 ■ Confusion and inability to focus attention (easily distracted and unable to
20 follow through with normal activities);
- 21 ■ Slurred or incoherent speech (making disjointed or incomprehensible
22 statements);
- 23 ■ Gross observable uncoordination (stumbling, inability to walk tandem/ straight
line);
- Emotions out of proportion to circumstances (distracted, crying for no
reason);
- Memory deficits;

DECLARATION OF PHILIP G. LINDSAY - 2

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- 1 ▪ Any period of loss of consciousness;
- 2 ▪ Personality changes (excessive swearing, belligerence, aggressiveness);
- 3 ▪ Disorientation (walking in the wrong direction, unaware of time, date place);
- 4 ▪ Drowsiness; and
- 5 ▪ Nausea.

6 6. In my opinion, on a more probable than not basis based upon my research and
7 40 years of practice, Ms. Doe was suffering symptoms of a traumatic brain injury at the time
8 of her arrest. I further believe that she was mistakenly arrested for DUI based solely upon the
9 symptoms of a traumatic brain injury. She was seated in her car, she stared vacantly at the
10 officer, she didn't know what had happened to her, and her speech was severely affected. It
11 is my opinion that she should have received immediate medical care. She was not asked if
12 she was hurt, the officer did not inspect her car and ascertain she was in an accident. The
13 officer should have acted as a first responder and should have called qualified first responders
14 to help Ms. Doe. Instead, he rushed to judgment. Ms. Doe was not seen by medics or at a
15 hospital as she should have been.

16 7. The symptoms of brain injury, as well as the fact of having a brain injury, are
17 in the majority of cases extremely humiliating and upsetting to patients because brain injury
18 often results in behavior that is out of character. In recovering from brain injury, a patient
19 must not only work hard in rehabilitation, but must also find a way to move past the
20 humiliation and trauma caused by the brain injury symptoms. In my opinion, to have these
21 symptoms publicized, so that the patient not only has to reconcile their behavior and injury to
22 themselves and to close associates, but also to the public at large, is on a more probable than
23 not basis, not only offensive, but harmful. In my opinion, on a more probable than not basis,
Ms. Doe would be psychologically harmed, and aspects of her recovery would be made more

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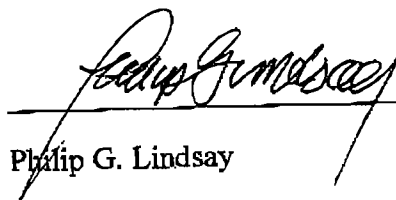
1 difficult, by having these symptoms publicized. In my opinion, on a more probable than not
 2 basis, all of the observations made in the police reports are observations of brain injury
 3 symptoms, not intoxication, and should be protected from public disclosure. It would be
 4 highly offensive to any reasonable person to release the records. On a more probable than
 5 not basis, disclosure would be extraordinarily offensive and medically damaging to Ms. Doe.

6 8. Ms. Doe has had follow up treatment with Dr Peter Esselman, Neurology at
 7 the University of Washington. She has also been recommended for neuro rehabilitation
 8 follow up. The police records of her injury, in my opinion, must be treated as purely medical
 9 and protected.

10 9. Attached hereto as Exhibits G, H, I, J, and K are true and correct copies of
 11 medical articles, abstracts, and book chapters documenting symptoms of traumatic brain
 12 injury and how easily they can be confused with symptoms of intoxication.

13 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF
 14 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

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 16 Signed at Seattle, Washington, this 29th day of July, 2010.

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 19 Philip G. Lindsay

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 23 DECLARATION OF PHILIP G. LINDSAY - 4

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