Eli H. Newberger, M.D.
92 Evans Road
Brookline, MA 02445
Telephone 617-232-7908
Email: **newberge@massmed.org**
FAX 617-731-1897

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Marcus F. Westervelt, Esq.
850 N. 6th Avenue
Phoenix, AZ 85003-1318

Keith M. Knowlton, Esq.
9920 S. Rural Road
Suite 108, PMB 132
Tempe, AZ 85284-4100

Sylvina Daly Cotto, Esq.
7272 East Indian School Road
Suite 203
Scottsdale, AZ 85251

Re: Chaunell Roberson (date of birth January 25, 1994) and Jameelah Smith (date of birth April 1, 2006)

Dear Attorneys Westervelt, Knowlton, and Cotto:

Please accept this letter as my consultative report on the above-captioned children, whose mother and father you represent in the termination of parental rights proceeding scheduled to be heard in April, 2011, in the Arizona Juvenile Court.

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I. Qualifications

I am a pediatrician with 40 years of experience in the diagnosis, treatment, and prevention of child abuse and neglect, in the course of which I have personally diagnosed and treated over 300 cases of Munchausen Syndrome by Proxy (MSBP) during my 3 decade service as medical director of the child protection team at Children's Hospital Boston. I have consulted additionally on over 50 cases of alleged MSBP across the United States and presented over 100 lectures and workshops on MSBP to physicians, social workers, psychologists, prosecutors, and judges. I have been qualified as a pediatric expert on MSBP in the Juvenile and Probate Courts of Massachusetts, as well as in California, Florida, and New Hampshire, as well as testifying in criminal trials in which MSBP was alleged in Massachusetts and Florida.

In the course of my training at Children's Hospital Boston, I organized its first child protection team in September, 1970. Subsequently, I devoted my medical career to service, research, and teaching, with a focus on the development of better methods to address child abuse and neglect in all their manifestations. I founded and directed the principal out-patient clinic for victims of abuse and neglect at Children's Hospital, the Family Development Clinic, from November, 1972, to December, 1999. Over the first decade, this clinic became a principal referral source for the Massachusetts Probate and Family Courts for interdisciplinary assessments of child abuse, child sexual abuse, and domestic violence in the face of custody conflict. It was obvious at the time I started this work that child abuse was a major social and clinical problem. I have published articles and books on child abuse and related issues through my career. My particular interest in the consequences of victimization for boys led to my latest book, "The Men They Will Become: The Nature and Nurture of Male Character," published in 1999.

I have attached my curriculum vitae to this affidavit as **Appendix A**. It includes a number of peer-reviewed research and clinical articles on FTT and on the similarities and differences between FTT and child abuse.

I have contributed to clinical, research, and public discourse on child abuse and neglect, pediatrics, child development, and child welfare all through my career. A partial list of the committees and boards on which I have served follows:

National and Regional:

1970-1973 Governor's Committee on Child Abuse (Chairman, Subcommittee on Services)
1972-1980 National Board of Advisors, Parents Anonymous
1974-1975 Advisory Committee, Model Child Abuse Reporting Law Project, Juvenile Justice Standards Project, American Bar Association
1977-1980 Advisory Committee on Protective Services, Massachusetts Department of Public Welfare

1977-1980 Policy Advisory Committee on Child Abuse and Neglect, Massachusetts Office for Children
1978-1980 Pediatric Task Force, Massachusetts Department of Public Health
1979-1982 Governor's Advisory Committee on Children and the Family (Chairman, Subcommittee on Families in Crisis)
1980-1982 Public Member, Advisory Board, National Center on Child Abuse and Neglect, U.S. Department of Health and Human Services
1981-1984 Board of Directors, National Committee for the Prevention of Child Abuse
1987-1989 Child Protection Services Standards Committee, Child Welfare League of America
1988 Science Selection Committee, Bunting Institute, Radcliffe College
1988-1992 Fatality Review Board, Human Resources Administration, New York City
1988-1991 Child Abuse Prevention Board, Commonwealth of Massachusetts
1989-1994 National Advisory Committee, National Data Archive on Child Abuse and Neglect, Cornell University
1990-1994 Injury Research Grant Review Committee, Centers for Disease Control, U.S. Public Health Service, Atlanta, Georgia
1992-1998 Standing Committee on Continuing Medical Education, Harvard Medical School
1992-1993 Governor's Commission on Foster Care, Commonwealth of Massachusetts
1993-1998 Board of Trustees, Council on Accreditation of Services for Families and Children
1995-98 Member, Committee on the Assessment of Family Violence Interventions, National Research Council

Professional Societies:

1974- American Academy of Pediatrics
1975- American Orthopsychiatric Association (**President, 1991-92**)
1976-1980 Task Force on Child Abuse, American Academy of Pediatrics
1976-1995 Society for Epidemiologic Research
1978-1982 Committee on Social Policy, Society for Research in Child Development
1980- Society for Pediatric Research
1981-1995 American College of Epidemiology
1981-1984 Board of Directors, American Orthopsychiatric Association
1982-1985 Committee on Child Abuse, Council on Scientific Affairs, American Medical Association
1982-1988 Executive Council, International Society for the Prevention of Child Abuse and Neglect
1987-1991 Committee for Ethical Conduct, Society for Research in Child Development
1987- American Pediatric Society
1989-1992 Vice Chair, Committee on Family Violence, American Medical Association
1993- Committee on Violence, Massachusetts Medical Society

Community Service Related to Professional Work:

1971-1979 Board of Directors, Parents' and Children's Services, Boston
1973-1984 Community Advisory Council, Junior League of Boston
1975-1980 Board of Directors, Brookline Mental Health Association
1975-1990 Advisory Board, Museum of the National Center for Afro-American Artists,

1977- Massachusetts Committee for Children and Youth (state chapter of Prevent Child Abuse America)
1978- (**President, 1978-1997**)
1983-1986 Board of Overseers, Massachusetts Cultural Education Collaborative
1984-1986 Committee on Infant Mortality, The Medical Foundation and Boston Department of Health and Hospitals

Editorial Boards:

1963-1966 Editorial Board, Yale Journal of Biology and Medicine
1977-1985 Editorial Board, Child Abuse and Neglect
1977-1978 Board of Consulting Editors, Monographs of the Society for Research in Child Development
1984-1990 Editorial Board, Victimology
1985-1998 Editorial Board, Journal of Interpersonal Violence
1985-1998 Editorial Board, Violence and Victims
1985-1989 Editorial Board, American Journal of Orthopsychiatry
1990-1999 Board of Governors, Family Violence Update
1990-1993 Editorial Board, Journal of Child Sexual Abuse
1992-1999 Editorial Board, Crisis Intervention and Time-Limited Treatment

In my efforts to improve services to abused and neglected children, I have often taught current approaches to diagnosis, treatment, and prevention to members of the helping professions involved with these cases, at conferences for physicians, nurses, social workers, lawyers, judges, child care workers, and mental health personnel. For example, on February 1, 1983, I gave a lecture at the Franklin N. Flaschner Judicial Institute First Annual Convocation for Experienced Justices on considerations for judges presiding in Care and Protection cases. I discussed children's attachments to parents and others; the developmental stages of children; the impact of emotional unfitness of a parent and its long-term implications; and incest and sexual abuse of children. In my teaching at Harvard Medical School, as part of a systematic effort to foster communication across disciplinary and institutional boundaries in my Training Grant from the National Institute of Mental Health (1979-1997), I opened our weekly seminars to members of the professional community concerned with advancing practice on child abuse. Through the Department of Continuing Medical Education at Harvard Medical School, I organized and directed or co-directed 12 annual three-day conferences on Abuse and Victimization in Life-Span Perspective for all the disciplines and professions concerned with child protection. All these conferences focused on strengthening the developing knowledge base of practitioners and advancing clinical and institutional practice.

My work in the formulation of policies to protect children from abuse began in the early 1970's, when child physical and sexual abuse were becoming salient clinical social problems. As always, my work in the public domain has been grounded in insights from clinical practice and research. This work includes consultations (to such governmental agencies as the U.S. Department of Health and Human Services, the Massachusetts Departments of Education, Mental

Health, Mental Retardation, and Social Services, and the Board of Registration in Medicine, nonprofit organizations such as Big Brothers of Massachusetts Bay, and numerous public and independent schools in Massachusetts).

I also have served on committees and boards devoted to the elevation and standardization of practice in the professional and non-professional care of children. Notable among these are the Juvenile Justice Standards Project of the American Bar Association, on whose commission to develop a model child abuse reporting law I served as after President Richard Nixon signed the National Child Abuse Prevention and Treatment Act in 1972, the Child Welfare League of America, on which I served on the committee to standardize child protection practices, and the Council on Accreditation of Services for Families and Children, a national organization chartered by the leading national nonprofit service organizations to standardize the practices of their local affiliates. I was the one of the first two physicians elected as a trustee in 1993. (Child protection services are included in its list of accreditation functions.) The chartering national organizations include the Family Service Association of America, Catholic Charities, Lutheran Family Services, and Jewish Family and Children's Services, in addition to the Child Welfare League. The awards listed on my curriculum vitae have recognized my clinical work, research, teaching, and public service.

Apart from my current teaching at Harvard Medical School, I am often called on to teach on child abuse and child sexual abuse at local and national conferences. Two years ago, on September 8, 2008, I presented a keynote address entitled "Foundations of Healthy Child Development, and Risks and Impacts of Traumatic Experience" at the U.S Department of Justice Symposium on Improving Judicial Responses to Child Sexual Abuse, in College Park, MD.

II. History

A. Initial Review and Agreement to Consult

I became involved in this matter in January 2011, recommended by a child psychologist in New Hampshire, Dr. Eric Mart, who has a national consultation practice on MSBP, as part of his work as a treating clinician and expert on parent-child relationships. Two years ago, when Dr. Mart and I were opposing experts in a complex child custody case involving allegations of child sexual abuse, we were able to work with the Guardian ad Litem and the Massachusetts Probate and Family Court in Lowell to configure and conduct a parent-child interactional assessment that proved to be of value to the Judge who presided in the case. Dr. Mart called me first and asked if I would be willing to consult in this matter.

Dr. Mart knew from our previous work together the standard I apply before accepting such assignments: that prior to agreeing work on a case, I first must assure myself that were the party that hired me to prevail, the protection and care

of children generally would be elevated, not diminished, or, in other words, that I was not an abuse expert for hire.

When shortly afterward, I received a telephone call from the mother of Chaunell Roberson and Jameelah Smith, Leanna Smith, along with Attorney Keith Knowlton, asking if I would consult with her about their daughters' medical and custody status, with special attention to the claim that Chaunell was a victim of MSBP, I agreed to review Chaunell's medical records, but that I could not assure them immediately that I would serve as an expert on their behalf, for the reasons above.

I received inpatient and outpatient records that documented Chaunell's entire diagnostic and treatment course, prior and subsequent to the MSBP allegations that were made on her behalf. Only the full record of Chaunell's last hospitalization for meningitis associated with a shunt infection during her tenure in foster home care was missing from the file. The records comprise four cartons of bound files, comprising inpatient and outpatient medical and hospital records from Phoenix Children's Hospital (six 3-ring notebooks), St. Joseph's Hospital (eight 3-ring notebooks), Banner Desert Medical Center (two 3-ring notebooks), Barrow Neurological Institute, as well as 48 email transmissions of scanned documents, dated between January 4 and February 8, 2011.

After my initial review and analysis, it was clear to me that Chaunell's case met my ethical threshold for consultation. I indicated as well, however, that it is my practice, where possible, to corroborate my reading of the medical records with the yield of in-person interviews with parents and, where possible, children. I requested the opportunity to interview Chaunell's mother Leanna Smith, the alleged perpetrator of the child abuse, and to conduct both interviews and physical examinations of Chaunell and her sister, Jameelah, who was alleged to have suffered physical abuse at the hands both of her mother and her step-father, Darrell Smith. Both Leanna Smith and Mr. Smith were also alleged to have sexually abused Jameelah. Subsequently, arrangements were made for my travel to Phoenix, AZ, to conduct these interviews and examinations.

B. March, 2011, visit to Phoenix, AZ

During this visit, between March 12 and 16, 2011, I conducted interviews with Leanna Smith, Chaunell Roberson, Jameelah Smith, and Darrell Smith, as well as meeting together with Leanna Smith and Darrell Smith. Pursuant to an emergency Juvenile Court hearing, however, I was informed by Ms. Smith's attorney, Marcus Westervelt, Esq., I was denied the opportunity to conduct proper physical examinations of both children, allowed only a limited examination of the portions of their bodies that were not covered by their clothing.

I also met in the course of this my visit, Attorneys Marcus Westervelt and Sylvina Cotto, who represent, respectively, Ms. Smith and Mr. Smith, Katrina Buwalda,

Psy. D., who graciously permitted me to use her office to interview Chaunell and Jameelah, and Steven Isham, M.A., L.B.S.W., an educational consultant retained by Ms. Smith.

Prior to my arrival in Phoenix on March 12, I asked Ms. Smith to prepare for me a packet of key medical events in Leanna's history, in order both to inform my understanding of her own perceptions and to corroborate and validate her concerns, representations, and actions regarding Chaunell's medical complaints and illnesses to the treating physicians.

It is appropriate to mention at this point that during my service on the Children's Hospital full-time faculty, between 1972 and 2000, I was appointed as a senior associate in medicine in the division of general pediatrics, and frequently worked for one or two months a year as an attending physician or co-attending physician responsible for the care of children on our infants' and toddlers' services on Division 27 of the Farley Building and, when the new Main Building was completed, on 8 East. This work involved several hours a day of talking with parents, examining patients, rounding with and teaching house officers (interns and residents) and Harvard Medical students, and guiding the treatment of children Chaunell's and Jameelah's ages who were hospitalized because of complex and frequently life-threatening medical conditions. This is also to say that my hospital responsibilities extended beyond my subspecialty roles as Medical Director of the Child Protection Team and Director of the Family Development (outpatient) Clinic, as well as our extensive grant-funded research and training activities on child abuse, child sexual abuse, and family violence.

In this in-patient setting, I saw first-hand the challenges and frustrations to doctors and parents alike of ambiguous and unfolding disorders of infancy and childhood. I emphasize that dealing with ambiguity, the absence of a clear diagnosis and treatment path is one of the most vexing aspects of hospital pediatrics. As well, in modern hospitals, subspecialists are typically both very busy and disinclined to spend a great deal of time coordinating with their colleagues and discussing with parents and child patients their diagnostic and therapeutic recommendations, that many include invasive and painful procedures, and medications targeted to diverse organ systems that may exert their own side-effects.

To put it mildly, cases like Chaunells's are frustrating for nurses, medical students, house officers, and attending physicians, and, most especially, for parents and children. It is often unclear who is piloting the hospital ship, and only recently have academic pediatric institutions appointed specialists in chronic care whose specific roles include clarifying, harmonizing, and coordinating diagnostic efforts, and delivering integrated treatment. Furthermore, in the treatment of children, there are nearly always psychological concomitants to serious illness, which are typically yet more complex in the face of multisystem disease. Hospital staff may be unsympathetic to the psychological distress severe child illness provokes in families. In pediatric wards, mothers

may be blamed for their children's lack of compliance with hospital routines and treatment orders. With the ready available of medical information on the Internet, physicians may take offense when parents inquire aggressively and offer their own information and theories about their children's evolving diagnostic and therapeutic care. This issue is so apparent in pediatric settings that the American Academy of Pediatrics has recently issued guidance to its members urging them to be patient and respectful of parents' queries and inputs.

C. History: Chaunell Roberson

Chaunell's history was derived from three sources: her medical records; her mother's interview; and her own interview.

Note on the organization. In the interest of economy, as well as to lend a measure of coherence, I have numbered each chronological sub-section sequentially and given short headings that describe their content. These numbers will serve to refer the reader to salient aspects of the history and to anchor the commentary that follows with factual data. They are meant to be read both separately and in relation to one another.

I have *italicized* for emphasis material that goes directly to the allegations of Munchausen Syndrome by Proxy.

I have **bolded** *for emphasis material that reflects salient clinical events that were subsequently mischaracterized or misrepresented by Chaunell's treating physicians and Arizona Child Protection Services staff.*

1. Interview with Leanna Smith, Chaunell's mother

I met with Ms. Smith for approximately two hours on March 12, 2011, and talked with her twice in the interval March 12 to 14 as I reviewed Chaunell's records again in preparation for drafting this consultative report.

Ms. Smith was open and forthcoming with information about herself, her family, and Chaunell, taking pains to give me information that would help me to understand the complex history. She recalled salient events and dates with remarkable precision, making reference to the summary and folder of relevant hospital, laboratory, and radiological data and reports that I had asked her to prepare a week prior to my arrival in Phoenix. She neither withheld information that might redound against her, such as psychological and medical reports and notations that suggested that she was uncooperative in Chaunell's care nor tried to bias my own independent interpretations of the data.

Ms. Smith's own summary and characterization of this data cohered well with the material I reviewed. On re-review prior to drafting this report, I could not find any discrepancies.

Although in the course of the interview, Ms. Smith expressed bewilderment and anger about the accusations that were made against her, her complaints were expressed with clarity, appropriate emotion, and care. I did not find her to be manipulative, obsessive, or paranoid, notwithstanding the seriousness of her allegations of unjust treatment and allegedly inappropriate reporting of Chaunell to Child Protection Services as a victim of MSBP.

Absent from Ms. Smith's presentation of Chaunell's history were the distortions, exaggerations, and elaborate arguments to support illness theories and the diagnostic contentions that are familiar to those who have managed MSBP in pediatric hospitals and are described in the MSBP literature. No signs of psychopathy, including boundary violations, or artifacts of characterological disturbance were present. The one idiosyncrasy in Ms. Smith's telling of the history was her occasional mispronunciation of medical terms. This did not appear to be from any want of intelligence or comprehension of the medical data, however. Indeed, for example in this regard, Ms. Smith included in her summary notebook a useful photocopy of a diagrammed, anatomical section of the brain that depicted its ventricles and sinuses, the better to discuss with me the placement of Chaunelle's cerebrospinal fluid shunts and the possible etiologies of the gas (or "air") found in the valve and in the 3rd ventricle that precipitated the cessation of her visitations with Chaunell.

Chaunell's was born after an unremarkable, term pregnancy on January 25, 1994. She and Ms. Smith share the same birthday. Her birth weight was 6 pounds, 10 ounces, her length 20". She was Ms. Smith's second child. (Her son Cordell, 19, lives with her.) In her first month of life, Chaunell was breastfed. Her health in early infancy was unremarkable, and her developmental milestones were normal. Until her entry into foster home care, Chaunell was given primary pediatric care by Stewart W. Vanhoosear, M.D., of Tempe, AZ, from 6 months to 12 years of age. Subsequent to her discharge from St. Joseph's Hospital on 2/27/07, when her insurance coverage was changed to MercyCare's long-term disability program, her primary care was given by Dr. Mario Islas at Happy Kids Pediatrics. This began in May 2007.

<u>2. 2003-2004: Following an asthma diagnosis and respiratory distress refractory to treatment, the diagnoses of vocal cord dysfunction, obstructive sleep apnea, and hypertension were made. The latter was attributed to the corticosteroid therapy for Chaunell's asthma.</u>

Symptoms of respiratory distress, however, provoked pediatric and emergency room visits beginning in infancy, and day-to-day symptoms of asthma developed early in the 2003-2004 school year. **Asthma and allergies were diagnosed at Phoenix Children's Hospital (PCH) on October 2, 2003, by Peggy J. Radford, M.D. Subsequently, following continued respiratory distress refractory to treatment, she received both pulmonology and otolaryngology assessments that led to diagnoses of vocal cord dysfunction and obstructive sleep apnea, along with hypertension**

believed to derive from the corticosteroid treatments for her asthma. Subsequent hospitalizations at PCH documented congenital heart disease (atrial septal and foramen ovale defects), and refractory (characterized as "malignant" hypertension) that required consultations and follow-ups by specialists in endocrinology and cardiology.

3. 2006: Abdominal pain, diagnosis of H. pylori gastric infection, and onset of headaches, along with concern about increased intracranial pressure.

In 2006, abdominal pain prompted a hospitalization that, after a gastroenterology evaluation that included stomach biopsy and cultures, concluded with the diagnosis of H. pylori infection. Appropriate antibiotic treatment was given, but another cascade of respiratory distress followed, which provoked concern about concomitant psychological concomitants and precipitants. Also, however, persistent headaches, nausea, and vomiting presented, that were explained neither by the infection nor the putative explanations for Chaunell's respiratory distress. Neurological consultation was arranged, concern about increased intra-cranial pressure and its diagnosis provoked further study, and a new, life-threatening, cycle of illness unfolded.

4. 2006 Reaction to Lortab, coma, tentative diagnosis of pseudotumor cerebri

Discharged home on October 31, 2006, Chaunell was rehospitalized at Banner Desert Medical Center on November 2, 2006, because of increasing blood pressure and severe abdominal pain. **According to the neurological consultation by Jay Cook, M.D., after she was given Lortab (a combination of acetaminophen and hydrocodone), "she started acting peculiar with inspiratory stridor, unresponsiveness, itching, but there was no rash.** She was given Benadryl 25 mg IV and the itching stopped, but became totally unresponsive. **She was transferred to the PICU (pediatric intensive care unit) for monitoring. Glasgow Coma Scale at that time was 3.** CT scan of the head was normal. She has maintained no response to pain, voice of parents or doctor, or showing any signs of spontaneous movement except for respirations." The physical examination showed: "The child is lying in bed with Cheyne-Stokes respirations. Stridor waxes and wanes with respiration. She occasionally has shaking of the right arm, which is not clonic in nature . . . she has no other spontaneous movement. She has no response to pain or voice." Dr. Cook's assessment was "Altered mental status in a child with hypertension, H. pylori, headache, history of asthma and stridor and normal CT scan of the head. She received Lortab just before change in mental status. . .Her exam is most compatible with a drug encephalopathy but we cannot prove that. His recommendations were: 1) STAT EEG looking for encephalopathic changes or seizure, 2) observe, and 3) **try to avoid any more CNS strokes**.

5. 2006 Episodes of Coma, respiratory distress, and brainstem dysfunction

Subsequently at Banner Desert Medical Center, she became comatose on several occasions, once on 11/04/06 for 2 weeks and again on 11/23/06. **Endotracheal intubation was required to sustain her respirations, and she was observed to lose brain stem function and cough reflex**, as well as to suffer incidents of left eye deviation toward the left accompanied with total body thrashing, unresponsiveness, and closed eyes. Although diffuse slowing of the brain waves was noted on EEG's, there was no pattern indicative of a seizure focus. Pseudotumor cerebri was tentatively diagnosed.

6. CSF hypotension, severe respiratory distress, intracranial pressure lability, diagnostic uncertainty.

On transfer on 11/26/06 to the Barrow Neurological Institute, Chaunell's Brain MRI study demonstrated symmetrical and diffuse thickening of the dural membrane within the anterior and middle cranial fossas. Where the MRI and MRV of the brain substance showed no parenchymal pathology, the thickening appeared to represent CSF hypotension. On 11/27/06, an intracranial pressure monitoring wire was placed. Subsequently, she was noted to have fluctuations in intracranial pressure, even as she experienced sufficiently severe respiratory distress to require ventilator assistance. In the differential diagnosis were pseudotumor cerebri, ischemia, seizure disorder, with or without psychiatric contributions. The latter could not be discerned on neuropsychological evaluation.

7. 2006. Gastrointestinal symptoms, resistant H. pylori gastritis, post-endoscopy coma, hypertension, obstructive sleep apnea, headaches, placement of ventricular access device to measure intracranial pressure, elevated intracranial pressure, Ommaya reservoir surgically implanted.

Neuropsychological evaluation follow-up was attempted on 12/12/2006 and 12/13/2006, but Chaunell was insufficiently cooperative to complete the assessment. After neither brain abnormality nor adverse change was demonstrated, Chaunelle was transferred to Neurorehab on 1/02/2007, where, until 1/11/07, she was given an endoscopy and biopsy for H. pylori gastritis. Although she appeared to tolerate this procedure well, on return to Neurorehab she had yet another episode of respiratory distress and unresponsiveness. Once again, she was intubated and returned to the PICU. She was extubated on 1/12/2007 with BIPAP (positive airway pressure ventilation) support beginning on 1/13/07.

On 1/24/07, neurosurgeon Harold Rekate, M.D. placed a ventricular access device and intracranial pressure to assess the potential therapeutic value of an LP shunt. Intracranial pressures were normal, and she was discharged home on

2/27/06 without a shunt subsequent to the following diagnostic and therapeutic interventions:
GI: She was found to have resistant H. pylori gastritis. Triple antibiotic treatment failed on 2 separate occasions. She continued to have slight abdominal discomfort throughout the hospital course and discharged with tetracycline, Flagyl, and antacid treatment.
Cardiovascular: Where on admission, Chaunell was receiving Norvase 10 mg. a day for high blood pressure, during the hospitalization she had occasional spikes to 140/90 mm. Hg. Cardiology consultation, EKG, and echocardiogram were normal. A nephrology consultation to identify a possible renal (kidney) cause for her HBP was unyielding of positive diagnostic information.
Respiratory: Chaunelle was found to have obstructive sleep apnea. At night, she was given BIPAP treatments. Pulmonary function studies showed marked decreases in expiratory reserve volumes and other parameters, but through the hospital course, air movement increased. Even though at discharge she was found to be wheezing in all her lung fields, she was believed to have improved.
Neurology: Chaunelle's headaches improved in the course of the hospitalization, and with Motrin and Tylenol, there was adequate analgesia. Blood gases obtained at random intervals disclosed only high ammonia levels, for which no etiology could be identified.
Genetics: A consultation was obtained, but no genetic component to Chaunelle's illness could be identified, although her urinary aspartic acid level was elevated. Other aminoacidopathies and autoimmune entities were likewise excluded.
Renal: Multiple urinalyses and cultures and renal chemistries demonstrated no abnormalities, and renal ultrasound on 2/27/07 was interpreted as normal.
Discharge instructions included the use of a BIPAP machine at night, use of diapers at bedtime, and 13 medications for hypertension, H. pylori, asthma, and allergies, and headache pain relief.

Yet another series of life-threatening neurological crises ensued, however, as summarized by a neurologist at the Barrow Neurological Institute of St. Joseph's Hospital, Kevin Chapman, M.D., on 8/1/07:

"In the hospital she had recurrent episodes of decreased level of consciousness of unclear etiology, which required intubation on three separate occasions, some of these seemed to have occurred when she was administered meds including Fentanyl. **At one point she was documented to have an elevated intracranial pressure of greater than 100.** Briefly, an Ommaya reservoir was placed, and her ventricular pressure has remained normal per Dr. Rekate. She has undergone multiple evaluations, including imaging studies and CSF evaluations as well as lab studies all of which have been inconclusive. Most recent MRI in June 2007,was again unremarkable except for her right ventricular shunt catheter. Evaluated by neuropsychologist and noted to have worsening cognitive performance as compared to some inpatient examinations. It was felt that at least part of this was related to inattentiveness. Since last visit pt continues to have

many of the above mentioned problem: headaches have continued to get better with Tylenol, no clear associated nausea or vomiting with the headaches, but now complains of sharp pain in left ear that seems to last approx 30 min. Her other major complaint relates to memory problems. Overall her mom feels that she seems to be slightly worse than in the past, though it is somewhat difficult to quantify this. Pt does not currently receive physical therapy due to change in insurance status. Her mother has been able to arrange for pt to be placed on long-term disability. Pulmonary function remains stable and maybe somewhat improved, significantly reduced residual volume noted but overall total lung capacity appeared ok. Another complaint the pt has is the continuation of seeing spots, often times these spots consists of multiple colors and varying sizes, notices them most when reading or staring at an object. Visual field complaints do not clearly localize to a single portion of the brain, unclear what the etiology of this is. PE: HR 81,BP128/96,Wt.96.3 kg. Pt is a well-groomed girl who sits quietly on the exam table in no apparent distress, she occasionally becomes somewhat animated and interactive, but for the most part typically will interact with her sister and or stare out the window. Impression: At this point her course has remained relatively stable though her mother does report some worsening of her memory. Hesitant to start on new meds given her reaction with respiratory arrest with other medication trials. Plan is for pt to start school and if continued problem with significant inattention, we may consider hospitalization for initiation of a trial of Ritalin or other stimulant medications. repeating her PET scan may allow use to see if she has any functional abnormality in her brain which may explain her underlying difficulty."

8. 2006 Neurological request for a second opinion.

Nonetheless, the ambiguities of Chaunell's diagnosis and treatment prompted Dr. Chapman to write the following memorandum on September 19, 2007, requesting that her Mercy Care Plan provide funding for a second neurological and neuropsychological opinion at Phoenix Children's Hospital:

"Re: Chaunelle Roberson (DOB – 1/25/94)
To Whom it May Concern:
Chaunelle has been followed at the Pediatric Neurology Clinic at St. Joseph's Hospital since her hospitalization in November 2006 for encephalopathy and apnea of an unknown etiology. She has undergone numerous evaluations at our institution that have failed to elucidate a cause for her difficulties. Chaunell has recently undergone neuropsychologic testing that suggests that her encephalopathy is worsening and she continues with respiratory abnormalities. At this time, I have no cause for her difficulties, despite conferring with my colleagues. I have recommended that she receive a second opinion outside of our system, possibly through the pediatric neurology department at Phoenix Children's Hospital.
Chaunelle's difficulties are complex and an outside evaluation may provide insight into the etiology of her neurologic difficulties. I know that both myself and her family hope that a cause can be found to determine the appropriate

treatment before her condition deteriorates. I will continue to follow her, and look forward to any suggestions provided by my peers.
Please let me know if you have any questions or concerns.

Sincerely,
Kevin Chapman, MD"

9. 2007 Insurer's rejection of neurologist's request for second opinion, signing of advance care directive.

The insurer on 12/21/07 rejected the request, but in the interim, on 10/11/07, in the face of repeated crises, according to Ms. Smith and the medical record, the PICU staff suggested that Ms. Smith sign an advance directive, "Do Not Resuscitate." At 20:00 hours, Dr. Rosenberg, the director of the unit, wrote: Approved by Parents regarding advanced directive. Given that Chaunell has had life threatening neurologic events previously and has been deteriorating at home, they have requested a DNR in the event of cardiopulmonary arrest. They do not want their daughter intubated or to have advanced life support medication/cardioversion/defibrillation. I have agreed to their request. All therapy short of cardiopulmonary resuscitation is still available. R. Rosenberg, MD, PICU."

Discussing the advance directive not to resuscitate Chaunell with me on 3/12/11 and 3/16/11, Ms. Smith said that at a later meeting both Dr. Alfano, the hospital medical director, and his risk management colleague expressed concern regarding the DNR and whether Ms. Smith was making many wrong decisions. Ms. Smith said that in response to this assertion that she indicated that she simply wanted explanations for such indications in Chaunell's hospital records that she had a "history of stroke" and a "ruptured aneurysm," and that furthermore, even though she was concerned about the inadequate communication and the inconsistent quality of Chaunelle's care, and, as well, the presence of the risk manager, she "didn't bring a lawyer." She said, **"I was desperate. I didn't know what was wrong with my daughter. Dr. Rosenberg suggested the DNR, but I was accused of requesting it."**

10. 2008. Diagnosis of pseudotumor cerebri, neuropsychologist's concern about future functioning secondary to increased intracranial pressure.

Chaunell's psycho-educational evaluation on January 24, 2008, suggested that the sense of impending crisis had abated, but that she had persistent cognitive problems associated with her unexplained encephalopathy:
"Chaunell Roberson Psych-educational Screening Evaluation
Date of evaluation: 1/24/2008 Background and History: Referred for screening of current cognitive and academic functioning following a history of cognitive decline and diagnosis of pseudo tumor cerebri. Began having neurological problems in November 2006, at which she was hospitalized for approx. 3 months during those 3 months she had recurrent episodes of decreased consciousness

requiring intubations on multiple occasions, she has multiple neurological and medical problems of unclear origin, including periods of increased intracranial pressure, headaches and encephalopathy. Current diagnosis is pseudo tumor cerebri, she has had frequent respiratory issues and lung nodules, mother reports unexplained wt. loss of approx. 50 lbs. since October 2007. Pt sleeps approx. 16 hours a day including her nap. She has a right ventricular shunt catheter. On 5/22/2007 Dr Gale identified decreased cognitive performance compared to previous inpatient neuropsychological examinations, also found to have symptoms of inattentiveness. Pt has no violent, dangerous or aggressive behaviors at home, can follow simple instructions, now reported to have difficulty engaging socially with others. Pt had normal development until the onset of encephalopathy, prior to illness earned all A's in school and now she is currently repeating the 7th grade, she attends school 3 hours a day.

Behavioral Observation: Pt presented as quiet, was rather slow to respond to verbal questions, responses tended to be brief (one to two words) but generally appropriate, affect flat, spontaneous verbalizations were rare. On the day of testing the pt presented with flat affect, limited facial expression and slow responses, verbalizations minimal but appropriate, eye contact somewhat limited. Pt remained seated and on task for the duration of the evaluation (approx. 45 min) followed all the instructions and appeared to put forth consistent effort, when faced with difficult test items pt attempted to answer without showing signs of frustration or fatigue, her attention and effort appeared to be appropriate and consistent, therefore the results of this evaluation are thought to be valid.

Summary and Recommendations: Recent history of cognitive decline and inattention. Results indicate that the pt continues to have significant cognitive impairment, presumably related to her unexplained encephalopathy and other medical problems. The current test results do not suggest significant cognitive decline since pts neuropsychiatry evaluation in May 2007, these results are not consistent with diagnosis of mental retardation. Behaviorally pt was observed to be slow and have limited fluency in her verbal language, findings suggest significant problems with language processing, which needs further evaluation through school. I'm concerned the pt may have difficulty learning new info, this can be a common problem in people who have experienced a neurological injury associated with high intracranial pressures. Children with a history of increased intracranial pressure are at risk for cognitive impairment and learning delays, pt is a student with significant cognitive impairment that will likely impact her ability to learn new material, she is certainly at risk for underachievement and learning delay due to her medical condition.

<u>11. 2008 continued headaches, weight loss, shunt tapped to measure intracranial pressure, slow-emptying gallbladder</u>

On 3/20/2008, Dr. Chapman updated the history, suggesting that from a neurological perspective Chaunell's condition was improving:
"Pt continues to have daily headaches, described as pounding not associated with

any nausea or vomiting. Pt feels the medication is not nearly as effective as it was. Pt was evaluated by neurosurgery and her VP shunt was tapped and was found to have an opening pressure of 28. Pt's mother reports overall functioning seems to be gradually worsening. Pt seen by gastroenterologist and found that her gallbladder is slow in emptying and there is some concern that this maybe partially responsible for her wt. loss. Impression: 14 yr old w/history of encephalopathy of unclear etiology who cont. to have daily headaches, which may possibly be related to a slightly increased elevated intracranial pressure. Mother is interested in repeat neuropsychological testing and I think it will help.
Kevin Chapman, MD"

12. 2008. Improvement in neurological status, speech and language assessment.

And the following month, Chaunell's neurological status appears to have improved further, concomitant with her right ventricular CSF access device, other interventions, included speech and language therapy, and her mother's acknowledged dedicated care. The Speech and Language Pathologist in the outpatient department of St. Joseph's Hospital wrote on 4/21/08 to Dr. Suzanne Kelley:
"Chaunell initiated speech services following hospitalization per your orders on 11/27/07. Her attendance has been excellent and she has been making nice progress. Her mother has taken information from therapy and has implemented it at home as well. Goals and noted progress are below. Additional cognitive testing revealed the continued need for speech therapy. . .
Summary: Chaunell continues to present with overall mild-moderate cognitive deficits in the area of memory, attention, reasoning, processing speed, word-finding, and auditory and written comprehension. Continued speech therapy is recommend at this time.
Plan: Speech therapy with skilled, certified speech and language pathologist 1-2 times per week for 8-12 weeks to address areas of deficit.
It has been a pleasure to work with this sweet young woman and her very supportive mother.
Nicolet Thomsen, MS, CCC-SLP
Speech and Language Pathologist"

13. 2008. Visual complaints, weight loss, concern about unclear plan, measurable outcomes, diagnosis pseudotumor cerebri, plan for MRI

A visit to the St. Joseph's Hospital Emergency Room on 5/16/08 for continued headaches and loss of vision led to a tap of the reservoir of her shunt, and on a follow-up visit in Pediatric Neurosurgery Clinic on 5/22/08, Ms. Smith was noted by Dr. Harold Rekate to have "several concerns. She feels she is given mixed messages about follow-up and we will be happy to clear up any misunderstanding about her appointments today. Mother does not feel she has a clear plan of care of measurable outcomes to determine when the child is having problems. The child continues to have headaches and mom is not sure how worried she should be about this. The patient also perceives losing vision.

"Physical examination reveals Chaunell to be baseline as we know it. She continues to lose weight and according to mom has lost almost 50 pounds since all this began. Chaunell has high normal intracranial pressures since she became ill and was in the intensive care unit in 2007. The patient was thought to have pseudotumor secondary to obesity and sleep apnea. All care providers strongly agreed that we needed to provide medical intervention before considering surgical intervention for her elevated intracranial pressures.

"The patient has been following up with ophthalmologist, Dr. Underdahl, and the last visit was on 3/19/2008. Per mother's report, she had "no swelling behind the eyes." The patient was placed on Diamox 125 p.o. b.i.d starting 3/21/08 and has been followed by Dr. Chapman for that I believe.
Description: The ventricular access device is easily located and prepped in the usual sterile manner with Betadine and allowed to air dry. The opening pressure with recumbency is 19.5 cm of water. The CSF was easy to obtain, it was clear and non-turbid, and was fluctuating with respirations and heart rate. Mother is watching as we do the test and is offered reassurance that the child is in no danger and is at the upper limits of normal.

"Assessment:
1. Pseudotumor
2. Headaches

"Recommendations:

1. Mom will follow up as recommended by neurology and I have spoken to Dawn R.N. who will follow up to verify appointment. Mom is also encouraged to call either Kathy or Lupita at CRS so that we can clarify any misunderstanding about appointments.
2. Mother was hoping to get an MRI and although I have not identified the need to get a full MRI at this time, I would be happy to order a one bang MRI to offer reassurance to mother.
3. 3. The patient is on Diamox and does not have a recent CMP or CBC and I will go ahead and order those again to make sure that all is well with her labs.
4. Mother will follow up with us after obtaining that one bang MRI."

<u>14. 2008 Consultation with Attorney Elliot G. Wolfe: "Big con involved: all the guns at PCH* and BDS are all ready on board, and ready to fight to death."</u>

On May 29, 2008, a letter was sent to Ms. Smith by Attorney Elliot G. Wolfe of the law firm Palumbo Wolfe Sahlman & Palumbo, 2800 North Central Avenue, Phoenix AZ 85004.

"Regarding Chaunell Roberson"

Dear Leanna:

"As promised, we had the scan (that you felt would show a stroke or other brain injury) reviewed by a board certified neuroradiologist. He told us that the scan is negative, meaning that he could find no evidence of any pattern of injury. As a result, we do not feel that we would be able to prove, by any persuasive objective evidence, that your daughter suffered any permanent brain damage as a result of any negligence on the part of her treating physicians or other healthcare providers.
"Needless to say, you are free to seek, and we would encourage you to seek, a second opinion from some other attorneys. They – or the experts they hire –may see something that we – and our expert – did not. . .
"We have all of the records that you left with us. If you call my secretary, Karen, she will arrange a time and place for those records to be returned to you, or for you to pick them up.
"Thank you giving us the opportunity to consider your daughter's claim. She seems like a very nice young woman and we wish her, and you, our very best wishes for a full recovery.
"Very truly yours, (signed Elliott G. Wolfe For the Firm)

Ms. Smith gave me this letter along with 6 carefully and legibly hand-written pages and 4 scribbled pages of notes that she received when she picked up the file.
One page of the 6 carefully written pages reads as follows:
ROBERSON P.C.H. 11/02/06 – 11/26/06*)*
B.N.I. 11/26/06 – 02/27/07
W: "Strange Story Indeed"
Random thoughts:

1. Certainly sounds like some genuine "encephalopathy" Etiology unknown with many potentials out there. Not smart enuf here to make a reasoned guess. For sure would like to get peds neurorad to look at all neuroimaging stories that are being called "normal." Mom reads like very knowledgeable (sic "internalist") but, capability of being pain in posterior.
2. **Big con involved: all the guns at PCH and BDS are all ready on board, and ready to fight to death.**
3. If enuf votes to take a look, with be happy to look at what Ms. Smith has in terms of records. Suggest backward look to extent someone review neuroimaging studies, if they truly have no clues, then indeed hard to come up with "etiology" Despite
    a. Allergic reaction in range of 11/03/06 SaOxs (oxygen saturations) in 70's!
    b. (illegible) to coma 11/05/06 GCS (Glasgow Coma Scale) of 3
    c. November 23 time frame (sounds) like got ET (endotracheal tube) out of place)

d. Coma #2 11/23 to 12/21/06
e. Respiratory arrest while in Neuro Rehab Banner Neurological Institute
f. Insistence on giving Propafol – setting off what sounds like grand mal seizures."

No notation in the record was found to support the phrase, "Big con involved: all the guns at PCH and BDS are all ready on board, and ready to fight to death." Neither was it evident from these abbreviations to which hospitals Atty. Wolfe was referring, nor the nature of the communication in which he received this information.

15. 2008. Diamox prescribed for increased intracranial pressure, plan for placement of lumboperitoneal shunt and ICP monitor.

On 6/11/08, Dr. Rekate examined Chaunell again in the Clinic and wrote:
"Chaunell is a long-term patient of mine. She has former pseudotumor cerebri related to a syndrome, which I find very puzzling. She has had multiple bouts of complications to medication. She was in coma for a while and underwent lumbar shunt by Dr. Moss, which resulted in significant improvement in her cognition. Her intracranial pressures were monitored at St. Joseph's Hospital, and she was placed on Diamox with some improvement. She has a ventricular access device but no shunt.
"She has been weaned from her Diamox. It has been found that her brain becomes stiffer. The Diamox also leads to a metabolic acidosis, which she finds intolerable. The Diamox is also difficult for her to tolerate.
"She was tapped on this visit which found an opening pressure of 28 cm H20. I think she still has active intracranial pressure. The plan is for her to undergo a lumboperitoneal shunt and placement of an ICP monitor. The mother is concerned because Chaunell has had so many complications with anesthetics, and she seems convinced that this will make it hard for her to be put to sleep safely. I will let the anesthesiologist know about these concerns and drugs which need to be removed from the armamentarium during the anesthetic process. This will be scheduled in the near future."

16. 2008. Post-shunt placement headaches, conflict regarding explanations of Chaunell's status, meeting with St. Joseph's Hospital chief medical officer and a risk manager, subsequent MRI demonstrating low flow in the left transverse sinus, radiological diagnosis of recanalized thrombosis of the left transverse sinus, allegedly rude treatment by hospital risk manager.

Then, in the course of a subsequent hospitalization at St. Joseph's Hospital, between 7/3/08 and 7/23/08, a lumboperitoneal shunt was placed. Chaunell's course, however, was marked by headaches, the diagnosis and treatment of which provoked concern by her mother that she was not receiving a full and accurate accounting of her status.

According to Ms. Smith's reports in my interviews with her on 3/12/11 and 3/16/11, she requested on 7/15/08 a meeting with the St. Joseph's Hospital upper management, and to a meeting with Charles Alfano, M.D., she brought the computer files of Chaunell's most recent MRI, that she was given by a radiology technician immediately after the study. Ms. Smith told me that she was surprised and dismayed when a risk manager appeared in "a meeting in which I asked what they knew and that I didn't." Specifically, she said, that although the MRI in question copy interpreted as being normal, the hospital record were stating "clinical history: stroke." Ms. Smith also alleged that she was treated rudely by a risk manager (Ms. Linda Burn) who laughed at her afterward in the hall.

Subsequent to the meeting, Ms. Smith said, and the records demonstrate, a CT scan was performed at 7:45 PM for the indication "Headache and history of ruptured aneurysm." In comparison to the 7/16/08 CT, the impression was "No acute disease and no significant interval change."
An MRI Diffusion Brain study without contrast was performed at 10:15 PM on 7/15/08 that noted a change from the previous MRI: "There is an area of slight increased T signal in the region of the left transverse sinus. This may be related to asymmetric slow flow in the left transverse sinus. Given the history of pseudotumor cerebri, it is difficult to exclude venous thrombosis. This does appear similar to the previous examination.
"There are bilateral subdural collections or less likely dural thickening anteriorly that are isointense on T12, and hyperintense on T2-weighted images. This is new from previous MRI, and not visible on prior CTs. The size of the subdural collections is such that they may not be visible on CT examinations.
"Impression:

1. Lack of typical flow void in the left transverse sinus, likely also present on the prior MRI. This may be due to asymmetric flow, but transverse sinus thrombosis should be considered. Further evaluation with MRV would be appropriate.
2. Bilateral subdural collections in the frontal region, new from previous MRI of October 2007. These are of such a small size that it is unlikely they would be detected on CT."

On 7/16/08, a CT angiogram of the head without contrast was performed. The reason for exam was noted as follows: Transverse sinus flow void, brain tumor. The recorded history was: "Abnormal left transverse sinus signal on a recent MRI. Question venous occlusion."
Findings: Again identified is a right frontal ventriculostomy catheter in stable position. The ventricles remain stable in caliber. There is no midline shift, no intracranial hemorrhage or sign of acute infarct is present. CT venographic images of the brain demonstrate normal contrast opacification of the left transverse sinus, as well as remaining dural venous sinuses. No dural venous sinus occlusion is present.
Impression: Negative."

On 7/23/08, an MRV of the head was interpreted as follows: Impression: Findings most consistent with recanalized thrombosis of the left transverse sinus. Slow flow within a congenitally small left transverse sinus is less likely given the change in the appearance of the sinus since 11/27/2006.

16. 2008. Severe headaches, prescription of Methadone by primary care physician, advised to take Chaunell to drive to nearest emergency room rather than to make drive back to St. Joseph's hospital

Ms. Smith reported that she was perplexed by the varying interpretations of these studies by hospital medical staff and that after her 7/23/98 discharge from the hospital, on 7/24/08, Chaunell once again suffered severe headaches. Ms. Smith called Chaunell's primary care physician, Dr. Mario Islas of Happy Kids Pediatrics, who examined her that day and prescribed Methadone for her pain. The following day, when Chaunell's pain was so severe that she couldn't get up, Dr. Islas instructed Ms. to take her to the nearest emergency room, rather than to make the drive from Tempe back to St. Joseph's Hospital.

17. 2008. Communication by Dr. Rekate's nurse colleague, Donna, of Munchausen Syndrome by Proxy concerns to Scottsdale Health Care Emergency Department. Immediate transfer to St. Joseph's Emergency Department.

In the Scottsdale Health Care Osborn Emergency Department on 7/25/08 at 2:00 PM, Christopher Marcuzzo saw Chaunell,, M.D. The following history was recorded: "Much of the history is taken from mother as well as the patient. The mother reports that the patient has a significant history of pseudotumor cerebri requiring an LP shunt placement, was placed two weeks ago. Over the past four days, symptoms have worsened. The patient's mother reports that the patient cannot even sit up to eat and has been lying flat constantly. The patient's other primary care physician yesterday ordered methadone for her pain. Because of her continued symptoms, they came into the emergency department here. The patient reports feeling somewhat nauseated, although has not been vomiting. The patient denies visual changes. She reports a frontal headache that radiates globally and is non-throbbing.
The neurological examination showed "The patient does complain of a worsening headache when attempting to sit up here in the emergency department for me. Cranial nerves 2 through 12 appear grossly intact with focal neurological deficit."
A paragraph entitled "Medical Decision Making" states: "I am somewhat concerned, with the patient's recent history, certainly concerns include shunt failure or malfunction. Other concerns include infectious etiology or other post-surgical etiology."
A paragraph entitled, "Interval Note, 1500 Hours" states: "I discussed the case with Donna, the nurse practitioner of the patient's neurosurgeon Dr. Cates (sic) team. Donna, at this time, voiced much frustration over the patient's recent hospitalization and concerns for possible Munchausen or Munchausen by proxy from the mother. ***Donna does understand my concerns and felt that the***

patient should only be evaluated by their team and agree that we should not attempt a shunt tap or further evaluation at our facility. She did request that I speak with the Neurosurgery resident who will see the patient in the emergency department of St. Joseph's Hospital."

Dr. Marcuzzo completed his evaluation as follows:

"I discussed the case with Dr. "_____" (sic), Neurosurgery resident, who requested that we go ahead and send the patient to the emergency department to be seen there. I had a lengthy discussion with the patient and the mother. They are in agreement at this time. I will go ahead and transfer the patient to St. Joseph's Hospital Emergency Department. The patient does not appear in extremis at this time and with the symptoms ongoing for two weeks I do not feel that she necessitates EMT transfer. The mother would like to transfer the patient herself by private vehicle and I will go ahead and allow this. . .
"Transfer diagnosis: Acute intractable cephalgia, status post LP shunt placement, etiology uncertain."

<u>18. 2008. Severe pain on arrival at St. Joseph's Hospital. Dr. Rekate withdraws from Chaunell's care. Chaunell sent home in ambulance with opiate prescriptions, without neurosurgical follow-up plan.</u>

According to Ms. Smith, on arrival at St. Joseph's Hospital on 7/25/08, Chaunell could not "even walk to her room" because of the severe pain. Ms. Smith reported that she expressed concern about the plan shortly to discharge Chaunell, worried that her pain would re-cur and that there was yet no definitive reason for its cause. She was surprised when, on 7/28/08, one of Dr. Rekate's colleagues, Dr. Bruce White, along with risk manager Jackie Aragon, informed her "that *she* had asked for too many MRI's," and "handed me a letter" on the stationery of Barrow Neurological Institute of St. Joseph's Hospital, signed by Dr. Harold Rekate. This undated letter states:

"In re: Patient Chaunell Roberson

"Ms. Leanna Smith:
For the past several weeks, we have been working continuously to help Chaunell with her problems. Regrettably, you have persisted in refusing to follow the advice and treatment plan that I and others of the team have recommended. Moreover, you persist in asking for additional tests and procedures that are beyond the standard of care. You have told me and others that you do not believe some of the results and findings that we have shared with you. Because of your daughter's situation, I and others feel that it is essential that you work with a treatment team that has your full faith and confidence. I have come to the conclusion that another physician will serve your needs better. You share with the treatment team a responsibility for your daughter's care.

*"***Given the circumstances, I find it necessary to inform you that I am withdrawing from further professional attendance upon your daughter. Because her condition requires continuing medical attention, I suggest that you place her in the care of another neurosurgeon without delay.** *I will be available as a neurosurgery consultant for the next thirty days only. After that time and upon your written authorization, I will make her medical records available to the physician whom you designate.*

*"***Again, I am terminating the physician-patient relationship that I have with your daughter.** *If you have any questions, please call Ms. Jackie Aragon. Please accept my best wishes for your daughter's best health and happiness. (signed)"*

Dr. White then gave Ms. Smith prescriptions for 20 5 mg. Methadone tablets, to be taken twice a day for severe pain and for 29 15 mg. oxycodone (Roxicodone) tablets to be taken every 3 hours for severe pain, and sent Chaunell home in an ambulance with recommendations for the a home health visit within the next 24-48 hours for safety, pain management, and medications 1 time per week for 2 weeks, with instructions to "Call for Follow Up Appt." to "PCP" in 1-2 days. The discharge diagnosis reads "Headache, Pseudotumor cerebri, Lumbar peritoneal shunt. No care plan was made to assess the functioning and utility of Chaunell's shunt.

19. 2008. Continued severe headache. Another neurosurgeon sought by primary care physician and insurer's case manager. Sudden decline in appearance. Advised by primary care physician to go directly to Phoenix Children's Hospital.

Ms. Smith told me that because Chaunelle still "couldn't stand up," she immediately sought consultation from both her primary care physician, Dr. Isla, and her insurer, Mercy Care's Disability Case Manager, Rachel Rosenberg. The latter provided Chaunell with a reclining wheelchair, a walker, and a shower chair. Without success, they tried to get Chaunell into the practice of a neurosurgeon at Phoenix Children's Hospital, Kim Manwaring, M.D.

Then, on 8/14/08, Ms. Smith reported, Chaunell "turned gray, dusky, and broke out in a sweat." She called Dr. Isla, who instructed her to go directly to Phoenix Children's Hospital.

20. 2008. Phoenix Children's Hospital Emergency Department CT documents decompression of third and lateral ventricles. Transfer to St. Joseph's Hospital.

The 8/14/089 CT scan ordered by the Emergency Department physician found: "Since prior exam a ventricular catheter shunt has been placed. The catheter enters through a right frontal approach and terminates in the region of the third

ventricle. The third ventricle is completely decompressed. The lateral ventricles are also decompressed. The fourth ventricle is normal."

21. 2008. Brainstem herniation documented by MRI at St. Joseph's Hospital.

Transferred back to St. Joseph's Hospital, she was found on the 8/14/08 MRI study to be herniating her brainstem into the foramen magnum of her skull.

On 8/16/08, Neurosurgeon Matthew Hebb, M.D., of St. Joseph's Hospital wrote the following note on his consultation:
History of Present Illness: The patient is a 14-year-old female with a diagnosis of pseudotumor cerebri. She had a ventricular access device placed in 01/2007, followed by a lumboperitoneal shunt in 07/2008 by Dr. Rekate. She now returns with persistent headaches which are postural in nature. Mom says that since the lumbar shunt she has been unable to ambulate or be upright without developing a significant headache and nausea. She is otherwise a healthy child. Afebrile with vital signs. She has had 2 epidural blood patches without effect.
Medications: Methadone, Prevacid, Diamox, Elavil, Singulair, Norvasc, MiraLax
Allergies: Propofol and Demerol.
Physical Examination: GCS of 15. The patient is lying flat without headache. Her ventricular access device had been tapped with an opening pressure of 5 cm of water. Neurologic exam was within normal limits. The valve was palpable in her parietal area. Imaging revealed that the setting of this valve was 200 mm of water.
Neuro-imaging: Performed, including an MRI scan with and without contrast which showed diffuse extensive meningeal enhancement with small ventricles and 6 mm of tonsillar herniation. There was no significant depression at the foramen magnum, anterior and posterior fossa is generous here.
Impression and Plan: Persistent headaches exacerbated by postural changes, particularly the upright position This with the neuro-imaging is consistent with low pressure headaches. She has been previously followed by Dr. Rekate and we will review with his team and make plans for the patient. There have been no acute neurologic changes and she has been stable thus far.

22. 2008. Dr. Rekate offers to return as Chaunell's neurosurgeon. "Confrontation with Ms. Smith" about levels of intracranial pressure and their significance. Meeting with Dr. Alfano: "Oh, you're not going to like what we're going to do to you next." Transfer to Banner Desert Medical Center.

According to Ms. Smith, Dr. Rekate called her at home and told her that he was willing to come back on the case, take out the present shunt and do ICP (intra-cranial pressure monitoring). If her pressures were high, she continued, Dr. Rekate said he would put in a different type of shunt. Were the pressures too low, he would explore whether she was leaking cerebrospinal fluid.
Subsequently, Dr. Rekate removed the shunt. The CSF pressure was monitored by a measuring device accessed with a butterfly needle. Ms. Smith said that she

insisted once more that she was "tired of going in and out of the hospital and wanted this problem fixed." She noted pressures peaking at 30 and 40.

Dr. Rekate wrote in Chaunell's record on 8/22/08 at 10:00 AM:
"**Neurosurgery: ICP's higher than normal but acceptable. Ranging 13-15 recumbent and 3-5 erect. No evidence of low ICP's (subnormal). Plan: D/C Butterfly + ICP monitor, New MRI with and without gado. If study is OK patient to be discharged. It is essential to have pain management protocol in place.**

At 10:20, however, he wrote the following in Chaunelle's record:
Confrontation with Ms. Smith. Chaunell's ICP's are under good control normally registering about 13-15. When asleep they range into the mid 20's. No pressures about the 20's nor pressures about the 20's appear in the chart. Patient's mother states that ICP's have been in the high 30's and 40's. I see no evidence of any sustained ICP's of a potentially harmful level."

According to Ms. Smith, Dr. Rekate entered the PICU and told her "he was to take out the ICP monitor and send you home," and that as she heard this, she noticed Dr. Alfano, the hospital's chief medical officer, at the door. He brought her to another room, where Ms. Smith explained that she was upset that the last time Chaunelle was sent home from St. Joseph's without neurosurgery follow-up, her brain herniated."

Dr. Alfano said, she reported, **"This is not about Chaunell. This is personal." Ms. Smith replied, she said, "No, I'm doing this for Chaunell." Dr. Alfano then announced, she said, "Oh, you're not going to like what we're going to do to you next." I said, "What, you're not going to let me take her out of town for a second opinion?"** *At 10:20, Ms. Smith said, without saying anything further, Dr. Alfano walked out of the room.*

Back in Chaunell's room, after the meeting with Dr. Alfano, Ms. Smith reported, she went in and met with Dr. Rekate. They had a discussion about Chaunell's pressure in her brain increasing. Dr. Rekate said he wanted to remove the intracranial pressure monitor. Ms. Smith said she asked him why he wanted to remove the monitor when the pressures were increasing. **He immediately raised his hand in the air, she reported, and said, "I cannot work with you anymore."** *He then went out and made a note in the Chaunell's record.* **Shortly, Chaunell was discharged and transported to Banner Desert Medical Center on 8/22/08.**

There, she alleged, "Dr. Scott Elton and the treating physicians took Chaunell off all the medications she had been on for the last 22 months, ordered by different specialists (pulmonary, gastroenterology, nephrology, neurology). They stopped the BIPAP

ventilator at night and placed a ventricular-peritoneal shunt on 9/2/08. Then CPS took her from Banner Desert Medical Center on 9/3/08."

23. 2008. Banner Desert Medical Center. Intensive nursing observations and video recording. Filing of report to CPS alleging Munchausen Syndrome by Proxy.

The Banner Desert Medical Center record contains a 29-page sequence of nursing notes, hand-written on Physician Progress Record forms, documenting, frequently with derogatory implications, all the goings-on in Chaunell's hospital room in the interval 8/26/08 to 9/3/08. *An observational camera in the room is noted frequently. For example, on page 2, Chaunell Smith's step-father, Mr. Darrell Smith, is characterized by D. Davidson, RN, four times, in quotation marks, as "Step-Father" interacting with patient, mother of patient pouring contents from clear plastic bottle into pt. plastic water bottle, mother of patient sitting on bedside interacting with patient, mother of patient, "stepfather" and sibling out of room," patient drank from water bottle mother of patient had added to earlier." These intense nursing observations were unyielding of any intrusions into Chaunell's care or well being, despite such finely honed speculations of seeming intent as on p. 17, where M. Hamdy, R.N. notes on 9/1/08 that "Mom appears to be cleaning off top of garbage can with towel then moves garbage can out of camera view. Mom out of camera view for 30 seconds then appears at top of bed - moving call light/tv remote – sits in recliner and appears to be watching tv. Sibling playing with dolls. Patient still appears to be sleeping. Mom has sibling on lap, removing shoes. Mom and sibling appear to be watching tv. . . Patient rolls over. Mother of patient adjusting patient's blankets. . . RN placing blood pressure cuff on patient, takes temperature. . . RN appears to be doing an assessment."*

On 8/27/08, on the Banner Health form bearing the title, **"Suspect non-accidental trauma protective services report,"** *Signed by Tracey Oppenheim, M.D. and Amira El-Ahmadiyyah, LCSW," under the line entitled "State reason for suspicion abuse or neglect and describe extent of injury and/or neglect, the following is written:*
"14 y.o. female with complex medical history who has had **extensive medical workup/medical interventions since 11/06 without clear organic etiology. Patient has had unexplained (arrow down, signifying lowered) level of consciousness requiring intubation on several occasions.** *Patient has essentially been hospitalized intermittently since 11/06. Chaunell had issues with HEADACHE (sic) dating back to* **2001** *with unexplained vision loss where was felt to be "functional."* **Beginning in 2003 patient had many admissions for asthma exacerbations which ultimately were felt to be anxiety driven with a question as to what role mom was playing.** *In Chaunell's most recent medical issues which began in 11/06 she has received many invasive medical procedures with unexplained*

neurologic symptoms, high doses of narcotics, required intubation following unexplained respiratory arrests. **Mom has pursued medical treatment at several different medical institutions and has disregarded advice from medical professionals**.*"*
On this form, the Admitting Diagnosis is listed as "Pseudotumor, headaches." The Admitting Unit is listed as PICU. The Physician is listed as Scott Elton. The CPS Intake Worker is listed as Linda Ziskin. The Unit Supervisor is listed as Cari Berg. The Name of Detective is R. Page.

24. Banner Desert Sleep Disorders Center final diagnosis: Obstructive sleep apnea syndrome. 13 apneic episodes observed. Assessment: "Doubt pseudotumor cerebri. "Assessment: 14 year old girl with probable non-organic disease." Documented increased intracranial pressure. Discontinuation of BIPAP, respiratory medications. Multiple misrepresentations of Chaunell's medical history by Drs. Scott Elton and Maria Albuquerque."

On 8/27/08, at the Banner Desert Sleep Disorders Center, a Polysomnography Report was issued by Harmeet S. Gill, M.D. with the **Final Diagnosis, "Obstructive sleep apnea syndrome."** The report states: "Almost 7 hours of sleep time were recorded with delayed sleep onset latency and satisfactory sleep efficiency. All stages of sleep were observed, the majority of which were spent in Stage III sleep. Adequate quantities of REM sleep with normal first REM latency were recorded.

"A total of 13 apneic episodes were observed, all of which were central in nature. 2 hyperopic events were noted. These were accompanied with mild oxygen desaturation and intermittent respiratory arousals. Overall apnea-hypopnea index was determined to be 2.2 per hour."

The section entitled Recommendations states: "For an apnea-hypopneic index between 1 and 5 the decision to treat should be based on the presence or absence of other clinical sequelae such as excessive daytime sleepiness and neurobehavioral complications. Clinical correlation is recommended."

On 8/25/08, a Pediatric Critical Care Attending Daily Progress Note by Maria Luiza C. Albuquerque, M.D., states: Assessment/Plan: 14 year old girl with history headaches. **Doubt Pseudotumor Cerebri. Investigation underway.** Complaint of headache. (arrow down) with Oxycontin. **Very soft physiologic anatomic evidence for increased intracranial pressure. In partnership with Dr. Elton (Neurosurgery) have discussed diagnostic plan. Needs psychiatry consult.**
Resp. Discontinue Xopenex (asthma nebulizer) **Discontinue BIPAP.**
Nutrition consult – adequate stores; pre-albumin 20
Other consults, ophthalmology, social work, **ENT (for issue of vocal cord dysfunction)**, OT/PT.
Discussed at length with Neurosurgery, Psychiatry, Social work, PT. Critical Care Time: 75 minutes.

On 8/28/08, a Pediatric Critical Care Attending Daily Progress Note by Maria Luiza C. Albuquerque, M.D., states: "Away at sleep study overnight . . . Neurological non-focal symmetric sensory and mother exam. Assessment/Plan:
14 year old with probable non-organic disease. *Delineating if there is increased ICP. No major abnormalities in polysomnogram today."*

On 8/29/08, a Physician's Progress Note records the following: "Patient states she is fine despite calmly stating that her (head) pain is 7 on a 1/10 scale." The neurological examination records "flat affect, non-focal symmetric motor and sensory exam." Assesment/Plan: "14 y.o. with mild pseudotumor cerebri, significant psychological component." ICP's 20-30 (+) pseudotumor cerebri will require VP shunt on Tuesday, September 2. Pt. has diagnosis of mild pseudotumor cerebri without papilledema. Will obtain more adequate EEG today. (illegible signature)"

On 8/29/08, a Physician's Progress Record Note records the following:
"Patient had increased Intracranial Pressures to 20's to 30's. with some brief (arrow up signifying over) 60's suggestive of pseudotumor. **Patient discussed with staff. VP shunt planned for Tuesday. Writer explained that this is positive as it explains some of her struggles and that this isn't a fatal problem. We expect her to be able to return to school and get her life back.**
"Patient consistently and with relative ease beat this examiner at connect 4. MSE: lying in bed, cooperative, good eye contact, speech (illegible writing), affect full, mood "good," psychological without psychosis.
"Impression: Evidence from ICP monitor compatible with pseudotumor. This diagnosis doesn't explain level of dysfunction patient has experienced since 11/06. Likely multifactorial. No doubt psychological factors impacting Chaunell and how she experiences her pain as well as parent-child dynamics fostering continuing sick role. (signed Oppenheim)"

On 8/31/08, a Pediatric Critical Care Attending Daily Progress Note by Maria Luiza C. Albuquerque, M.D., states: A/P 14 y.o. girl with pseudotumor cerebri and complicated social/family environment. Will discontinue aspirin chewable tabs. For VP shunt on Tuesday. Will meet with mom today to discuss pain management strategy. **Respiratory: no requirement for BIPAP. Off all pulmonary medications without untoward effects.**

On 9/2/08, the Anesthesia Record states under comments: "Complex girl – headaches attributed to increased intracranial pressure. History of opioid dependence. Off now. No significant operative concerns." Dr. Elton implanted the shunt on the right side of Chaunell's head.

Dr. Scott Elton's "Final Report" dated 9/10/08 describes the Chief Complaint as headaches, weakness, asthma, and pseudotumor cerebri."

The History of Present Illness states:
" This patient has a very complex medical history going back to at least 2006. She had prior medical history going back to 2003, beginning with a number of respiratory admissions. **Despite multiple respiratory complaints, pulmonary function testing was unremarkable. Subsequently, she began to have multiple GI complaints, which were worked up extensively, but no etiology was discovered.** *In 2006, she was admitted to Banner Desert Medical Center for headaches along with multiple other symptoms including respiratory symptoms. During the course of her hospital admission, she had a lumbar drain placed and became unresponsive due to an unknown etiology. Despite an aggressive and extensive workup, no cause for her disease was noted at that time.*
"The question of pseudotumor cerebri was brought up, and spinal taps at that time revealed pressures into the low 20's. She subsequently was transferred to St. Joseph's Hospital where she underwent further workup. Over the ensuing 2 years, she has had multiple admissions for respiratory illness as well as management of her pseudotumor. She has not been in school for at least 2 years.
"She was mostly recently at St. Joseph's Hospital. A previously placed lumboperitoneal shunt had been removed. The patient was having multiple complaints, particularly of headache. She was monitored. **At the mother's request, the patient was originally to be transferred to Kim Manwaring, M.D. As he was leaving town, he asked if I would assume this patient's care.**
"In discussing the situation with the patient's mother, she noted that the patient has multiple problems. These include difficulty with the patient's vision. It includes the headache which worsens significantly when she is upright. This has been the case whether the patient has had a lumboperitoneal shunt or not. The patient will vomit for no apparent reason. This may or not be related to headache. **Her mother is very frustrated and would like to know another opinion regarding the patient's case. She is concerned that the patient has a brainstem problem. She notes that the patient has had paralysis of her diaphragm."**

"Past medical history: 1) asthma 2)vomiting) 3) Unresponsiveness, 4) Gastroenteritis with Helicobacter pylori), 5) Unexplained arrest, 6) Headache, 7) Pseudotumor ceribri with lumboperitoneal shunt placed and removed.

"Impression:
The patient's history is extremely complex. **There are multiple records pointing to multiple hospital admissions with multiple unexplainable events including her arrest and complaints of asthma with no abnormal pulmonary function testing by chart review.** Her recent intracranial monitoring by report revealed low pressures. I have recommended that we reassess the pseudo tumor both through ophthalmology and intracranial pressure monitoring. **Because there is concern of a psychological overlay for these unexplainable problems, and to assess the family dynamics,**

I have recommended a psychiatric evaluation. *In addition I will ask neurology to assess for any possible seizure etiology as well as to help address the headaches. I did note to the patient's mother that the headaches are likely to be permanent regardless of the course of action. I have strongly recommended that we attempt to wean the narcotics and get those off. I noted to her mother that the narcotics generally do not treat and will not resolve the headache.*

I have discussed this all at length with her mother. She appeared to understand this discussion. She Again reiterated several times that she simple wants other opinions and to try to find some solution to the patient's problems. (electronically authenticated Scott Elton, MD 9/10/08 15:54)"

Diagnosis: 1) rule out pseudotumor, 2) rule out respiratory illness, 3) rule out psychiatric diagnosis."

On 9/3/08, a note on Physician Progress Record paper, states:
"We feel that, our concern for medical and psychologic recovery, Chaunell would benefit from an independent recovery plan and care. Returning home to mother's care will impede Chaunell's recover and be further psychologically and medically harmful to Chaunell. (Signed Scott Elton, M.D., Oppenheim, M.D., Maria Luiza C. Albuquerque, M.D., B. Wiriyawan, M.D.)"

<u>25. 2008 Chaunell placed in foster home care. Plans to wean her for opiate medications. Letters home complaining of pain, denial of medical care, forced work, and exposures to cigarette smoke and adult sexual activity.</u>

On 9/4/08, a note on Physician Progress Record paper entitled Pain Service PNP Note states: "Asked to assist with outpatient care coordinator for this patient by Dr. Carriazio due to patient's current use of methadone and need for wean. Patient was discharged last night and was sent home with 2 doses of methadone 10 mg by the PICU MD with plan to arrange for outpatient therapy today. Patient was discharged with Dr. Carrazio as the PMD but patient was discharged to a foster family in the far west valley.
"Foster mom would prefer to see the same pediatrician with this child as she sees with her own – Dr. Phillip Gear. Case was discussed with Dr. Wiryawan, Amira MSW (social worker) and then Dr. Brooks (Good Sam toxicology) was called. Dr. Brooks did not feel his addiction clinic was an appropriate location for this child being weaned from her pain medications. He agreed to support via phone Dr. Gear for this patient's wean. Dr. Gear was contacted, agreed to see this patient. Usual methadone wean protocol of 10% every other day for patient with less than 30 day exposure was discussed. Symptoms of withdrawal were discussed. Protocol and symptoms sheet were faxed to Dr. Gear. Dr. Gear's information was paged to Dr. Brooks." "Plan: 3) Fax protocol with symptoms of abstinence syndrome to Dr. Gear (done) 4) Amira SW will help family coordinate visit. (signed Teri Reisbrin (sp?) R.N., P.N.P)"

Once in foster home care, a series of letters from Chaunell to her mother and stepfather document both her continuing symptoms and denial and refusal by her foster mother and CPS personnel of Chaunell's requests for medical care.

26. 2008. Multiple medical appointments unkept.

Ms. Smith received numerous written and telephonic reminders from physicians with whom appointments had been made prior and subsequent to Chaunell's entry into foster home care, along with expressions of concern that these appointments were not kept. She told me that she consistently informed CPS personnel of these communications. The telephone calls from Chaunell's physicians about missed appointments were documented by Ms. Smith. The missed appointments were with Drs. Kwasnica (Traumatic Brain Injury Rehabilitation), Chapman (Neurologist), and Doolittle (PCP in the Children's Rehabilitation Services Clinic) in November and December, 2008.

27. 2008 Chaunell's letters to her mother and stepfather.

Chaunell's letters home also include documentation of other adverse and harmful experiences, including being exposed to adult sexual activity, suggestive comments from her foster mother, Maria, about "showing some skin" in her dress, derogatory comments about her mother, being forced to work in child care, and threats to terminate her family visits if she talks about her symptoms. I quote portions of them here.

For example, the letters from Chaunell to her family state:

1. 10/12/08 "Tomorrow I go to Elton it's a good thing that I do. Today my head has been hurting really bad. And a couple of min. Ago when I got up I got this terrible pressure in my upper spine. Could you guys look that up for me (see this is why I need my computer) When I see Elton I have to tell him how I feel and I scared. I mit say something wrong, like I did before, and have to stay here longer."
   Elmirage is in the middle of nowhere **And there is a lot of beer in the house and yesterday I heard something very disturbing (and its not the first time) I heard Marysol having SEX!!! She was so loud And her bedroom door was OPEN!! I feel so uncomfortable here. GET ME OUT!! please (heart) Chaunell**
2. 10/13/08 "So when the doctor came in he asked me about how I felt, I told him about my headaches coming back when I stood up. He said OK and ordered a "CT." Then he looked into my eyes. Then he said something that is worrying me. He said my eyes are still really dilated (he said it under he breath and thought I couldn't hear him) . . .Well to make thing worst, after the doctor Mary had to talk to him, privately. You guys I'm really getting tired of this. Maybe I could get emancipated. No more lies or run away to Canada . . .**P.S. This family is weird. This morning Tony and his sister were in**

their mother room and I walked and there were her boobs!! GET ME OUT OF HERE!!!"

3. 10/14/08 "**Mary made me watch the kids all day.** I wanted to scream. I couldn't take it. It is easier to watch one beautiful little girl of 7. . . I need to learn my right. So I have knowledge then maybe when I learn something I would think about being a part of the court hiring. I have to get home soon (heart) Chaunell"
4. 10/18/08 "**U won't believe what just happened. I was watching TV and Mary came in and asked how I felt. I told her my head was hurting really bad. She asked how did my meeting with mom went. I said good. She asked what my mom said. I said nothing, why. She wouldn't say. But she started saying thing like, I have 2 worlds, and that soon I will have my own life.** And I kept asking why she didn't believe me. Then she left. Now my head is killing me, worse than before. **I really want to go out there and say, "Don't every talk like that about my mom. And there is something going on with my head. And I'm telling u I need to go to a doctor. And what u do with that information is on u not me." But my head hurts so bad I can't right now. But I will."**
5. 10/19/08. "**I just can't believe Mary doesn't believe me. If my pressures were 60, and this time its worst who knows what they are. I spent the whole night in my room. Mary came in and said I have to eat something, and that she understood that I need my space right now. Then around 12:30 I heard the girl next door having sex. I am so uncomfortable here. . . And Mary and Laura (CPS workers) think u said something to me and that's why I'm "acting" this way."**
6. 10/20/08. "I just got home from school. It was one of my hardest days. My headaches are back and worst then ever. I went to the nurse 2 times. . .She called Mary and I talked to her. I told her I couldn't make it through the day. She said she would bring me something for my headache but she won't pick me up. Instead of Mary coming with med the nurse gave me something. Then when I got home, I was ready to cry. I ask Mary to call Elton. She said she did and that's how she got the prescription. She also said she didn't know what happened at the visit with mom. Cause I was crying. I asked her where she heard that, but she didn't say. She said she talked to Laura and they were thinking about stopping my visits with my mom until I was "better." Now that pissed me off. I asked her if I could call my lawyer. She said the lawyers call me. I said Laura said I had that right. She asked why I needed to call my lawyer. I said b/c I need to talk to her about some stuff going on that I don't like. She said no, first she needs to call Laura. . . I wish I could go back in time. They can't keep me from U b/c I got headaches can they I WANT TO GO HOME! PLEASE GET ME OUT OF HERE!

7. 10/24/08. "Dear Baba: If u were to see Mary you would freak out. I'm freaking out. She is Mexican and wears booty shorts and tube tops. It is so embarrassing. She keeps asking why I don't show some skin. So the next times she ask that I'm going to say "My dad taught me to respect my body."
8. 10/30/08. "**I just got done talking to my new case manager. She said I didn't need so many doctors. And they make my treatment plan not my mom. And that I don't have asthma. She also said the school has my IEP. She also said I can't talk about my health. My new case manager is a trip. I wrote down everything I could remember. At my visits (with you) I can't talk about my case or health so we'll have to learn about things we didn't about each other. Once mom gets done with the services we may have a date to go home. I told her my asthma was acting up. She asked if I was worry, I said yes, she asked why, I said I don't know. What Mary said: I have a right to be a child (she said to case manager) If we talk about medical stuff ONE more time, they will stop the visits, since they know I value them."**
9. Undated. "Dear Baba, How have you been. I've been okay I guess (for the situation). I know I would be so much better if I was home. I've really missed you so much, Daddy. You have no idea I keep having all of these dreams of you and I hate waking up cause I know you won't be there when I wake up. I wish I could stay in that dream or better yet that this all be a dream. I wish it was. I wish doctors weren't so darn cold and cruel.
   "Why do you think this happened. I think it is because we went to see that lawyer. But I thought we were there to try to sue Barrows. (<u>note:</u> Neurological Institute of St. Joseph's Hospital.) But maybe Desert. Sam thought they were next. Which they should be.
   And I can't help to feel like this is my fault. If I didn't' say I wanted to give up maybe this wouldn't have happened. Or if I didn't refuse to get up and walk at the hospital. But no one knows the pain I was in. No one. . .I only had one week with really bad headaches. And I had to go to school. It was one of my hardest weeks.
   "I hate how no one listens to me. It's worse than the doctors. You know Mary (the woman who is taking care of me) told my nurse at School I didn't have asthma. So when I can't breathe good she tells me to stop coming (up) with fake things. How messed up is that. . .
   "I live somewhere where people smoke and drink and I mean really drink. I'm living with Satan. I wish I could go live with you if I can't live with Mommy. I know this whole thing is a learning experience. But I don't see the lesson. What is the lesson, Daddy? (heart) Love, Chaunell

28. 2009 Meningitis diagnosed after headache, attributed to infected shunt

Chaunell was readmitted to Banner Desert Medical Center between 3/24/09 and 4/29/09. The diagnoses were infected ventriculoperitoneal shunt, pseudotumor cerebri and peritonitis, according to the Final Report dated 5/6/09. Neither interim medical documentation nor the entire record of this hospitalization available for review. Specifically, with regard to Chaunell's subsequent hospitalization after alleged tampering of the shunt that was placed at this hospitalization, neither imaging studies nor reports of the delineation and etiology of her increased size, details of the shunt testing and programming, are absent from the report. The "Brief History" states:
"The patient is a 15-year-old girl with a longstanding history of pseudotumor cerebri and a ventricular shunt that was placed in 08/2008. She woke up with an acute headache and was subsequently seen by the neurosurgeon. Admitted to the hospital. Her shunt was reprogrammed, but she persisted with increased ventricular size. She was taken to the OR where the shunt was externalized. She continued to have low grade fevers so she was subsequently admitted for further care and management."
"Hospital Course:

1. Respiratory. We had no significant respiratory issues.
2. Neurosurgical. EVD was placed. Ventricular shunt was externalized until her infection was better cleared and pressures improved. It was subsequently internalized on 4/20/09. Follow-up CT scans have been normal and she has had no other significant issues other than some lapse in short-term memory as well as occasional dizziness when she closes her eyes. No syncopal events reported. She will need close follow-up with Neurosurgery.
3. Infectious disease. Cultures obtained on admission from the spinal fluid were positive for Enterobacter cloacae. She received a total of 21 days of therapy from negative cultures on 4/08/09. The patient has done well from an infectious disease perspective. A PICC line was placed to facilitate antibiotic delivery.

"Follow up with Dr. Scott Elton on 5/06/2009. She was stable at the time of discharge. Family has been instructed to seek medical attention should they have any questions or concerns. (electronically authenticated Chinwe Egbo, M.D.)

29. 2011 **Interview with Chaunell Roberson**:

I interviewed Chaunell in the office of Katrina Buwalda, Psy.D., on March 13, 2011. I explained that I had been retained by her mother to consult in regard to the forthcoming Juvenile Court hearing and that I would be obliged to disclose portions of our conversation. She understood this clearly, I believe.

Chaunell was quiet, attentive, and entirely open in the course of the interview. She was primly dressed, with her hair swept smartly back. She used a rich vocabulary, with near-perfect grammar, but her prevailing affect was level and unmodulated. At times, she seemed very sad, but when she talked about her

hope to work with children as a nurse, she brightened and engaged enthusiastically with me.

Chaunell said at the outset that her health was "great." The last time she went to a doctor was at the beginning of this school year. Everything was fine, except she was overweight, she reported. The last time she saw a doctor for a problem was a regular visit with her neurosurgeon to examine her shunt. She was discharged from cardiology and neurology. Her last hospitalization, she reported, was at Banner Health. The reason for this hospitalization, she said, was that she hit her head at school and then went to a visit with her mom. She developed a headache and went to the hospital. There was air in the shunt, as well as "injection marks" where the air was introduced.

Chaunell said, "I don't remember anything about the visit, so I don't know what happened." The headache began at the visit itself, she reported. When she told her mother about hitting her head at school, she "freaked out." In response to my question about what happened, Chaunell said "she was in the bathroom and got up to get my stuff and hit the coat thing on the door on the shunt." She gestured to her right parietal area. She said there was some pain and swelling. That night, she slept "OK" and went to school the next day.

From school, she went to her mom's home by taxi. She said she just had a headache, and added "I always had a headache, and I decided to tell her." When Chaunell pushed around the shunt and touched around it, "It hurt," she said, but when her mom did it, "It hurt more." I asked if it made the headache worse. She replied: "I don't remember much after that. It's pretty blurry to me." Chaunelle said that the visit lasted about 2 hours. When the cab brought her back to "the house," she still had a headache. Spontaneously, Chaunelle reiterated that she was "pretty blurry about what happened at the end of that visit. I don't really remember."

Chaunell said that she stopped seeing her mom after that. The last time she saw her was almost a year ago. "I don't talk to her at all. That's her choice, because what she's done to me is wrong and I don't want (contact) with anyone who would do things to her children and not even care."

In response to my question about how she found out what her mother had done to her, Chaunell said that she remembers reading about the diagnosis and "realized that I'm not handicapped. I've got straight A's and am at the top 20 percent of school." She asked, "Is my mom going to find out (about her success at school)? I will graduate a year early and will become a nurse."

She continued spontaneously, "I lived through it so I remembered it. I did some therapy. I remember more and more every day. I read Dr. Bursch's report. I read the whole 101 pages, and it disgusted me." In response to my question about what she remembered from her own memory, Chaunell replied, "That she would give me something to make my comas. There's no medical explanation. At night

she would turn up the BIPAP machine and would give me three, not one or two, red pills, and cough medicine. They would knock me out. Stuff makes me drowsy. I didn't need that."

In response to my question if she recalled anything more specific about the day after hitting her head at school and striking the shunt, Chaunell replied, "It's very vague. Even going back home, I really don't remember it. It's just vague."

I asked if her mom was trying to cause her pain when she was touching the shunt. Chaunell replied, "Yeah, pressure, and pressure would go down behind my right eye. Before this event, something happened when I was with another family. Something broke and gave me meningitis. I don't remember anything because it was so bad. That family was Marisol Ruiz. I had been with her almost a year. Jameelah wasn't there."

Chaunell said that she was removed from the Marisol's family because of a dispute. "She was lying because of what I was saying during a (foster care) review. She said she had a working phone, but she didn't. And I had to watch her kids when she'd be gone for hours."

In response to my question, "What happens if you have a headache now?" Chaunell responded, "When I have a headache now, I try not to take Tylenol. I just deal with it. They go away on their own." Although Chaunell disclosed that she had headaches all the time, she said that there was no particular time of day when the headaches came, nor a particular place where she feels them. They migrate. Here, Chaunell patted the top of her head and said, "It just depends."

Chaunell mentioned that she had a job waitressing, but added spontaneously, "Just for my safety, I don't want to give details. But I really like it. I get a lot of hours."

The conversation closed with a discussion of what one learns from work like waitressing, openness to other people, listening, enjoying other people, and its relevance to work with children and the nursing profession.

<u>30. 9/19/09. Notice of Claim Letter sent by Keith Knowlton, Esq., to Office of the Attorney General, Phoenix, AZ, Neal Young, Director of DES/CPS, Tammy Hamilton-MacAlpine, CPS, Bonnie Brown, CPS, Laura Pederson, ChildHelp USA, and Marisol Ruiz</u>

Page 6 of the Claim reads: "On Chaunell's Discharge Summary on 9/3/08, it states Chaunell is on Prevacid 30 mg bid, Provigil 200 mg daily, Xopenex 1.25 mg by Nebulizer every 4 hours p.r.n. wheezing – the breathing treatments were never given to Chaunell because CPS investigator Laura Pederson on 10/18/08 asked Leanna for a nebulizer and Chaunell is not receiving Prevacid, Provigil or Breathing Treatments, only Tylenol and Motrin.

"Chaunell was supposed to follow up with Dr. Scott Elton (Neurosurgeon) in 2 weeks but Chaunell states she never saw Dr. Elton for 2 months. After discharge on 4/29/09 Chaunell was to resume Speech Therapy. COPS still has not gotten Chaunell to Speech Therapy. Chaunell states he foster mother maybe took Chaunell to see Dr. Gear once. Chaunell was complaining of headaches and CPS would not allow me to talk to her about her medical condition and the CPS foster mother would not take Chaunell to the doctor for her headache.
"Chaunell was coming to the 1 hour supervised visitation with her jacket on stating that she is always cold. Chaunell had to have a fever that was not treated in order to have the bacterial meningitis as bad as she did. When a child has a V0-P Shunt the first time they spike a fever you are supposed to call the Neurosurgeon so he can decide what to do. A child with a V-P Shunt will not get bacterial meningitis without having a fever that was not treated with antibiotics.
"On 12/20/008 Chaunell came to the 1 hour supervised visitation complaining of neck pain, headache where she is woke up in the middle of the night and vomited, pressure in her head and a stiff neck. All signs of meningitis (signs of meningitis include fever and chills, stiff neck, headache, vomiting). If bacterial meningitis is not treated it can lead to permanent brain damage. There is greater risk for meningitis in people with shunts to treat hydrocephalus."

<u>31. 11/24/09 Jewish Family and Children's Services and CPS Request to Change Chaunell's Physical Custody to Leanna Smith.</u>

Shortly prior to the visit with Ms. Smith, on 11/24/09, the day following the shunt impact event in the high school bathroom, a recommendation was made by Jewish Family and Children's Services, the agency contracted by CPS to work with Leanne Smith and Chaunell on reunification, urged that Chaunell's custody be returned to Ms. Smith. CPS also recommended this in a submission to the Court (Case Number JD17200), entitled "Addendum Report to Juvenile Court:"
"The family therapist and the reunification team indicate there are no safety concerns at this time. It is therefore respectfully requested that the Court Order A Change in Physical Custody to Leanna Roberson-Smith."

<u>32. 11/25/09 Air in shunt alleged to have been injected by Leanna Smith by Drs. Scott Elton and Maria Albuquerque, Banner Desert Medical Center</u>

However, when Chaunell was brought to Banner Desert Medical Center on 1/25/09 for evaluation, a CT scan, compared with a previous scan on 8/17/09, showed the following findings, according to the Final Report:
"Again seen is a right frontal shunt catheter with its tip terminating in the region of the roof of the third ventricle without change. No overt hydrocephalus. Left lateral ventricle remains slightly larger than right without change, without overt dilatation. **There are now a few small air bubbles in the shunt reservoir, with an additional tiny air bubble in the right lateral ventricle which is new from previous. Correlate clinically for recent**

instrumentation to explain these findings. There also appears to be new mild soft tissue swelling surrounding the reservoir.
Impression: 1. Stable appearance of right frontal shunt catheter position. There are new foci of gas within the reservoir of the catheter, with one tiny focus of gas in the frontal horn right lateral ventricle. Correlate for recent instrumentation. New mild soft tissue swelling in the subcutaneous tissue surrounding the reservoir. Interpreted by Michelle Dorsey, M.D."

A consultation by Scott Elton, M.D. on 11/25/09 described the history of the present illness as follows:
"The history was obtained from both the patient and her foster mother this morning. This is a 15-year-old female who is well known to me. **She has shunted hydrocephalus.** She was at school on Monday. She was in a bathroom stall and had her purse on the floor. The purse was not on the hook in the stall. She went to pick up her purse and stood up striking over her shunt on the hook. She had no bleeding at that time. It was painful and triggered a headache. She went home. She was given aspirin for her pain. Her discomfort appeared to settle down and she went shopping with her foster mother. She later went to bed on Monday evening and slept until Tuesday. She did not awake that night. She went to school on Tuesday. She was in school on the third day. She had a slight headache later in the day, but otherwise no complaint early in the day. She was given aspirin by her foster mother. The patient then went to visit her biologic mother. She returned from her biological mother with significant severe headache. This did not abate. She was admitted to Cardon Children's medical center (note: refers to Banner) early Wednesday morning. She has no other symptoms. The headache is global and not focal in location. She currently admits to a mild global headache.
Past Medical History: Pseudo tumor. She has had 3 shunt surgeries. She had placement of a ventriculoperitoneal shunt. This was followed by removal of that shunt after infection, and shunt failure followed by replacement with a new ventriculoperitoneal shunt."
Physical Examination: **"I used loupes and inspected the scar. There are 2 small areas over the dome that are slightly erythematous and punctate, but no lacerations or contusions are present."**
Studies: "I reviewed the CT scan of her head performed last night. This reveals the small bubble of intraventricular air in the right frontal horn at the top of the ventricle. There is also air within the valve.
Diagnosis: Pneumocephalus.
Impression: The shunt is working. **Her shunt has air in the valve, but more importantly there is intraventricular air. This can only be introduced mechanically. It raises concern over injection into the shunt.** *This could not be produced by simply striking an object over the skin over the shunt and having an intact scalp. The shunt is at risk for failure . . . should any material have been injected into the shunt then there is a risk for infection.*

CPS should be notified and this event investigated. The patient may be released home when it is safe to do so. If she is discharged I will need to follow up with her in the very near future to assess shunt function."

33. 2009 Second report to CPS Hotline by Banner Desert Medical Center, alleging Ms. Smith injected air into Chaunell's shunt.

The Banner Desert Medical Center's Child Abuse Hotline Report reads:
"Pt. admitted for headache. Open case with HPS. History provided that patient hit her head on a hook in a bathroom stall Monday. Had mild headache. Had an unsupervised visit with mother yesterday, returned to foster mother with severe headache. Foster mother brought patient into Emergency Department last night. **Per neurosurgeon's note: pt. has a functional VP shunt. Air in ventricle/inside shunt. The only way to get intrashunt air, especially into the ventricle is to inject the shunt. There are 2 suspicious areas over the shunt reservoir although I cannot definitively identify them as needle marks. This could not occur from simply striking the hook over the shunt, especially since there has been no intraventricular or inshunt air going back many months."** Spoke to CPS hotline workers Christine Hippeli and Douglas Hogan. Taken as status communication on first call, as a report on second call. CPSUS is Bonnie Brown. Assigned worker is Tammy Hamilton."

34. Detective R. Page of the Tempe Police Department receives conflicting accounts of what was alleged and reported by Dr. Elton, who denies that he found marks of injection on the shunt, knowledge of the significance of his examination, what caused the air bubbles, or that Leanna Smith had filed suit. He promised an investigation into the shunt failure. The detective closes the criminal case, as there is no suspect and no evidence that a crime has been committed. CPS supervisor Bonnie Brown says Chaunell has been fine except for "justifiable medical issues."

In addition to CPS, the Tempe Police Department conducted an investigation that included interviews by Detective R. Page with Child Protective Services Supervisor, Bonnie Brown, Chaunelle's foster mother, Kristi Mueller, on 12/2/09, and Dr. Scott Elton and Attorney Brett Johnson at Dr. Elton's office in Mesa, AZ, on 12/16/09

Detective Page's Incident Report Narrative - Supplement on 12/02/09 describes CPS Supervisor Brown's account of the information she received from the treating doctors at Banner Desert Medical Center:
"She explained that she is the supervisor over the case and that she also is aware of the incident and report from 2008. She explained that Chaunell went for a CT

Scan in August which was normal and she now went for a CT Scan when she was taken into the hospital on 11/2/09 and there was now swelling on the brain. **She said that the shunt was adjusted by the doctors so they are hoping that the fluid will help push the air bubbles out from the pinholes.** She said that the doctors also think the shunt will fail but they won't give a definitive answer as to why that would occur. If the shunt fails then Chaunell will go back into the hospital to have it replaced.
"Bonnie then explained that they are at the point to where they were reunifying Chaunell with her mother and she was going to be returned to her mother's care and no they aren't able to do that. She further said that Leanna is suing the hospital for $4,000,000 saying that they have given improper care to Chaunell. **She explained that Leanna blamed a lot of things on Chaunell's first foster parents so she is with a different family now and she tries to blame things on the foster parents when something happens. She said that Chaunell has made a lot of progress and she has been fine other than justifiable medical issues.** She said that in April of 20090 Chaunell had a medical shunt failure which doctors could explain **but the pinholes in this shunt can't be explained**."

Detective Page next described his conversation with Chaunelle's foster mother:
"I then contacted Kristi Mueller, Chaunell's foster mother, to speak to her about this incident. **She explained that she took Chaunell to the hospital after she was complaining of her shunt bothering her. She said that the doctor came in and did tell Chaunell that there were two pinholes in her shunt. She said that when the doctor walked out, Chaunell stated that she didn't remember her or her mother sticking a needle in her head.** Kristi told her that if she does remember anything she needs to let her know because it is important. ***She said that since then Chaunell's visits have been taken away so she is becoming more and more adamant that nothing happened.*** I then verified with her that Chaunell said that she didn't remember anyone sticking a needle in her head. . **.She then said that after speaking to the doctor and the doctor telling her that the puncture wounds were a couple days healed that it seems to her that whatever took place took place over that weekend visit."**

Detective Page's Incident Report Narrative – Supplement on 12/16/09 describes Dr. Elton's description of the injury and its alleged consequences as follows:
"He then explained that the story he got from Chaunell and Leanna is that Chaunell was in the bathroom at school and her purse was on the floor. She said that she bent down to pick up her purse while she was in the stall and stood up and hit her head right above the shunt on the hook in the stall. Chaunell had pain over the shunt and a bad headache from that but made it through Monday at school. After school her foster mother gave her some more over the counter medications prior to her going to Leann's. Chaunell then went to Leanna's house and after she returned that evening, she had severe headache which prompted the phone call to the hospital and then Chaunell was admitted to the hospital.

"He said that Chaunell was having a lot of pain over the shunt and had a global headache and she didn't look bad to him. He said that he looked at her CT scan and there was air inside the shunt and inside the ventricle inside of the brain. He said in his experience that air inside the ventricle inside of the brain is impossible to explain unless you forcefully get the air in there. **He said that there are only a few ways to force the air into it. He said that he was concerned whether she hit the hook and air into the shunt that way so he went to get his magnifying glasses to look at her scar from the installation of the shunt. He said that there were a couple of little red areas but nothing that he could explain that would allow air in. He said that there was clearly no cut or scrape.** He said that the shunt looked like it was working fine. He said that he then sent her home because everything looked fine.
"He said that he scheduled her for a follow-up CT Scan on Monday, 11/30/09 and during that scan, he noticed that the ventricles were a little bit larger and the air was gone.
"He said the that the ventricles got a little bit larger on Wednesday so it was clear to him that the shunt was failing. He said that he admitted her on 12/02/09 and did surgery on her on 12/03/09. He said that he just saw her in clinic on Friday, 11/11/09 and she was doing fine.
"He said that during the surgery he didn't notice any bruising of the scalp and no obvious damage to the shunt valve. He said that there was nothing obviously broken on the mechanism. He said that he handed it off to the OR Manager so nobody else would touch it. He said that the catheter that was inside the head to let the fluid out was partially obstructed so they had to replace that also and that is normal. He said that this is a complication from any shunt. He said that is all the information he has. . .
"I told him that I was told that he found some pinholes in the shunt and he said that wasn't accurate but he did notice two small red marks over the shunt and he doesn't know what that means.

"I asked him if she had shunt failure in April or May and he said that she did and she also had meningitis at that time. I asked him if there was any suspicion at that time and he said no. He said that was a regular failure.
"**I then explained to him that I would like the shunt when they do get it back and I would like to know if they did find anything unusual with this shunt and he said that he would let me know. He said that they have someone looking at the shunt to see if there is anything that they can find that would have caused the air bubble. He further stated that he has never seen anything like this under this circumstance and he is going to look into it until he can find an answer.**
"*I asked him is Leanna is suing the hospital and he said that he hasn't heard that.* **He said that had heard she is CPS, the federal government, and state for $4,000,000 but they haven't heard anything about him or the hospital being sued.** His attorney then stated that they hadn't been served with anything.
"I explained to him that I am not going to be able to submit charges on anyone because there is no suspect and no indication that for sure

that a crime was committed which they understood. That concluded our conversation.

"**On 12/21/09 I spoke with Amanda at CPS and told her that I don't have a crime that can be established at this time and that I am waiting for the results of the shunt examination. I further told her that I would let her know if there was any conclusive answer regarding the shunt examination and that we won't be filing charges."**
CPS requested, and the Court agreed to terminate Ms. Smith's contact with Chaunell entirely.

35.

Ms. Smith drafted a summary of the events at her home that led to these concerns and actions:
"On 11/23/09 Monday Chaunell Roberson states that she was at liberty high school in the bathroom and put her books on the floor. She picked her books up off of the floor in the bathroom and when she raised her head she hit the ventricular-peritoneal shunt on a hook in the bathroom. She was in AZ CPS custody at the time. She went home to the foster home and told foster mom Christy Mueller that she had hit the shunt on the bathroom hook where you hang your purse. The foster mom gave Chaunell Tylenol and Motrin that night as Chaunell said she had a bad headache.
"On 11/24/09 Tuesday, Chaunell came home for an unsupervised visit from 4 to 6 PM. Chaunell arrived around 4:00 PM. Around 4:32 PM, Venus (Jewish Family Services) from the reunification team arrived at our home. Chaunell had told me that she had hit her head in the bathroom at school on Monday 11/23/09 and that she hit the shunt directly with the hook on the back of the bathroom stall door and now the shunt feels loose or like something is wrong with it.
"We told Venus. I explained to Venus that I did not feel comfortable bringing Chaunell home for the 4 day Thanksgiving holiday if there was something wrong with the shunt since CPS had alleged Munchausen-by-Proxy and medical negligence in the contested dependency trial.
"Venus said to call the foster mom and notify AZ CPS of what Chaunell was saying, and that she will document Chaunell's problem in her notes. Chaunell was transported back to the foster home from my house at 5:45 PM on 11/24/09. I called Christy Mueller (foster mom) at 5:47 Pm and explained what Chaunell had said to me and that I was concerned to take her for the holiday weekend if something was wrong with the V-P shunt. Christy Mueller called the Neurosurgeon, Dr. Scott Elton. His partner Pedr Ruzicka was on call and he told Christy to take Chaunell to Cardon Children's Hospital ER to get a CT Scan. I joined her and Chaunell there at 8:10 PM.
"After doing some X-rays and CT scans they said Chaunell had "air in the shunt area-reservoir" and that she needs to be admitted to pediatric intensive care unit . . .I let Christy know to have Dr. Elton call me with the treatment plan.

"Dr. Elton never called me and at 10:20 AM I called up to the nurses station and spoke with RN Marissa who said that Chaunell will be discharged today. There is nothing wrong with the shunt and that the air in the ventricle will not cause a problem, and that Chaunell was "tearful." I asked her why. She said because of being back in the hospital and that America (social worker) and Tammy Hamilton-Macalpine (CPS worker) were in the room talking to her. I asked to be transferred into the room. *Christy told me that Dr. Elton came in and asked Chaunell if she has something to tell him. Chaunell said "no." He said he would return later that day if Chaunell wants to talk to him*. **Dr. Elton told Christy that "someone injected air into Chaunell's shunt and he left the room and returned with magnifying glasses and looked at the top of the shunt and stated that he sees 2 pinpoint holes from a syringe. He then told Christy that he was going to report it to the social worker Amira. . .**

"On 11/30/09 at 9:40 AM Tammy Hamilton Macalpine called me and said that neither her nor Bonnie Brown (CPS Supervisor) would be coming to my home that they would send out Amanda Torres (CPS Investigator) either today or Tuesday to do a report. In the meantime I am to have no contact with Chaunell by telephone or email. No unsupervised visitation and the change of physical custody has been pulled.

"11/30/09 5 PM Chaunell calls me at home. I tell her that I am unable to talk to her because Tammy said so. Christy the foster mom was on the phone and said that she spoke with Amanda Torres and she said it would be alright for me to talk to Chaunell as long as she was on the telephone also. Chaunell and Is poke for about 20 minutes. . .

"**12/4/09 I receive a call from CPS investigator supervisor David Sink stating that they have suspended all supervised visitation and contact. David Sink stated they had a TDM (Team Decision Meeting) and have decided this because of police involvement all contact will be stopped. David Sink states that a psychologist from Tempe will be consulted to figure out what visitation will look like. David Sink States that according to new allegations all contact will be stopped."**

36. No shunt investigation records.

No records have been provided that document any promised investigations into the causal mechanisms that might have introduced air into the shunt, nor into the functioning of the shunt itself. Neither are the reports available to compare previous CT scans with the ones that demonstrate the appearance of air, and its prompt disappearance.

37. ChildHelp Advocacy Staff find that Chaunell was suspicious of Dr. Albuquerque because she brought her cake and cookies. Worker endeavors to correct Chaunell's "cognitive distortion" that Dr. Albuquerque called CPS because the doctors didn't like the way her mother was talking to them.

Progress Notes of ChildHelp Advocacy Center, 12/9/08

"Chaunell entered my office and sits on the couch. She is quiet and non-verbal to social greeting. When she dos speak her voice is like a whisper. Client advised she does not know the reason she is here. She becomes tearful. She shares she does not know the reason behind her removal from the family home. Client informed my role is to support her. She is advised I am not an investigator, however, she is advised I will share general information with her CPS caseworker when required.
"She shares her favorite color is pink, her best friend is Brianna because she can tell her anything, she has an older brother, younger sister, her birth dad is in jail, she lived with her birth mother, her boyfriend and siblings. She feels closest to her "dad" (boyfriend of her mom). Client asks if I know when she can go home? This therapist offered to have re CPS case manager join a session so she can ask questions of her. Client does not want to take this action. Client becomes tearful throughout most of session . . .Client informed we will meet weekly to begin to build a safe relationship so I can know how to support her."

Progress note, 12/16/08

"Chaunell is initially quiet and passive. Engages as social discussion occurs. Client reports she is missing the opportunity to go to Zoo Lights with her sister and mom, as this was an event attended last year. Client shares she misses her dad. **Chaunell reports she knows why she was removed from her home. When asked how she came to find out, she replied her lawyer told her.** She reports her lawyer, Lincoln Green, called her and spoke to her by phone. **She reports being told "one of the docs didn't like the way my mom was talking to them and called CPS." When asked to explain, she reports, "My mom uses a lot of medical terms and they didn't like that." When asked if this seems correct to her, she reported "yes" (shaking her head and raising her eyebrows in an affirming notion). When asked if she knew which of her doctors may have called CPS, she replied, "Dr. Albuquerque because she would bring her cake and cookies.** It's a gut instinct. God will take care of her."

Progress note, 12/30/08

"Client reports when was ill last week, therefore missed her session. She reports having a headache and fever which began on 12/18/08. . . .Clint shares her headaches began last summer, leaving her in bed most of the time as the headaches worsened when she was upright. She reports the headaches come and go, and she is unaware of triggers. Client shares this is the reason for the shunt being placed in her brain to drain the fluids as they created pressures. Client reports she does not think the doctor has the shunt opened because she continues to have the headaches. . . Client shares feeling responsible for placing her family in this situation because she told them she wanted to give up and go home. **She shares thoughts this pushed her family to fight harder with the doctors, leading to their calling CPS and her subsequent removal.**

Time spent in correcting this cognitive distortion. Client shares she is confused.

38. 2011. **Jameelah Smith (d.o.b. 4/1/06)**

Subsequent to Chaunell's termination of contact with her mother, CPS received a report alleging that her sister Jameelah was physically abused by her mother by her father, Darrell Smith. An investigation was done and a custody petition in the matter of Jameelah Andreah Smith was made on May 26, 2010. The allegations in the complaint by the Arizona Department of Employment Security (ADES) state:

1. *"The mother has abused Jameelah's sister, Chaunell Roberson, through over-medicalization and illness falsification. Jameelah is at risk for the same abuse, particularly if she were to become ill or need medical attention.*
2. "The mother has an open dependency case involving Chaunell. The mother has refused to acknowledge any wrongdoing in that case, and has failed to make any progress in therapy to address the abuse perpetrated upon Chaunell. After hearing evidence at a permanency hearing on May 19, 2010, relating to the abuse and neglect and the failure of the mother to engage in services, the Court denied the mother's request to return the child home, and instead established a case plan of Long Term Foster Care for Chaunell, who is 16 years old.
3. "The mother has hit Jameelah with a belt when she disciplines her, leaving welts on the child. The mother has also hit the child with a wooden incense holder, also leaving welts on the child.

"Upon information and belief, the ADES alleges that the child is dependent due to abuse and neglect of Darrell Smith

1. "Darrell Smith was never married to Leanna Renee Rhoades AKA Roberson.
2. "Darrell Smith has not established his paternity of Jameelah Andreah Smith.
3. "Darrell Smith does not have an order granting him custody of Jameelah Andreah Smith.
4. The father has hit Jameelah with a belt when he disciplines her, leaving welts on the child. The father has also hit the child with a wooden incense holder, also leaving welts on the child."

39. Separation of both Chaunell and Jameelah by Judge Dawn M. Bergin

On 5/25/10, Judge Dawn M. Bergin, according to the Order Entered by The Court, "held an evidentiary hearing on mother's motion to have Chaunell returned to her physical custody. A comprehensive written evaluation of the case was prepared by Brenda Bursch, Ph.D., and was admitted at trial. **Dr. Bursch** also testified. The Judge wrote:

*"**Dr. Bursch** diagnosed mother with, among other things, Asperger's Disorder (rule out Pervasive Developmental Disorder, Not Otherwise Specified);*

Delusional Disorder, Persecutory Type; and Factitious Disorder, Not Otherwise Specified. Her report contains some alarming and disturbing opinions about the risk mother presents to Chaunell, including the following:

> *"Because Chaunell experienced several life-threatening events in proximity to time she spent alone with mother, it is not unreasonable to fear for her life if left unsupervised with her mother. Unless Ms. Roberson engages in meaningful treatment, likely requiring both psychotropic medication and psychotherapy, this risk will persist long after Chaunell has emancipated.*

"Mother has a four-year –old daughter, Jameelah, in her custody. With respect to other children in mother's care, **Dr. Bursch's** report states:

> *"Although her other two children may be safe from illness falsification and over-medicalization, they will be at high risk if either of them becomes significantly ill or injured. Nevertheless, the unusual cognitive processing and paranoid beliefs of Ms. Roberson are likely influencing them. Also, efforts have been made by Ms. Roberson to emotional (sic) and physically isolate them from extended family members. Finally, there is reason to suspect that Ms. Roberson has an anger problem that likely impacts them as well. Although physical punishment was documented in Chaunell's medical record from Jameelah's younger years, Ms. Roberson reported that she is not currently using physical punishment with Jameelah.*
>
> Given the concerns raised by Dr. Bursch,

IT IS ORDERED that the Department and the Guardian Ad Litem shall conduct an investigation of the safety and well-being of the child Jameelah and an assessment of the risk mother presents to her. The investigation shall also address any potential anger problems of mother and her use of physical discipline with the child."

<u>40. Chaunell's understanding about why she cannot leave foster home care: "As long as you're suing the doctors, I'm never going to come home."</u>

In my interviews with Ms. Smith on 3/12/11 and Ms. Smith together with Darrell Smith, I had ample opportunity to discuss their family relationships, Jameelah's health and developmental history. Regarding the judicial order above, in the 3/12/11 interview, Ms. Smith reported that shortly before this trial, Chaunelle asked her, "Mom, are you going to continue to sue the doctors? As long as you're suing the doctors, I'm never going to come home." "Two days later," she continued, "she went into long term foster care. I haven't seen her again."

<u>41. 2010 Primary care physician: no signs of abuse or neglect on Jameelah.</u>

No medical records of Jameelah's, however, were available for review, excepting a single letter from her pediatrician:

On 5/27/2010, Stewart W. Van Hoosear, M.D., wrote the following on the letterhead of his practice:
"To Whom It May Concern:
"This letter is to certify that, our patient, Jameelah Smith, DOB 9/01/2006, has been our patient since birth.

"We have never seen any signs of abuse or neglect with this child.

"If you need anything further from us, please feel free to contact us.

"Thank you.

"Sincerely,
(signed)
Stewart Van Hoosear, M.D."

42. 2011. Interview with Ms. Smith about Jameelah and her care.

In the 3/12/11 interview, Ms. Smith said that Jameelah was born on 4/1/06 after a normal, term pregnancy. Her birth weight was 8 pounds 8 ounces. There were no health problems in early or late infancy. Her developmental milestones were normal. While Jameelah was in her custody, all her pediatric care was given by Dr. Van Hoosear.

Both Mr. and Mrs. Smith strongly denied the use of corporal punishment with Jameelah. They said they were greatly dismayed to her from foster mother that she had been masturbating and attempting to put objects into her genitals. She has also been wetting the bed. Between now 9/1/10 and the present, she has been only allowed 5 visits with Mr. Smith. Furthermore, both Mr. and Mrs. Smith expressed dismay at the revealing and provocative clothing that Jameelah was wearing when they last saw her.

43. 2011. Interview of Jameelah Smith.

I interviewed Jameelah for 50 minutes on March 14, 2011, in the office of Katrina Buwalda, Psy.D. At the outset, Dr. Buwalda brought Jameelah into the room. She was quiet and a bit shy. Dr. Buwalda gave each of us a water bottle. Jameelah spotted the jigsaw puzzles, and we all sat down to play. Jameelah readily accepted Dr. Buwalda's help with a puzzle. I asked her how old she was, and Jameelah held up four fingers. I asked if she was going on five. She said yes.

Jameelah looked at my eyes and said that one looked a little red. We chatted amiably with Dr. Buwalda, who assisted appropriately. I asked if she went to school. She said yes and that her teachers were Ms. Nancy, Ms. Amy, Ms. Desiree, and Ms. Louise. Dr. Buwalda left the room.

Jameelah grabbed her stomach and said "my tummy hurts" and she threw up in the bathroom when brushing her teeth today. She said this hurt her throat, too. "Maybe because there's throw-up on it. I might need medicine. But I can (be) still.

Spontaneously, Jameelah said next, "I think my mom and daddy spank me and put stuff in my privacy." "I think I'm going to hurt them and I can run really, really fast but they might run and catch me. Who knows why I throw up? Because I think I'm really sick and might need medicine. So I can't run. When I was a baby, I throwed up every day. After I throwed up, mom and daddy spanked me when I was crying, with a belt and their hand."

She continued without prompting, "They hit me when I'm really playing a game like hopscotch. I kind of like to do something I want to do."

All this was said in a playful, up-beat manner, absent of negative affect or change in Jameelah's prevailing mood of friendly chatter as we moved various puzzle pieces on the carpet. "You know what I do? Mom and daddy had a gun and tried to shoot my mom when I tried to tell him not to shoot my mommy. He did it anyway – shoot my mommy."

Next, she said in response to my question about what her mommy did then, "She jumped when it came and she was OK. Sorry, I'm not really mean, but I'm not. My daddy said I'm mean, but no, I'm not." "Well, I'm not their friend, but I'm still going to be nice to them. If I hurt them, they're going to spank me sometime."

I asked, "Do you want to see your mommy?" She replied "Christy said they're not going to come today. She's my mom. I'm not their friend. But I'm your friend some time. When. I don't see you. I'm a little sad about I won't see you."

In response to my question, "Did your mommy Christy tell you to tell about your being spanked," Jameelah replied, "I think so. I might cry a little."

In response to my question, "Do you miss any of your friends," Jameelah replied, "I miss this day. Boy – but I call him Daddy!" Jameelah repeated this last phrase and said, "Sorry I screamed at you." "My other mommy and daddy are mean to me."

Then Jameelah asked me, "Do you think my mommy and daddy were mean to me? I replied, "I don't know."

At this point, Jameelah turned her attention to her puzzle, saying, "Come and look, here's a bird," as she put two pieces together. She asked, "Do you want me to do it again." Noting my pad of notes, Jameelah said, "You can't write so you can see what I'm doing." It was clear that she wanted to play.

We played with several puzzles, and Jameelah asked if we could go outside and run. As we got up from the floor, she asked another question, "Are you writing about me, or your family?"

We walked out to the reception area and were shown out to the lawn, where we ran back and forth, Jameelah winning each of the three races.

44. 2011. **Interview with Mr. and Ms. Smith**

I met with the Smiths at the Westin Hotel in Phoenix on March 16, 2011, for two hours. In the course of the discussion, we discussed their status as a family, the developmental and medical histories of Chaunell, whom Mr. Smith considers his stepdaughter, and Jameelah, their daughter. Attention was given to the history of their relationship, their values as parents, and their hopes for the future.

The conversation was easy and spontaneous, even as the substance of the allegations against them, and the personal impacts of the protracted separations from Chaunell and Jameelah were painful. Both Leanna and Darrell Smith contributed important information. I did not have the impression that they were trying to bias my perceptions in any way. At this time, I had reviewed the entire corpus of available medical and hospital records, as well as legal and investigative documents, to the extent they were available.

Mr. and Ms. Smith appeared to me to be mature, caring adults, concerned for their children, and eager to set the record straight, move forward, and sustain their identity as a family.

At the outset of the discussion, they answered appropriately questions that I had formulated in my 3 previous days in Phoenix, in which I interviewed Ms. Smith, met with counsel, interviewed both Chaunell and Jameelah, re-reviewed the medical and hospital records, and commenced drafting this evaluation. Material covered included the hospital staff interactions with Chaunell and Ms. Smith in the interval 7/15/08 to 7/25/08 and 8/14/08 to 9/15/08, and Mr. Smith's interactions with Jameelah as he became concerned about her behavior in visitations around 5/20/10.

All the information that Ms. Smith offered was consistent with what I had previously read in the medical records, but she offered substantial additional detail that fleshed out the telescoped descriptions of symptoms, examinations, tests, procedures, radiographs, and surgeries. There was no suggestion whatever of distortion, misrepresentation, or inaccuracy. Where she was unsure of dates and times, she made this clear. Her command of the medical records is impressive, and her descriptions were helpful. I asked many clarifying questions in an effort to discern both the validity of her reports of the events themselves and of her concerns that hospital personnel had misinterpreted, misrepresented, or knowingly distorted her requests for information and her expressed concerns about Chaunell's medical progress.

Mr. Smith said that at the time of his visit in the third week of May, Jameelah seemed distressed and in pain. She approached him rapidly, placed her head on his chest, and said, "Daddy, I hurt down there," gesturing toward her genital area. He noted that Dr. Buwalda was watching. He said, "I had to sit there, looked at Dr. Buwalda and asked myself what she was going to do. Jameelah was in pain. If I responded, I would be playing into their plans. This was the hardest thing I ever had to do." **"She told me a second time," he said, that "It itched down there and looked at her private area. She was hugging me tight as she said this."** Ms. Smith noted at this point in the conversation that Jameelah had had two physical examinations looking for sexual abuse, one at ChildHelp and then a second one. She did not know, in response to my question, if there was a videotape of interviews of examinations that I might review.

On another occasion, Ms. Smith said, she asked Dr. Buwalda, "Why is Jameelah saying this?' she told me. "She said something to the effect that after this session I'll have her looked at."

Mr. Smith reported that Jameelah spoke of playing with guns. He said emphatically that they never allowed toy guns, cap guns, or water guns in their home, and that they never watched violent movies.

Through the conversation was a constant theme about the divergence between Mr. and Mrs. Smith's conservative and religious values and the sexualized and dissolute behavior that they believed both Chaunelle and Jameelah were exposed to in foster home care.

I asked Mr. Smith about his life, and he responded readily and volubly. He was born in Kansas City on 3/1/51 to a military family . His father was a career Army man, his mother a schoolteacher. He has two older brothers and one older sister who retired 2 years ago. Both his parents are deceased. After high school and vocational training, Mr. Smith became a painting contractor. Recently, he worked for two years on the remodeling of the San Carlos Hotel in downtown Phoenix, but since the collapse of the construction industry in Arizona, he has run a landscaping business, designing, planting, and constructing irrigation systems.

In the course of the conversation, the warmth and pleasure of the relationship between Mr. and Smith was evident. They supported one another; neither dominated the conversation; they laughed and made frequent eye contact with one another and with me.

Mr. and Mrs. Smith, in talking about the alleged mismanagement of Chaunell's case by the Arizona Department of Economic Security, reported with dismay that the State had reconnected Chaunell with her biological father, Samuel Roberson, notwithstanding his known

record as a drug abuser. "He's in shoulder high as a kit in Connecticut," he said. **Chaunelle, her mother reported, hadn't seen him for 14 years. Chaunelle, in fact, wrote that she wanted nothing to do with him.** "He's about the most unstable person. Why would you want to bring a felon into someone else's life?" Ms. Smith asked.

Mr. Smith, in response to my question, said that he as a son who was born when he was 18. Now, 35, in Phoenix, he works at UPS (now for 17 years) and teaches martial arts. Asked about their relationship, he said it was good.

Mr. and Mrs. Smith said that they waited 12 years to have Jameelah, even though they have been together for 17.

Mr. Smith described with evident enthusiasm his avocation of 25 years of collecting art, particularly movie posters, Black memorabilia, slave documents and bills of sale, and "racial stereotype collectibles." Most of this collection, that at one time included some 8,000 items, has now been sold on eBay to pay for their domiciliary and legal expenses.

Psychological Consultations

I reviewed the November 19, 2008, Psychological Evaluation by Kathryn A Menendez, Ph.D., and the May 9, 2010, Evaluation by Brenda Bursch, Ph.D., of the U.C.L.A. School of Medicine.

III. Analysis

A. Neither the analysis of medical records nor the yield of psychological studies in the reports by psychologists Menendez and Bursch support a diagnosis of Munchausen Syndrome by Proxy. They include elaborate speculation about what Leanna Smith might have done and assert diagnoses (e.g. Asperger's Syndrome, Delusional Disorder, persecutory type) that might propel her to commit neglect, abuse, or factitious illness behavior. On the basis my review of the entire record, my many conversations with Ms. Smith, my corroboration of the medical history and key events in her, her children's, and her family's lives with multiple, independent sources of information, I have had no reason to doubt the accuracy of her words. The allegations she has made about departures from the standard of care in Chaunell's medical treatment appear to me to be sound, not deriving from any paranoid personality disorder. Neither does her supple, thoughtful, and socially appropriate manner, conversational style, and easy relationship with her partner, Darrell Smith, suggest any artifact of such a pervasive developmental disorder such as Asperger's Syndrome.

Furthermore, there is nothing in the medical or hospital records to support Dr. Bursch's evaluation testimony on 5/25/10 that, Judge Dawn M. Burgin's order described thusly:

> "Her report contains some alarming and disturbing opinions about the risk mother presents to Chaunell, including the following (italics hers)
>
> > "*Because Chaunell experienced several life-threatening events in proximity to time she spent alone with mother, it is not unreasonable to fear for her life if left unsupervised with her mother. Unless Ms. Roberson engages in meaningful treatment, likely requiring both psychotropic medication and psychotherapy, this risk will persist long after Chaunell has been emancipated."*
>
> "Mother has a four-year-old daughter, Jameelah, in her custody. With respect to other children in mother's care, Dr. Bursch's report states (italics hers):
>
> > *"Although her other two children may be safe from illness falsification and over-medicalization, they will be at high risk if either of them becomes significantly ill or injured. Nevertheless, the unusual cognitive processing and paranoid beliefs of Ms. Roberson are likely influencing them. Also, efforts have been made by Ms. Roberson to emotional (sic) and Physically isolate them from extended family members."*
>
> **B**. The hospital record demonstrates a ***discrepancy*** between the assertion in Dr. Scott Elton's "Final Report" of 9/10/08(see p. 28) that "She had prior medical history going back to 2003, beginning with a number of respiratory admissions. Despite multiple respiratory complaints, pulmonary function testing was unremarkable" and the following hospital records of respiratory dysfunction that were documented clinically and by pulmonary function study:

On 10/20/03, Peggy J. Radford, M.D. diagnosed Chaunell's asthma (pp. 9-10) Subsequently, following continued respiratory distress refractory to treatment, she received both pulmonology and otolaryngology assessments that led to a diagnosis of vocal cord dysfunction and obstructive sleep apnea, along with hypertension believed to derive from the corticosteroid treatments for her asthma.

On 11/26/06, on transfer to St. Joseph's Hospital's Barrow Neurological Institute, Chaunell's Brain MRI study demonstrated symmetrical and diffuse thickening of the dural membrane within the anterior and middle cranial fossas. Where the MRI and MRV of the brain substance showed no parenchymal pathology, the thickening appeared to represent CSF hypotension. On 11/27/06, an intracranial pressure monitoring wire was placed. Subsequently, she was noted to have fluctuations in intracranial pressure, even as she experienced sufficiently severe respiratory distress to require ventilator assistance. (p.11)

A 2007 discharge summary (p.12) states:
"Respiratory: Chaunell was found to have obstructive sleep apnea. At night, she was given BIPAP treatments. Pulmonary function studies showed marked decreases in expiratory reserve volumes and other parameters, but through the hospital course, air movement increased."

C. The hospital records demonstrate a ***discrepancy*** between the assertion in Dr. Scott Elton's "Final Report" of 9/10/08(see p. 28) "She began to have multiple GI complaints, which were worked up extensively, but no etiology was found" and the following clinical records:

In 2005, abdominal pain prompted a hospitalization that, after a gastroenterology evaluation that included stomach biopsy and cultures, concluded with the diagnosis of H. pylori infection (p.10)

A 2007 hospital discharge summary (p. 12) states:
"GI: She was found to have resistant H. pylori gastritis. Triple antibiotic treatment failed on 2 separate occasions. She continued to have slight abdominal discomfort throughout the hospital course and discharged with tetracycline, Flagyl, and antacid treatment."

D. The hospital records demonstrate a ***discrepancy*** between the assertion in Dr. Scott Elton's "Final Report" of 9/10/08(see p. 28) that "At the mother's request, the patient was originally to be transferred to Kim Manwaring, M.D. As he was leaving town, he asked if I would assume this patient's care.

The mother, Leanna Smith, did not make this request. The implication in this section of Dr. Elton's summary that Ms. Smith was doctor shopping, in the setting of alleged repeated falsifications of Chaunell's illnesses, is betrayed by the following hospital records:

On 7/28/08, during Chaunell's admission at St. Joseph's hospital, Dr. Harold Rekate gave Ms. Smith a letter (see p. 22) that concluded "I have come to the conclusion that another physician will serve your needs better. . .Given the circumstances I find it necessary to inform you that I am withdrawing from further professional attendance upon your daughter. Because her condition requires continuing medical attention, I suggest that you place her in the care of another neurosurgeon without delay. . .Again, I am terminating the physician – patient relationship that I have with your daughter."

Chaunell was sent home by ambulance with the ventricular access device in place, as well as a lumboperitoneal shunt.

Ms. Smith told me (p.23) that because Chaunell still "couldn't stand" up," she immediately sought consultation from both her primary care physician, Dr. Isla, and the long term disability case manager at her insurer, Mercy Care. Without

success, they tried to get Chaunell into the practice of a neurosurgeon at Phoenix Children's Hospital.

Then, on 8/14/08, Ms. Smith reported, Chaunell "turned gray, dusky, and broke out in a sweat." (p. 23.) She called, Dr. Isla, who instructed her to go directly to Phoenix Children's Hospital. There, a CT scan found that "her third ventricle was completely decompressed. The lateral ventricles are also decompressed.

Her brainstem was herniating into the foramen magnum of her skull, according to the consultation note by neurosurgeon Matthew Hebb, M.D., at St. Joseph's Hospital, to which Chaunell was transferred from Children's Hospital.

Associated with Dr. Rekate's withdrawal from Chaunell's care and his sending her home symptomatic and without neurosurgical follow-up plans, there was a clear malpractice risk. To blame Ms. Smith in this context for doctor-shopping, in light of the series of discrepancies in Dr. Elton's Final Report, raises serious concerns about the reasons for his misrepresentations of the record.

E. The hospital records demonstrate a ***discrepancy*** between the assertion in Dr. Scott Elton's "Final Report" of 9/10/08(see p. 28) that "Her mother is very frustrated and would like to know another opinion regarding the patient's case. She is concerned that the patient has a brainstem problem." Following the previous litany of misrepresentations, this appears to be yet another allegation of doctor-shopping, with a factitious justification.

A neurological consultation by Jay Cook, M.D., during Chaunell's Banner Desert Medical Center on November 2, 2006, notes the following data that strongly suggest brain stem involvement during the cascade of crises that followed her receiving a dose of Lortab (a combination of acetaminophen and hydrocodone). (see p. 10): "She started acting peculiar with inspiratory stridor, unresponsiveness, itching, but there was no rash. She was transferred to the PICU for monitoring. Glasgow Coma Scale at that time was 3. . . The physical examination showed "The child is lying in bed with Cheyne-Stokes respirations. Stridor waxes and wanes with respiration. She occasionally has shaking of the right arm, which is not clonic in nature . . .she has no other spontaneous movement. She has no response to pain or voice."

Subsequently at Banner Desert Medical Center, she became comatose on several occasions, once for 2 weeks on 11/04/06 for 2 weeks and again on 11/23/06. Endotrachial intubation was required to sustain her respirations, and she was observed to lose brain stem function and cough reflexes, as well as to suffer incidents of left eye deviation toward the left accompanied with total body thrashing, unresponsiveness, and closed eyes. . .Pseudotumor cerebri was tentatively diagnosed. (see p. 11)

F. There is are **discrepancies too numerous to count** with the Assessment on 8/25/08 by Dr. Maria Luiza C. Albuquerque of "Doubt Pseudotumor

Cerebri." (p. 27) Not only was the diagnosis established, accepted, and documented in multiple entries by many participating professionals in the previous inpatient and outpatient medical records, only a few of which are quoted or excerpted in the pages above, but pseudotumor cerebri was listed as a diagnosis on the discharge summary of this very hospital admission.

G. There are **innumerable discrepancies** in the previous with Dr. Albuquerque's startling Assessment the following day, 8/28/08: "14 year old with probable non-organic disease." (p.27)

This grotesque assertion, however, was clearly taken by CPS, and the Court, to signify that indeed, Chaunell had no "real" illnesses, or, as Child Protective Services Supervisor, Bonnie Brown, put it to Detective Page on 12/2/09, in the course of his investigation into the alleged injection of air into Chaunell's shunt by Ms. Smith, that Chaunell was "fine" except for "justifiable medical illnesses."

Dr. Albuquerque's allegation of illness falsification prefigured Chaunell's subsequent denial of medical care after she was placed in foster care, the substitution of an alternate reality for what she previous knew as her mother's and her family's protective circle of support and response, and the preposterous and damaging refusal to acknowledge her "justifiable" complaints of respiratory distress, and above all, headache.

H. The multiple assertions by Drs. Elton and Albuquerque that the only way air could have entered the shunt in November 25, 2009, was her mother's injecting air into it is **discrepant** with Detective Page's summary of Dr. Elton's verbal statements on 12/16/09 (p. 40):

"He said that he scheduled her for a follow-up CT Scan on Monday, 11/30/09, and during that scan, he noticed that the ventricles were a little bit larger and the air was gone.
"He said that the ventricles got a little bit larger on Wednesday so it was clear to him that the shunt was failing. He said that he admitted her on 12/02/09 and did surgery on her on 12/03/09. He said that he just saw her in clinic on Friday, 11/11/09 and she was doing fine.
"He said that during the surgery he didn't notice any bruising of the scalp and no obvious damage to the shunt valve. He said that there was nothing obviously broken on the mechanism. . .He said that the catheter that was inside the head to let the fluid out was partially obstructed so they had to replace that also and that is normal. . .
"I told him that I was told that he found some pinholes in the shunt and he said that wasn't accurate but he did notice two small red marks over the shunt and he doesn't know what that means.
"He further stated that he has never seen anything like this under this circumstance and he is going to look into it until he can find an answer."

There is no record of Dr. Elton or Dr. Albuquerque informing CPS, Ms. Smith, or the Court of this sudden reversal of medical opinion, that indicates many causes, such as the prior instrumentation of the valve suggested by the radiologist who discovered the air, suggested in his report of 11/25/09, and advised the physicians to "Correlate clinically for recent instrumentation to explain these findings." (p. 37)

Neither is there any explanation for the prompt disappearance of the air from the shunt and the ventricle, nor the yield of Dr. Elton's promised inquiry into the shunt 's "malfunction," nor whether the manufacturer conducted its own inquiry, as is typical in serious medical device failures.

The multiple discrepancies between Dr. Elton's and Dr. Albuquerque's representations of the medical and hospital records, taken together with Dr. Elton's changing and conflicting representation of his injection findings and allegations against Ms. Smith, raise questions about the good faith of their reporting to CPS in both incidents. Furthermore, the timing of each report, subsequent to inappropriate and hostile treatment of Ms. Smith and Chaunell at St. Joseph's Hospital, with its subsequent attendant injuries, and their filing a lawsuit in which Banner Desert Medical Center is also identified, raises profound questions about their honesty and motivation.

IV. Comment

A careful review of the medical, hospital, and available legal and investigative records indicated that all of Chaunell's medications, diagnostic studies, and therapeutic interventions were prescribed by her physicians. No intrusions by Ms. Leanne Smith into Chaunell's intravenous lines, clinical measurement instruments, medications, and documentary records were documented or discerned.

Virtually every excursion into a comatose state occurred in a closely monitored clinical environment. Indeed, Ms. Smith was documented by hospital and medical staff to be keenly engaged as an ally with them since Chaunell's hospital encounters began in 2003. Ms. Smith said she was being frequently confused by notations in the written records, especially when unfamiliar terms appeared to bear no relationship to Chaunell's clinical course, on laboratory reports or billing statements, and by the frequently shifting diagnostic labels that were given to Chaunell. In reviewing these records and discussing the medical history with her, my impression is of a mother who was dedicated to her daughter, pre-occupied with keeping her alive and allaying her pain, and, without question, traumatized by Chaunell's multiple crises, the emergency procedures to keep her alive, and in recent years, by the sense of hostility by medical and child protection staff.

At times, Ms. Smith reported she was "desperate" for more information, particularly when Chaunell would experience sudden episodes of coma or severe distress. Notwithstanding many hundreds of nursing observations of her

presence at her daughter's side, no concerns emerged until recently about the appropriateness of her behavior. Careful review of the record yields inescapably to the conclusion that was when Ms. Smith challenged the neurosurgical staff at St. Joseph's Hospital and at Banner Desert Medical Center that they took umbrage and began what appears to be a systematic effort to disempower her.

It is also evident that Chaunell was harmed by professionals' actions. When Dr. Rekate withdrew from her care the first time, sending her home in an ambulance without neurosurgical follow-up on 2 opiates for pain relief, it was only a matter of time before she would bounce back to the hospital with new, still more severe symptoms. When subsequently, a precipitous discharge with an unmonitored new shunt led to too much CSF drainage, Chaunell developed a potentially catastrophic low-pressure syndrome, manifested in brain shrinkage and the herniation of her cerebellar peduncles into her foramen magnum. In each of these circumstances Chaunell suffered severe pain, and her mother was blamed, rather than supported, for responding sympathetically to her needs. In the final cascade of errors and speculations that led to both Chaunell's and Jameelah's removed entirely from contact with Ms. Smith in the interest of their protection in "Long Term Placement," her neurosurgeon, Dr. Scott Elton, after telling hospital colleagues, CPS personnel, and indeed, Chaunell's foster mother and Chaunell herself (see page 35, my interview with Chaunell, and page 50, Detective Page's interview with her foster mother) that he had found 2 pinpricks that represented the entry points of the needles that had insufflated air into the shunt reservoir, changed his story when confronted by a police detective. In the presence of a lawyer and Detective Page, Dr. Elton lied about his past utterances. By this time in December, 2009, the damage was done.

The D.E.S. Child Protection Personnel appear to have swallowed uncritically the assertion by the Banner Desert Medical Center staff that Chaunell's entire illness history was factitious, that hers was a "non-organic" illness, and they set up for Chaunelle a confusing and hurtful program of substitute care. She was discouraged at every turn from expressing symptoms of pain. She was warned that if she talked about her distress, she would never see her mother again. Her mother was demeaned as an abuser to her by social workers and foster parents alike. Chaunell was encouraged to read Dr. Bursch's report and to deduce from it what her mother had done to her.

As damaging as this appeared on my interview with Chaunell, who could not recount with specificity any single action by her mother that hurt her, other than giving her prescribed medications that made her drowsy, this discounting of her medical complaints, especially her headaches, undoubtedly played a role in the delay before her meningitis in her first foster home was diagnosed.

The discounting of Chaunelle's feelings and the associated threats, in my opinion, set the stage for the belief system that she now holds. Not having even a tenuous thread of her mother's care and concern in view, she was held captive in a closed system, organized within a framework of psychobabble, where every complaint

would have to be explained as deriving from her mother's pathology, not from her body.

The discomforting sexual exposures that Chaunell endured in her first foster home diverged markedly from the far higher standards of moral behavior in her mother's and step-father's care. Tragically, such stories are not unusual. The frequency of child sexual abuse in substitute care is well documented to be higher than in the general population. That it was allowed to continue in Chaunelle's care, even as she was not permitted to contact her lawyer to complain about the circumstances of life in the foster mother's home, constitutes, in my opinion, neglect. This neglect included exposure to cigarette smoke, that, as Chaunell herself noted, exacerbated her respiratory symptoms.

But it was the constant and degrading minimization of her physical symptoms in the service of reifying the diagnosis of Munchausen Symptom by Proxy that astonishes me. For never was there a careful review by an independent pediatrician expert on MSBP to document what is universally regarded as a pediatric, not a psychiatric diagnosis.

The inaccurate and sometimes false representations of Chaunell's medical records by the neurosurgical and critical care staff at Banner Desert Medical Center could easily have been discerned by a cold-eyed review of all of the records. (It should be obvious from the compendium of summaries that I have listed above after approximately 25 hours of review.) The St. Joseph's Hospital in-house child abuse "expert," Dr. Coffman, conducted a quick and superficial evaluation that was devoid of systematic and critical summarizing and review. Neither did she conduct parental and child interviews and physical examination. This, in my opinion, along with its associated uncritical embrace of an MSBP formulation and her sworn testimony on her medical opinion, fell beneath the standard of care for child abuse physicians and further propounded the empty and damaging diagnostic theory of her neurosurgery colleagues.

The strange absence of any investigation into the appearance, and rapid disappearance of gas into Chaunell's shunt that propelled the legal initiative separating her and her sister Jameelah definitively from their mother's and step-father's care beggars belief. In the absence of investigation, and the presence of multiple adults in Chaunell's vicinity in the interval between her head trauma in the school bathroom and the half hour of unsupervised contact with her mother on the following day, is a thin tissue indeed on which to base such a damaging intrusion into a family's life.

In my interviews, both Chaunell's and Jameelah's productions appeared to be rote, scripted, and staged. Tragically, Chaunell's almost certainly represents the brainwashing of a young person whose anchors to reality have been severed, who is forced as a condition of her care and emotional survival to accept a fiction about her mother and her life. In Jameelah's case, her recently documented sexualized behavior almost certainly represents one or more sexualized or

abusive intrusions into her life. The themes of loss and violence that pervaded my interview with her, along with the uncertainty and doubt about whom she can count on in life, suggest that for her, too, the task of reunification with her mother and father will be freighted with doubt and conflict.

Last, these appear to be resilient children, able to form and sustain relationships, and in Chaunell's case to surmount physical and medical obstacles and to forge a way ahead in the world. These attributes, I have no doubt, derive from the loving and committed care of their family, from the earliest times when attachments and trust are formed, through the development of moral standards and high expectations of the adults who give them care. That these children have been so betrayed is a matter for sorrow and outrage, but fortunately, they are both blessed with lovely personalities and a mother and father who will never abandon them.

Opinions:

1. Chaunell Roberson is a victim, not of Munchausen Syndrome by Proxy, but of careless, intellectually dishonest, and harmful medical practice.
2. The Banner Desert Medical Center reports of her mother's alleged abuse of her to Arizona's child protection agency contained multiple misrepresentations of Chaunell Roberson's medical history and clinical status. So numerous were these falsehoods, and so insubstantial the attention to the knowledge base readily available to Chaunell's treating physicians, that they raise serious questions not simply about their honesty, but of their motives. The reports appear to have been made in bad faith. No steps were taken to correct the record, nor to inform CPS or the Court, that the allegation that Ms. Lianne Smith injected air into Chaunell's LP shunt was withdrawn. Neither the promised review and investigation of shunt malfunction by the Banner Medical Center hospital staff, nor an examination of the shunt by its manufacturer, have been made available.
3. Chaunell Roberson was medically neglected in foster home care. The repeated denial of medical care for the persistent headaches deriving from her pseudotumor cerebri appear to have protracted the diagnosis and treatment of her enterococcal meningitis, that could have killed her.
4. Chaunell's love and sense of protection from her mother changed profoundly in the course of her tenure in foster home care. Her letters home describe the wretched circumstances of her first foster home, and she exhorted her mother and step-father to save her from the sexual exposures, forced labor, and clinically-significant pain that she was forced to endure. She was threatened that she would never see her mother again if she complained of pain or respiratory stress. She was denied access to physicians, and even to her own appointed attorney. In this isolated bubble, her mother was misrepresented to her in derogatory terms, both by professionals and by her foster parents. Chaunell was given to read a psychological report that demonized Ms. Smith, and cast herself as her

victim. She was brainwashed and will need a sustained period of psychological recuperation if she is to function capably in caring and intimate relationships as an adult. Her attachment to her mother was systematically, and, I believe, intentionally, corroded, by Arizona Child Protection Services, and at least one contracted "therapist" in the name of her protection.

5. Both Chaunell's and her sister Jameelah's interviews with me appeared to be staged and scripted. Each child, however, expressed confusion about the truth of their circumstances, whom they could trust to talk about them, and longing for their parents' love and approbation.
6. Chaunell and Jameelah both were exposed to inappropriate sexual behavior in foster home care. I believe it is highly likely that Jameelah was sexually abused there. I saw no evidence that either child was competently evaluated or examined. Neither was the information I reviewed from Jameelah's therapist, documenting worrisome sexualized behavior and utterances suggestive of disclosures, probed with any systematic clinical assessment. Notwithstanding, both Mr. and Ms. Smith were accused of sexually abusing her.
7. In virtually every perturbing event, clinical symptom, behavior, or complaint since the initial allegations were received by CPS, there was a consistent intellectual explanatory defaulting to Munchausen Syndrome by Proxy, by CPS, mental health, and medical personnel. There was, and it appears, remains, an astounding paucity of critical perspective and differential diagnostic knowledge. The CPS investigation and follow-on service plans were a mockery of good practice. Only confirmatory opinions from outside evaluators were sought. Psychologists were asked to propound with testing, interview, and superficial analysis the underpinning assumptions of maternal fault and pathology. At no time, contrary to accepted current practice, was there sought and conducted an independent child abuse expert pediatric review of the medical records, nor corresponding interviews with Chaunell's mother, step-father, treaters, and above all, interview and examination of Chaunell herself. Consequently, Chaunell, and subsequently her sister, Jameelah, languished in care without contact with their beloved family.
8. It is highly likely that Ms. Smith, exposed over Chaunell's life to severe medical crises, and subsequently blamed for Chaunell's and Jameelah's medical and psychological problems and separated from them because of a platform of allegations that she knows were spurious and false, has been traumatized by this experience of malfeasance by doctors, hospitals, and the Arizona Child Protection agency. Strangely, in all the intellectual acrobatics and exertions by the consulting psychologists and social workers, and effort to create and maintain a fictive alternate reality for this family, the diagnosis of the anxiety condition called Post Traumatic Stress Disorder appears not to have been considered. This is a well-documented phenomenon, deriving both from experiencing and witnessing harm to oneself and to one's loved ones. It deserves clinical attention, and I

believe, if needed, both treatment and redress for the injuries that may have caused it.

Recommendations:

1. Immediate return of both Chaunell Roberson's and Jameelah Smith's custody to the care of Leanna Smith and Darrell Smith.
2. Full, independent, unassailably competent medical and psychological assessments of both children, to assure and inform their future protection and care.
3. Psychotherapy for both children, both adults, and Chaunell's and Jameelah's brother Cordell, to support the process of reunification. For Mr. and Ms. Smith, I strongly recommend diagnosticians and therapists with knowledge and sympathy in treating traumatic psychological injuries. I believe that given their traumatic exposures, this will be needed for Chaunell, Jameelah, and Cordell as well.
4. Current psycho-educational evaluations for Chaunell and Jameelah to assure that their educational placements are appropriate, and to the extent that they are necessary, compensatory tuition support for whatever supports are necessary for their educations. In Chaunell's case, as she nears her high school graduation, this should include postgraduate tuition toward a baccalaureate degree.

Sincerely,

(s) Eli H. Newberger, M.D.

Eli H. Newberger, M.D.
Adjunct in Pediatrics
Children's Hospital Boston
Assistant Professor of Pediatrics
Harvard Medical School