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Jonathan Lucas, M.D.
Los Angeles County Medical Examiner-Coroner
1104 N. Mission Rd.
Los Angeles, CA 90033

RE: Petition to Amend the Death Certificate of Rebecca Zahau

Dear Dr. Lucas:

As legal counsel for the Zahau Family, I hereby ask that pursuant to Health & Safety Code §103225 and §103300, you, as the medical examiner that signed Rebecca Zahau's death certificate, agree to sign the proposed amendment to Rebecca Zahau's death certificate which reflects the true cause of death of homicide, rather than suicide, or at a minimum, amend death certificate to reflect the cause of death to be "undetermined." (Attached as Exhibit B).

The reason for this request is that the large body of evidence and expert analysis developed after you signed Rebecca's death certificate, as discussed in detail below, shows that it is "more likely than not" that Rebecca did not commit suicide. This body of evidence was developed in civil litigation brought by the Zahau Family. At the civil trial, Adam Shacknai's team of attorneys argued that because you and the Sheriff opined that Rebecca committed suicide, it must be suicide. After hearing the testimony from Sheriff Department personnel involved in the investigation, the jury rejected this argument, ruling instead that Rebecca Zahau had been killed by Adam Shacknai.

Moreover, in response to Adam Shacknai's legal team filing a motion to have the jury's verdict set aside for lack of evidence, the Judge issued a scathing tentative ruling, discussing the strong evidence supporting the wrongful death verdict and reaching out to the Sheriff by stating that: "[T]he Court feels remiss if it does not state that the Sheriff's investigation leaves almost as many unanswered questions as it answered." (See 1/25/19 Tentative Ruling attached hereto as Exhibit A, bottom of page 1). Referencing the macabre phrase written on the door to the bedroom where Rebecca was assaulted, "SHE SAVED HIM CAN YOU SAVE HER[.]" Judge Bacal further noted:

“The Sheriff’s investigation apparently could not determine the meaning of the message and, thus, gave it no weight. However, the evidence showed that Rebecca wrote extensively about herself in the first person. She was a painter, who was comfortable painting letters as well as figures. (Tr. Exs. 861-864). Given these facts alone, common sense says that Rebecca did not paint the amateurishly painted message on the door. And if she did not, someone else did. Determining who wrote this message would certainly be circumstantial evidence pointing to who killed Rebecca Zahau. This was only one of numerous pieces of circumstantial evidence that puts the Sheriff’s conclusion into question. *As a result, it is not unreasonable to still ask, “who killed Rebecca Zahau.”* (Ex. A, pg. 7, Emphasis added).

Adam Shacknai also argued at trial that if Rebecca was killed, there is nothing tying him to her death. This argument was also rejected by the jury in light of expert testimony at trial that the characteristics of Shacknai’s handwriting have similarities to the phrase written on the door, particularly the unique way that Shacknai writes the letters A and M. There were no such similarities between Rebecca’s handwriting and the writing on the door. In addition, the Zahau Family’s forensic kinesiology expert testified that the height at which the phrase was painted on the door is consistent with a person the height of Adam Shacknai, i.e., between 5’10” and 6 feet, not 5’3” Rebecca Zahau.

The Zahau Family’s forensic knot expert testified at trial that the bindings and knots used to restrain and hang Rebecca were nautical knots and exhibited knotting techniques. This knowledge of knots would be expected of a tugboat pilot, such as Adam Shacknai. And, even the Sheriff’s personnel believed that the phrase on the door, SHE SAVED HIM CAN YOU SAVE HER, referred to Rebecca having saved six-year-old Maxfield Shacknai earlier in the week, a fact only known to family members such as Adam Shacknai. This insight was strong circumstantial evidence against Adam Shacknai because he was the only family member in proximity to the murder without an alibi for the time period when Rebecca was killed.

Adam Shacknai was also the last person known to see Rebecca before her death and was the first person to see her after her death. Moreover, when he allegedly saw her hanging from the balcony the morning of July 13, 2011, he didn’t attempt to help or even see if she was alive until the 911 operator asked him if she was alive. This bizarre behavior further supports the jury’s verdict that Rebecca Zahau was killed and certainly did not commit suicide.

SUBSTANTIAL EVIDENCE PRESENTED AT TRIAL SUPPORTS THE VERDICT THAT ADAM SHACKNAI KILLED REBECCA ZAHAU

A. Forensic Pathology Evidence Supports the Wrongful Death Verdict

1. Blows to Rebecca’s head were sufficient to incapacitate her.

At trial, Dr. Cyril Wecht identified four separate traumas to the right side and upper right side of her head, which he identified as “subgaleal hemorrhages.” (Ex.3 A, RT 1364:10-24). Dr. Wecht opined that these four separate areas of subscapular subgaleal hemorrhage were caused by four separately inflicted blows to the head and that the totality of the effect of four blows would

have led to at least some diminution of full consciousness which would have produced some disruption of the neuronal – “the reflex and so on, and I – yes, with a reasonable medical probability, I believe that.” (Id., 1366: 11-20; 1367: 20-26).

2. Rebecca was strangled before being hanged.

Dr. Wecht also determined that the cricoid cartilage in Rebecca’s neck, well below the furrows left on Rebecca’s neck from the noose, had been fractured, and that this type of injury is consistent with manual strangulation. Dr. Wecht further opined that the cause of Rebecca’s death was manual strangulation and thereafter she was hanged off the balcony. (Ex. A, RT 1370:3-25; 1372:4-11).

3. Rebecca screamed for help before being incapacitated.

Marsha Allison lives at 1057 Ocean Blvd., just two houses down from the Spreckels mansion. (RT Day 11, Marsha Allison Transcript, 11:20-24). At approximately 11:30 PM on the night of the killing, she was sitting in her TV room, which faced the street, with the window open, and she heard a woman scream very loudly “help me, help me.” (Id., at 25:17-20, 26:22-27:11, 48:24-49:6). She placed her hand on the phone in case she needed to call 911, but the screams stopped. (Id.). She recalls the screams “coming from up high” and sounding like they came “over the Finches house towards hers.” (Id., at 50:25-51:20). The Finche’s house is between her house and the Spreckels mansion. (Id. at 14:4-9). She presumed the woman was screaming from “up on the porch” of the Spreckles mansion. (Id. at 15-18). The Zahau Family contends, and it is a reasonable inference, that Rebecca was the woman screaming for help, just prior to being struck on the head four times and being temporarily incapacitated.

4. Suicidal hanging is not supported by the forensic evidence.

The Zahau Family’s Forensic Kinesiologist expert, James G. Kent, Ph.D., analyzed the decedent’s injuries and the alleged mechanism of injuries and determined that the damage patterns on her body are inconsistent with the mechanics of the decedent voluntarily going forward over the patio railing. He further opined that it is more likely than not that the decedent could not have had her hands bound behind her and voluntarily been able to flex forward over the balcony railing due to the relationship between the height of the rail and her approximate center of gravity with the binding of her hands in that position, as this would’ve placed her center of gravity on the balcony side and below the level of the rail. Thus, he opined it is more likely than not that an outside force, most probably another person, applied the extra force necessary to propel her over the railing. Ex. C, RT 1535:25-28; 1536:1-5; 1562:7-9).

Dr. Kent also opined that had Rebecca fallen uninhibited for 9 feet with a rope around her neck, as stated by Dr. Lucas, her injuries would have been much greater than those found on her body, including the probability that she would have been at least partially decapitated.(Id., 1533:13:28; 1534:1-20).

Dr. Kent also analyzed whether the force resulting from a nine-foot fall would pull the bed that the noose was tied to a mere seven inches as shown in crime scene photograph. He

determined that if Rebecca had fallen unimpeded for nine feet, the bed would have moved at least several feet, and because the bed only moved approximately seven inches, it is more likely than not that some outside force slowed her fall, such as an individual restraining the rope and/or the bed as she fell. (Id. 1534:21-28).

5. The lack of DNA and fingerprints is consistent with the crime scene being wiped down.

The Zahau Family's DNA expert, Suzanna Ryan, noted that there was no DNA or fingerprints found in a substantial number of the places, most of which you would expect to find such evidence, like the door knob to the bedroom and to the balcony, the paint brush that was used to paint the phrase on the door, and the large tube of black paint that was clearly handled by Rebecca prior to that evening and by the killer that night. DNA expert Susan Ryan and Forensic Specialist Lisa DiMeo found this to be surprising, and consistent with the crime scene being wiped down. (Ex. E, RT 1281 :6-1282:2; Ex. D, RT 588:2-11; 590: 10-591:2). Ms. Ryan prepared an instructive chart that identifies the number of items that were sampled that were capable of being wiped down, and determined that more than half of them had no DNA detected, including the knife, the paint brush, the door knobs into and out of the bedroom, and the black paint tube.(Ex. E, RT 1067:22-1068:8; 1072:1-28).

6. The killer raped Rebecca with a knife handle

One of the most morbid and obscene pieces of evidence in this case, as identified by Forensic Specialist Lisa A. DiMeo, is that a steak knife at the scene was covered with blood on all four sides of the handle, a few inches up, and the only source of blood sufficient to coat all four sides of the knife handle was the decedent's vagina. Ex. D, RT 7733:11-15; 584:2-8). Ms. Dimeo further opined that the stripe of blood on Rebecca's left inner thigh was a transfer stain from the knife handle being rubbed against her leg (Id. at 600:3-27). The Zahau Family respectfully submits that this is not the type of act that a woman who was allegedly committing an "honor suicide" (as alleged by Adam Shacknai) would do and is consistent with murder.

B. Substantial evidence establishes Adam Shacknai as the killer.

1. The painted phrase on the door was written by someone with intimate Knowledge of Max's condition.

The phrase "SHE SAVED HIM CAN YOU SAVE HER" was painted on the door to the bedroom where Rebecca was bound, gagged and hanged. It is a reasonable inference to presume that the "she" is Rebecca, since "she" is clearly the "her" who can be saved. It is also reasonable to assume that the "she saved him" portion of the message refers to Rebecca saving Max, since, as discussed above, at the time of Rebecca's death, Max's condition remained stable, and both Max's mother and father, Dina Shacknai and Jonah Shacknai, were thankful that Rebecca was able to give Max CPR so quickly and save his life.(Ex. F, RT 103:6-14). Lead Detective Tsuida also stated that the portion of the phrase "SHE SAVED HIM" referred to Rebecca saving six-year-old Max Shacknai.

There were only a handful of people who were following Max's condition closely enough on the evening of Rebecca's death to know his current prognosis. Only Adam Shacknai was in proximity to Rebecca the evening of Rebecca's death.

2. Writing on the door has similarities to Adam Shacknai's handwriting

Forensic document examiner Michael Wakshul analyzed the handwritten statement on the bedroom door "SHE SAVED HIM CAN YOU SAVER HER," and compared it with samples of handwriting from Rebecca and from Adam Shacknai. (Ex. G, RT 796:1-10; 687:18-27). He opines that "there are indications Adam wrote the words on the door. "Indications" is defined as "evidence to suggest." Some of the key factors are that the Defendant's handwriting and the handwriting on the door tend to slant left, and Rebecca's handwriting slants to the right, and there are similarities between the Defendant's letter A and very unique letter M and the same letters on the door. (Id. at 685:24-28; 796:16-27; 692:1-28). Conversely, Mr. Wakshul opined that there were no indications that the handwriting was Rebecca's. Therefore, between the two people that are alleged to have been at the crime scene, it is more likely that the phrase was written by Adam Shacknai than by the decedent, Rebecca Zahau.

3. Height of the writing matches Adam Shacknai, not Rebecca.

Forensic Kinesiologist James G. Kent, Ph.D. analyzed physiological and biomechanical components which tend to determine the height at which a person comfortably paints on a vertical surface. He determined that the phrase "SHE SAVED HIM CAN YOU SAVE HER" that is painted on the door of the bedroom where Rebecca was killed, is consistent with the height of an individual between 5 foot 10 inches. Rebecca is approximately 5'3". (Ex. C, RT 1546:10-1547:18). Whereas Adam is 5'11" (Id.).

4. The knots and bindings are tied to Adam Shacknai.

The Zahau Family retained a forensic knotting analyst, Lindsey Philpott, to analyze the knots that were used to bind and hang Rebecca. He opined that it would be virtually impossible for any individual to bind his or her own hands behind their back using the type of knots found on the decedent. (Ex. H, RT 1119:21-28). He also opined that the type of knots that were involved had "nautical qualities," including the figure-eight construction around the wrists and ankles and the use of a clove hitch as the final securing element around the neck and wrists.(Id. at 1154:7-8; 1133:13-14). He further opined that: "the knot attaching around the base of the bedpost is a -- an eye splice that is formed in the end of a piece of line. Eye splices are regularly and consistently used nautical applications." (Id. at 1191 :28-1192: 8). The knots also showed a level of sophistication and understanding in the use of rope and knots (Id. at 1249:11-13).

These findings and opinions are significant because defendant Adam Shacknai is a tugboat captain, who uses nautical knots as part of his profession (Ex I, RT 1977:5-13; 1978:5-19; 1979 20-25).

It should also be noted that at the trial, both the Zahau Family's knot expert and Adam Shacknai's knot expert agreed that the Sheriff's reenactment of a woman tying her hands behind

her back did not accurately depict the type of knots used to bind Rebecca Zahau and was not pertinent to the analysis. (Ex. C, RT 1556: 15-22; 1555:17-22; 1556:4-14) and (Ex. C, RT 1535:25-28; 1536:1-5; 1562:7-9).

5. Adam Shacknai did not try to save Rebecca

As noted on the recording of Adam Shacknai's call to 911, when he saw Rebecca hanging from the balcony that morning, he did not at first attempt to see if she was still alive or help her. Rather he called 911, and when asked if she was alive, he claimed he did not know. (Greer Decl., Ex. L, 911 Transcript at 1:28-30). In response to the question, he the cut her down. (*Id.*, 911 Transcript at 4:138). The Zahau Family contended that the reason he did not attempt to help her was that he already knew she was dead because he killed her.

CONCLUSION

For the reasons set forth above, the Zahau Family requests that you agree to sign the proposed amendment to Rebecca Zahau's death certificate to reflect the cause of death being "homicide," or at a minimum, amend the cause of death to be "undetermined."

Thank you in advance for your serious consideration of this request.

Respectfully submitted,

C. Keith Greer, Esq.
Attorney for the Zahau Family