

**MARK W. VOGEL, M.D., F.A.C.S.**  
DIPLOMATE, AMERICAN BOARD OF UROLOGY

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**AFFIDAVIT OF MARK W. VOGEL, M.D., F.A.C.S.**

I, DR. MARK VOGEL, declare as follows:

1. I have over 31 years of experience as an urologist. My full Curriculum Vitae, Exhibit A, is attached.
2. I am board-certified urologist in the State of California (USA) and a member of the teaching faculty for the Urology Residency Program at Cedars-Sinai Medical Center.
3. I was the past chief of the Division of Urology and Vice-Clinical Chief of the Department of Surgery at Cedars-Sinai Medical Center, with staff positions at Cedars-Sinai and University of Southern California (USC).
4. My practice emphasizes all areas of urology.
5. I am a Qualified Medical Evaluator (QME) for the State of California.
6. In addition to being a fellow of the American College of Surgeons, I am a member of numerous local, state and national medical organizations.
7. I completed my medical education at the USC Keck School of Medicine and performed my internship and residency at the Los Angeles County-USC Medical Center.
8. I actively teach at the University of Southern California, where I am a clinical professor of Urology and Family Medicine.
9. This is my report and conclusions with respect to the medical records of Sri Nithyananda Swami (the "Patient"), produced by the Bangalore Medical College & Research Institute, Victoria Hospital, Bangalore ("Victoria Hospital Report").



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10. I have had an opportunity to review the attached, Exhibit B, in preparation of this Report.
11. In my opinion, although the medical tests conducted, described in the Victoria Hospital Report, on the patient, Sri Nithyananda Swami, were very comprehensive, I found the conclusions by the committee of doctors to be strangely uncorrelated with the unique tests results of the patient.
12. For example, the Victoria Hospital Report clearly indicates that Sri Nithyananda Swami has extremely severe anorchid levels of testosterone and low levels of LH. This finding alone is a strong indicator of erectile dysfunction. However, surprisingly, the opinion submitted by the Victoria Hospital doctors does not highlight this result as a medical cause why Sri Nithyananda Swami would be incapable of sexual acts.
13. It should be noted that there is a significant discrepancy between the Doppler ultrasound finding and the final opinion. Specifically, the medical report states, "Flaccid State Doppler Assessment showed insignificant blood flow", but yet the final opinion states, "Flaccid State Doppler Assessment showed normal blood flow". The Victoria Hospital medical team's conclusion is directly opposite of the medical results of the patient.
14. There is enough evidence in current medical literature, which has a cut off of peak systolic velocity of 15cm/sec in the flaccid penile Doppler test. There are also studies done on Indian patients in India who have taken a lower cut off of 10 cm/sec. The Doppler test results indicate that Sri Nithyananda Swami's peak systolic velocity, in a flaccid state, is only 6.7cm/sec on the right side, which indicates insignificant blood flow and is significantly lower than normal and is sufficient to be considered a vascular cause of erectile dysfunction. The same test recorded the left side was recorded at 14.1 cm/sec. Normally, the peak systolic velocity is near equal on both sides, but this is not the case with Sri Nithyananda Swami and this is also indicative of erectile dysfunction. [Source: D Golijanin , et al, Doppler evaluation of erectile dysfunction – Part 2, *International Journal of Impotence Research*, (2007) 19, 43–48]

15. In my experience, the two above findings are suggestive of erectile dysfunction due to both vasculogenic and hormonal causes.
16. The report regarding the physical examination described “moon faced” (facies) and gynecomastia, which could also be evidence of an endocrine disorder that could cause impotence.
17. Further, it should be noted that it takes a long time for hormonal levels to go so low (as described in point 12 above), particularly with the presence of gynecomastia, this is a definite indicator of a chronic disorder.
18. In addition, Sri Nithyananda Swami’s results indicate that he has diabetes, hypertension and dyslipidemia—all of which are well known in the medical literature to cause erectile dysfunction. Yet, I again found it odd, that the examining doctors did not make note of this in their final opinion as a medical reason why Sri Nithyananda Swami would be incapable of sexual acts.
19. The testicular volumes, recorded on the ultrasound study at 12.04 cc’s (right) and 11.4 cc’s (left), are lower than accepted normal volumes for functional male testes, ranging from 12.5 cc’s to 19 cc’s. which is supportive of hypogonadism. [Sources: Kim, W. et al, US MRI Imaging Correlation in Pathologic Conditions of the Scrotum. *Radiographics* 27 (5) 1239-53; Vinayaka U. S, et al “Correlation Between Testicular Volume & Sperm Count in Infertile South Indian Male Patients”. *Journal of Evolution of Medical and Dental Sciences* 2014; Vol. 3, Issue 36, August 18; Page: 9478-9483, DOI: 10.14260/jemds/2014/3223.]
20. There is also a notable discrepancy regarding the Scrotal Doppler examination. The findings explicitly state, “significant varicocele seen on either side” but yet the final opinion states, “no clinical evidence of varicocele”. Again, the Victoria Hospital medical team’s conclusion is directly opposite of the medical results of the patient. Further, normally the Scrotal Doppler automatically calculates the testicular volume. In this case the Doppler report does not mention testicular volume but appears only in the final conclusion. This might indicate

that the volume indicated by The Victoria Hospital medical team may be discrepant from actual testicular volume of the Patient.

21. The report also refers to the psychological assessment of Sri Nithyananda Swami. When questioned during his psychological examination, Sri Nithyananda Swami gives a clear history of his body being unresponsive to sexual urge, no sexual activities during his lifetime, no history of masturbation or wet dreams or any erections. The Victoria Hospital medical team refers to the psychological exam in their report, but has neither disputed these unique findings in their report nor do they seem to consider these findings as supportive data acquired that indicate Sri Nithyananda Swami would be incapable of sexual acts.
22. Further, the systemic examination conducted by the Victoria Hospital medical examination team observed Sri Nithyananda Swami's judgment to be "intact" and that his thought stream as "Normal". Also, the psychological examination did not reveal any evidence of psychopathology. In my opinion and experience, these findings go to the reliability of the patient's statements referred to in the previous point.
23. In my opinion, Sri Nithyananda Swami has all the three causes of erectile dysfunction: vasculogenic, hormonal and psychological, which provide enough clear evidence to support Sri Nithyananda Swami's claim that he is incapable of sexual acts and thus did not perform rape and unnatural sex.

I declare under penalty of perjury under all the laws of the United States of America that the foregoing is true and correct.

This declaration is signed December, 17 2014 at Los Angeles, California.



**MARK VOGEL, MD**

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Los Angeles

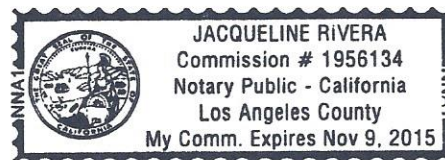
On December 17, 2014 before me, Jacqueline Rivera, notary public  
(Here insert name and title of the officer)

personally appeared Mack W. Vogel, M.D.

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(~~ies~~), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Jacqueline Rivera  
 Signature of Notary Public

(Notary Seal)

## ADDITIONAL OPTIONAL INFORMATION

### INSTRUCTIONS FOR COMPLETING THIS FORM

*Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.*

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- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
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- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/~~she~~/they, is /~~are~~ ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

<p><b>DESCRIPTION OF THE ATTACHED DOCUMENT</b></p> <p><u>Affidavit of Mack W. Vogel,</u>  <small>(Title or description of attached document)</small></p> <p><u>M.D., F.A.C.S</u>  <small>(Title or description of attached document continued)</small></p> <p>Number of Pages <u>4</u> Document Date _____</p> <p>_____  <small>(Additional information)</small></p>
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<p><b>CAPACITY CLAIMED BY THE SIGNER</b></p> <p><input type="checkbox"/> Individual (s)</p> <p><input type="checkbox"/> Corporate Officer</p> <p>_____  <small>(Title)</small></p> <p><input type="checkbox"/> Partner(s)</p> <p><input type="checkbox"/> Attorney-in-Fact</p> <p><input type="checkbox"/> Trustee(s)</p> <p><input type="checkbox"/> Other _____</p>
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