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COMMONWEALTH OF KENTUCKY  
PIKE CIRCUIT COURT  
DIVISION TWO (2)  
HON. HOWARD KEITH HALL, JUDGE  
CASE NO. 18-CI-01238  
***ELECTRONICALLY FILED***

MEDIA5022

JIMMY ABSHIRE

PLAINTIFF

v.

**DISCLOSURE OF EXPERT WITNESSES ON  
BEHALF OF DEFENDANTS**

PIKEVILLE MEDICAL CENTER, INC.,  
MARK J. SWOFFORD, D.O., TRI-STATE  
UROLOGY, LLC

DEFENDANTS

\* \* \* \* \*

Come the Defendants, Pikeville Medical Center, Inc., Mark J. Swofford, D.O., and Tri-State Urology, LLC, by counsel, and in accordance with CR 26.02 and the Pretrial Order of the Court, submits the following information regarding expert witnesses who may be called to testify at the trial of this action either live or by way of deposition:

**1. Edward David Kim, M.D.**

Dr. Kim is a licensed physician, board certified in urology. He is a clinician at University Urology, PC in Knoxville, Tennessee. Dr. Kim's opinions in this matter are based upon his review of the pertinent medical records and depositions in this case of Dr. Mark Swofford and Jimmy Abshire, with particular attention being paid to those portions of the medical records which involve the care rendered by Dr. Swofford. Based upon this review of these documents, as well as his education, training, and experience, he is expected to testify within a reasonable degree of medical probability that Dr. Swofford's care of Jimmy Abshire met the applicable standard of care, and that Dr. Swofford's care of Jimmy Abshire was not a substantial factor in

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causing Plaintiff's alleged damages. In doing so, Dr. Kim will address and rebut the opinions expressed by Plaintiff's retained expert, Dr. Michael Hallett.

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Dr. Kim is expected to testify regarding the anatomy and physiology of the Plaintiff and his medical condition while under Dr. Swofford's care. Dr. Kim will express his opinion that Jimmy Abshire suffered from low testosterone and sexual dysfunction. The diagnosis of hypogonadism by Dr. Swofford was appropriate. Dr. Kim will opine that the standard treatment for hypogonadism is testosterone therapy. Dr. Swofford monitored Mr. Abshire via lab work and physical exams at least every six months, which is well within the standard of care. After reviewing Mr. Abshire's testing of hematocrit and testosterone levels on January 18, 2017, Dr. Swofford appropriately and promptly ordered therapeutic phlebotomy.

Dr. Kim will express the opinion that the pulmonary embolism suffered by Mr. Abshire on January 24, 2017 was not caused, in whole or substantial part, by the testosterone treatment and/or its effects. Dr. Kim will opine within a medical degree of certainty that Plaintiff's comorbidities and lifestyle choices were the cause of his pulmonary embolism. Mr. Abshire was morbidly obese with a long history of smoking, COPD, black lung, and sleep apnea.

Dr. Kim is of the opinion that the pulmonary embolism of Plaintiff was unrelated to any actions or inactions of care provided by Dr. Swofford.

Pulmonary embolism is regarded as a condition which can be life-threatening. Dr. Kim will comment that Dr. Swofford properly considered the risk of pulmonary embolism and properly monitored the Plaintiff throughout treatment.

In sum, Dr. Kim is expected to testify to a reasonable degree of medical probability that the care provided to Mr. Abshire met the applicable standard of care and that no negligence of Dr. Swofford caused Plaintiff's claimed injuries and damages.

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A copy of Dr. Kim's curriculum vitae is attached hereto as Exhibit 1. Defendants reserve the right to supplement Dr. Kim's opinions as discovery continues in this matter.

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**2. Ronald Sacher, M.D.**

Dr. Sacher is an Emeritus Professor of Internal Medicine in the Division of Hematology/Oncology at the University of Cincinnati Academic Health Center in Cincinnati, Ohio, and the Emeritus Director of the Hoxworth Blood Center at the University of Cincinnati. He is also a clinician at the Barrett Cancer Center at University of Cincinnati Physicians in Cincinnati, Ohio. Dr. Sacher has reviewed the medical records pertaining to the care of Plaintiff. He has also reviewed depositions taken herein including the depositions of Dr. Swofford and Plaintiff. A copy of Dr. Sacher's curriculum vitae is attached hereto as Exhibit 2.

Based upon his education, training and experience and his review of pertinent medical records and depositions herein, Dr. Sacher is expected to testify about principles of hematology and general anatomy of the Plaintiff. More specifically, Dr. Sacher will testify as to the causation of Plaintiff's pulmonary embolism.

Dr. Sacher will express the opinion that the testosterone therapy treatments administered by Dr. Swofford were not the cause of Plaintiff's pulmonary embolism. Plaintiff's medical course did not indicate a risk of pulmonary embolism because of the testosterone therapy treatments.

Dr. Sacher will comment genetic predisposition and lifestyle are the most important factors for development of a pulmonary embolism. Plaintiff had several relevant and severe comorbidities, including obesity, COPD, history of smoking, black lung, and sleep apnea. It is within a medical degree of certainty that Plaintiff's comorbidities were the cause of his pulmonary embolism.

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Regarding the specifics of Plaintiff, Dr. Sacher will opine that Plaintiff only had mildly elevated hemoglobin levels during the time of his testosterone therapy treatments. High hemoglobin levels could lead to a pulmonary embolism, but that was not present with Plaintiff. It is unusual for testosterone therapy alone to cause a pulmonary embolism.

Dr. Sacher is of the opinion that the pulmonary embolism of Plaintiff was unrelated to any actions or inactions of care provided by Dr. Swofford.

Pulmonary embolism is regarded as a condition which can be life-threatening. Dr. Sacher will comment that Dr. Swofford properly considered the risk of pulmonary embolism and properly monitored the Plaintiff throughout treatment.

The opinions of Dr. Sacher will be expressed in terms of reasonable medical probability. His opinions are based upon his review of the pertinent medical records, knowledge of the medical literature, and deposition testimony, including the depositions of Dr. Swofford and Plaintiff.

Dr. Sacher is of the opinion that Defendants acted appropriately.

3. Defendants reserve the right to call any individual involved in the care and treatment of Jimmy Abshire, including but not limited to, treating physicians identified during the discovery process.

4. Defendants reserve the right to supplement this Expert Witness Disclosure with additional experts and/or supplemental expert opinions should new issues develop during the depositions of Plaintiff's experts.

5. Defendants reserve the right to call and/or rely on any expert disclosed, called, and/or relied upon by any other party.

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6. Defendants reserve the right to supplement this expert disclosure for the purposes of rebuttal, impeachment, and as additional discovery, which remains ongoing, and indicates that same may be necessary.

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Respectfully submitted,

/s/ John F. Shockley

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*Counsel for Defendants, Pikeville Medical Center, Inc., Mark J. Swofford, DO and Tri-State Urology, LLC*

### CERTIFICATE OF SERVICE

I hereby certify that on this **16<sup>th</sup> day of May, 2022**, I electronically filed the foregoing with the Clerk of the Court using the KCOJ E-filing system, and served the foregoing to the following via electronic mail:

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/s/ John F. Shockley

John F. Shockley

*Counsel for Defendants*

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