

**COMMONWEALTH OF KENTUCKY
LINCOLN CIRCUIT COURT
CIVIL ACTION NO. 18-CI-00171**

ELECTRONICALLY FILED

**CHELSEY ABEE, AS NEXT FRIEND OF JAMESON
COLE IRVIN,**

PLAINTIFF

V.

**EMHFL, INC. d/b/a EPHRAIM MCDOWELL FORT
LOGAN HOSPITAL; BATES MILLER & SIMS, PLLC;
AND JAMIE ATWOOD**

DEFENDANTS

DEFENDANTS' PRE-TRIAL MEMORANDUM

Come the Defendants, Jamie Atwood, C.N.M and Bates Miller & Sims, PLLC, and hereby submit their pre-trial memorandum.

I. STATEMENT OF FACTS

Plaintiff Chelsea Abee is the mother of Jameson Cole Irwin. Plaintiff in this matter has claimed that Jameson Cole Irvin sustained brain injury due to the care provided at Fort Logan Hospital during his mother's labor on December 7, 2017. Specifically, Plaintiff claims that findings on the fetal monitor strip should have led to an earlier cesarean section. Plaintiff alleges that had a cesarean section been performed earlier, the intellectual and behavioral limitations Cole Irvin currently experiences would have been avoided.

Defendant Jaime Atwood has maintained that her care was appropriate and that the fetal heart rate pattern seen on the fetal monitor strip was reassuring for the majority of Ms. Abee's labor. When concerns developed late in the labor, Dr. Christopher Sims was consulted. Dr. Sims

also continued to observe the fetal monitor strip in order to further evaluate the baby's status. Ultimately, Dr. Sims performed a cesarean section.

Laboratory results, as well as microscopic evaluation of the placenta, suggest that any brain injury Cole sustained occurred at least 1-3 days before Ms. Abee presented to Fort Logan Hospital for her labor and delivery. Subsequent to his birth in 2017, Cole Irwin has been evaluated by a number of specialists who have raised concern that he is on the spectrum for autism, a genetic disorder.

II. PARTIES

Chelsea Abee (now known as Chelsea Irvin) is Cole's mother.

Jameson Cole Irvin is Ms. Abee/Irvin's son.

Jamie Atwood is a Certified Nurse Midwife who provided both prenatal care as well as care during the labor and delivery to Cole Irvin.

Bates, Miller & Sims, PLLC is the employer of Jamie Atwood.

Ephraim McDowell Fort Logan Hospital is a settling party to this action.

III. QUESTIONS OF FACT

1. Whether Jamie Atwood, C.N.M. met the standard of care expected of a reasonably competent nurse midwife acting under the same or similar circumstances.
2. Whether any deviation from the standard of care on the part of Ms. Atwood was a substantial factor in causing the injuries claimed by Plaintiff.
3. In the event of findings of both deviation from the standard of care and that such deviation caused the injuries claimed by Plaintiff, the amount necessary to compensate Plaintiff for

those injuries that were the direct result of care by Ms. Atwood during the labor.

III. TRIAL

Trial is set to commence on Monday, April 25, 2022 in Lincoln County. The defense anticipates commencing its proof on Wednesday May 4, 2022. The defense expects the trial will take approximately ten trial days to completion.

Respectfully submitted,

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CERTIFICATE OF SERVICE:

It is hereby certified that the foregoing was served upon the parties by e-mailing a true copy of same to their attorneys of record on the 8th of April 2022, as follows:

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