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COMMONWEALTH OF KENTUCKY

No. 22-CI-006526

JEFFERSON CIRCUIT COURT
DIVISION SEVEN (7)
JUDGE MELISSA LOGAN BELLOWS
MEDIA5022

JACKIE SNYDER

PLAINTIFF

v.

NORTON HEALTHCARE, INC.,
DIAGNOSTIC X-RAY PHYSICIANS, P.S.C., and
WESLEY NATHAN BRYSON, MD

DEFENDANTS

* * * * *

DEFENDANTS' EXPERT WITNESS DISCLOSURES

Come now the Defendants, Diagnostic X-Ray Physicians, P.S.C. and Wesley Nathan Bryson, M.D., by and through counsel, and pursuant to CR 26.02(4), hereby disclose the following expert witnesses:

- 1. **Brett Michael Elicker, M.D.**
University of California, San Francisco
5 Zandra Place
Novato, CA 94945

Dr. Elicker obtained his medical degree from New York Medical College. Dr. Elicker completed an internship in internal medicine at Kaiser Santa Clara Hospital, a residency in diagnostic radiology at Yale/New Haven Hospital and a fellowship in cardiac and pulmonary imaging at the University of California, San Francisco. Dr. Elicker is a board-certified radiologist and has privileges to practice at Moffitt-Long Hospitals at the University of California, San Francisco, and San Francisco Veterans Affairs. Dr. Elicker is a Professor of Clinical Radiology and Chief of the Cardiac and Pulmonary Imaging Section at the University of California, San

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Francisco. A copy of Dr. Elicker's curriculum vitae is attached hereto and is incorporated herein by reference.

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In conjunction with his involvement in this matter, Dr. Elicker has been provided with Ms. Snyder's medical records, imaging studies, various transcripts of depositions taken during discovery, as well as Plaintiff's expert witness disclosure. Dr. Elicker will continue to receive documents, imaging and depositions as discovery is not yet complete.

Dr. Elicker will attest to the fact that Ms. Snyder presented to her primary care provider, Amanda Buchanan, APRN at Norton Community Medical Associates with a cough and chest congestion on July 13, 2021. Ms. Snyder was on an antibiotic. Ms. Buchanan ordered a chest x-ray which was interpreted by Dr. Bronfman on the same date. Dr. Bronfman's impression included findings compatible with a focal right suprahilar infiltrate. A follow-up chest x-ray was recommended in three weeks.

Ms. Snyder saw Ms. Buchanan on July 20, 2021 who indicated a chest CT scan would be ordered if there was no improvement in the follow-up chest x-ray.

On August 2, 2021, Dr. Bryson interpreted the follow-up chest x-ray, which included comparing this study with the one completed on July 13, 2021. Dr. Bryson's findings include the following: "There has been interval decrease in right subhilar opacity seen on prior radiograph dated 07/13/2021 likely representing improving infectious or inflammatory process. There is no pleural effusion or pneumothorax. The cardiomediastinal silhouette is normal. No acute radiographic abnormality of the chest."

On August 31, 2021, Ms. Snyder presented for an appointment with pulmonologist Carlos Ramirez-Icaza, M.D., for an evaluation of rhinitis and upper airway congestion. Dr. Ramirez-Icaza noted that, "pertinent chest imaging studies that were independently interpreted by me: chest x-

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ray showed no evidence of acute airspace disease.” Dr. Ramirez-Icaza concluded that Ms. Snyder’s symptoms were consistent with allergic rhinitis and postnasal drip syndrome. Dr. Ramirez-Icaza further noted that Ms. Snyder had experienced significant symptomatic improvement and had no residual lower respiratory tract complaints in the setting of a normal chest x-ray and no evidence of airway obstruction per spirometry. Dr. Ramirez-Icaza ordered no further intervention.

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On May 11, 2022, Ms. Snyder presented to Ms. Buchanan with pain and swelling in the left calf. An ultrasound showed a DVT in Ms. Snyder’s lower left leg, so she was sent to the emergency room for further evaluation and treatment. A CT of her chest was ordered at the emergency room which showed pulmonary emboli; scattered right lung nodules, the dominant being in the right middle lobe; numerous calcified mediastinal and bilateral hilar lymph nodes, among other findings. It was recommended that the right middle lobe nodule be biopsied to test for malignancy. On May 16, 2022, the biopsy results of the lung nodule identified on the May 11th CT was identified as pulmonary adenocarcinoma.

It is anticipated that Dr. Elicker will testify that Dr. Bryson acted as a reasonable radiologist under like or similar circumstances in his interpretation of the August 2, 2021 chest x-ray and that Dr. Bryson’s actions were not a substantial factor in causing the damages alleged by the Plaintiff. Accordingly, Dr. Elicker will rebut the criticisms of Plaintiff’s experts.

The imaging from July 13, 2021, reveals an opacity in the right upper lobe, likely representing pneumonia. Dr. Elicker will testify that Dr. Bryson’s report of the August 2, 2021, chest x-ray was reasonable and within the standard of care. Dr. Elicker will testify that based on the August 2, 2021, chest x-ray, the standard of care did not require follow-up imaging.

Dr. Elicker will explain that the CT conducted on May 11, 2022, reveals a dominant mass in the mediastinum in the subcarinal region, which is usually indicative of malignancy. He will

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also testify that the CT shows a small nodule in the right middle lobe and pulmonary emboli in the left lower lobe and right lower lobe, all of which appear acute. Dr. Elicker will testify that none of these abnormalities were visible on the August 2, 2021, x-ray. Dr. Elicker will also testify that the lung nodules seen in the May 11, 2022, CT scan are not in the same location as the opacity identified in the July 2021 imaging. The findings in the May 2022 CT have no relationship to the opacity that was being followed in the July and August 2021 radiographs.

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Dr. Elicker will testify that an x-ray taken on May 13, 2022, following Ms. Snyder's biopsy does not show a lesion or nodule in the right suprahilar region. Dr. Elicker will also comment on the findings present on the PET scan completed on May 31, 2022.

Dr. Elicker will discuss his review of Ms. Snyder's various imaging studies, compare any applicable studies, explain the process radiologists utilize in interpreting and reporting of imaging studies and discuss findings that are capable of being detected on various imaging modalities.

Dr. Elicker's opinions are based on his review of the provided materials, coupled with his knowledge, training, educations, skill, and experience. Dr. Elicker's opinions are within a reasonable degree of medical probability.

Dr. Elicker will be made available for deposition at any party's request to obtain a more definitive statement of his anticipated testimony. Dr. Elicker reserves the right to supplement or amend his opinions as discovery is continuing in this matter.

2. Seth J. Kligerman, M.D.
3131 E. Alameda Ave.
Unit 1302
Denver, CO 80209

Dr. Kligerman obtained his medical degree at the Chicago Medical School. He completed a residency in radiology at the University of Colorado School of Medicine and a fellowship in thoracic imaging at Massachusetts General Hospital. Dr. Kligerman is a board-certified radiologist

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and the current Chairman of Radiology at National Jewish Health in Denver, Colorado. A copy of Dr. Kligerman's curriculum vitae is attached hereto and incorporated herein by reference.

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In conjunction with his involvement in this matter, Dr. Kligerman has been provided with Ms. Snyder's medical records, imaging studies, various transcripts of depositions taken during discovery, as well as Plaintiff's expert witness disclosure. Dr. Kligerman will continue to receive documents, imaging studies and depositions as discovery is not yet complete.

Dr. Kligerman will discuss Ms. Snyder's presenting complaints to her primary care provider on July 13, 2021, which led to the order of a chest x-ray that was interpreted by Dr. Jason Bronfman. Dr. Kligerman will also testify as to the follow-up August 2, 2021 chest x-ray interpreted by Dr. Wesley Bryson and his comparison to Dr. Bronfman's interpretation. In addition to the imaging interpreted by Drs. Bronfman and Bryson, Dr. Kligerman will discuss the independent interpretation of the August 2nd chest x-ray by Ms. Snyder's pulmonologist, Carlos Ramirez-Icaza, M.D., and Dr. Ramirez-Icaza's recommendation of no further intervention or studies. Dr. Kligerman is also expected to discuss the chest CT scan performed on May 11, 2022, the findings of that CT scan, and the biopsy results which followed.

It is anticipated that Dr. Kligerman will testify that Dr. Bryson's interpretation and report of the August 2, 2021 x-ray complied with the standard of care and were not a substantial factor in causing any injury to Ms. Snyder. He will further testify that the standard of care did not require obtaining a follow-up x-ray or CT scan subsequent to the August 2, 2021 chest x-ray.

Dr. Kligerman will also discuss the findings from the May 11, 2022 CT scan. As part of that discussion, Dr. Kligerman will testify that any finding on the CT scan does not correspond to any opacity identified on 2021 imaging. Dr. Kligerman will testify the nodule in the suprahilar region seen on the CT is smaller than the opacity identified in the radiograph from July 13, 2021.

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If the nodule seen on the May 2022 CT scan was the same structure as the abnormality identified in 2021, it is expected the nodule would have increased in size, not decreased. The nodule identified as the dominant nodule on the May 2022 CT scan was not present on any imaging taken in 2021.

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Dr. Kligerman will further testify regarding the ability of various imaging modalities to detect certain findings. Dr. Kligerman will also discuss that plain films are not utilized to stage lung cancer.

Dr. Kligerman will discuss his review of Ms. Snyder's imaging studies, make a comparison between those studies and explain the process radiologists utilize in interpreting and reporting of imaging studies.

Dr. Kligerman's opinions are based on his review of the provided materials, coupled with his knowledge, training, educations, skill, and experience. Dr. Kligerman's opinions are within a reasonable degree of medical probability.

Dr. Kligerman will be made available for deposition at any party's request to obtain a more definitive statement of his anticipated testimony. Dr. Kligerman reserves the right to supplement or amend his opinions as discovery is continuing in this matter.

**3. David Ross Camidge, MBBCh, PhD
1665 Aurora Court
Aurora, CO 80045
Rm 5327, MS F 704**

Dr. Camidge received his PhD in molecular biology from Cambridge University and his medical degree from Oxford University. He is a board-certified medical oncologist and Professor in the Department of Medicine, Division of Medical Oncology at the University of Colorado School of Medicine and the Joyce Zeff Chair in Lung Cancer Research and Director of the

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Thoracic Oncology Program. A copy of Dr. Camidge's curriculum vitae is attached hereto and incorporated herein by reference.

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In conjunction with his involvement in this matter, Dr. Camidge has been provided with Ms. Snyder's medical records, imaging studies, various transcripts of depositions taken during discovery, as well as Plaintiff's expert witness disclosure. Dr. Camidge will continue to receive documents and depositions as discovery is not yet complete.

It is anticipated that Dr. Camidge will testify that Ms. Snyder was seen by her primary care provider and at an urgent care clinic in June and July 2021 with complaints of cough and chest congestion. A chest x-ray was ordered during the July 13, 2021, office visit. The findings were consistent with a focal right suprahilar infiltrate.

A follow-up chest x-ray was performed on August 2, 2021, which was interpreted by Dr. Bryson. Dr. Bryson's findings include the following: "There has been interval decrease in right subhilar opacity seen on prior radiograph dated 07/13/2021 likely representing improving infectious or inflammatory process. There is no pleural effusion or pneumothorax. The cardiomeastinal silhouette is normal. No acute radiographic abnormality of the chest."

Ms. Snyder was referred to Carlos Ramirez-Icaza, M.D., a pulmonologist, as she reported she was still having some dyspnea and cough. Ms. Snyder was seen by Dr. Ramirez-Icaza on August 31, 2021. Dr. Ramirez-Icaza noted that Ms. Snyder presented for evaluation of rhinitis and upper airway congestion. She states that for about 2 months she has had increased nasal secretions as well as postnasal drip secretions, increased nasal drainage especially at night with a clicking noise that occurs particularly at night when laying on one side. Dr. Ramirez-Icaza noted that, "pertinent chest imaging studies that were independently interpreted by me: chest x-ray showed no evidence of acute airspace disease." Dr. Ramirez-Icaza concluded that Ms. Snyder's

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symptoms were consistent with allergic rhinitis and postnasal drip syndrome. He further noted that she had experienced significant symptomatic improvement and had no residual lower respiratory tract complaints in the setting of a normal chest x-ray and no evidence of airway obstruction per spirometry. Dr. Ramirez-Icaza ordered no further intervention.

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On May 11, 2022, Ms. Snyder presented to Amanda Buchanan, APRN with pain and swelling in her left calf. An ultrasound showed a DVT in Ms. Snyder's lower left leg, so she was sent to the emergency room for further evaluation and treatment. A CT of her chest was ordered at the emergency room which showed pulmonary emboli; scattered right lung nodules, the dominant being in the right middle lobe; numerous calcified mediastinal and bilateral hilar lymph nodes, among other findings. It was recommended that the right middle lobe nodule be biopsied to test for malignancy. The nodule in the right suprahilar region was not biopsied. On May 16, 2022, the biopsy result of the right middle lobe nodule was identified as pulmonary adenocarcinoma.

It is anticipated that Dr. Camidge will discuss his review and impression of Ms. Snyder's imaging studies. Dr. Camidge will testify that there was marked improvement, whether described as resolved or nearly resolved, in the opacity identified on the July 13, 2021, x-ray to the repeat study taken on August 2, 2021. In the context of this case, Dr. Camidge will explain that it is of no consequence whether one described this improvement as resolved or nearly resolved.

Dr. Camidge will testify that the 6 mm nodule identified in the right suprahilar region on the May 11, 2022, CT scan is not the same abnormality alleged to have been present on the chest x-ray on August 2, 2021. In addition, the area of abnormality on the August 2, 2021, chest x-ray identified by Plaintiff's expert is larger in size than the lesion detected in the right C region on the May 2022 CT scan. Dr. Camidge will explain that cancerous lesions do not decrease in size over

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time absent treatment. Dr. Camidge also notes that the area is not visible on the May 16, 2022, chest x-ray and was not reported on by the interpreting radiologist.

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Dr. Camidge will address the causation opinions of Plaintiff's experts. At the time this disclosure is being made, Plaintiff's causation expert has not yet been deposed. However, it is anticipated that Dr. Camidge will testify that Dr. Bryson's interpretation of the August 2, 2021, chest x-ray was not a substantial factor in causing the damages alleged by the Plaintiff. Dr. Camidge will testify regarding different scenarios presented by Plaintiff's experts as to what may have occurred had a repeat chest x-ray and/or CT scan been ordered following the August 2, 2021, chest x-ray. Dr. Camidge will rebut Plaintiff's experts' opinions that Ms. Snyder had Stage I pulmonary adenocarcinoma on August 2, 2021. Dr. Camidge is expected to opine that there is no evidence to support the Plaintiff's expert's opinion that at the time of Dr. Bryson's interpretation of the August 2, 2021 x-ray, Ms. Snyder's cancer was Stage I. He will testify that no physician can base cancer staging on a chest x-ray as staging of cancer is not based on chest radiographs. Dr. Camidge will testify that a significant percentage of lung cancer cases present with stage IV disease. Dr. Camidge will discuss the type of cancer Ms. Snyder has, the available treatment and her prognosis.

Dr. Camidge's opinions are based on his review of the provided materials, coupled with his knowledge, training, educations, skill, and experience. Dr. Camidge's opinions are within a reasonable degree of medical probability.

Dr. Camidge will be made available for deposition at any party's request to obtain a more definitive statement of his anticipated testimony. Dr. Camidge reserves the right to supplement or amend his opinions as discovery is continuing in this matter.

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4. Wesley Nathan Bryson, M.D.

Dr. Bryson is a named Defendant in this action. It is anticipated that Dr. Bryson will testify the treatment he provided to Ms. Snyder was that of a reasonable radiologist acting under like or similar circumstances and that his actions were not a substantial factor in causing the damages claimed by Ms. Snyder. Dr. Bryson takes issue with and will rebut the criticisms of him espoused by Plaintiff's experts.

In addition, Dr. Bryson will discuss his interpretation of the August 2, 2021, chest x-ray and his comparison to the July 13, 2021, chest x-ray. He will further testify that based on his interpretation of the August 2, 2021, radiograph, no follow-up imaging was required by the standard of care. Dr. Bryson will also discuss his review of Ms. Snyder's imaging studies taken subsequent to the August 2, 2021, chest x-ray. Dr. Bryson will discuss those findings and compare it to the plain films taken in 2021. Dr. Bryson's testimony will be based on his review of the medical record, imaging studies, items produced during discovery, depositions, his knowledge, training, experience, and treatment of Ms. Snyder.

**5. Carlos Ramirez-Icaza, M.D
3430 Newberg Rd STE 150
Louisville, KY 40218**

Dr. Ramirez-Icaza is a pulmonologist practicing in Louisville, Kentucky. Dr. Ramirez-Icaza is Ms. Snyder's treating pulmonologist and has not been retained as an expert in this matter but is anticipated to provide expert opinions at the trial of this matter.

Dr. Ramirez-Icaza will testify consistent with the treatment he provided to Ms. Snyder that is documented in the medical record. It is anticipated that Dr. Ramirez-Icaza will testify that Ms. Snyder presented to his office for an evaluation of rhinitis and upper airway congestion and a diagnosis of allergic rhinitis and postnasal drip syndrome. He is further expected to testify that he

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independently interpreted Ms. Snyder's August 2, 2021, chest x-ray. He will also testify that that neither the August 2, 2021, x-ray, nor Ms. Snyder's presenting symptoms warranted further evaluation or imaging studies. Dr. Ramirez-Icaza's testimony will be based on his review of the medical record, imaging studies, his knowledge, training, experience, and treatment of Ms. Snyder.

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6. The Defendants reserve the right to call as expert witnesses any health care provider who rendered medical treatment to Ms. Snyder. The nature of the opinions to be expressed by those individuals would be contained within the medical records and are based upon their experience, knowledge, training, and treatment of Ms. Snyder.

7. The Defendants reserve the right to call any experts listed by any other party at the time said disclosure was made.

8. The Defendants reserve the right to call rebuttal/surrebuttal expert witnesses.

9. The Defendants reserve the right to add to, delete from, or otherwise supplement this disclosure prior to trial.

Respectfully submitted,

/s/ Robert L. Whitmer

Craig L. Johnson (KY Bar No. 85428)

Robert L. Whitmer (KY Bar No. 99132)

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*Counsel for Defendants, Diagnostic X-Ray
Physicians, PSC*

and Wesley Nathan Bryson, MD

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CERTIFICATE OF SERVICE

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I hereby certify that on November 1, 2023, a copy of the foregoing was filed electronically through the KCOJ eFiling system, which will send a notice of electronic filing to:

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/s/ Robert L. Whitmer
Craig L. Johnson
Robert L. Whitmer