Case: 4:24-cv-01465-JMB Doc. #: 1-1 Filed: 11/01/24 Page: 3 2422900100841

### IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS STATE OF MISSOURI

and as Widower o URQHART, dece	ased, and AMY EHLERS, as daughter of NANCY	) ) ) )	
	Plaintiff,	)	Cause No.
v.		)	WRONGFUL DEATH
ABIOMED, INC	,	)	
	Defendant.	)	
		)	
		)	

# PETITION (Wrongful Death)

NOW COMES Christopher Urqhart and Amy Ehlers, hereinafter referred to as Plaintiffs, by and through their attorneys, McGlynn and McGlynn, and Michael L. McGlynn, and for their general allegations against Defendant Abiomed, Inc. ("Abiomed"), states as follows:

- 1. Plaintiffs are residents of the State of Illinois.
- 2. Plaintiffs bring this action pursuant to the Missouri Wrongful Death Statue 537.080 et Seq.
- 3. Christopher Urqhart is the Widower Nancy June Urqhart, who died September 12, 2022.
- 4. Nancy June Urqhart is survived by her husband, Christopher Urqhart and her daughter, Amy Ehlers. Nancy Urqhart, hereinafter referred to as Plaintiff-Decedent, was had no other living children at the time of her death.
- 5. Plaintiffs are entitled to bring this wrongful death cause of action as the heirs at law who may sue pursuant to Mo. Rev. Stat. 537.080.

- 6. At all times relevant, Defendant, Abiomed, Inc., hereinafter referred to as Abiomed, is a foreign corporation in good standing doing business in the State of Missouri with the capacity to sue and be sued in its own name.
- 7. Plaintiff's claims arise from treatment resulting in her death on September 12, 2022.
- 8. The hereinafter acts complained of took place in the City of St. Louis and therefore venue is proper in the Circuit Court for the City of St. Louis.
- 9. On September 9, 2022, Plaintiff-Decedent, Nancy June Urqhardt, presented to SSM St. Louis University Hospital in St. Louis, Missouri and underwent a "Mitral Valve Replacement" open heart surgical procedure.
- 10. Following Plaintiff-Decedent's open heart surgery Defendant's Impella, which had been used during the procedure, caused her to suffer from "intravascular hemolysis."
- 11. Defendant's Impella was designed and manufactured to be used as a pump during cardiac surgery.
- 12. The Impella utilized during Plaintiff's surgery, "Impella LDA Abiomed 5.5," had not been used before and was being used for the purpose for which it was manufactured.
- 13. At the time the Impella in question was manufactured, sold, distributed, or otherwise left the control of Defendant, it was unreasonably dangerous as the lead of the impella, which was supposed to release after the surgical procedure was completed, was improperly manufactured.\
- 14. As a proximate result of the aforesaid unreasonable dangerous condition, the "Impella LDA Abiomed 5.5," presented an unreasonable danger of injury to intended users of the product.
- 15. As a result of the complications caused by the Impella, Plaintiff-Decedent died on September 12, 2024.
- 16. Defendant further breeched its implied warranty of merchantability which caused the Plaintiff-Decedent's death.
- 17. That as a direct and proximate result of one or more of the foregoing defects, and in consequences thereof, Plaintiff-Decedent suffered severe injuries, pain and suffering, and death.

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- 18. By reason of the wrongful death of Plaintiff-Decedent, Plaintiffs have sustained damages including:
  - a. Great pecuniary losses suffered by reason of the death;
  - b. Funeral expenses;
  - c. Deprivation of services, companionship, comfort, instruction, guidance, counsel, training, and support;
  - d. Damages for great suffering by Plaintiff-Decedent before her death between the time of the open heart surgery until the time of her death;
  - e. The conduct of Defendant, Abiomed, created a high degree of probability of injury and death and showed complete disregard for the safety of others, including Plaintiff-Decedent, justifying the award of exemplary damages in such amount to deter Defendant, Abiomed, from like conduct in the future.

WHEREFORE, Plaintiff prays judgment for an amount exceeding Seventy-Five Thousand (\$75,000) as will fairly and adequately compensate the Plaintiffs for the damages sustained, exemplary damages and costs of this action and such other further relief the Court deems proper.

Respectfully submitted,

/s/ Michael L. McGlynn

Michael L. McGlynn (35370) McGlynn & McGlynn 116 S. Charles Street Belleville, IL 62220

P: 618-234-8800 F: 618-234-8813

mmcglynn@mcglynnandmcglynn.com

Attorney for Plaintiffs

Case: 4:24-cv-01465-JMB Doc. #: 1-1 Filed: 11/01/24 Page: 6 of 11 PageID #:

## IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS STATE OF MISSOURI

CHRISTOPHER URQHART, Individually, and as Widower of NANCY JUNE URQHART, deceased, and AMY EHLERS, Individually, and as daughter of NANCY JUNE URQHART, deceased,	) ) ) )
Plaintiff,	) Cause No.: 2422-CC10841
v. ABIOMED, INC.,	) ) WRONGFUL DEATH
Defendant.	) ) )

### **REQUEST FOR SUMMONS**

COMES NOW Plaintiffs Christopher Urqhart and Amy Ehlers, by and through their attorneys, McGlynn & McGlynn and Michael L. McGlynn, and hereby requests the Court to issue Summons to the Defendant, Abiomed, Inc., for service at the following address:

Defendant, Abiomed Inc. Registered Agent: Corporation Services Company 84 State Street

**Boston, Massachusetts 02109** 

Respectfully Submitted,

/s/ Michael L. McGlynn
Michael L. McGlynn (#35370)
McGlynn & McGlynn
116 South Charles Street
Belleville, IL. 62220
Phone: (618) 234-8800

Phone: (618) 234-8800 Fax: (618) 234-8813

MMcGlynn@mcglynnandmcglynn.com

Attorney for Plaintiff

Page **1** of **1** 2422-CC10841



### IN THE 22ND JUDICIAL CIRCUIT, CITY OF ST LOUIS, MISSOURI

Judge or Division: ELIZABETH BYRNE HO	CAN	Case Number: 2422-CC1084	1	
Plaintiff/Petitioner: CHRISPTOPHER URQF	IART	Plaintiff's/Petitioner's Attorney/ MICHAEL LAWRENCE MCGL 116 SO CHARLES STREET		
Defendant/Respondent:	VS.	BELLEVILLE, IL 62220 Court Address:		
ABIOMED, INC.		CIVIL COURTS BUILDING		
Nature of Suit: CC Wrongful Death		10 N TUCKER BLVD SAINT LOUIS, MO 63101		
			(Da	te File Stamp)
S		nal Service Outside the Sixcept Attachment Action)	tate of Missouri	
The State of Missouri to:		koope / keaoninone / kokonj		
CORPORATION SERVICES 84 STATE STREET BOSTON, MA 02109	Alias: COMPANY			
COURT SEAL OF		appear before this court and to f		tion, copy of
		to serve a copy of your pleading above address all within 30 day		nons upon
S. P. C. R.	you, exclusive of the da	y of service. If you fail to file you e relief demanded in this action	ır pleading, judgment by de	
CITY OF ST LOUIS	September 1	6, 2024	Romas Moeppings	
	Date Further Information:		Clerk U	
	Officer's	or Server's Affidavit of Service	e	
I certify that:			4l l	d
<ol> <li>I am authorized to</li> <li>My official title is _</li> </ol>	serve process in civil action	s within the state or territory where of one)	the above summons was serv County,	red. (state).
3. I have served the a	above Summons by: (check	one) ition to the defendant/respondent.		
leaving a copy	of the summons and petition	on at the dwelling house or usual pla		/respondent
with	a corporation) delivering a	, a person at least 18 years of	age residing therein.	•
		copy of the summons and petition t		(title).
other:				
Served at				
in	County,	(state), on	(date) at	(time).
	me of Sheriff or Server	before me this (day)	Signature of Sheriff or Server	
		ne clerk of the court of which affiant		(ycar).
		ne judge of the court of which affiant		
(Seal)		uthorized to administer oaths in the ummons. (use for out-of-state office		ed the above
		uthorized to administer oaths. (use	•	
		<del></del>	Signature and Title	

Cas	e: 4:24-cv-01465-JMB	Doc. #: 1-1 Filed: 1	1/01/24	Page: 8 of 11 PageID #:	
Service Fees	<b>S</b>	13			
Summons	\$	10			
Non Est	\$				
Mileage	\$(	miles @ \$	per mile)		
Total	\$				
	See the following page	e for directions to officer making	return on servi	e of summons	

#### **Directions to Officer Making Return on Service of Summons**

A copy of the summons and petition must be served on each defendant/respondent. If any defendant/respondent refuses to receive the copy of the summons and petition when offered, the return shall be prepared accordingly so as to show the offer of the officer to deliver the summons and petition and the defendant's/respondent's refusal to receive the same.

Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and petition personally to the individual or by leaving a copy of the summons and petition at the individual's dwelling house or usual place of abode with some person at least 18 years of age residing therein, or by delivering a copy of the summons and petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and petition to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and petition to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the defendant/respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. Upon a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory of the United States. If served in a territory, substitute the word "territory" for the word "state."

The office making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must be made less than 10 days nor more than 30 days from the date the defendant/respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri court within 30 days after service.

Electronically Filed - CITY OF ST. LOUIS - October 14, 2024 - 09:49 AIV



NOTARIZED COUNTY: **MADISON** 

United States of America

JOB NO: 251217

STATE: ILLINOIS

I, Gregory K. Kellerman, being duly sworn on oath, state that I affected service as follows:

CLIENT: MCGLYNN AND MCGLYNN ATTORNEYS AT LAW\*\*

TYPE OF DOCUMENT: SUMMONS FOR PERSONAL SERVICE OUTSIDE THE

STATE OF MISSOURI; PETITION

TYPE OF SERVICE: CÓRPORATE SERVICE

1.NAME OF PERSON ATTEMPTED UPON: ABIOMED, INC.

2.DOCUMENT GIVEN TO IF DIFFERENT: BAYLON ELFGEN, OPERATIONS SPECIALSIT,

3.DESCRIPTION: Sex: Male - Skin: Caucasian - Hair: Red-Brown - Approx. Age: 27 -

Height: 6'0 - 6'2 APX - Weight: 260-280 APX

4.ADDRESS: ILLINOIS CORPORATION SERVICE, 801 ADLAI STEVENSON

DRIVE, SPRINGFIELD IL 62703

5.DATE: 10/04/2024 Time of Service: 4:12 PM

6.COURT DATE:

CASE NUMBER: 2422-CC10841

CASE NAME:

CHRISTOPHER URQHART

ABIOMED, INC.

Comments: The service was completed on October 4th, 2024 at 4:12 pm. The documents were accepted by BAYLON ELFGEN as OPERATIONS SPECIALIST. A signature was not provided. A photograph of the service location was obtained.

Signed and sworn to before me on

this 8th day of Octobel

Gregory K. Kellerman License(s): 115-001758

Cost of Service:

OFFICAL SEAL \*251217\* JULIAM CLANNEY MADISON COUNTY STATE OF ILLINOIS EXP. 08/10/2026

**KELLERMAN** INVESTIGATIONS LTD IL. DET. LIC: 117-001201 GLEN CARBON, IL 62034 618-288-6662



## IN THE 22ND JUDICIAL CIRCUIT, CITY OF ST LOUIS, MISSOURI

Plaintiff/Petitioner: CHRISPTOPHER URQHART  Plaintiff/Petitioner's Attorney/Address: MICHAEL LAWRENCE MCGLYNN 116 SO CHARLES STREET Vs. BELLEVILLE, IL 62220  Court Address: COVIL COURTS BUILDING 10 N TUCKER BLVD 2AINT LOUIS, MO 63101  Summons for Personal Service Outside the State of Missouri (Except Attachment Action)  The State of Missouri to: ABIOMED, INC. Alies: CORPORATION SERVICES COMPANY 84 STATE STREET BOSTON, MA 02109  You are summoned to appear before this court and to file your pleading to the petition, copy which is attached, and to serve a copy of your pleading upon the attorney for the plaintiff/petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will it taken against you for the relief demanded in this action.  CITY OF ST LOUIS  September 16, 2024  Date Further Information:  Officer's or Server's Affidavit of Service  I certify that:  1 am authorized to serve process in civil actions within the state or territory where the above summons was served.  2 My official title is  Officer's or Server's Affidavit of Service  I certify that:  1 am authorized to serve process in civil actions within the state or territory where the above summons was served.    Gos service in a copy of the summons and petition at the development of age tersicing therein.    Gos service on a copy population delivering a copy of the summons and petition at the development of age tersicing therein.    Gos service on a copy population delivering a copy of the summons and petition at the development of age tersicing therein.    Gos service on a copy population delivering a copy of the summons and selficent of a county.    Gos service on a copy population of the county.    Gos service on a copy of the summons and petition to the defendant/respondent.    Gos service on a copy of the summons and petition to the defendant of a county.    Gos service on a copy of the summons and petition to the defendant of a	ELIZABETH BYRNE H	OGAN	Case Number: 2422-CC10841	
Defendant/Respondent: ABIOMED, INC. COURT Address: ABIOMED, INC. Nature of Suit: Summons for Personal Service Outside the State of Missouri (Except Attachment Action)  The State of Missouri to: ABIOMED, INC. Allas: CORPORATION SERVICES COMPANY 945TATE STREET 905TON, MA 02199 COURT SEAL OF which is attached, and to serve a copy of your pleading upon the attorney for the plaintiffpetitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fill off lie your pleading judgment by default will taken against you for the relief demanded in this action.  September 16, 2024  Date Further Information:  County Service of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the summons and against place of abode of the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition to the defendant/respondent leaving a copy of the summons and petition at the dwelli	Plaintiff/Petitioner:	·	MICHAEL LAWRENCE MCGLYNN	
ABIOMED, INC.  Nature of Suit:  CC Wrongful Death  Summons for Personal Service Outside the State of Missouri  (Except Attachment Action)  ABIOMED, INC.  Alias:  CORPORATION SERVICES COMPANY  BASTATE STREET  BOSTON, MA DOTOS  COURT SEAL OF  Which is attached, and to serve a copy of your pleading upon the attorney for the plaintiffyelitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will it taken against you for the relief demanded in this action.  September 16, 2024  Date  Further Information:  Officer's or Server's Affidavit of Service  I certify that:  1 am authorized to serve process in civil actions within the state or territory where the above summons was served.  My official title is  Officer's or Server's Affidavit of Service  I certify that:  1 am authorized to serve process in civil actions within the state or territory where the above summons was served.  Officer's or Server's Affidavit of Service  (as service on a copy of the summons and petition to the defendant/respondent.  I leaving a copy of the summons and petition to the defendant/respondent.  I certify that:  1 am authorized to serve process in civil actions within the state or territory where the above summons was served.  Officer's or Server's Affidavit of Service  County.  (as service or above of the defendant/respondent.  (as service or a copy of the summons and petition to the defendant/respondent.  (as service or a copy of the summons and petition to the defendant/respondent.  (as service or a copy of the summons and petition to the defendant/respondent.  (as service or a copy of the summons and petition to the defendant/respondent.  (as service or a copy of the summons and petition to the defendant/respondent.  (as service or a copy of the summons and petition to the defendant/respondent.  (as service or a copy of the summons and petition to the defendant/respondent.  (as service or a copy of the summons and peti				
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The State of Missouri to:  ABIOMED, INC. Alias: CORPORATION SERVICES COMPANY 84 STATE STREET BOSTON, MA 02109  COURT SEAL OF Which is attached, and to serve a copy of your pleading upon the attorney for the plaintiff/peltioner at the above address all within 30 days after service of this summons upor you, exclusive of the day of service. If you fail to file your pleading, judgment by default will taken against you for the relief demanded in this action.  September 16, 2024  Date Further Information:  Officer's or Server's Affidavit of Service  I certify that:  1. I am authorized to serve process in civil actions within the state or territory where the above summons was served. 2. My official tills is Officer's or Server's Affidavit of Service  1. I have served the above Summons by: (check one) delivering a copy of the summons and petition to the defendant/respondent, with playing a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent, with playing a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent, with playing a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent, with playing a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent, with playing a copy of the summons and petition to the defendant/respondent, with playing a copy of the summons and petition to the defendant/respondent, with playing a copy of the summons and petition to the defendant/respondent, with playing a copy of the summons and petition to the defendant/respondent, with playing a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent, with playing a copy of the summons and petition to the defendant/respondent, with playing a copy of the summons and petition to the defendant/respondent, with playing a copy of the summons and petition to the defendant/respondent, with playing	Nature of Suit:		10 N TUCKER BLVD	
The State of Missouri to:  Alias:  Alias:  CORPORATION SERVICES COMPANY  84 STATE STREET  BOSTON, MA 02109  COURT SEAL OF  Which is attached, and to serve a copy of your pleading upon the attorney for the plaintiff/petitioner at the above acdress all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will taken against you for the relief demanded in this action.  September 16, 2024  Date  Further Information:  Officer's or Server's Affidavit of Service  I certify that:  1. I am authorized to serve process in civil actions within the state or territory where the above summons was served.  2. My official title is  Officer's or Server's Affidavit of Service  I cave a served the above Summons and petition to the defendant/respondent.  I leaving a copy of the summons and petition to the defendant/respondent.  I leaving a copy of the summons and petition to the defendant/respondent.  I appears at least 18 years of age residing therein.  (asy service on a composition) delivering a copy of the summons and petition to the defendant/respondent.  I are considered to administer of the day of				(Date File Stam
The state of Missouri to: ABIOMED, INC. Alias:  CORPORATION SERVICES COMPANY  84 STATE STREET  BOSTON, MA 02109  COURT SEAL OF Which is attached, and to serve a copy of your pleading upon the attomey for the plaintiff/petitioner at the above acdress all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will taken against you for the relief demanded in this action.  September 16, 2024  Date  Officer's or Server's Affidavit of Service  1. I am authorized to serve process in civil actions within the state or territory where the above summons was served. 2. My official tile is				ouri
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City of St Louis   September 16, 2024		plainuif/petitioner at the	above address all within 30 days after service i	of this summone upor
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1. I am authorized to serve process in civil actions within the state or territory where the above summons was served.  2. My official title is		Further Information:		
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3. I have served the above Summons by: (check one)    delivering a copy of the summons and petition to the defendant/respondent.   leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with	Parate 11	Officer's	or Server's Affidavit of Service	<del>-</del> "
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### Directions to Officer Making Return on Service of Summons

A copy of the summons and petition must be served on each defendant/respondent. If any defendant/respondent refuses to receive the copy of the summons and petition when offered, the return shall be prepared accordingly so as to show the offer of the officer to deliver the summons and petition and the defendant's/respondent's refusal to receive the same.

Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and petition personally to the individual or by leaving a copy of the summons and petition at the individual's dwelling house or usual place of abode with some person at least 18 years of age residing therein, or by delivering a copy of the summons and petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and petition to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and petition to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the defendant/respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. Upon a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory of the United States. If served in a territory, substitute the word "territory" for the word "state."

The office making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must be made less than 10 days nor more than 30 days from the date the defendant/respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri court within 30 days after service.