

**IN THE UNITED STATES COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CHRISTOPHER URQHART, Individually,)	
and as Widower of NANCY JUNE)	
URQHART, deceased, and AMY EHLERS,)	
Individually, and as daughter of NANCY)	
JUNE URQHART, deceased,)	
)	
Plaintiffs,)	
)	Case No. 4:24-cv-01465-SRC
v.)	
)	JURY TRIAL DEMANDED
ABIOMED, INC.,)	
)	
Defendant.)	

DEFENDANT’S MOTION FOR JUDGMENT ON THE PLEADINGS

Pursuant to Federal Rule of Civil Procedure 12(c), and for the reasons set forth in the concurrently filed Memorandum in Support, and upon all prior pleadings and proceedings in this action, Defendant Abiomed, Inc. (“Abiomed”), by and through its undersigned counsel, respectfully moves this Court for an Order dismissing Plaintiffs’ claims with prejudice, together with such other relief as this Court deems equitable, just, and proper, for failure to state a claim for which relief can be granted. Abiomed submits that such relief is appropriate as the device at issue, which was utilized during a procedure performed on Decedent Nancy June Urquhart¹, was subject to premarket approval (“PMA”) by way of a PMA supplement by the U.S. Food and Drug Administration (“FDA”), and therefore, Plaintiffs’ claims are preempted by federal law. *See* 21 U.S.C. §§ 360k(a), 337(a).

¹ Upon information and belief, the last name of Decedent Nancy June Urquhart is spelled “Urquhart” and not “Urqhart” as identified in the Complaint.

DATED: November 22, 2024

Respectfully submitted,

FOX SMITH, LLC

/s/ Bart C. Sullivan

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 22nd day of November, 2024, a copy of the foregoing was sent by electronic mail using the CM/ECF system, which will send notification of such filing to:

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/s/ Bart C. Sullivan