

FILED

2022 JUN 10 PM 2:12

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION

CHARLESTON AREA MEDICAL CENTER, INC.,

PLAINTIFF,

v.

CIVIL ACTION NO. 22-C-359

WEST VIRGINIA UNITED HEALTH SYSTEM,
INC., d/b/a WEST VIRGINIA UNIVERSITY
HEALTH SYSTEM, and WVU HEALTH SYSTEM;
THOMAS HEALTH SYSTEM, INC., d/b/a THOMAS
HEALTH; HERBERT J. THOMAS MEMORIAL
HOSPITAL ASSOCIATION, d/b/a THOMAS
MEMORIAL HOSPITAL; CHARLESTON
HOSPITAL, INC., d/b/a SAINT FRANCIS
HOSPITAL; THS PHYSICIAN PARTNERS, INC.;
PULMONARY ASSOCIATES OF CHARLESTON
PLLC, d/b/a CRITICAL CARE, PLLC; TRAKE,
LLC; PHILLIP COX, D.O., *an individual*; KEVIN
EGGLESTON, M.D., *an individual*; ROBBY KEITH,
M.D., *an individual*; JAMES D. PERRY, III, D.O., *an
individual*; TAMEJIRO "TOM" TAKUBO, D.O., *an
individual*; RYAN WADDELL, D.O., *an individual*;
and W. ALEX WADE, M.D., *an individual*,

PRESIDING JUDGE NINES
RESOLUTION JUDGE AKERS

DEFENDANTS.

**ORDER GRANTING PLAINTIFF CHARLESTON AREA MEDICAL CENTER, INC.'S
MOTION FOR LEAVE TO EXCEED PAGE LIMITATION AND TO FILE REDACTED
OMNIBUS RESPONSE IN OPPOSITION TO PAC'S MOTION TO DISMISS
PLAINTIFF'S COMPLAINT AND TRAKE'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT**

On a date prior, Plaintiff Charleston Area Medical Center, Inc. ("Plaintiff") properly moved this Court to enter an Order granting its *Motion for Leave to Exceed Page Limitation and to File Redacted Omnibus Response in Opposition to PAC's Motion to Dismiss Plaintiff's Complaint and Trake's Motion to Dismiss Plaintiff's Complaint and Incorporated Memorandum of Law* ("the Motion"). Having considered the Motion, and being otherwise duly advised, the Court FINDS that *Plaintiff Charleston Area Medical Center, Inc.'s Omnibus Response in*



21/9/21

Opposition to PAC's Motion to Dismiss Plaintiff's Complaint and Trake's Motion to Dismiss Plaintiff's Complaint ("**Omnibus Response**") reproduces substantial portions of the Complaint and multiple exhibits thereto, which this Court has already found to be subject to affirmative confidentiality obligations, as represented in the Motion. (See Order Granting Pl.'s Mot. Leave (entered July 13, 2022).) In view of its prior determination regarding the confidentiality of such information/material, the Court **FURTHER FINDS** that the **UNREDACTED** Omnibus Response, provided as **Exhibit B** to the Motion, must remain sealed indefinitely. In addition, the Court **FINDS** that good cause supports Plaintiff's request to exceed the applicable page limitation.

Being duly advised, the Court **CONCLUDES** that good cause supports the Motion and does **HEREBY GRANT** the same. Plaintiff is **HEREBY GRANTED LEAVE** to file its Omnibus Response in excess of the twenty (20) page limit.

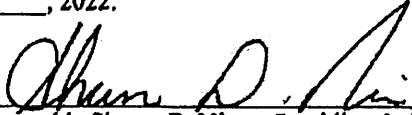
In addition, Plaintiff is **HEREBY GRANTED LEAVE** to file its Omnibus Response **WITH REDACTIONS**. In that regard, the Clerk of the Court is **DIRECTED** to file the **REDACTED** version of *Plaintiff Charleston Area Medical Center, Inc.'s Omnibus Response in Opposition to PAC's Motion to Dismiss Plaintiff's Complaint and Trake's Motion to Dismiss Plaintiff's Complaint*, which Plaintiff provided as **Exhibit A** to the Motion, forthwith. The **REDACTED** version of *Plaintiff Charleston Area Medical Center, Inc.'s Omnibus Response in Opposition to PAC's Motion to Dismiss Plaintiff's Complaint and Trake's Motion to Dismiss Plaintiff's Complaint* **SHALL BE** made available to the public.

Furthermore, Plaintiff is **HEREBY GRANTED LEAVE** to file an **UNREDACTED** version of *Plaintiff Charleston Area Medical Center, Inc.'s Omnibus Response in Opposition to PAC's Motion to Dismiss Plaintiff's Complaint and Trake's Motion to Dismiss Plaintiff's*

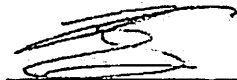
Complaint UNDER SEAL. In that regard, the Clerk of the Court is **DIRECTED** to file the **UNREDACTED** version of *Plaintiff Charleston Area Medical Center, Inc.'s Omnibus Response in Opposition to PAC's Motion to Dismiss Plaintiff's Complaint and Trake's Motion to Dismiss Plaintiff's Complaint*, which Plaintiff provided as **Exhibit B** to the Motion, **UNDER SEAL**.

The Clerk of the Court is **FURTHER DIRECTED** to send a certified copy of this Order to counsel of record.

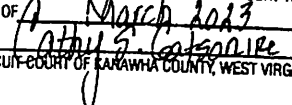
ENTERED this 10th day of March, 2022.

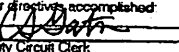

Honorable Shawn D. Nines, Presiding Judge

Prepared and Presented By:



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STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 13th
DAY OF March 2022
 CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Date: 3/10/23
Certified copies sent to:
☒ counsel of record M. Farrell
☐ parties K. Miller
☐ other _____
(please indicate)
By: ☒ Certified/1st class mail
☐ fax
☐ hand delivery
☐ interdepartmental
Other ☐ if/when accomplished

Deputy Circuit Clerk