

Objections filed in hospital suit

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Long Preliminary objections have been filed in response to the complaints filed July 2 against former J.C. Blair Memorial Hospital urologist Dr. V. Spencer Long, J.C. Blair Memorial Hospital and its collective entities. Attorneys Frank Hartye and Victoria Kellogg of McIntrye, Hartye, Schmitt and Sosnowski of Hollidaysburg filed the documents on behalf of J.C. Blair Memorial Hospital, J.C. Blair Memorial Services Inc., J.C. Blair Memorial Health Systems Inc. and J.C. Blair Memorial Health Care Inc.

The complaints on behalf of Steven Hanes of Mount Union and Helen Kidd and the estate of Kevin Kidd were filed by attorney **Thomas Kline** of Kline and Specter, Philadelphia.

In the case of Hanes, Long performed surgery June 11, 2013, at J.C. Blair Memorial Hospital to remove his atrophied right testicle. However, it's asserted Long removed the left testicle in error.

The complaint in the Kidd case asserts Long's treatment of Mr. Kidd's bilateral kidney stones culminated in sepsis, emergency surgery and his death.

Both complaints assert negligence and corporate (direct) negligence on the part of Long, and a wrongful death claim has also been made on behalf of Mr. Kidd.

Objec- tions to the Hanes complaint were filed Monday and to the Kidd complaint Wednesday.

Attorney Kevin Osborne of Marshall, Dennehey, Warner, Coleman and Goggin, Camp Hill, is representing Long in the case against him, but no response has been filed to date on his behalf.

Attempts to contact Osborne for comment were unsuccessful, but Hartye declined to comment on the case and directed further comments to the hospital.

Lisa Mallon, president and CEO of J.C. Blair Health System Inc., told *The Daily News* she also could not speak about the case.

"As you can understand, the hospital's policy is not to comment on ongoing litigation," said Mallon. "We want the community to know we are committed to our mission and are focused on delivering quality care for every patient."

Tom Kline of Specter and Kline Law Firm in Philadelphia, representing both Hanes and the Kidd family, said both lawsuits have merit.

"We are confident the complaints have merits and, in both cases, the plaintiffs will prevail," said Kline. "The timing of the lawsuits are not coincidental. It was our prerogative to file the claims on the same day and they

are both within the statute of limitations. This is a serious matter for the hospital involving the same physician. The hospital had a chance to provide an opportunity to get to the bottom of what they knew about Dr. Long and what went terribly wrong in two separate incidents just months apart.”

J.C. Blair Memorial Hospital’s objections dispute Kline’s accusation that the hospital’s actions rise to the level of “outrageous and willful conduct.”

The objection is requesting the removal of claim for punitive damages in both lawsuits.

According to the Medical Care Availability and Reduction of Error (MCARE), punitive damages may be awarded for conduct that is the result of the health care provider’s willful or wanton conduct or reckless indifference to the rights of others. The trier of fact can properly consider the character of the health care provider’s act, the nature or extent of the harm to the patient the health care provider caused or intended to cause and the wealth of the health care provider.

Punitive damages are not awarded in gross negligence cases. MCARE states a showing of gross negligence is insufficient to support an award of punitive damages. The damages also cannot be awarded against a health care provider who is only vicariously liable for the actions of its agent that caused the injury unless it can be shown by a preponderance of evidence that the party knew of and allowed the conduct of its agent that resulted in the award of punitive damages.

A jury trial has been demanded by both the Kidd family and Hanes. No date has been set at this time.

Long was employed with the hospital from 2007 until 2013.