

IN THE COURT OF CLAIMS OF OHIO

FILED
COURT OF CLAIMS
OF OHIO
2011 FEB 16 PM 3:11

MATTHEW REIS, Admr., et al...

ORIGINAL

Plaintiffs

v.

Case No. 2010-10335

THE OHIO STATE UNIVERSITY
MEDICAL CENTER

Judge J. Clark

Defendant

MOTION FOR IMMUNITY
DETERMINATION FOR SYED HUSAIN, M.D.

Now comes defendant, The Ohio State University Medical Center, and moves the Court to schedule an immunity determination in accordance with R.C. 2743.02(F) to determine if Dr. Syed Husain is entitled to immunity regarding plaintiffs' claims in Case No. 10CVA-13096, Franklin County Common Pleas (see attached).

Respectfully submitted,

MICHAEL DEWINE
Attorney General



KARL W. SCHEDLER (0024224)
DANIEL R. FORSYTHE (0081391)
Assistant Attorneys General
Court of Claims Defense
150 E. Gay Street, 18th Floor
Columbus, Ohio 43215
(614) 466-7447
COUNSEL FOR DEFENDANT

02/16/2011

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Immunity Determination for Syed Hussain, M.D. was sent by regular U.S. Mail, postage prepaid, this 16th day of February, 2011, to:

David I. Shroyer
536 South High Street
Columbus, Ohio 43215
Attorney for Plaintiff



KARL W. SCHEDLER,
Assistant Attorney General

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
2011 JAN 24 PM 12:08
CLERK OF COURTS

Cyrelle McNew, et al.,

Plaintiffs

v.

Case No. 10CVA-13096 (Hogan, J.)

Ohio State University Physicians, Inc., et al.,

Defendants

TERMINATION NO. 18
BY *[Signature]* 1-24-11

DECISION AND ENTRY PARTIALLY GRANTING
DEFENDANT'S MOTION TO DISMISS
FILED 11/10/10
AND
ORDER STAYING CASE

Defendant's 11/10/2010 Motion to Dismiss is PARTIALLY GRANTED. This Court finds that the Court of Claims has exclusive jurisdiction over the immunity and jurisdictional issues. However, it would seem better to stay the case at this time than dismiss it entirely. This case is STAYED pending determination of the immunity and jurisdictional issues by the Court of Claims.

[Signature] 1-21-11
DANIEL T. HOGAN, JUDGE

Copies to:

David Shroyer
Counsel for Plaintiffs

Traci McGuire
Counsel for Defendant Ohio State University Physicians, Inc.

Karl Schedler
Counsel for Defendant Syed Hussain, MD

RECEIVED

JAN 25 2011

ATTORNEY GENERAL'S OFFICE
OFFICE OF THE ATTORNEY GENERAL

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO

| | | |
|-----------------------------------|---|--------------------------|
| Cyrelle McNew, et al., | : | |
| | : | |
| Plaintiffs, | : | |
| | : | |
| v. | : | Case No. 10-CVA-09-13096 |
| | : | |
| | : | Judge Hogan |
| Ohio State University Physicians, | : | |
| Inc., et al. | : | |
| | : | |
| Defendants. | : | |
| | : | |

MOTION OF DEFENDANT SYED HUSAIN, M.D. TO DISMISS FOR LACK OF JURISDICTION

Defendant Syed Husain, M.D. (“defendant” or “Dr. Husain”) respectfully moves this Court, pursuant to Civ. R. 12(B)(1), for an order dismissing the Complaint as to him on the grounds that there is a lack of subject matter jurisdiction as to claims against him as is more fully demonstrated by the Memorandum and Affidavit filed herewith.

Respectfully submitted,

RICHARD CORDRAY
Attorney General of Ohio



KARL W. SCHEDLER (0024224)
Assistant Attorney General
Court of Claims Defense
150 E. Gay Street, 18th Floor
Columbus, Ohio 43215
(614) 466-7447
COUNSEL FOR DEFENDANT
SYED HUSAIN, M.D.

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
NOV 10 PM 3:17
CLERK OF COURTS-CV

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Cyrelle McNew
99 Needham St. #1121
Newton, MA 02461

and

Matthew Rles as Administrator for the
Estate of Michael McNew, deceased
536 South High Street
Columbus, OH 43215

Plaintiffs,

vs.

Ohio State University Physicians, Inc.
C/O Statutory Agent
Timothy P. Nagy
21 East State Street, Suite 1200
Columbus, OH 43215

and

Syed G. Husain, M.D
410 West 10th Avenue
Columbus, OH 43210

and

John Doe Physicians Numbers 1-5
Names and Addresses
Unknown to Plaintiffs

and

John Doe Corporations Numbers 1-5
Names and Addresses
Unknown to Plaintiffs

and

John Doe Employees Numbers 1-5
Names and Addresses
Unknown to Plaintiffs

and

10CVA 9 13096

Case No.:

Judge

COMPLAINT

July Demand
Endorsed Hereon

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2009 SEP - 7 PM 11:15
CLERK OF COURTS

31

John Doe Nurses Numbers 1-10 :
Names and Addresses :
Unknown to Plaintiffs :
 :
 :
Defendants. :

COMPLAINT

Now come Plaintiffs, by and through counsel, and for their causes of action state as follows:

PARTIES:

1. Until his death, Decedent Michael McNew was a resident of 6190 Avery Crossing Blvd., City of Dublin, County of Franklin, and State of Ohio.
2. At all times relevant herein, Plaintiff Cyrelle McNew was a resident of 6190 Avery Crossing Blvd., City of Dublin, County of Franklin, and State of Ohio.
3. At all times relevant herein, Plaintiff Matthew Ries was a resident of the State of Ohio.
4. At all times relevant herein, Defendant Ohio State University Physicians, Inc. was ~~a professional corporation organized and existing under the laws of the State of~~
Ohio or some other state of the United States of America, or some foreign jurisdiction, and at all times relevant and material to this action employed physicians, nurses, and other personnel to evaluate, care for, and treat patients.
5. At all times relevant herein, the acts and omissions performed by employees, servants, or agents of Defendant Ohio State University Physicians, Inc. were within the scope of their express, implied, or apparent authority as agents of Defendant Ohio State University Physicians, Inc.