

**ORIGINAL**  
IN THE COURT OF CLAIMS OF OHIO

FILED  
COURT OF CLAIMS  
OF OHIO

LUDELLA DICKENS, Admr., etc.,

:

2013 APR 23 PM 3: 04

Plaintiff,

:

Case No. 2013-00204

v.

:

Judge \_\_\_\_\_

THE OHIO STATE UNIVERSITY  
WEXNER MEDICAL CENTER,

:

:

Defendant.

**ANSWER**

Now comes Defendant, by and through counsel, and states the following for its Answer to Plaintiff's Complaint:

**FIRST DEFENSE:**

1. Defendant agrees that this Court has exclusive jurisdiction of the claims filed herein as stated in Paragraph 1 of Plaintiff's Complaint.

2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2 of Plaintiff's Complaint and, therefore, denies those allegations.

3. Defendant admits the allegations in Paragraph 3 of Plaintiff's Complaint.

4. Defendant denies the allegations in Paragraph 4 of Plaintiff's Complaint.

5. Defendant denies the allegations in Paragraph 5 of Plaintiff's Complaint.

6. Defendant denies the allegations in Paragraph 6 of Plaintiff's Complaint.

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7. Defendant denies the allegations in Paragraph 7 of Plaintiff's Complaint.

8. Defendant denies the allegations in Paragraph 8 of Plaintiff's Complaint.

**SECOND DEFENSE:**

9. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

**THIRD DEFENSE:**

10. Plaintiff's claims may be barred by the applicable statutes of limitations.

**FOURTH DEFENSE:**

11. Plaintiff's Complaint alleges discretionary matters from which the State of Ohio and its instrumentalities are immune.

**FIFTH DEFENSE:**

12. Plaintiff's decedent may have been negligent and her negligence may have been the sole proximate cause of the decedent's injuries and subsequent death in which case Plaintiff's claims are barred.

**SIXTH DEFENSE:**

13. Any and all damages suffered by Plaintiff and allegedly attributable to Defendant were the direct and proximate result of intervening and superseding causes.

**SEVENTH DEFENSE:**

14. Defendant did not have control over the superseding and intervening acts of others who may have caused damages to Plaintiff.

EIGHTH DEFENSE:

15. The negligence of Plaintiff's decedent caused or contributed to the injuries alleged and was greater than any alleged and specifically denied negligent conduct of Defendant. Accordingly, Plaintiff is barred from recovery.

NINTH DEFENSE:

16. Plaintiff's decedent may have been negligent and her negligence may have been a major contributing cause of her alleged injuries and subsequent death, in which case the relative negligence of the parties must be apportioned in accordance with the applicable comparative negligence statute.

TENTH DEFENSE:

17. The conduct of others over whom Defendant had no right or duty to control proximately caused or contributed to the alleged injuries suffered by Plaintiff's decedent and subsequent damages that resulted to Plaintiff.

ELEVENTH DEFENSE:

18. Plaintiff's decedent may have assumed the risk of her injuries and her assumption was the sole proximate or major contributing cause of her alleged injuries, subsequent death, and any resultant damages to Plaintiff.

TWELTH DEFENSE:

19. The damages, if any, alleged in Plaintiff's Complaint were not caused by Defendant.

THIRTEENTH DEFENSE:

20. Defendant gives notice that it intends to pursue and it is entitled to an apportionment of liability for the negligence of certain non-parties herein pursuant to R.C. 2307.23, should this Court make a finding of liability against Defendant.

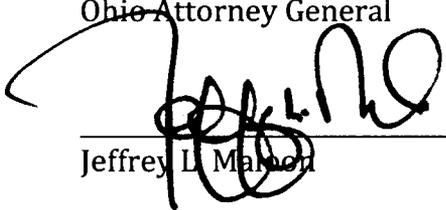
FOURTEENTH DEFENSE:

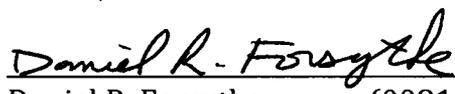
21. Defendant gives notice that it intends to rely upon and utilize such other defenses as they become available and/or apparent during the course of discovery and hereby reserve the right to amend this Answer to assert such defenses.

WHEREFORE, Defendant having fully answered Plaintiff's Complaint, respectfully requests that this Court dismiss the Complaint in its entirety with costs to Plaintiff.

Respectfully submitted,

MICHAEL DeWINE  
Ohio Attorney General

  
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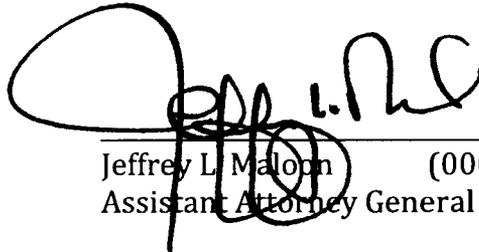
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Answer was served via electronic transmission and regular U.S. Mail, postage prepaid, this 23<sup>rd</sup> day of April 2013, upon the following counsel of record:

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