

ORIGINAL

IN THE COURT OF CLAIMS OF OHIO

FILED
COURT OF CLAIMS
OF OHIO

LUEDELLA DICKENS, Admr., etc.,

:

2013 JUN 27 PM 3: 21

Plaintiff,

:

Case No. 2013-00204

v.

:

Judge Dale A. Crawford

THE OHIO STATE UNIVERSITY
MEDICAL CENTER,

:

:

Defendant.

DEFENDANT'S AMENDED ANSWER

Pursuant to the Court's Entry filed May 30, 2013, each party was granted leave to file amended pleadings, if warranted. In accordance with the Court's Entry, now comes Defendant, by and through counsel, and states the following for its Amended 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 remains 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.

ON COMPUTER

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

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 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 would be barred.

FOURTH DEFENSE:

11. The negligence, if any, of Plaintiff's decedent may have caused or contributed to the injuries alleged and was greater than any alleged and specifically denied negligent conduct of Defendant. In that event, Plaintiff would be barred from recovery.

FIFTH DEFENSE:

12. 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.

SIXTH DEFENSE:

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

SEVENTH DEFENSE:

14. Defendant gives notice that it may pursue 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.

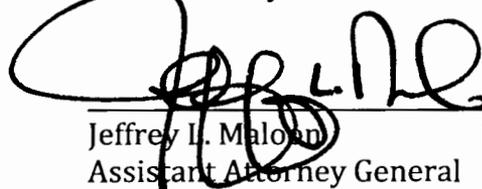
EIGHTH DEFENSE:

15. 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 Amended 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



Jeffrey L. Maloney (0007003)
Assistant Attorney General
Court of Claims Defense Section
150 East Gay Street
18th Floor
Columbus, Ohio 43215
Telephone: (614) 466-7447

Facsimile: (614) 644-9185
jeffrey.maloon@ohioattorneygeneral.gov

and



Amber Wootton Hertlein (0083858)
Assistant Attorney General
Legal Initiatives
30 West Broad Street
17th Floor
Columbus, Ohio 43215
Telephone: (614) 752-6733
Facsimile: (877) 462-0928
amber.hertlein@ohioattorneygeneral.gov

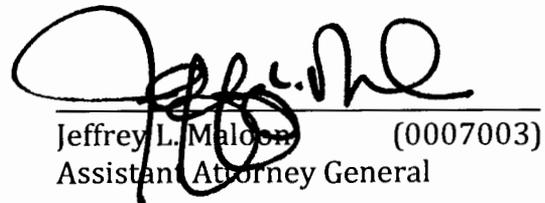
Counsel for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Amended Answer was served via regular U.S. Mail, postage prepaid, this

27th day of June 2013, upon the following counsel of record:

Mark E. Defossez, Esquire
The Donahey Law Firm
495 South High Street
Suite 300
Columbus, Ohio 43215
and
Andrew W. Cecil, Esquire
Cecil & Geiser, L.L.P.
495 South High Street
Suite 400
Columbus, Ohio 43215
Attorneys for Plaintiff


Jeffrey L. Maloon (0007003)
Assistant Attorney General

ec: Paula L. Paoletti, Esquire