

IN THE COURT OF CLAIMS OF OHIO

2014 JUN -9 PM 4: 28

BRYAN A. HUFF,

ORIGINAL

Plaintiff,

v.

Case No. 2014-00468

STATE OF OHIO [The Ohio State University
Medical Center],

Defendant.

ANSWER OF DEFENDANT

Defendant, for its Answer to Plaintiff's Complaint, hereby states as follows:

First Defense

1. Defendant has no objection to this Court making a determination as requested by Plaintiff in paragraph 1 of the Complaint.

2. In response to paragraph 2 of the Complaint, Defendant restates and incorporates paragraph 1 above, as if fully rewritten herein.

3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint.

4. Defendant admits the allegations contained in paragraph 4 of the Complaint.

5. Because it does not know what Plaintiff considers to be "all times relevant herein," Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint.

6. Defendant denies that Dr. Werner was responsible for overseeing all medical care provided by the listed Certified Registered Nurse Anesthetists, but admits the remaining allegations contained in paragraph 6 of the Complaint.

7. Defendant admits the allegations contained in paragraph 7 of the Complaint.

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8. Defendant admits the allegations contained in paragraph 8 of the Complaint.
9. Defendant admits the allegations contained in paragraph 9 of the Complaint.
10. Defendant denies the allegations contained in paragraph 10 of the Complaint.
11. Defendant admits that an affidavit of merit is attached to the Complaint, but denies the truth of some or all of the content of that affidavit.
12. In response to paragraph 12 of the Complaint, Defendant restates and incorporates paragraphs 1-11 above, as if fully rewritten herein.
13. Defendant admits that, on or about February 22, 2013, Plaintiff underwent multilevel corrective thoracolumbar spinal surgery performed by Dr. Farhadi at The Ohio State University Wexner Medical Center. Defendant denies each and every other allegation contained in paragraph 13 of the Complaint.
14. Defendant denies the allegations contained in paragraph 14 of the Complaint.
15. Defendant denies the allegations contained in paragraph 15 of the Complaint.
16. Defendant denies the allegations contained in paragraph 16 of the Complaint.
17. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint.
18. In response to paragraph 18 of the Complaint, Defendant restates and incorporates paragraphs 1-17 above, as if fully rewritten herein.
19. Defendant denies the allegations contained in paragraph 19 of the Complaint.
20. Defendant denies that Plaintiff is entitled to anything requested in his prayer for relief.

Second Defense

21. The Complaint fails, in whole or in part, to state a claim or claims for which relief can be granted.

Third Defense

22. Defendant denies each and every allegation contained in the Complaint which is not specifically and expressly admitted herein.

Fourth Defense

23. Any injuries and/or damages alleged in Plaintiff's Complaint were the direct and proximate result of independent, intervening, and/or superseding causes.

Fifth Defense

24. Assumption of the risk.

Sixth Defense

25. Defendant was not a direct and proximate cause of the injuries and/or damages complained of in Plaintiff's Complaint.

Seventh Defense

26. Defendant may be entitled to a set-off of damages and/or limitation of damages pursuant to law.

Eighth Defense

27. Plaintiff has failed to join all parties necessary for just adjudication pursuant to Rules 19 and 19.1 of the Ohio Rules of Civil Procedure.

Ninth Defense

28. The Complaint fails to advance one or more claims with sufficient clarity or specificity and/or fails to include a competent affidavit of merit.

Tenth Defense

29. Any statements made and any actions taken with regard to Plaintiff by any person acting, or purporting or appearing to act, on behalf of Defendant were beyond the scope of such person's authority.

Eleventh Defense

30. Contributory or comparative negligence.

Twelfth Defense

31. Failure to mitigate damages.

Thirteenth Defense

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

Fourteenth Defense

33. Defendant gives notice that it intends to pursue and 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.

Fifteenth Defense

34. 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, having fully answered Plaintiff's Complaint, Defendant requests judgment in its favor on all claims advanced by Plaintiff, with costs to Plaintiff, together such other relief, legal or equitable, as the Court may deem just and proper.

Jeff Maloon | b2TP Mattis (0055229)
per email auth.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing Answer was served upon Plaintiffs' attorney, Kenneth S. Blumenthal, Rourke & Blumenthal, 495 South High Street, Suite 450, Columbus, Ohio 43215, by regular U.S. mail, postage prepaid, this

9th day of June, 2014.


Theodore P. Mattis