

ORIGINAL

FILED
COURT OF CLAIMS
OF OHIO

IN THE COURT OF CLAIMS OF OHIO

2015 JAN 23 PM 3:16

BARBARA A. COOPER, Exec.,

:

Plaintiff,

:

Case No. 2015-00017

v.

:

Judge (assignment pending)

THE OHIO STATE UNIVERSITY
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 Honorable Court has exclusive jurisdiction of Plaintiff's claims 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 set forth in Paragraph 3 of Plaintiff's Complaint.

4. Defendant admits the allegations set forth in Paragraph 4 of Plaintiff's Complaint.

5. Defendant admits that the individuals identified in Paragraph 5 of Plaintiff's Complaint were employees or agents of The Ohio State University Medical Center at the time they provided care to Charles Cooper; however, Defendant is without knowledge or information sufficient to form a belief as to the employment

status of any yet to be named individuals as mentioned in Paragraph 5 of Plaintiff's Complaint.

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

7. No response is required of Defendant regarding the statement set forth in Paragraph 7 of Plaintiff's Complaint.

8. With regard to Paragraph 8 of Plaintiff's Complaint, Defendant restates and incorporates by reference each and every defense contained in Paragraphs 1 through 7 above, as if expressly rewritten herein.

9. With regard to Paragraph 9 of Plaintiff's Complaint, Defendant admits that Charles E. Cooper was admitted to The Ohio State University Medical Center on or about July 1, 2010, in order to undergo a surgical procedure, however, Defendant denies the remaining allegations within said paragraph.

10. Defendant denies the allegations set forth in Paragraph 10 of Plaintiff's Complaint.

11. Defendant denies the allegations set forth in Paragraph 11 of Plaintiff's Complaint.

12. Defendant denies the allegations set forth in Paragraph 12 of Plaintiff's Complaint and further states that Charles E. Cooper and Barbara A. Cooper previously released all claims within Plaintiff's First Claim for Relief pursuant to a settlement agreement entered into between the parties in the case of *Charles E. Cooper, et al. v. The Ohio State University Medical Center*, Ohio Court of Claims Case No. 2012-07331.

13. With regard to Paragraph 13 of Plaintiff's Complaint, Defendant restates and incorporates by reference each and every defense contained in Paragraphs 1 through 12 above, as if expressly rewritten herein.

14. Defendant denies the allegations set forth in Paragraph 14 of Plaintiff's Complaint.

15. Defendant denies the allegations set forth in Paragraph 15 of Plaintiff's Complaint and further states that Barbara A. Cooper previously released her claims pursuant to a settlement agreement entered into between the parties in the case of *Charles E. Cooper, et al. v. The Ohio State University Medical Center*, Ohio Court of Claims Case No. 2012-07331.

SECOND DEFENSE:

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

THIRD DEFENSE:

17. Plaintiff has released all claims pursuant to a settlement agreement entered into between the parties in the case of *Charles E. Cooper, et al. v. The Ohio State University Medical Center*, Ohio Court of Claims Case No. 2012-07331.

FOURTH DEFENSE:

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

FIFTH DEFENSE:

19. Plaintiff's decedent may have been negligent and his 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.

SIXTH DEFENSE:

20. 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:

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

EIGHTH DEFENSE:

22. Any negligence 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. Accordingly, Plaintiff would be barred from recovery.

NINTH DEFENSE:

23. Plaintiff's decedent may have been negligent and his negligence may have been a major contributing cause of his 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:

24. 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:

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

TWELTH DEFENSE:

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

THIRTEENTH DEFENSE:

27. 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.

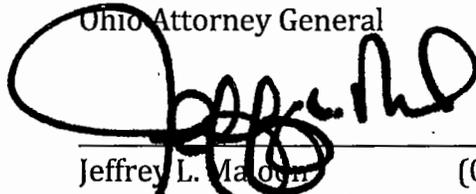
FOURTEENTH DEFENSE:

28. 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



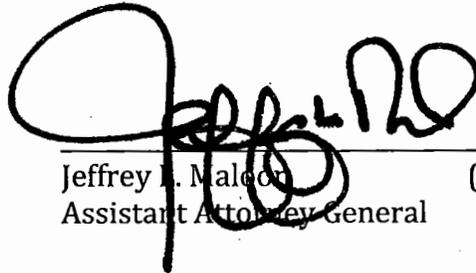
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Counsel for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Answer was served via electronic transmission, this 23rd day of January 2015, upon the following counsel of record:

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