

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO  
GENERAL DIVISION

**TROY L. WALTERS, as  
Administrator of the Estate of  
MICHAEL WALTERS**  
4250 Honey Bee Court  
Grove City, Ohio 43123

Plaintiff,

vs.

**MOUNT CARMEL HEALTH SYSTEM  
D/B/A MOUNT CARMEL WEST**  
c/o CT Corporation System, Agent  
4400 Easton Commons Way, Suite 125  
Columbus, Ohio 43219

and

**WILLIAM S. HUSEL, D.O.**  
4757 Aberdeen Avenue  
Dublin, Ohio 43016

and

**GREGORY DRESBACH, RPH**  
3567 Blackbottom Street  
Columbus, Ohio 43221

and

**JAMIE BOURKE, RN**  
73 Fabius Way  
Pataskala, Ohio 43062

Defendants.

Case No: 19-CV-\_\_\_\_\_

Judge \_\_\_\_\_

*Jury Demand Endorsed Hereon*

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COMPLAINT

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FACTS AND JURISDICTION

1. Pursuant to R.C. 2305.21, Plaintiff Troy L. Walters brings this action as the duly appointed Administrator of the Estate of Michael Walters for the exclusive benefit of the next of kin.

2. Defendant Mount Carmel Health System (“Mount Carmel”) is an Ohio corporation, doing business as Mount Carmel West, which is located in Columbus, Franklin County, Ohio. Mount Carmel provides treatment, by and through its actual and ostensible agents and employees, to those in need of medical care.

3. Defendant William S. Husel, D.O. (“Defendant Husel”), with offices in Franklin County, Ohio, is duly licensed to practice osteopathic medicine by and in the State of Ohio. At all times relevant, Defendant Husel provided treatment for consideration to those in need of medical care as an employee and/or agent of Mount Carmel.

4. Defendant Gregory Dresbach, RPh (“Defendant Dresbach”) is a resident of Columbus, Franklin County, Ohio who is a registered pharmacist by and in the State of Ohio. At all times relevant, Defendant Dresbach was a pharmacist providing pharmacy services as an employee and/or agent of Mount Carmel.

5. Defendant Jamie Bourke, RN (“Defendant Bourke”), a resident of Pataskala, Licking County, Ohio, is a registered nurse by and in the State of Ohio. At all

times relevant, Defendant Bourke provided nursing care and services to patients, including Michael Walters, as an employee and/or agent of Mount Carmel.

6. Defendants, individually or by and through agents and/or employees, were involved in medical care and treatment of Michael Walters on October 11, 2017, while he was a patient at Mount Carmel.

7. Michael Walters was brought to Mount Carmel on October 6, 2017 from a skilled nursing facility where he'd lived for a few years due to a stroke. He presented to Mount Carmel with respiratory failure and was eventually intubated and transferred to the ICU. Despite aggressive care, Michael's condition declined.

8. Late on October 10, 2017, Michael's family was encouraged to change Michael's code status to DNR, to which they ultimately agreed. Shortly thereafter, Michael Walters was prescribed, and administered, 500 micrograms of Fentanyl, a lethal dose, pushed through his IV along with a 6 milligram doses of Versed.

9. The lethal dose of Fentanyl was ordered by Defendant Husel at 4:01 AM on October 11, 2017, to be given to Michael Walters through his IV line.

10. This grossly inappropriate dose was either ordered negligently and not properly reviewed, or was intentionally prescribed by Defendant Husel for the purposes of hastening the termination of Michael Walters's life.

11. Despite the grossly excessive and inappropriate order of Fentanyl, Mount Carmel's electronic medical records system failed to flag and alert Michael Walters's medical providers that such an order appeared to be in error. Alternatively, this excessive dose of Fentanyl was flagged and/or alerted by the system as inappropriate,

but Defendants ignored the alerts because the order was intended to hasten the termination of Michael Walters's life.

12. On information and belief, Defendant Husel's order of a grossly excessive and inappropriate dosage of Fentanyl was approved by Mount Carmel's pharmacist - Defendant Dresbach.

13. The grossly excessive and inappropriate dosage of Fentanyl was made available to Defendant Bourke, Michael Walters's nurse.

14. Defendant Dresbach, the pharmacist, knew that the ordered dosage of Fentanyl was grossly inappropriate, served no therapeutic purpose or function, and would only serve to hasten the termination of Michael Walters's life.

15. Defendant Bourke, administered the lethal dosage on October 11, 2017 at 4:12 AM, with full knowledge that such a grossly inappropriate dose of Fentanyl would hasten the termination of Michael Walters's life.

16. Michael Walters was pronounced dead at approximately 4:19 AM on October 11, 2017, just 7 minutes after receiving the lethal dose of Fentanyl along with Versed. Michael was 57 years old when he died.

17. On or about December 27, 2018, the family of Michael Walters received a call from a physician-administrator affiliated with Mount Carmel. That administrator informed them that Michael Walters received an excessive dosage of pain medication which may have hastened and/or caused his premature death.

18. On January 14, 2019, the family received yet another call from Mount Carmel administration to inform them that the actions described herein are not an

isolated event, but rather, a repeated course of conduct by Defendants with respect to at least 27 patients at Mount Carmel. Further, multiple physicians, nurses, and pharmacists have been removed from patient care based on this conduct.

19. In the time since that call, Plaintiff has learned that Defendants took the same actions described herein, with regard to two other patients in the 30 hours prior to Michael’s death; Beverlee Schirtzinger and Timothy Fitzpatrick, each dying late on October 9, 2017.

20. As to the medical claims included herein, an Affidavit of Merit is attached hereto as Exhibit 1, and incorporated herein as contemplated by Civ.R. 10(D)(2).

**PLAINTIFF’S CLAIMS FOR RELIEF AGAINST DEFENDANTS**

**Count I: Battery (Survivorship)**

21. Defendants, individually or by and through agents or employees, intentionally ordered and administered a grossly inappropriate and lethal dosage of Fentanyl designed to cause serious harm and death to Michael Walters, on October 11, 2017.

22. The administration of a lethal dose of Fentanyl to Michael Walters was harmful and offensive.

23. Michael Walters did not consent to receiving a lethal dose of Fentanyl from Defendants.

24. Defendants’ administration of the lethal dose of Fentanyl to Michael Walters exhibited a reckless disregard for his health and safety.

25. As a direct and proximate result of the conduct of Defendants, Michael Walters suffered significant harm and death.

**Count II: Medical Negligence (Survivorship)**

26. Defendants, individually and/or vicariously by and through agents or employees, were professionally negligent and fell below the accepted standards of care in that they failed to exercise the degree of care required under similar circumstances by, *inter alia*, prescribing, providing, and administering a grossly inappropriate and lethal dosage of Fentanyl to Michael Walters.

27. As a direct and proximate result of the negligence of Defendants, Michael Walters suffered severe and permanent injuries resulting from the lethal dosage of Fentanyl he was given, including a loss of life expectancy.

**Count III: Negligence (Survivorship)**

28. Defendant Dresbach owed a duty of reasonable care to Michael Walters in the services he provided as a registered pharmacist. Defendant Dresbach was negligent and breached that duty.

29. As a direct and proximate result of the negligence of Defendant Dresbach, Michael Walters suffered severe and permanent injuries resulting from the grossly inappropriate and lethal dosage of Fentanyl he was given, including a loss of life expectancy.

**Count IV: Intentional Infliction of Emotional Distress**

30. In taking the actions described herein, Defendants, either individually or by and through actual or ostensible agents and/or employees, intended to cause serious

emotional harm to Michael Walters and his next of kin, or knew their actions would necessarily result in such emotional harm.

31. Defendants, either individually or by and through actual or ostensible agents and/or employees engaged in extreme and outrageous conduct as described herein.

32. As a direct and proximate result of the intentional conduct of Defendants, Michael Walters suffered severe and permanent injuries, including a loss of life expectancy and a wrongful death.

33. As a direct and proximate result of the intentional conduct of Defendants, and the injuries and wrongful death of Michael Walters, Plaintiff's beneficiaries suffered serious emotional distress and harm.

**Count V: Wrongful Death**

34. As a direct and proximate result of the intentional acts or omissions, negligence, and/or professional negligence of Defendants as set forth above, Michael Walters suffered a wrongful death on October 11, 2017.

35. As a further direct and proximate result of the negligence and/or professional negligence of the Defendants and the wrongful death of Michael Walters, his next of kin have suffered mental anguish as well as pecuniary and non-pecuniary losses, including, but not limited to, loss of society, support, services, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, and education, and any other items specified in R.C. 2125.02(B).

36. As a further direct and proximate result of the negligence and/or professional negligence of Defendants and the wrongful death of Michael Walters, the Estate has incurred reasonable burial and funeral expenses.

PLAINTIFF'S CLAIMS FOR RELIEF AGAINST MOUNT CARMEL

**Count VI: Negligent Credentialing**

37. Mount Carmel granted privileges to Defendant Husel, when he was inadequately trained and incompetent to perform critical care and anesthesia services.

38. Defendant Husel was negligent in his treatment of Michael Walters, and as a direct and proximate result of that negligence, he suffered injuries and a wrongful death.

39. In addition to his negligence in treating Michael Walters, Defendant Husel is alleged to have been negligent in providing care to additional patients under similar circumstances to those presented in this case.

40. Mount Carmel had a duty to evaluate and determine the ability and competency of Defendant Husel to care for patients commensurate with his licensure and within the applicable standard of care.

41. Mount Carmel, by and through their employees, agents, and staff physician committees, was negligent in selecting or retaining Defendant Husel and/or in granting him staff privileges.

42. Mount Carmel continued to allow, and/or failed to revoke Defendant Husel's privileges at its facilities when it knew or should have known of Defendant



Husel's incompetence and/or history of practicing medicine so as to fall below the applicable standard of care.

43. Mount Carmel failed to adequately review and evaluate Defendant Husel's education, character, fitness to practice osteopathic medicine, and his past performance as a specialist.

44. Mount Carmel ignored or failed to investigate the care and treatment provided by Defendant Husel to other patients, including failing to investigate patient complaints and/or other evidence of Defendant Husel's incompetence.

45. Mount Carmel committed other acts or omissions constituting the tort of negligent credentialing, which may be determined during the discovery process or trial.

46. But for the negligence of Mount Carmel, Defendant Husel would not have been granted staff privileges to care for critical care patients at its facilities.

47. But for the negligence of Mount Carmel in selecting and/or retaining Defendant Husel, he would not have been granted staff privileges, and Michael Walters would not have suffered the above described injuries and damages.

**Count VII: Negligent Supervision**

48. On information and belief, Defendants Husel, Bourke, and Dresbach were employees of Mount Carmel at all times relevant, acting within the scope of their employment when they provided care and treatment to Michael Walters, including the ordering, approval, and administration of the grossly inappropriate and lethal dose of Fentanyl.

49. Defendants Husel, Bourke, and Dresbach were not competent to care for patients in the manner in which they engaged while employees of Mount Carmel.

50. Mount Carmel was aware either actually, or constructively, of the incompetence of Defendants Husel, Bourke, and Dresbach.

51. The actions of Defendants Husel, Bourke, and Dresbach, as set forth herein, caused significant and permanent injury to Michael Walters, including his wrongful death, all of which resulted in damages to Plaintiff and the next of kin.

52. Mount Carmel's negligence in supervising its employees, Defendants Husel, Bourke, and Dresbach, was a direct and proximate cause of the harm suffered by Michael Walters and Plaintiff.

PUNITIVE DAMAGES

53. The conduct of Defendants could only result from Mount Carmel's systemic deficiencies and practices, which Mount Carmel failed to remedy, and which resulted in significant harm to at least 34 patients, including Michael Walters.

54. Defendants' engaged in willful, wanton, and reckless misconduct and malice, exhibiting a reckless disregard for the health and safety of their patients, including Michael Walters, and created a great probability of causing substantial harm.

55. As a direct and proximate result of Defendants' egregious misconduct, Michael Walters suffered injury and a wrongful death, as set forth above.

**WHEREFORE**, Plaintiff demands judgment against Defendants, jointly and severally, in an amount in excess of \$25,000.00, plus interest, the costs of this action, and any other relief this Court deems just and equitable, including punitive damages for the

intentional, egregious, and reckless misconduct of Defendants.

Respectfully submitted,

/s/ Gerald S. Leeseberg

Gerald S. Leeseberg (0000928)

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*Attorneys for Plaintiff*

**JURY DEMAND**

Plaintiff hereby respectfully demands a jury of eight as to all issues contained herein.

/s/ Gerald S. Leeseberg

Gerald S. Leeseberg

AFFIDAVIT OF MERIT

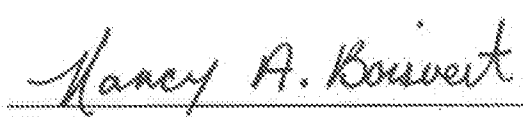
Steven B. Bird, M.D., being first duly sworn, states the following to be true:

1. I submit this Affidavit of Merit in accordance with Ohio Civil Rule 10(D)(2)(a).
2. I am licensed to practice medicine by the Massachusetts Board of Registration in Medicine and am board certified in Emergency Medicine and Toxicology.
3. I devote at least one-half of my professional time to the active clinical practice of medicine, or to its instruction in an accredited school.
4. I have reviewed all medical records reasonably available to Plaintiff concerning the allegations contained in the Complaint.
5. I am familiar with the applicable standards of care in this case.
6. In my opinion, the standard of care was breached by Defendants and such breaches were a direct and proximate cause of injuries and death to Michael Walters.



STEVEN B. BIRD, M.D.

Sworn to and subscribed before me on February 15th, 2019.



NOTARY PUBLIC

