

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

Robert Brokamp, as Executor of the Estate of )	CASE NO. 19 CV 001476
Virginia Brokamp, )	
Plaintiff, )	JUDGE K. PHIPPS
vs. )	
Mount Carmel Health System d/b/a Mount )	
Carmel West, et al., )	
Defendants. )	

**ANSWER OF DEFENDANT MOUNT CARMEL HEALTH SYSTEM  
D/B/A MOUNT CARMEL WEST**

Defendant, Mount Carmel Health System d/b/a Mount Carmel West (hereinafter “MCHS”), for its answer to Plaintiff’s Complaint, states the following:

**FIRST DEFENSE**

1. For lack of knowledge sufficient to form a belief as to the truth of the allegations, MCHS denies the allegations in paragraphs 1, 3 and 14 of Plaintiff’s Complaint.
2. MCHS admits the allegations in paragraphs 2, 6 and 18 of Plaintiff’s Complaint.
3. MCHS admits the allegations in paragraphs 4, 5 and 44 that Nicole Pavlik and Tyler Springer were employees, and, further answering, denies the remaining allegations in said paragraph for lack of knowledge as to the truth of said allegations and for the reason that they call for a legal conclusion.
4. MCHS denies the allegations in paragraphs 7, 8, 9, 10, 11, 13, 15, 16, 20, 21, 23, 24, 25, 28, 29, 30, 31, 32, 34, 35, 36, 47, 48, 49 and 51 of Plaintiff’s Complaint, as stated, and

adopts the response and material in the hospital record which speaks for itself. As to the remaining allegations, MCHS notes that Virginia Brokamp received a dose of Fentanyl, a drug that potentially could be lethal. To the extent that the remaining allegations in these paragraphs seek an expert medical opinion reserved for a medical doctor, MCHS states that it is a hospital incorporated under the laws of the state of Ohio, and therefore, Ohio law, including the Ohio Rules of Evidence, do not permit it to express an expert medical opinion reserved for a physician. Ohio law does not permit a non-physician to give expert medical testimony concerning the actions of medical professionals so MCHS cannot legally admit or deny said allegations.

5. In response to the allegations in paragraph 17 of Plaintiff’s Complaint, MCHS admits that the family of Virginia Brokamp was advised that MCHS was investigating the death of Virginia Brokamp. As to the remaining allegations, MCHS denies the allegations for lack of knowledge as to the substance of the call.

6. MCHS denies each and every allegation in paragraphs 12, 19, 22, 26, 27, 33, 37, 38, 39, 40, 41, 42, 43, 45, 46 and 50 of Plaintiff’s Complaint.

7. MCHS denies each and every allegation not specifically admitted to be true herein.

**ADDITIONAL POTENTIAL DEFENSES**

8. Given that these matters are in early stages with several factors making investigation incomplete at this time, MCHS asserts and preserves as a matter of caution all defenses required in Rule 12(B) – 12(H) of the Ohio Rules of Civil Procedure during the pendency of fact gathering. In addition, MCHS preserves all defenses under R.C. 1337.15 et seq. and R.C. 2133.11 et seq. to the extent facts support the same. Also, MCHS preserves any claims relating to the statute of limitations, statute of repose and other equitable defenses regarding waiver that might develop. MCHS states that it is a hospital incorporated under the laws of the state of Ohio and, therefore, Ohio law, including the Ohio Rules of Evidence, do not permit it to express expert

medical opinions reserved for a physician. Therefore, MCHS reserves any defenses of compliance with the standard of care and causation to the development of expert testimony, including as required by Ohio Civil Rule 10(D). Last, MCHS reserves its defenses set forth in R.C. §2307.23(C).

WHEREFORE, Defendant, Mount Carmel Health System d/b/a Mount Carmel West, having fully responded to the allegations in the Complaint, hereby demands judgment in its favor, that this case be dismissed with prejudice and that it recover its costs herein expended.

Respectfully submitted,

*/s/ John H. Burtch*

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Attorney for Defendants Mount Carmel Health  
System d/b/a Mount Carmel West

**CERTIFICATE OF SERVICE**

A copy of the foregoing Answer has been served upon all counsel of record pursuant to the court's electronic docket system this \_\_\_\_ day of \_\_\_\_, 2019.

*/s/ John Burtch*

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John H. Burtch