

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

JANET WATKINS, Individually and as
Administrator of the Estate of Rebecca Walls
298 Randolph St.
Ashville, Ohio 43103

Plaintiff,

v.

MOUNT CARMEL HEALTH SYSTEM
dba MOUNT CARMEL WEST
c/o CT Corporation System, Statutory Agent
4400 Easton Commons Way, Suite 125
Columbus, Ohio 43219

and

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

and

GREGORY L. DRESBACH, RPh
3567 Blackbottom St.
Columbus, Ohio 43221

and

WESLEY BLACK, R.N.
c/o Mount Carmel West Hospital
793 West State Street
Columbus, Ohio 43222

and

JOHN DOE HOSPITAL ADMINISTRATORS
& EMPLOYEES #1-5
Names and Addresses Unknown to Plaintiff

Defendants.

Case No.

Judge:

COMPLAINT

Jury Demand Endorsed Hereon

COMPLAINT

Now comes Plaintiff Janet Watkins, as Administrator of the Estate of Rebecca Walls, by and through counsel, Rourke & Blumenthal, LLP, and states as follows:

1. Until her death on November 19, 2018, Rebecca Walls was a resident of Columbus, Ohio.
2. Rebecca Walls died on November 19, 2018 as a result of a lethal dose of Fentanyl and Midazolam (Versed).
3. Plaintiff Janet Watkins was appointed the Administrator of the Estate of Rebecca Walls on January 15, 2019 by the Franklin County Probate Court, Case No. 595658.
4. At all times relevant herein, Defendant Mount Carmel Health System dba Mount Carmel West (hereinafter “Defendant Mount Carmel”) was a non-profit corporation under Ohio laws with its primary place of business in Columbus, Ohio, which employed physicians, pharmacists, nurses, and other personnel for the purpose of providing medical care to the general public. By virtue of the doctrines of *respondeat superior* and vicarious liability, Defendant Mount Carmel is liable for the acts and omissions of its employees and agents.
5. At all times relevant herein, Defendant William S. Husel, D.O. was a physician licensed to practice medicine in the State of Ohio. At all times relevant herein, he was practicing medicine in the course and scope of his employment or agency with Defendant Mount Carmel. Dr. Husel was actively involved in the medical care of Rebecca Walls at the time of her death and is responsible for ordering the lethal dose of medication which caused her death.
6. At all times relevant herein, Gregory L. Dresbach, RPh, was a licensed pharmacist in the State of Ohio, acting within the course and scope of his employment or agency with Defendant Mount Carmel. Upon information and belief, Defendant Dresbach was the pharmacist

responsible for verifying and filling the deadly medication order administered to Rebecca Walls in spite of personal knowledge and electronic warning that this was a fatal and not medically indicated dosage.

7. At all times relevant herein, Wesley Black, R.N. was a licensed registered nurse in the State of Ohio, acting within the course and scope of his employment or agency with Defendant Mount Carmel. Upon information and belief, Nurse Black was the nurse who administered the lethal dose of medication that caused the death of Rebecca Walls in spite of personal knowledge and electronic warning that this was a fatal and not medically indicated dosage.

8. At all times relevant herein, John Doe Hospital Administrators & Employees #1-5 (names and addresses unknown to Plaintiff) were residents of Ohio and were administrators/employees of Defendant Mount Carmel acting within the course and scope of their employment with the hospital when they failed to timely act after being informed of Defendant Dr. Husel's conduct. When the identities of John Doe Hospital Administrators & Employees #1-5 have been determined, Plaintiff will seek leave to amend her Complaint accordingly.

9. Jurisdiction and venue are proper pursuant to Ohio Civil Rule 3 as one or more of the Defendants reside and/or maintain a principal place of business in Franklin County, Ohio.

10. Pursuant to Civ. R. 10(D)(2)(b), Plaintiff is requesting an extension of time to file the affidavit of merit, with a motion being filed simultaneously with this Complaint.

COMMON FACTUAL ALLEGATIONS

11. Plaintiff incorporates by reference all previous paragraphs of this Complaint as if fully restated herein.

12. On November 13, 2018, Rebecca Walls presented to Defendant Mount Carmel per the recommendation of her primary care physician because she was experiencing shortness of breath and lightheadedness for approximately the past month. She was admitted to the hospital.

Rebecca Walls underwent a cardiac catheterization on November 15. She developed a groin hematoma and eventually respiratory distress. She was admitted to the ICU where she came under the care of Defendant Dr. Husel. Based on the representations from Defendant Dr. Husel regarding the medical status of Rebecca Walls, Plaintiff Janet Watkins made the decision to switch Rebecca from “full code” status to “do not resuscitate” code status in the early morning hours of November 19, 2018.

13. Defendant Dr. Husel ordered 1,000 micrograms of the drug Fentanyl in addition to a large dose of Versed to be given to Rebecca Walls through an IV. Defendant Dr. Husel knew, or should have known, that such a high dosage of powerful drugs served no medical or therapeutic purpose, and would only serve to hasten the death of Rebecca Walls. Further, this order violated, or should have violated, hospital policies, hospital comfort care order sets, and electronic medical record system warnings.

14. This excessive dosage was grossly inappropriate given the condition of Rebecca Walls and was either ordered negligently without proper review or it was intentionally prescribed by Dr. Husel for the purpose of ending Rebecca’s life.

15. Despite the grossly inappropriate order for an excessive dosage of Fentanyl in combination with Versed, Mount Carmel’s electronic medical records system either failed to properly alert other medical providers of the excessive medication dosage or the other medical providers ignored or overrode the alert because the dosage was intentionally prescribed for the purpose of ending Rebecca Walls’ life.

16. Defendant Gregory Dresbach is the pharmacist at Mount Carmel who reviewed and ultimately approved Defendant Dr. Husel's grossly inappropriate order of drugs for Rebecca Walls. Defendant Dresbach knew, or should have known, that such a high dosage of powerful drugs served no medical or therapeutic purpose, and would only serve to hasten the death of Rebecca Walls. Further, this order violated, or should have violated, hospital policies, hospital comfort care order sets, and electronic medical record system warnings.

17. Defendant Wesley Black is the nurse at Mount Carmel who administered the grossly inappropriate drugs to Ms. Walls. Defendant Black knew, or should have known, that such a high dosage of powerful drugs served no medical or therapeutic purpose, and would only serve to hasten the death of Rebecca Walls. Further, this order violated, or should have violated, hospital policies, hospital comfort care order sets, and electronic medical record system warnings.

18. Rebecca Walls died on November 19, 2018 within minutes of being administered the lethal doses of Fentanyl and Versed.

19. Defendant Mount Carmel received a formal report on October 25, 2018 regarding Dr. Husel's conduct of prescribing excessive and fatal doses medications to patients. In spite of having knowledge that Dr. Husel was harming patients in this way, Defendant Mount Carmel and Defendant John Doe Hospital Administrators & Employees #1-5 failed to remove Dr. Husel from patient care until November 21, 2018. During this time period, at least three patients, including Rebecca Walls, died after receiving excessive and fatal doses of medications ordered by Dr. Husel. Even before the formal report was issued on October 25, 2018, Defendant John Doe Hospital Administrators & Employees #1-5 had knowledge sufficient to put them on notice of dangerous practices by Dr. Husel and other members of the Mount Carmel medical staff to

warrant immediate suspension of their ability to order, supply or administer doses of narcotics and other controlled substances.

COUNT ONE – NEGLIGENCE

20. Plaintiff incorporates by reference all previous paragraphs of this Complaint as if fully restated herein.

21. Defendants named herein, individually and by and through employees or agent, jointly and severally, were negligent in the care rendered to Rebecca Walls. The negligence includes, but is not limited to, ordering, approving, and administering a lethal dose of Fentanyl and Versed to Rebecca Walls on November 19, 2018. Furthermore, Defendant Mount Carmel was negligent in the hiring, credentialing, training and in the supervision of its employees, including Defendant Dr. Husel, Defendant Dresbach, and Defendant Black. Defendant Mount Carmel and John Does Hospital Administrators & Employees #1-5 were also negligent in failing to take appropriate action to protect patients after receiving a formal report regarding Dr. Husel’s conduct and/or receiving other information that put them on notice of dangerous practices by Dr. Husel and other members of the Mount Carmel medical staff. Defendants were negligent in other respects as well.

22. As a direct and proximate cause of the negligence described herein, Rebecca Walls suffered injury, was stripped of the dignity of life, had her rights violated, and ultimately died.

23. As a further direct and proximate cause of the negligence described herein, Rebecca Walls suffered a loss of chance of recovery from her medical condition. This lost chance of recovery resulted in the damages described herein.

COUNT TWO – BATTERY

24. Plaintiff incorporates by reference all previous paragraphs of this Complaint as if fully restated herein.

25. Defendants, individually and by and through agents or employees, intentionally ordered and administered a grossly inappropriate and lethal dose of medication designed to cause serious harm and death to Rebecca Walls on November 19, 2018.

26. The administration of this lethal dose of medication to Rebecca Walls was harmful and offensive.

27. Neither Rebecca Walls nor her medical power of attorney, Janet Watkins, consented to Rebecca receiving a lethal dose of medication from Defendants.

28. Defendants' administration of the lethal dose of medication to Rebecca Walls constituted a reckless disregard for her health, safety, and dignity.

29. As a direct and proximate result of the conduct of Defendants, Rebecca Walls suffered significant harm and death.

COUNT THREE – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

30. In taking the actions described herein, Defendants, either individually or through its agents or employees, intended to cause serious emotional harm to Rebecca Walls, Janet Watkins, who was present during the events, including Rebecca's death, and the family of Rebecca Walls.

31. The conduct of the Defendants was extreme and outrageous.

32. As a direct and proximate cause of the intentional conduct of the Defendants, Rebecca Walls suffered injury, was stripped of the dignity of life, had her rights violated, and ultimately died.

33. As a further direct and proximate cause of the intentional conduct of the Defendants, Plaintiff and the decedent's beneficiaries suffered significant emotional distress and harm.

COUNT FOUR – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

34. Plaintiff incorporates by reference all previous paragraphs of this Complaint as if fully restated herein.

35. As a direct and proximate result of the failures and negligence of the Defendants as described herein, individually and by and through employees and agents, Defendants prematurely concluded that Rebecca Walls was near death and so advised her power-of-attorney, Janet Watkins. Based on this information, Janet Watkins made the decision to change the code status for Rebecca Walls from "full code" status to "do not resuscitate" code status in the early morning hours of November 19, 2018.

36. As a direct and proximate result of the failures and negligence of the Defendants as described herein, Plaintiff Janet Watkins, who was physically present during this event and witnessed Rebecca Walls pass away, suffers from, and will continue to suffer from, severe and debilitating emotional distress and anguish. Plaintiff suffers from, and will continue to suffer from, severe emotional distress and anguish from the after-acquired knowledge that Rebecca Walls was negligently or intentionally killed.

37. Plaintiff Janet Watkins' severe emotional distress and anguish was reasonably foreseeable by Defendants in light of their egregious conduct.

COUNT FIVE – FRAUDULENT MISREPRESENTATION

38. Plaintiff incorporates by reference all previous paragraphs of this Complaint as if fully restated herein.

39. Defendant Dr. Husel knowingly made material false misrepresentations to Plaintiff Janet Watkins regarding the dire medical condition of Rebecca Walls prior to her death. Defendant Dr. Husel also knowingly made a false misrepresentation to Plaintiff regarding the fact that he was going to provide Rebecca Walls with medication to make her comfortable when in fact he knowingly ordered excessive medication with the intent to cause her death.

40. Defendant Dr. Husel's statements were made with the intent to mislead Plaintiff.

41. Plaintiff relied on these statements in making the decision to switch Rebecca Walls from "full code" status to "do not resuscitate" code status. Had Plaintiff been fully advised of the situation, she would not have made the decision on the code change nor would she have permitted Rebecca Walls to be administered the medication which proved to be excessive and fatal.

42. As a direct and proximate cause of these fraudulent misrepresentations, Rebecca Walls suffered injury, was stripped of the dignity of life, had her rights violated, and ultimately died.

43. As a further direct and proximate cause of these fraudulent misrepresentations, Plaintiff and the decedent's beneficiaries suffered injury.

COUNT SIX – WRONGFUL DEATH

44. Plaintiff incorporates by reference all previous paragraphs of this Complaint as if fully restated herein.

45. As a direct and proximate cause of the failures and negligence of the Defendants described herein, individually and by and through employees and agents, Rebecca Walls wrongfully and prematurely died on November 19, 2018.

46. As a direct and proximate result of the failures and negligence of the Defendants described herein, individually and by and through employees and agents, and the resulting death of Rebecca Walls, her Estate incurred funeral expenses as well as other expenses.

47. As a further direct and proximate result of the failures and negligence of the Defendants described herein, individually and by and through employees and agents, and the premature death of Rebecca Walls, her survivors and other next of kin have suffered severe mental anguish, emotional distress, and otherwise have been damaged as contemplated by Ohio's wrongful death statute. Rebecca Walls' survivors and next of kin are entitled to be compensated in an amount reasonable, proper, and commensurate with their losses.

COUNT SEVEN – PUNITIVE DAMAGES

48. Plaintiff incorporates by reference all previous paragraphs of this Complaint as if fully restated herein.

49. Defendant Mount Carmel has acknowledged publicly that at least 34 patients were given excessive and fatal medication dosages at the direction of Dr. Husel over the course of approximately three-years. The death of Rebecca Walls is particularly troubling as Defendant Mount Carmel was put on notice of this conduct at least three-weeks prior to Rebecca Walls being administered a lethal dose of medication.

50. Defendants engaged in willful, wanton and reckless misconduct and malice, exhibiting a conscious and reckless disregard for the health and safety of their patients, including Rebecca Walls.

51. As a direct and proximate result of Defendants' conduct, Rebecca Walls suffered injury and death, and Plaintiff Janet Watkins and surviving family suffered emotional distress, thereby making Defendants liable for punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in an amount in excess of \$25,000, plus interest, costs, and other relief that this Court deems just and equitable, including punitive damages for the intentional, egregious, and reckless misconduct of the Defendants.

Respectfully submitted,

/s/ Michael J. Rourke

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JURY DEMAND

Plaintiff, by and through counsel, hereby demands a jury of eight persons on all issues set forth herein.

s/ Michael J. Rourke

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