

3. That at all relevant times herein Defendant, Tyler G. Johnson, D.O. was a qualified health care provider, as defined by the Indiana Medical Malpractice Act, I.C. §34-18-1 et. seq., with his principal place of business located at 3640 New Vision Drive, Ste. A2, Fort Wayne, Indiana 46845.

ANSWER: Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 3 of the Plaintiff's Complaint and, therefore, denies the same.

4. That at all relevant times herein, Defendant, Professional Emergency Physicians, Inc. was a qualified health care provider as defined by the Indiana Medical Malpractice Act., I.C. §34-18-1 et. seq., with its principal place of business located at 3640 New Vision Drive, Ste. A2, Fort Wayne, Indiana 46845. Professional Emergency Physicians, Inc. was the employer of Dr. Johnson and is vicariously liable for his conduct.

ANSWER: Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 4 of the Plaintiff's Complaint and, therefore, denies the same.

5. That at all relevant times herein, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, was a qualified health care provider as defined by I.C. §34-18-1 et. seq., with its principal place of business located at 2200 Randallia Drive, Fort Wayne, IN 46805. Dr. Johnson was an ostensible agent of Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center.

ANSWER: Defendant admits the portion of Paragraph 5 regarding status as a qualified health provider and its principal location, the remainder is denied.

6. That at all relevant times herein, the Defendants held themselves out as being capable of providing proper treatment to patients and invited the public, including Esperanza Umana, to use their services for a payment to be charged.

ANSWER: Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 6 of the Plaintiff's Complaint and, therefore, denies the same.

7. That on or before January 12, 2018, the Defendants undertook to render proper medical care and assistance to Esperanza Umana, and then and there it became the duty of the Defendants to exercise reasonable care to see that Esperanza Umana obtained proper treatment.

ANSWER: Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 3 of the Plaintiff's Complaint and, therefore, denies the same.

8. That as a direct and proximate result of the Defendants' negligence, Esperanza Umana suffered cardiac arrest and died.

ANSWER: Denied.

9. As a result of the death of Esperanza Umana, Esperanza Umana's estate has incurred medical expenses, funeral and burial expenses and her one year old son, Javier David Ruiz, age 1 has lost the love, affection, support and guidance of his mother.

ANSWER: Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 9 of the Plaintiff's Complaint and, therefore, denies the same.

WHEREFORE, Defendant Parkview Hospital, Inc., d/b/a Parkview Regional Medical Center, by counsel, prays that Plaintiff, Jennifer Becerra, Personal Representative of the Estate of Esperanza Umana, Deceased, take nothing by way of her Complaint for damages; that judgment be

entered in this cause in favor of Defendant and against Plaintiff; for the costs of this action; and for all other just and proper relief in the premises.

AFFIRMATIVE DEFENSES

I.

Comes now, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, and for its first Affirmative Defense to Plaintiff's Complaint for Damages, alleges and states that Plaintiff was at fault, which contributory negligence caused or contributed to cause her injuries of which Plaintiff complains and such contributory negligence operates to bar the claims of Plaintiff in their entirety.

WHEREFORE, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, respectfully request that Plaintiff, Jennifer Becerra, Personal Representative of the Estate of Esperanza Umana, Deceased, take nothing by way of her Complaint for Damages; that judgment be entered in this cause in favor of Defendant and against Plaintiff; for the costs of this action; and for all other just and proper relief in the premises.

II.

Comes now, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, and for its second Affirmative Defense to Plaintiff's Complaint for Damages, alleges and states that Plaintiff has received monies from third parties which are admissible evidence pursuant to Indiana Code section 34-51-1-2.

WHEREFORE, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, respectfully request that Plaintiff, Jennifer Becerra, Personal Representative of the Estate of Esperanza Umana, Deceased, take nothing by way of her Complaint for Damages; that

judgment be entered in this cause in favor of Defendant and against Plaintiff; for the costs of this action; and for all other just and proper relief in the premises.

III.

Comes now, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, and for its third Affirmative Defense to Plaintiff's Complaint for Damages, alleges and states that Defendant's actions or inactions were not the responsible cause of Plaintiff's alleged damages.

WHEREFORE, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, respectfully request that Plaintiff, Jennifer Becerra, Personal Representative of the Estate of Esperanza Umana, Deceased, take nothing by way of her Complaint for Damages; that judgment be entered in this cause in favor of Defendant and against Plaintiff; for the costs of this action; and for all other just and proper relief in the premises.

IV.

Comes now, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, and for its fifth Affirmative Defense to Plaintiff's Complaint for Damages, alleges and states that Defendant is, and was at all relevant times to Plaintiff's Complaint for Damages, a qualified healthcare provider as defined by Indiana's Medical Malpractice Act, Indiana Code section 34-18-1-1 *et seq.* and, therefore, Defendant is entitled to all the rights, privileges, limitations, caps on damages, defenses, and immunities provided therein.

WHEREFORE, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, respectfully request that Plaintiff, Jennifer Becerra, Personal Representative of the Estate of Esperanza Umana, Deceased, take nothing by way of her Complaint for Damages; that judgment be entered in this cause in favor of Defendant and against Plaintiff; for the costs of this action; and for all other just and proper relief in the premises.

V.

Comes now, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, and for its sixth Affirmative Defense to Plaintiff's Complaint for Damages, alleges and states that Plaintiff failed to mitigate her damages, which failure to mitigate reduces the amount, if any, which she can recover from the Defendant.

WHEREFORE, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, respectfully request that Plaintiff, Jennifer Becerra, Personal Representative of the Estate of Esperanza Umana, Deceased, take nothing by way of her Complaint for Damages; that judgment be entered in this cause in favor of Defendant and against Plaintiff; for the costs of this action; and for all other just and proper relief in the premises.

VI.

Comes now, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, and for its seventh Affirmative Defense to Plaintiff's Complaint for Damages, alleges and states that Defendant reserves the right to dismiss or set forth additional Affirmative Defenses learned throughout the course of discovery.

WHEREFORE, Defendant, Parkview Hospital, Inc. d/b/a Parkview Regional Medical Center, by counsel, respectfully request that Plaintiff, Jennifer Becerra, Personal Representative of the Estate of Esperanza Umana, Deceased, take nothing by way of her Complaint for Damages; that judgment be entered in this cause in favor of Defendant and against Plaintiff; for the costs of this action; and for all other just and proper relief in the premises.

Respectfully Submitted,

ROTHBERG LOGAN & WARSCO, LLP

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CERTIFICATE OF SERVICE

I certify that on July 13, 2022, I electronically filed the foregoing document using the Indiana E-Filing System.

I also certify that on July 13, 2022, the foregoing document was served electronically upon the following persons via the Indiana E-Filing System.

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