

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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SHAWN HOLLOWAY, as Administrator of the Estate
of KAREN MURRELL a/k/a KAREN YVONNE
MURRELL, Deceased,

Index No.: 805037/2024

VERIFIED ANSWER

Plaintiff,

-against-

TERENCE CARDINAL COOKE HEALTH CARE
CENTER and THE MOUNT SINAI HOSPITAL,

Defendants.

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C O U N S E L O R S:

Defendant, TERENCE CARDINAL COOKE HEALTH CARE CENTER (hereinafter
“TERENCE CARDINAL COOKE” or “defendant”), by its attorneys, BARKER PATTERSON
NICHOLS, LLP, answering the Verified Complaint of the plaintiff, upon information and belief,
respectfully shows to this Court and alleges:

1. Denies having knowledge or information sufficient to form a belief as to the truth
of each and every allegation contained within paragraphs “1,” “2,” “3,” “7,” “8,” “9,” “10,” “11,”
“30,” “31,” “32,” “33,” “34,” “35,” “36,” “37,” “38,” “39” and “40” of plaintiff’s Verified
Complaint.

2. Denies each and every allegation in the form alleged contained within paragraph
“4” of plaintiff’s Verified Complaint, except admits that the answering defendant is a domestic
not-for-profit corporation.

3. Denies each and every allegation in the form alleged contained within paragraphs
“5,” “6,” “12,” “13,” “14,” “15,” “16,” “17,” “18,” “25,” “26,” “27” and “28” of plaintiff’s Verified
Complaint.

4. Denies each and every allegation in the form alleged contained within paragraphs “19,” “20,” “21,” “22,” “23,” “24” and “29” of plaintiff’s Verified Complaint and otherwise begs leave to refer all questions of law to the Court and all questions of fact to the trier thereof.

ANSWERING THE FIRST CAUSE OF ACTION

5. In response to paragraph “41” of plaintiff’s Verified Complaint, defendant repeats, reiterates and each and every denial and denial of knowledge or information sufficient to form a belief heretofore made in regard to each and every paragraph of the plaintiff’s Verified Complaint, designated as paragraphs “1” through “40” inclusive, with the same force and effect as though more fully set forth at length herein.

6. Denies each and every allegation in the form alleged contained within paragraphs “42,” “43,” “44,” “45” and “46” of plaintiff’s Verified Complaint.

7. Denies each and every allegation contained within paragraphs “47,” “48,” “49,” “50,” “51,” “54,” “55,” “56,” “57,” “58,” “59,” “60” and “61” of plaintiff’s Verified Complaint.

8. Denies each and every allegation in the form alleged contained within paragraphs “52” and “53” of plaintiff’s Verified Complaint and otherwise begs leave to refer all questions of law to the Court and all questions of fact to the trier thereof.

ANSWERING THE SECOND CAUSE OF ACTION

9. In response to paragraph “62” of plaintiff’s Verified Complaint, defendant repeats, reiterates and realleges each and every denial and denial of knowledge or information sufficient to form a belief heretofore made in regard to each and every paragraph of the plaintiff’s Verified Complaint, designated as paragraphs “1” through “61” inclusive, with the same force and effect as though more fully set forth at length herein.

10. Denies having knowledge or information sufficient to form a belief as to the truth

of each and every allegation contained within paragraphs “63,” “64,” “65,” “66,” “67,” “68,” “69,” “70,” “71,” “72,” “78,” “79,” “80,” “81” and “86” of plaintiff’s Verified Complaint.

11. Denies each and every allegation contained within paragraphs “73,” “74,” “75,” “76,” “77,” “82,” “83,” “84” and “85” of plaintiff’s Verified Complaint.

ANSWERING THE THIRD CAUSE OF ACTION

12. In response to paragraph “87” of plaintiff’s Verified Complaint, defendant repeats, reiterates and realleges each and every denial and denial of knowledge or information sufficient to form a belief heretofore made in regard to each and every paragraph of the plaintiff’s Verified Complaint, designated as paragraphs “1” through “86” inclusive, with the same force and effect as though more fully set forth at length herein.

13. Denies each and every allegation contained within paragraphs “88,” “89,” “90,” “91,” “92,” “93,” “94,” “95,” “96,” “97,” “98,” “99,” “100,” “101,” “102” and “103” of plaintiff’s Verified Complaint.

ANSWERING THE FOURTH CAUSE OF ACTION

14. In response to paragraph “104” of plaintiff’s Verified Complaint, defendant repeats, reiterates and realleges each and every denial and denial of knowledge or information sufficient to form a belief heretofore made in regard to each and every paragraph of the plaintiff’s Verified Complaint, designated as paragraphs “1” through “103” inclusive, with the same force and effect as though more fully set forth at length herein.

15. Denies having knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraphs “105,” “106,” “107,” “108,” “109,” “110,” “111,” “112” and “113” of plaintiff’s Verified Complaint.

16. Denies each and every allegation contained within paragraphs “114,” “115,” “116,”

and “117” of plaintiff’s Verified Complaint.

ANSWERING THE FIFTH CAUSE OF ACTION

17. In response to paragraph “118” of plaintiff’s Verified Complaint, defendant repeats, reiterates and realleges each and every denial and denial of knowledge or information sufficient to form a belief heretofore made in regard to each and every paragraph of the plaintiff’s Verified Complaint, designated as paragraphs “1” through “117” inclusive, with the same force and effect as though more fully set forth at length herein.

18. Denies each and every allegation contained within paragraphs “119,” “120,” “121,” “122,” “123,” “124,” “125” and “126” of plaintiff’s Verified Complaint.

ANSWERING THE SIXTH CAUSE OF ACTION

19. In response to paragraph “127” of plaintiff’s Verified Complaint, defendant repeats, reiterates and realleges each and every denial and denial of knowledge or information sufficient to form a belief heretofore made in regard to each and every paragraph of the plaintiff’s Verified Complaint, designated as paragraphs “1” through “126” inclusive, with the same force and effect as though more fully set forth at length herein.

20. Denies having knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “128” of plaintiff’s Verified Complaint.

21. Denies each and every allegation contained within paragraphs “129,” “130,” “131,” “132,” “133” and “134” of plaintiff’s Verified Complaint.

ANY PARAGRAPH NOT ANSWERED IS DEEMED DENIED.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

22. That any injuries sustained by plaintiff at the time and place mentioned in the Verified Complaint were caused solely and wholly by reason of the carelessness, negligence,

recklessness and acts or omissions on the part of the plaintiff and were not caused or contributed to by reason of any carelessness, negligence, recklessness or acts or omissions on the part of the answering defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

23. Should it be held that Article 14 of the New York CPLR could apply to any claim being made by the plaintiff herein, defendant request that the relative culpability of each person who is or may be liable to contribute to any liability for the damages alleged by the plaintiff in this action should be determined in accordance with the decisional and statutory law of the State of New York, in such cases made and provided; and the equitable share of each person liable for contribution should be determined and apportioned in accordance with the relative culpability of each such person, if any, pursuant to Article 14 of the New York CPLR.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

24. That the answering defendant reserves the right to claim the limitations of liability pursuant to Article 16 of the CPLR, for any recovery herein by the plaintiff for non-economic loss.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

25. In the event plaintiff recovers a verdict or judgment against defendant, such verdict or judgment must be reduced pursuant to §4545 of the CPLR by those amounts which have been, or will, with reasonable certainty replace or indemnify plaintiffs in whole or in part, for any past or future claimed economic loss, from any collateral source.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

26. If plaintiff is entitled to recover damages for loss of earnings or impairment of earning ability as against defendant, TERENCE CARDINAL COOKE, by reason of the matters alleged in the Verified Complaint, liability for which is hereby denied, then pursuant to CPLR §4546 the amount of damages recoverable against said defendant, if any, shall be reduced by the

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