

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT FRANKFORT
(ELECTRONICALLY FILED)**

LESLIE GLASS, Administratrix of the)
Estate of her son Dylan Harrison Stratton,)
Deceased,)
)
)
Plaintiff,) CASE NO. 3:19-CV-51- GFVT
)
)
v.)
)
SOUTHERN HEALTH PARTNERS, INC.,)
ET AL.)
)
)
Defendants.)
)

)

**ANSWER OF SOUTHERN HEALTH PARTNERS, INC.,
STACY JENSEN, SABINA TRIVETTE, AND LINDA BOLINGER**

Come the Defendants, Southern Health Partners, Inc., Stacy Jensen, Sabina Trivette and Linda Bolinger (“the SHP Defendants”) by counsel, and, for their Answer to the Plaintiff’s Complaint, hereby states as follows:

1. The SHP Defendants deny the allegations contained in paragraph 1 of the Complaint.
2. Paragraph 2 of the Complaint is a statement of jurisdiction and venue which requires neither admission nor denial. To the extent that admission or denial is required, the SHP Defendants deny the allegations contained in that paragraph.
3. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 3 of the Complaint and, therefore, deny same.

4. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 4 of the Complaint and, therefore, deny same.

5. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 5 of the Complaint and therefore deny same.

6. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 6 of the Complaint and, therefore, deny same.

7. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 7 of the Complaint and, therefore, deny same.

8. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 8 of the Complaint and, therefore, deny same.

9. The SHP Defendants admit so much of paragraph 9 of the Complaint as alleges that Defendant SHP employed the licensed practical nurses, Defendants Trivette and Bolinger. With regard to the responsibility that Defendant SHP bears for the training, conduct and supervision of Defendants Trivette and Bolinger and what requirements were imposed on Defendant SHP by contract or law, those are statements of law that require neither admission nor denial. To the extent that admission or denial is required, the SHP Defendants deny same. The SHP Defendants further deny any and all allegations contained in that paragraph.

10. The SHP Defendants admit so much of paragraph 10 of the Complaint as alleges that Defendants Jensen, Trivette and Bolinger were, at all times alleged, medical professionals employed or separately contracted by SHP to work at the Jail. The SHP Defendants admit in part that Defendant Jensen may have some responsibility for establishment of certain policies and supervision of Defendants Trivette and Bolinger but deny the allegations as specifically stated. The SHP Defendants deny the remainder of the allegations contained in that paragraph.

11. The SHP Defendants deny the allegations contained in paragraph 11 of the Complaint.

12. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 12 of the Complaint and, therefore, deny same.

13. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 13 of the Complaint and, therefore, deny same.

14. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 14 of the Complaint and, therefore, deny same.

15. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 15 of the Complaint and, therefore, deny same.

16. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 16 of the Complaint and, therefore, deny same.

17. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 17 of the Complaint and, therefore, deny same.

18. In response to paragraph 18 of the Complaint, the SHP Defendants state that the documents speak for themselves.

19. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 19 of the Complaint and, therefore, deny same.

20. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 20 of the Complaint and, therefore, deny same.

21. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 21 of the Complaint and, therefore, deny same.

22. The SHP Defendants admit so much of paragraph 22 of the Complaint as alleges that Defendant Jensen was present at the jail on January 22, 2019, and that she did not examine the decedent, but deny the remainder of the allegations contained in that paragraph.

23. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 23 of the Complaint and, therefore, deny same.

24. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 24 of the Complaint and, therefore, deny same.

25. To the extent that the allegations contained in paragraph 25 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 25 relate to the SHP Defendants, the SHP Defendants deny same.

26. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 26 of the Complaint and, therefore, deny same.

27. The SHP Defendants admit so much of paragraph 27 of the Complaint as alleges that Defendants Jensen, Trivette and Bolinger were on duty, at one time or another, during decedent's incarceration, but deny the remainder of the allegations contained in that paragraph.

28. The SHP Defendants admit so much of paragraph 28 of the Complaint as alleges that SHP is a Chattanooga-based, for-profit jail health care company but deny the remainder of the allegations contained in that paragraph.

29. The SHP Defendants admit so much of paragraph 29 of the Complaint as alleges that Defendant Jensen is the Medical Director at the jail but deny the remainder of the allegations contained in that paragraph.

30. The SHP Defendants deny the allegations contained in paragraph 30 of the Complaint.

31. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 31 of the Complaint and, therefore, deny same. The SHP Defendants further state that the contents of any documents speak for themselves.

32. In response to paragraph 32 of the Complaint, the SHP Defendants state that the contents of any documents speak for themselves. The SHP Defendants admit so much of paragraph 32 as alleges that a drug withdrawal flow sheet was given to the Franklin County Deputy Coroner along with other medical records. The SHP Defendants deny any and all other allegations contained in that paragraph.

33. The SHP Defendants admit so much of paragraph 33 of the Complaint as alleges that SHP produced additional medical records. The contents of those documents speak for themselves. The SHP Defendants deny any and all other allegations contained in that paragraph.

34. The SHP Defendants deny the allegations contained in paragraph 34 of the Complaint.

35. To the extent that the allegations contained in paragraph 35 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 35 relate to the SHP Defendants, the SHP Defendants deny same.

36. To the extent that the allegations contained in paragraph 36 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 36 relate to the SHP Defendants, the SHP Defendants deny same.

37. To the extent that the allegations contained in paragraph 37 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the

extent that the allegations contained in paragraph 37 relate to the SHP Defendants, the SHP Defendants deny same.

38. To the extent that the allegations contained in paragraph 38 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 38 relate to the SHP Defendants, the SHP Defendants deny same.

39. To the extent that the allegations contained in paragraph 39 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 39 relate to the SHP Defendants, the SHP Defendants deny same.

40. To the extent that the allegations contained in paragraph 40 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 40 relate to the SHP Defendants, the SHP Defendants deny same.

41. To the extent that the allegations contained in paragraph 41 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 41 relate to the SHP Defendants, the SHP Defendants deny same.

42. To the extent that the allegations contained in paragraph 42 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 42 relate to the SHP Defendants, the SHP Defendants deny same.

43. The SHP Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in paragraph 43 of the Complaint and, therefore, deny same.

44. To the extent that the allegations contained in paragraph 44 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 44 relate to the SHP Defendants, the SHP Defendants deny same.

45. To the extent that the allegations contained in paragraph 45 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 45 relate to the SHP Defendants, the SHP Defendants deny same.

46. To the extent that the allegations contained in paragraph 46 of the Complaint relate to defendants other than the SHP Defendants, the SHP Defendants are without knowledge or information to form as belief as to their truth or falsity and, therefore, deny same. To the extent that the allegations contained in paragraph 46 relate to the SHP Defendants, the SHP Defendants deny same.

47. The SHP Defendants further deny any and all allegations contained in the Complaint not hereinabove specifically admitted.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted against the SHP Defendants.

2. The Complaint may have failed to join a party or parties whose joinder is required under Rule 19.

3. The claims of the Plaintiff, in whole or in part, as stated in the Complaint may be barred by the doctrine of estoppel.

4. The claims of the Plaintiff, in whole or in part, as stated in the Complaint may be barred by the applicable statute of limitations.

5. The claims of the Plaintiff, in whole or in part, as stated in the Complaint may be barred by the doctrine of waiver.

6. The Plaintiff may have failed to exhaust administrative remedies as required by law.

7. At all times complained of, the SHP Defendants acted in good faith and in conformity with all applicable standards, laws and regulations pertaining to their conduct and with an objectively reasonable belief that their actions were lawful.

8. If the Plaintiff has been damaged as alleged, which is specifically denied, such damage is the result of the actions or omissions of Plaintiff.

9. If the Plaintiff has been damaged as alleged, which is specifically denied, such damage is the result of the negligence of a third party or parties over whom the SHP Defendants had no authority or control.

10. The claims of the Plaintiff, in whole or in part, as stated in the Complaint may be barred by the provisions of the Prison Litigation Reform Act, 42 U.S.C.A. § 1997(e), et seq.

11. The claims of the Plaintiff, in whole or in part, as stated in the Complaint may be barred by the doctrines of intervening and/or superseding cause.

12. The claims of the Plaintiff, in whole or in part, as stated in the Complaint may be barred by the doctrines of comparative and/or contributory negligence.

13. The claims of the Plaintiff, in whole or in part, as stated in the Complaint may be barred by the doctrines of qualified immunity, governmental immunity, qualified official immunity, and the immunity set forth in Chapter 65 of the Kentucky Revised Statutes, the Claims against Local Governments Act.

14. To the extent that the Plaintiff asserts a claim for punitive damages, such claim should be dismissed because a jury, under Kentucky law: (1) is not provided with sufficient standards of clarity for determining the appropriateness and amount of a punitive damages award; (2) is not adequately instructed on the limits of punitive damages imposed by the applicable principles of deterrence and punishment; (3) is not expressly prohibited from awarding punitive damages, or determining the amount of a punitive damage award, in whole or in part, on the basis of invidious discriminatory characteristics including the residence and wealth of the SHP Defendants; (4) is permitted to award punitive damages under a vague and arbitrary standard that does not sufficiently define the conduct or mental state that makes punitive damages permissible; and (5) is not subject to trial court and appellate judicial review for reasonableness and furtherance of legitimate purposes on the basis of an objective standard. For the foregoing reasons, a punitive damage award would violate Kentucky law and the SHP Defendants' due process and equal protection rights as guaranteed under the Fourteenth

Amendment to the United States Constitution and the Constitution of the Commonwealth of Kentucky.

15. To the extent that the Plaintiff asserts a claim for punitive damages, such claim should be dismissed as being in violation of the United States Constitution, including but not limited to the Fifth and Eighth Amendments, as applied to the States through the Fourteenth Amendment of the United States Constitution.

16. To the extent that the Plaintiff asserts a claim for punitive damages, such claim should be dismissed as being in violation of the Constitution of the Commonwealth of Kentucky, including but not limited to Articles 2, 17 and 26.

17. To the extent that the Plaintiff asserts a claim for punitive damages, such claim is not permitted without proof of each and every element beyond a reasonable doubt, and, as such, violates the SHP Defendants' due process rights as guaranteed by the Fourteenth Amendment of the United States Constitution and the due process provision of the Constitution of the Commonwealth of Kentucky.

18. To the extent that the Plaintiff asserts a claim for punitive damages, such claim should be dismissed because any award of punitive damages, under the law of the Commonwealth of Kentucky, without the same protections accorded to criminal defendants, including but not limited to, protection against unreasonable searches and seizures, double jeopardy, self-incrimination, the right to confront adverse witnesses, speedy trial and the effective assistance of counsel, would violate the SHP Defendants' rights under the Fourteenth Amendment to the United States Constitution and the Fourth, Fifth, and Sixth Amendments as incorporated into the Fourteenth Amendment and Sections 2, 3, 7, 10, 11, 12, 13, 14, 17, and 26 of the Constitution of the Commonwealth of Kentucky.

19. The Complaint against the SHP Defendants fails because they were not acting under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, and were not otherwise a State Actor, such that they are not subject to liability under 42 U.S.C. § 1983.

20. The SHP Defendants plead and incorporate by reference each and every affirmative defense provided in the Federal Rules of Civil Procedure, including but not limited to those set forth in Rule 8, or in common law which may be appropriate or applicable upon the facts as they are discovered in this action.

21. The SHP Defendants reserve the right to plead further herein and specifically reserve the right to amend this answer to assert any and all other affirmative defenses which facts or further discovery may reveal appropriate.

WHEREFORE, having answered, the SHP Defendants pray that the Complaint be dismissed and held for naught; for a trial by jury; for their costs and reasonable attorneys' fees; and for any and all other relief to which they appear properly entitled, including trial by jury.

Respectfully submitted,

s/Margaret Jane Brannon

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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2019, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system which will serve the following:

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