

STATE OF RHODE ISLAND  
PROVIDENCE, SC.

SUPERIOR COURT

In re: CHARTERCARE HEALTH PARTNERS  
FOUNDATION; ROGER WILLIAMS  
HOSPITAL; and ST. JOSEPH HEALTH  
SERVICES OF RHODE ISLAND, INC.,

C.A. No. KM-2015-0035

Petitioners

v.

STEPHEN DEL SESTO, AS RECEIVER AND  
ADMINISTRATOR OF THE ST. JOSEPH  
HEALTH SERVICES OF RHODE ISLAND  
RETIREMENT PLAN; GAIL J. MAJOR;  
NANCY ZOMPA; RALPH BRYDEN;  
DOROTHY WILLNER; CAROLL SHORT;  
DONNA BOUTELLE; and EUGENIA  
LEVESQUE,

Respondents and Third  
Party Petitioners

v.

RHODE ISLAND COMMUNITY  
FOUNDATION, d/b/a RHODE ISLAND  
FOUNDATION,

Third Party Respondent

**RHODE ISLAND COMMUNITY FOUNDATION'S ANSWER TO THIRD PARTY  
PETITION TO REQUIRE THIRD PARTY RESPONDENT  
TO HOLD FUNDS PENDING RESOLUTION OF RELATED PROCEEDINGS  
AND FURTHER ORDER OF THE COURT**

Third Party Respondent Rhode Island Community Foundation (the "Rhode Island Foundation") hereby responds to the Petition filed by Respondents and Third Party Petitioners Stephen Del Sesto, as Receiver and Administrator of the St. Joseph Health Services of Rhode Island Retirement Plan; Gail J. Major; Nancy Zompa; Ralph Bryden; Dorothy Willner; Caroll Short; Donna Boutelle; and Eugenia Levesque as follows:

1. The Rhode Island Foundation is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Third Party Petition and therefore denies the same.

2. The Rhode Island Foundation admits the last sentence of paragraph 2 of the Third Party Petition, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 2 of the Third Party Petition and therefore denies the same.

3. The Rhode Island Foundation is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Third Party Petition and therefore denies the same.

4. The Rhode Island Foundation is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Third Party Petition and therefore denies the same.

5. The Rhode Island Foundation is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 of the Third Party Petition and therefore denies the same.

6. The Rhode Island Foundation is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Third Party Petition and therefore denies the same.

7. The Rhode Island Foundation is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 of the Third Party Petition and therefore denies the same.

8. The Rhode Island Foundation is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 of the Third Party Petition and therefore denies the same.

9. The Rhode Island Foundation is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 of the Third Party Petition and therefore denies the same.

10. Admit.

11. The Rhode Island Foundation admits that a *cy pres* petition was filed in January 2015, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 11 of the Third Party Petition and therefore denies the same.

12. Admit.

13. The Rhode Island Foundation is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13 of the Third Party Petition and therefore denies the same.

14. Admit.

15. Admit, except that the proper date for the sum of \$174,515.00 is December 15, 2015.

16. Admit.

17. The Rhode Island Foundation is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 of the Third Party Petition and therefore denies the same.

18. Admit.

19. Admit.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

The Third Party Petition fails to state a claim upon which relief may be granted against the Rhode Island Foundation because the only allegation against the Rhode Island Foundation is that it received charitable funds from the CharterCare Health Partners Foundation.

**SECOND AFFIRMATIVE DEFENSE**

Third Party Petitioners' request that The Rhode Island Foundation "hold" funds received from the CharterCare Health Partners Foundation is ambiguous. The Rhode Island Foundation's handling and disposition of the funds received from the CharterCare Health Partners Foundation are governed by the Court's order dated June 29, 2018 and the Instrument of Transfer.

**THIRD AFFIRMATIVE DEFENSE**

The Rhode Island Foundation did not receive the funds as a result of a fraudulent transfer and pleads the defenses set forth in R.I. Gen. Laws § 6-16-8.

**FOURTH AFFIRMATIVE DEFENSE**

The Third Party Petitioners' claims against the Rhode Island Foundation are barred because the alleged conduct was not the legal or proximate cause of their alleged injuries.

**FIFTH AFFIRMATIVE DEFENSE**

The Third Party Petitioners' claims are barred by laches and failure to mitigate damages.

**SIXTH AFFIRMATIVE DEFENSE**

The Rhode Island Foundation reserves such further defenses of which it may not be aware that may appear hereafter during discovery, trial or otherwise.

WHEREFORE, the Rhode Island Foundation requests that this Court enter judgment in its favor and against the Third Party Petitioners, dismissing the Third Party Petition, and all claims therein, with prejudice, and awarding the Rhode Island Foundation its costs and attorneys' fees, and granting it such other and further relief as the Court deems just and proper.

Third Party Respondent RHODE ISLAND  
COMMUNITY FOUNDATION

By its Attorneys

/s/ David A. Wollin

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Dated: September 28, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that on September 28, 2018, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's Electronic Filing System.

*/s/ David A. Wollin* \_\_\_\_\_

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