

Cause No. 2024-63748

THE ESTATE OF KANELLOS D.
CHARALAMPOUS, THROUGH ITS
COURT APPOINTED
ADMINISTRATOR,
CONSTANTINE
CHARALAMPOUS,

CONSTANTINE CHARALAMPOUS
and PHILLIP CHARALAMPOUS,
TRUSTEES OF THE KANELLOS D.
CHARALAMPOUS REVOCABLE
TRUST, and

THE CHARALAMPOUS
FOUNDATION,

Plaintiffs,

vs.

THE MENDEL LAW FIRM, LP,
STEPHEN A. MENDEL, KATHRYN
A. MENDEL, ROBBIE LEE, MARK
EDWIN KUNIK, M.D., KIMSON
HUU CAO, and BAYLOR
COLLEGE OF MEDICINE

Defendants.

§ IN THE DISTRICT COURT OF

§ HARRIS COUNTY, TEXAS

§ 127TH JUDICIAL DISTRICT

DEFENDANT BAYLOR COLLEGE OF MEDICINE'S ANSWER TO
PLAINTIFFS' ORIGINAL PETITION

Defendant Baylor College of Medicine ("BCM") files this Answer to
Plaintiffs' Original Petition pursuant to the Texas Rules of Civil Procedure and

subject to its Application to Probate Will and for Appointment of Independent Administrator in Harris County statutory probate court and pending motion to transfer this related proceeding to that probate court.

General Denial

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, BCM generally denies each and every charge and allegation Plaintiffs make in their Original Petition and respectfully request that Plaintiffs be required to prove those charges and allegations as required by the Constitution and laws of the state of Texas.

Verified Denial

2. To the extent Plaintiffs have sued BCM under a theory of vicarious liability for the actions of Dr. Mark Edwin Kunik, BCM is not liable in that capacity. At the time of the events alleged in Plaintiffs' lawsuit, Dr. Kunik was compensated by BCM for part-time research-related efforts only. On information and belief, Dr. Kunik maintained a clinical practice at the VA Hospital as a federal employee and had his own consulting business. He did not maintain a clinical practice with BCM, nor did he purport to conduct the alleged examination under the auspices or authority of BCM. Thus, the alleged examination of Dr. Charalampous was outside the scope of his limited employment with BCM.

Affirmative and Other Defenses

3. Dr. Charalampous' 2022 Will is valid and enforceable.

4. BCM did not owe and did not breach any duties to Plaintiffs.

5. Plaintiffs have no damage.

6. BCM asserts the defense of unclean hands.

7. BCM does not assume the burden of proof on any of these above-mentioned defenses except as required by Texas or otherwise applicable law. BCM reserves the right to assert other defenses or otherwise supplement its defenses. Further, BCM specifically reserves the right to argue, without supplementing its Answer, any defenses that are not required to be pleaded as affirmative defenses.

8. Plaintiffs seek to invalidate Dr. Charalampous' 2022 Will. Their claim lies within the exclusive jurisdiction of the statutory probate court in Harris County, Texas. BCM (and its co-beneficiary Texas Christian University) has filed the 2022 Will for probate in the statutory probate court in Harris County and is moving to transfer this entire action to that Court where it belongs.

Therefore, BCM asks that Plaintiffs take nothing by reason of their claims, that upon final hearing Plaintiffs be required to pay BCM's costs of court, and for such other and further relief to which BCM may be justly entitled.

Respectfully submitted,

**FOGLER, BRAR,
O'NEIL & GRAY, LLP**

By: /s/ Murray Fogler

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***Attorneys for Defendant Baylor College of
Medicine***

CERTIFICATE OF SERVICE

I hereby certify that, on October 21, 2024, the foregoing was served on counsel for all parties of record to this litigation in accordance with Texas Rules of Civil Procedure.

/s/ Robin O'Neil

Robin O'Neil

VERIFICATION

My name is James R. Banfield. My business address is One Baylor Plaza, Houston, Texas 77030. I am over the age of 18, and I am capable of making this verification. I have read the factual allegations in the verified denial above, and I hereby solemnly swear or affirm under penalty of perjury that the facts contained therein are within my personal knowledge and are true and correct.

Signed this 17th day of October, 2024.

James R Banfield

James R. Banfield

Unofficial Copy Office of Marilyn Burgess District Clerk

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Alyssa Ramirez on behalf of Murray Fogler

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Filing Description: 2024.10.21 Defendant Baylor College of Medicine's

Answer to Plaintiffs' Original Petition

Status as of 10/21/2024 9:46 AM CST

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