

CAUSE NO. DC-17-06313

JESUS GUZMAN,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
VS.	§	95TH JUDICIAL DISTRICT
	§	
JMA PARTNERS, INC. d/b/a GUARDIAN	§	
PHARMACY SERVICES and JACK R.	§	
MUNN,	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**DEFENDANTS' ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Defendants JMA Partners, Inc. d/b/a Guardian Pharmacy Services and Jack R. Munn (“Defendants”) and file their Original Answer to Plaintiff’s Original Petition and, in support thereof, would respectfully show:

**I.**

Defendants assert a general denial as authorized by Rule 92 of the Texas Rules of Civil Procedure, and Defendants generally deny all of the claims and allegations in Plaintiff’s Petition. Defendants respectfully request that Plaintiff be required to prove all claims and allegations against them, including liability, damages, and all elements of all causes of actions by the highest applicable legal standard as required by the Constitution and laws of the State of Texas.

**II.**

Defendants deny being negligent or grossly negligent. Defendants compounded a preparation which was distributed by the physicians at the Key Whitman Eye Center including

Dr. Jeffrey Whitman. At all times, Defendants were acting with reasonable care and as a reasonably prudent pharmacy and pharmacist would have done in compliance with their standards of care.

### **III.**

Defendants contend that Plaintiff's claimed injuries and damages were a known, foreseeable complication or side effect of Plaintiff's surgical procedure, and were not the result of negligence on the part of Defendants or anyone. Plaintiff knowingly consented to accept this risk or hazard, after consultation with his medical providers including his surgeon.

### **IV.**

Defendants assert the negligence of third parties over whom they have no control. Upon information and belief, other persons or entities may have negligently caused or contributed to causing the occurrence in question and the Plaintiff's alleged injuries and damages. Defendants are still investigating the identity of the specific third parties and how they may have been negligent.

### **V.**

Defendants deny strict liability to Plaintiff. Defendants compounded a preparation which was distributed by the physicians at the Key Whitman Eye Center including Dr. Jeffrey Whitman. Defendants did not design or manufacture any product. The preparation compounded by Defendants was safe, in compliance with reasonable pharmaceutical standards, and not unreasonably dangerous as compounded by Defendants.

### **VI.**

Defendants are health care providers, and the claims asserted against them are health care liability claims. Defendants plead all the procedural and substantive protections of the Texas Medical Liability Act, Texas Civil Practices and Remedies Code chapter 74.

**VII.**

Defendants deny proximately causing the Plaintiff's claimed injuries and damages. Upon information and belief, Defendants assert that the Plaintiff's injuries were pre-existing conditions not caused by Defendants.

**VIII.**

Defendant Jack R. Munn denies under oath that he is liable in the capacity in which he has been sued. Defendant Jack R. Munn was at all times acting in his capacity as the president of JMA Partners, Inc. d/b/a Guardian Pharmacy Services and was acting on behalf of JMA Partners, Inc. d/b/a Guardian Pharmacy Services and not in his individual capacity. Defendant Jack R. Munn specifically denies that he is liable in his individual capacity.

**IX.**

Defendants deny under oath that that all conditions precedent have been met by Plaintiff prior to filing this lawsuit. Defendants deny receiving by certified mail a notice of claim and medical authorization from the Plaintiff sixty (60) days before this suit was filed.

**X.**

Defendants assert the protections contained in Chapter 33 of the Texas Civil Practice and Remedies Code concerning apportionment of responsibility, submission of the responsibility and percentages of responsibility of all parties to the jury, settlement credits, and any other applicable provisions.

**XI.**

Defendants assert protections against Plaintiff's claims of gross negligence and exemplary damages under chapter 41 of the Texas Civil Practice & Remedies Code, the due process clause of the Fourteenth Amendment to the United States Constitution, Article 1,

Sections 13 and 19 of the Texas Constitution, and the common law and public policies of the State of Texas.

**XII.**

Defendants ask that evidence concerning medical expenses be limited to the amount actually paid or incurred by or on behalf of Plaintiff in compliance with Texas Civil Practice & Remedies Code §41.0105.

**XIII.**

Defendants assert the protections contained in Section 18.091 of the Texas Civil Practice and Remedies Code concerning any claims for lost wages, loss of earnings, loss of earning capacity, loss of pecuniary contributions, or loss of inheritance.

**XIV.**

Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Defendants request a jury trial for all claims and questions of fact.

**XV.**

Pursuant to Rule 63 of the Texas Rules of Civil Procedure, Defendants reserve the right to amend this Answer after further investigation.

WHEREFORE, PREMISES CONSIDERED, Defendants JMA Partners, Inc. d/b/a Guardian Pharmacy Services and Jack R. Munn pray that Plaintiff recovers nothing from them, that this lawsuit and all claims and allegations contained therein be dismissed with prejudice, that Defendants recover their costs of court, and for such other and further relief to which Defendants may be justly entitled, at equity or at law.

Respectfully submitted,

THE WILLIS LAW GROUP

/s/ Kirk D. Willis

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PHARMACY SERVICES AND JACK R. MUNN

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document has been forwarded to the following counsel of record in a manner consistent with Texas Rules of Civil Procedure on this 23<sup>rd</sup> day of June, 2017.

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/s/ Kirk D. Willis

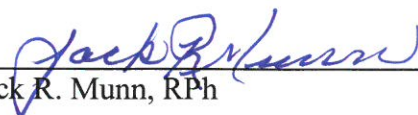
KIRK D. WILLIS

**VERIFICATION**

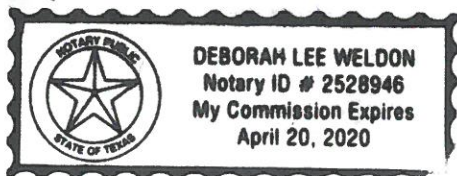
State of Texas       §  
                                  §  
County of Dallas     §


Before me came the undersigned and under oath stated the following:

“My name is Jack R. Munn, RPh, and I am a named Defendant in this case and the President of Defendant JMA Partners, Inc. d/b/a Guardian Pharmacy Services. I am competent to make this Verification, which is based on my personal knowledge. I have read the above Defendants’ Original Answer, and paragraphs VIII and IX are true and correct.”

  
\_\_\_\_\_  
Jack R. Munn, RPh

Sworn to and signed before me on the 22nd day of June, 2017.



  
\_\_\_\_\_  
Notary Public in and for the State of Texas