IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

ESTATE OF MARVIN RAY LENEO, DECEASED c/o Michael Hill Trial Law 815 Superior Avenue, Suite 623 Cleveland, OH 44114 Plaintiff, vs. ARBORS AT FAIRLAWN A.K.A. FAIRLAWN OPCO, LLC 575 S. Cleveland Massillon Road Fairlawn, OH 44333 Also serve c/o Registered Agent, Corporation Service Company 1160 Dublin Rd., Ste. 400 Columbus, OH 43215 and, ARBORS AT OHIO 375 West Main St. West Jefferson, OH 43162 and, ARK OPCO GROUP, LLC c/o Registered Agent, Corporation Service Company 251 Little Falls Dr. Wilmington, DE 19808 and, NOBLE HEALTHCARE MANAGEMENT, LLC c/o Registered Agent, Corporation Service Company 1160 Dublin Road, Suite 400 Columbus, OH 43215 and,	CASE NO. JUDGE **COMPLAINT** **WITH JURY DEMAND** **MOTION FOR EXTENSION OF AFFIDAVIT OF MERIT FILING DEADLINE FILED HEREWITH**

PRESTIGE ADMINISTRATIVE SERVICES, LLC
c/o Registered Agent,
Corporation Service Company
421 West Main Street, Suite 219
Frankfort, KY 40601

and,

PRESTIGE HEALTHCARE, A.K.A. NORTHPOINT SENIOR SERVICES, LLC
c/o Registered Agent,
Corporation Service Company
421 West Main Street, Suite 219
Frankfort, KY 40601

and,

FAIRLAWN RE 1, LLC
c/o Registered Agent,
Corporation Service Company
1160 Dublin Road, Suite 400
Columbus, OH 43215

and,

FAIRLAWN 575 PROPERTY HOLDINGS, LLC
c/o Registered Agent,
Corporation Service Company
1160 Dublin Road, Suite 400
Columbus, OH 43215

Defendants

Plaintiff, the Estate of Marvin Ray Leneo, Deceased, for this Complaint against the above-named Defendants, states and avers upon information and belief:

INTRODUCTION

1. This action involves multiple claims (medical negligence, recklessness, wrongful death, and Resident's Rights Law violations) involving Arbors at Fairlawn

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A.K.A. Fairlawn OPCO, LLC ("Facility's") inadequate care of Marvin Ray Leneo and the corporate control of the facility leading to inadequate care that led to Marvin Ray Leneo's untimely and wrongful death on December 24, 2023.

2. The facility, Arbors at Fairlawn A.K.A. Fairlawn OPCO, LLC ("Arbors at Fairlawn"), and their corporate owners, together with her medical providers, utterly neglected the care needs of 74-year-old Marvin Ray Leneo, deprived Marvin of his basic human dignity, inflicted misery and suffering upon him, and caused him bodily injuries and death.

3. Marvin was admitted to Arbors at Fairlawn on January 10, 2023, for long term residential care. Marvin had medical diagnoses of urinary retention, diabetes type 2, generalized weakness, dysphagia, contractures of his lower extremities, diverting colostomy, and polyneuropathy. These conditions made Marvin susceptible to developing urinary tract infections ("UTIs") and pneumonia. Upon admission, the facility was aware that Marvin needed the assistance of staff to get in and out of bed, to move himself around in bed, and careful monitoring to ensure any UTIs or pneumonia were timely detected and treated.

4. While under the care of Arbors at Fairlawn, Marvin developed multiple UTIs which were not timely detected by Arbors at Fairlawn's staff and reported to his physicians.

5. On numerous occasions Arbors at Fairlawn's staff failed to timely report changes in Marvin's condition to his physicians, including changes in his mental status, increasing confusion, increasing lethargy and fatigue, and loss of appetite – all signs and symptoms of a UTI.

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6. The failure of Arbors at Fairlawn's staff to timely appreciate and report the signs and symptoms of UTI to Marvin's physicians resulted in Marvin developing sepsis – infections of his blood causing damage to his bodily organs – on multiple occasions, leading to Marvin needing to be admitted to the hospital for intravenous antibiotics.

7. After returning from the hospital to Arbors at Fairlawn, the facility regularly failed to follow the discharge instructions and orders from Marvin's attending physicians, which undermined his recovery from the bouts of sepsis.

8. Arbors at Fairlawn's staff failed to maintain Marvin's doctor appointments and arrange for transportation to these appointments. Arbors at Fairlawn's administration would misrepresent the reasons for Marvin missing his doctor appointments to his family, claiming that transportation was unavailable when in truth they had never made the necessary arrangements. This resulted in Marvin's chronic health conditions worsening, and further sabotaged his recovery from the bouts of sepsis.

9. On December 22, 2023, Marvin was found unresponsive in his room at Arbors at Fairlawn by a family friend. For days prior to December 22, 2023, Marvin and his family had expressed to the nurses at Arbors at Fairlawn that he was not feeling well, felt fatigued, and had labored breathing while sleeping.

10. After Marvin's family insisted he be taken to the hospital, Marvin was taken to Akron General Medical Center.

11. Upon admission to Akron General Medical Center, Marvin's doctors diagnosed him with yet another UTI as well as pneumonia, and he was once again suffering sepsis.

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12. In spite of intensive antibiotic treatment and supportive care, Marvin Ray Leneo succumbed to sepsis and passed away on December 24, 2023. His death certificate indicates the cause of his death was sepsis due to urinary tract infection.

13. Had Arbors at Fairlawn timely reported Marvin's change in condition to his physicians, Marvin would have received antibiotic treatment in time to effectively treat his UTI and pneumonia, preventing him from developing sepsis and his untimely demise.

14. Plaintiff requests a trial by jury.

15. Plaintiff brings this action for compensation for the harms and losses sustained as the result of the negligence, recklessness, conscious disregard, reckless disregard, conduct by which—through heedless indifference to the consequences—the Defendants or their staff disregarded a substantial and unjustifiable risk that the health care provider's conduct is likely to cause, at the time those services or that treatment or care were rendered, an unreasonable risk of injury, death, or loss to person or property, or intentional misconduct or willful or wanton misconduct, and other wrongful conduct described herein or discovered during litigation.

DEFENDANTS

16. Arbors at Fairlawn a.k.a. Fairlawn OPCO, LLC is an Ohio corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and/or employees and does business as Arbors at Fairlawn.

17. Ark Opco Group, LLC is a Delaware corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and/or employees and does business as Arbors at Fairlawn.

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18. Arbors at Ohio is an Ohio corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and/or employees and does business as Arbors at Fairlawn.

19. Noble Healthcare Management, LLC is an Ohio corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and/or employees and does business as Arbors at Fairlawn.

20. Prestige Administrative Services, LLC is a Kentucky corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and/or employees and does business as Arbors at Fairlawn.

21. Prestige Healthcare, a.k.a. Northpoint Senior Services, LLC is a Kentucky corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and/or employees and does business as Arbors at Fairlawn.

22. Fairlawn 575 Property Holdings, LLC, is an Ohio corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and/or employees and does business as Arbors at Fairlawn.

23. Fairlawn RE 1, LLC is an Ohio corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and/or employees and does business as Arbors at Fairlawn.

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24. Defendants, Arbors at Fairlawn a.k.a. Fairlawn OPCO, LLC, Ark Opco Group, LLC, Arbors at Ohio, Noble Healthcare Management, LLC, Prestige Administrative Services, LLC, Prestige Healthcare, a.k.a. Northpoint Senior Services, LLC, Fairlawn 575 Property Holdings, LLC, and Fairlawn RE 1, LLC, employ, manage, and direct the care and service providers who were responsible for Marvin Ray Leneo's care, treatment, and safety at Arbors at Fairlawn while he was a resident there, and/or are responsible for creating unsafe conditions at the Facility through their control of the Facility management that directly led to Marvin Ray Leneo's injuries and untimely and wrongful death on December 24, 2024.

25. The Defendants direct and control operations at the Facility and are therefore directly liable for mismanagement of the Facility without regard to piercing the corporate veil.

26. The Defendants' organization controls the other corporations in a way that is so complete that the corporations have no separate mind, will, or existence of their own, is exercised in such a manner as to commit fraud or an illegal act against the person seeking to disregard the corporate entity; and injury or unjust loss resulted to the Plaintiff from such control and wrong, meaning the Defendants should be held directly liable for such harms and losses.

27. Defendants collectively own, manage, control, and/or are responsible for the care delivered to residents of Arbors at Fairlawn directly or through their domination and control of any putative entity license holder.

28. Arbors at Fairlawn ("Facility") hold themselves out to the public as providers of medical and nursing care, including but not limited to, rehabilitation and

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skilled nursing care, through its agents, operatives and/or employees, commonly referred to as "nursing homes."

VICARIOUS LIABILITY

29. The Defendants employ the care providers who were responsible for ensuring Marvin Ray Leneo's care and safety.

30. The Defendants manage, control, and/or employ the nursing staff at the Facility.

31. Marvin Ray Leneo and his family looked to the Defendants for care based upon their representations.

32. The Defendants are vicariously liable for the negligent actions of their employees and agents (respondeat superior and agency liability) and/or independent contractors (Clark v. Southview agency by estoppel), including visiting physicians and nurse practitioners contracted with any of the Defendants and/or provided to residents as default or house care providers.

JURISDICTION AND VENUE

33. This Court has Jurisdiction over Defendants because, among other things, all Defendants do, and all times relevant did, purposefully avail themselves of the laws of the State of Ohio, and/or committed tortious acts within the State of Ohio.

34. Venue is proper in Summit County, Ohio under Civil Rule 3(B) because, among other reasons: (a) one or more Defendants reside, domicile, or carry on their principal place of business in that county; and (b) part of the claim for relief arose in that county.

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COMMON FACTS

35. The Defendants hold themselves out to the public as providers of long-term nursing home, skilled nursing, and memory care services.

36. The Defendants' for-profit model means their primary goal is to maximize profit, measured by revenues minus expenses.

37. For nursing homes generally, the largest individual revenue source is residents (filling beds), and the largest individual expense is the cost of employing nursing staff to provide care to those residents. This creates a financial incentive to take on more residents with greater care needs than the nursing staff can properly care for, a violation of federal nursing home regulations regarding staffing levels.

38. The Defendants manage, control, and/or employ the nursing staff at Facility.

39. The Defendants exercise actual control over the Facilities' management and operations to maximize profits, including control over facility-level:

a. Policies and procedures, including regarding resident care;

b. Finances, including obtaining credit and loans, guaranteeing loans (both at the corporate and individual facility level), maintaining funds and banking, obtaining, owning, and leasing facility land and buildings, and capital expenditures;

c. Budgeting, including controlling the amount of funds available for staffing facilities;

d. Personnel management, including hiring and firing, or having authority to hire and fire, the supervisory and management personnel in each facility;

e. Supervision of management, care providers, and staff in each facility, including compliance with federal and state regulations;

f. Employment, such as setting pay scales, shifts, and time and vacation policies;

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g. Systems for training, monitoring, and supervising staff;

h. Medical record systems and management;

i. Financial control systems, including budgeting and payment processing;

j. Marketing, including setting the image and expectations residents and their family should expect at the facility, and even the name of the facility; and

k. Reporting procedures, including reporting to Medicare as to individual resident care and facility-wide issues.

40. As the result of this control, the Defendants make decisions that affect the day-to-day care of residents of the Facilities, such as the resources available for providing nursing staff and care to residents like Marvin Ray Leneo, meaning they are responsible for the foreseeable harm that results from careless decisions while voluntarily exercising that control.

41. The Defendants failed to ensure, through their operational, budgetary, consultation and managerial decisions and actions, that the facilities were sufficiently staffed to meet the individual needs of its residents, including Marvin Ray Leneo

42. The Defendants engaged in a systemic practice to understaff the facilities to maximize profits at the expense of its residents' care.

43. This lack of sufficient staff directly resulted in Marvin Ray Leneo not receiving basic and necessary services to prevent, among other things, neglect leading to his injuries and death.

44. The Defendants also exercise operational and managerial control, and apply this profits-over-safety model, at the following facilities in the State of Ohio:

a. Arbors At Carroll
3680 Dolson Court Nw, Carroll, OH 43112

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b. Arbors At Delaware
2270 Warrensburg Road, Delaware, OH 43015

c. Arbors At Oregon
904 Isaacs St., Oregon OH 43616

d. Arbors At Gallipolis
170 Pinecrest Drive, Gallipolis, OH 45631

e. Arbors At Marietta
400 Seventh Street, Marietta, OH 45750

f. Arbors At Mifflin
1600 Crider Rd, Mansfield, OH 44903

g. Arbors At Milford
5900 Meadowcreek Drive, Milford, OH 45150

h. Arbors At Minerva
400 Carolyn Court, Minerva, OH 44657

i. Arbors At Pomeroy
36759 Rocksprings Road, Pomeroy, OH 45769

j. Arbors At Springfield
1600 Saint Paris Pike, Springfield, OH 45504

k. Arbors At Stow
2910 L'ermitage Pl, Stow, OH 44224

l. Arbors At Streetsboro
1645 Maplewood Dr, Streetsboro, OH 44241

m. Arbors At Sylvania
7120 Port Sylvania Drive, Toledo, OH 43617

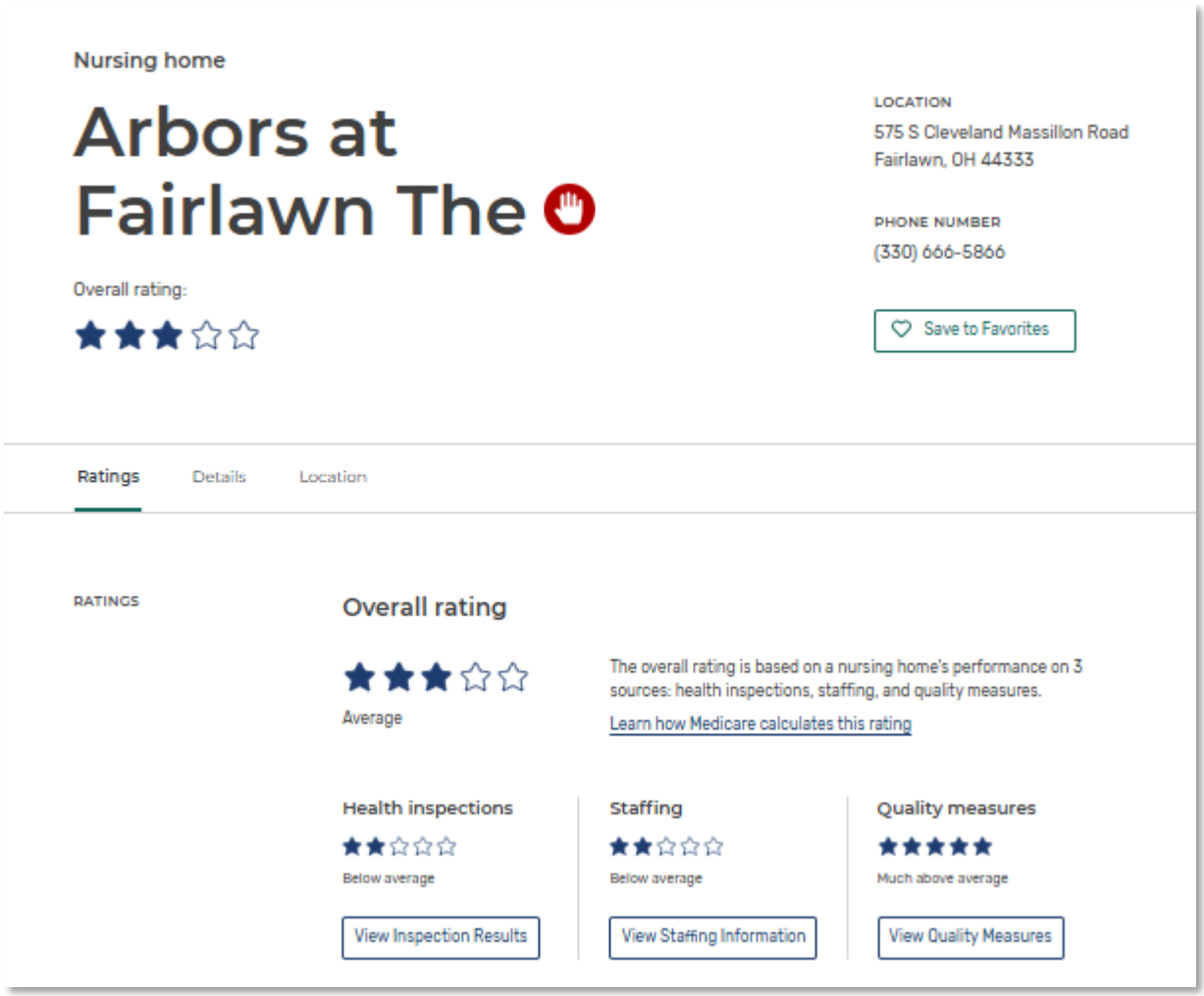
n. Arbors At Woodsfield
37930 Airport Road, Woodsfield, OH 43793

o. Arbors West
375 West Main Street, West Jefferson, OH 43162

45. The Defendants' systemic understaffing of the Facility resulted in a "2-star" ("below average") ranking for staffing on the Medicare.gov Nursing Home Compare

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website, reflecting lower staffing levels than most nursing homes in the country. This lack of sufficient staff directly resulted in Marvin Ray Leneo not receiving basic and necessary services to prevent, among other things, neglect leading to his injuries and death.



Medicare Compare information for Arbors at Fairlawn, showing a 2-star "below average" ranking for staffing, accessed from medicare.gov/care-compare on December 10, 2024.

46. At all times relevant, the Defendants knew that their pattern and practice of systemic understaffing resulted in an environment where residents' needs were not met,

where residents' rights were violated, and where residents were not kept safe from injury or harm while under the care of the Arbors at Fairlawn.

47. At all times relevant, the Defendants knew that their patterns and practice of systemic understaffing was causing harm to their residents, resulting in increased instances of falls, infections, bedsores, and other injuries among their residents, and that these injuries and harms even resulted in death of residents due to neglect by the caregivers at Arbors at Fairlawn.

48. At all times relevant, the Defendants knew that federal law required that instances of injury to residents at the Arbors at Fairlawn be reported to the Centers for Medicare and Medicaid Services, which would negatively impact the facility's "Quality Measures" rating on the publicly available Medicare Nursing Home Compare webpage.

Reporting Data – Nursing Home

49. The Defendants are required to report significant amounts of data to the federal agency that oversees operations of nursing homes receiving federal or state funding, the Centers for Medicare and Medicaid Services, or "Medicare."

50. The data the Defendants submit to Medicare regarding its facility includes data on its residents (numbers, care needs, and bed days), its finances, and its nurse and nursing aide staffing levels as compared to resident care needs.

51. This data is certified correct by the Defendants and/or submitted under penalty of perjury and/or civil or criminal penalties.

52. Medicare uses some of this data submitted by Defendants to produce its nursing home 5-star rating system, also known as "Nursing Home Compare."

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Nursing Home Resident Care Needs and Staffing Levels (MDS and RUG/PDPM Scores)

53. Every nursing home receiving Medicare or Medicaid funding—the clear majority of nursing homes, including Arbors at Fairlawn and others operated and/or controlled by Defendants—is required to provide detailed information regarding the health status, care and treatment, and services provided to each resident in the facility using a questionnaire called the Minimum Data Set, or MDS. This evaluation is done for all nursing home residents regardless of whether their care is being paid for by Medicare.

54. Nursing homes like Arbors at Fairlawn are required to evaluate every resident using the Minimum Data Set questionnaire shortly after the time of admission, every 90 days thereafter, when a resident has a significant improvement or decline in health (physical, mental, or psychosocial), and upon discharge.

55. Based on this Minimum Data Set, each resident's individual care needs (called "acuity level") are assigned into a group signifying how much nursing or staff care the resident requires, called a Patient-Driven Payment Model score, or PDPM score. The PDPM score is calculated for physical therapy, occupational therapy, speech-language pathology, non-therapy ancillary services, and nursing services.

56. Each resident's PDPM score for nursing services is contained in the patient's Minimum Data Set evaluations, meaning the total nursing care needs of the residents in any facility at a specific time is available by totaling the residents' PDPM scores from various sections of the Minimum Data Set evaluations corresponding to increased needs for nursing care.

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57. When these PDPM scores are combined for all residents in a nursing home facility, the nursing home knows exactly how many minutes of nursing and nursing aide care should be provided, on average, to meet the expected care needs of their residents.

Misleading Advertising

58. In an effort to persuade the families of patients to become customers, the Defendants make promises to the families of such potential residents that they will provide a level of care that they know they are incapable of providing.

59. The intent and outcome of this misleading practice is to cause residents, their families, and external care providers to believe the nursing facility is much better staffed to provide the promised care than what is actually the practice of the Defendants with regard to staffing the Facility.

60. The Defendants know their systemic understaffing of the Facility results in chronic failures to meet resident care needs, and that the failure to meet resident care needs results in instances of injuries, bedsores, falls, and infections. These must be reported to Medicare by law which in turn reduces the Facility's "Quality Measures" score.

61. The Defendants know a facility with a low "Quality Measures" score will likely not be chosen by families and care providers for patients, and so the Defendants manipulate the "Quality Measures" score by reclassifying certain injuries and incidents as non-reportable injuries and incidents. For example, a pressure wound or bedsore can be identified as something else – such as a skin tear or abrasion – resulting in the bedsore not getting reported to Medicare and the "Quality Measures" score not being impacted.

62. The intent and outcome of this misleading practice is to drastically limit the budget and overhead needed to run a safe facility in order to maximize profits and syphon

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resources at the expense of patient safety, while maintaining the illusion that the care provided by the facility and patient outcomes are as good or better than competitors.

Systemic Understaffing and Marvin Ray Leneo's Care

63. The Defendants failed to ensure, through their operational, budgetary, consultation and managerial decisions and actions, that Arbors at Fairlawn was sufficiently staffed, and the staff appropriately trained and informed, to meet the individual needs of Marvin Ray Leneo during the period he was a resident at the facility.

64. The Defendants engaged in a systemic practice to understaff Arbors at Fairlawn to maximize profits at the expense of its residents' care.

65. This lack of sufficient staff directly resulted in Marvin Ray Leneo not receiving basic and necessary services, assessments, and interventions to prevent, among other things, neglect leading to his injuries at Arbors at Fairlawn during the period they were a resident at the Facility.

Manipulating Quality Measures, and Marvin Ray Leneo's Care

66. The Defendants knew that Arbors at Fairlawn was not sufficiently staffed, and as a result the residents at the Facility suffered increased falls, bedsores, infections, and injuries.

67. Defendants engaged in a systemic practice to manipulate data sent to Medicare by underreporting falls, bedsores, infections, and injuries among their residents, which artificially inflated their "Quality Measures" rating.

68. Marvin Ray Leneo's family and providers relied on these misleading and inflated "Quality Measures" ratings to choose Arbors at Fairlawn for Marvin's care, and would not have chosen the Facility if the Defendants accurately reported instances of falls, bedsores, infections, and injuries to Medicare.

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69. The Defendants' pattern and practice of insufficient staffing and manipulating "Quality Measures" ratings to conceal this fact directly resulted in Marvin Ray Leneo not receiving basic and necessary services, assessments, and interventions to prevent, among other things, neglect leading to his injuries at Arbors at Fairlawn during the period he was a resident at the Facility.

Defendants' Negligence and Recklessness with Marvin Ray Leneo

70. The Defendants accepted Marvin Ray Leneo as a nursing home resident for long-term care.

71. The Defendants agreed to accept Marvin Ray Leneo into their Facility and provide care to him in exchange for monetary payment.

72. The Facility knew Marvin Ray Leneo was susceptible to developing UTIs and pneumonia when it accepted him into their care, and required close attention by the Facility's staff to timely detect the signs and symptoms of UTI, pneumonia, and report these to his physicians for effective treatment.

73. The Facility agreed to provide appropriate care to Marvin Ray Leneo and was bound to assist Marvin Ray Leneo to protect him from developing systemic infections from UTIs and pneumonia while under their care.

74. Marvin Ray Leneo endured mental and physical pain suffering and death as a direct and proximate result of Defendants' failure to provide adequate care due to understaffing the facility.

FIRST CAUSE OF ACTION
(MEDICAL NEGLIGENCE / RECKLESSNESS)

75. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

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76. Marvin Ray Leneo depended on the Defendants, and their respective nursing and medical staff, for medical and nursing care, treatment, evaluation, and assistance.

77. The Defendants had a duty to provide proper care and treatment to Marvin Ray Leneo and to avoid causing injury to Marvin Ray Leneo.

78. The Defendants, including their medical and nursing staff, failed to provide proper care and treatment to Marvin Ray Leneo, which they knew or should have known they required, and their negligence was the direct and proximate cause of the injuries that Marvin Ray Leneo suffered.

79. The Defendants' failure to provide proper care and treatment included, but is not limited to:

a. Choosing to put inadequate prevention and response interventions in place to prevent injuries;

b. Choosing to provide inadequate resident observation, supervision, and monitoring;

c. Choosing to provide improper training to staff members regarding resident monitoring, assessment, response, infection detection, and treatment;

d. Choosing to provide too few, and/or underqualified nursing staff members for resident needs at each facility to protect and provide adequate care to residents like Marvin Ray Leneo;

e. Choosing to not provide accurate, adequate, or timely information to Marvin Ray Leneo's family;

f. Choosing to violate orders relating to care of Marvin Ray Leneo;

g. Choosing to violate state and federal regulations governing care and staffing levels in nursing home facilities by which residents like Marvin Ray Leneo are a member of the class of persons intended to be protected from injuries like those they suffered;

h. Failing to ensure the rights and safety of its residents, including Marvin Ray Leneo, as required by Ohio and federal regulations;

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i. Choosing not to provide appropriate care to Marvin Ray Leneo while they were a resident of the Facilities; and

j. Such other acts or omissions described in this Complaint or discovered in litigation.

80. These actions constituted a conscious disregard for Marvin Ray Leneo's rights and safety with a great probability of causing substantial harm from this misconduct, by which—through heedless indifference to the consequences—the Defendants or their staff disregarded a substantial and unjustifiable risk that the health care provider's conduct was likely to cause, at the time those services or that treatment or care were rendered, constituting an unreasonable risk of injury, death, or loss to person or property, or intentional misconduct or willful or wanton misconduct. The Defendants were aware of the great probability of the harm that could result from their willful, wanton, and/or reckless misconduct.

81. The Defendants' disregard for the rights and safety of residents like Marvin Ray Leneo created circumstances under which it became substantially certain that serious injuries would result, entitling Plaintiff to awards for compensatory and punitive damages.

82. The Defendants are directly liable for their own willful, wanton, and/or reckless misconduct.

83. The Defendants are also vicariously liable for their employees' and agents' willful, wanton, and/or reckless misconduct.

84. The Defendants and their medical and nursing staff provided care to Marvin Ray Leneo that fell below the standard of care expected of medical care and nursing home organizations, under the same or similar circumstances.

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85. The departures from the standard of care are evidenced by violations of sections of Federal Regulations, 42 C.F.R. § 483 et seq., and Ohio Administrative Code sections, OAC 3701-17 et seq., and the Ohio Resident's Rights Law, R.C. section 3721.13.

86. As a direct and proximate result of the negligent and/or willful, wanton and/or reckless actions of the Defendants described above, Marvin Ray Leneo sustained permanent injury and loss including, but not limited to, conscious pain and suffering, disability, and death.

87. WHEREFORE, Plaintiff demands judgment against the Defendants in an amount more than Twenty-Five Thousand Dollars ($25,000.00), for conscious pain and suffering, loss of enjoyment, together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief to which the Plaintiff may be entitled to and/or that the court finds is appropriate and/or equitable.

SECOND CAUSE OF ACTION
(WRONGFUL DEATH)

88. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

89. Marvin Ray Leneo depended on the Defendants, and their respective nursing and medical staff, for medical and nursing care, treatment, evaluation, and assistance.

90. The Defendants had a duty to provide proper care and treatment to Marvin Ray Leneo and to avoid causing injury to Marvin Ray Leneo.

91. The Defendants, including their medical and nursing staff, failed to provide proper care and treatment to Marvin Ray Leneo, which they knew or should have known

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they required, and their negligence was the direct and proximate cause of the injuries that Marvin Ray Leneo suffered.

92. The Defendants' failure to provide proper care and treatment included, but is not limited to:

a. Choosing to put inadequate prevention and response interventions in place to prevent injuries;

b. Choosing to provide inadequate resident observation, supervision, and monitoring;

c. Choosing to provide improper training to staff members regarding resident monitoring, assessment, response, infection detection, and treatment;

d. Choosing to provide too few, and / or underqualified nursing staff members for resident needs at each facility to protect and provide adequate care to residents like Marvin Ray Leneo;

e. Choosing to not provide accurate, adequate, or timely information to Marvin Ray Leneo's family;

f. Choosing to violate orders relating to care of Marvin Ray Leneo;

g. Choosing to violate state and federal regulations governing care and staffing levels in nursing home facilities by which residents like Marvin Ray Leneo are a member of the class of persons intended to be protected from injuries like those they suffered;

h. Failing to ensure the rights and safety of its residents, including Marvin Ray Leneo, as required by Ohio and federal regulations;

i. Choosing not to provide appropriate care to Marvin Ray Leneo while they were a resident of the Facilities; and

j. Such other acts or omissions described in this Complaint or discovered in litigation.

93. Defendants, directly or through their employees or agents, violated Marvin Ray Leneo's rights as a resident of the Defendants' facilities, as enumerated in Ohio Revised Code section 3721.13, including, but not limited to:

a. The right to a safe and clean living environment;

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b. The right to be free from physical, verbal, mental, and emotional abuse and to be treated at all times with courtesy, respect, and full recognition of dignity and individuality;

c. The right to adequate and appropriate medical treatment and nursing care and to other ancillary services that comprise necessary and appropriate care;

d. The right to have clothes and bed sheets changed as the need arises, to ensure the resident's comfort or sanitation;

e. The right to participate in decisions that affect the resident's life; and

f. The right to have any significant change in the resident's health status reported to the resident's sponsor.

94. These violations are evidence of negligence and conscious disregard of Marvin Ray Leneo's rights and safety, and give rise to a statutory cause of action.

95. Marvin Ray Leneo endured conscious pain, suffering, and disability, and other harms and losses as the direct and proximate result of Defendants' violations of R.C. 3721.13.

96. These actions constituted a conscious disregard for Marvin Ray Leneo's rights and safety with a great probability of causing substantial harm from this misconduct, by which—through heedless indifference to the consequences—the Defendants or their staff disregarded a substantial and unjustifiable risk that the health care provider's conduct was likely to cause, at the time those services or that treatment or care were rendered, constituting an unreasonable risk of injury, death, or loss to person or property, or intentional misconduct or willful or wanton misconduct.

97. The Defendants were aware of the great probability of the harm that could result from their willful, wanton, and/or reckless misconduct.

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98. The Defendants' disregard for the rights and safety of residents like Marvin Ray Leneo created circumstances under which it became substantially certain that serious injuries would result.

99. The Defendants are directly liable for their own willful, wanton, and/or reckless misconduct.

100. The Defendants are also vicariously liable for their employees' and agents' willful, wanton, and/or reckless misconduct.

101. The Defendants and their medical and nursing staff provided care to Marvin Ray Leneo that fell below the standard of care expected of medical care and nursing home organizations, under the same or similar circumstances.

102. The departures from the standard of care are evidenced by violations of sections of Federal Regulations, 42 C.F.R. § 483 et seq., and Ohio Administrative Code sections, OAC 3701-17 et seq., and the Ohio Resident's Rights Law, R.C. section 3721.13.

103. As a direct and proximate result of the negligence/recklessness described above, Marvin Ray Leneo sustained injuries that caused his untimely and wrongful death.

104. Marvin Ray Leneo's next-of-kin suffered damages as set forth in the Ohio Wrongful Death statute, R.C. 2125.01 et seq., including mental anguish and grief and loss of Decedent's society and companionship.

105. WHEREFORE, Plaintiff demands judgment against Defendants, in an amount more than $25,000.00 to compensate the decedent's next of kin and heirs at law, together with costs of suit, attorneys' fees and expenses, and any other relief the court finds is appropriate and/or equitable.

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THIRD CAUSE OF ACTION
(NURSING HOME RESIDENT RIGHTS VIOLATION R.C. 3721.13)

106. Plaintiff incorporate all other paragraphs of this Complaint as if fully rewritten herein.

107. The Defendants, directly or through their employees or agents, violated Marvin Ray Leneo's rights as a resident of the Defendants' facilities, as enumerated in Ohio Revised Code section 3721.13, including, but not limited to:

a. The right to a safe and clean living environment;

b. The right to be free from physical, verbal, mental, and emotional abuse and to be treated at all times with courtesy, respect, and full recognition of dignity and individuality;

c. The right to adequate and appropriate medical treatment and nursing care and to other ancillary services that comprise necessary and appropriate care;

d. The right to have clothes and bed sheets changed as the need arises, to ensure the resident's comfort or sanitation;

e. The right to participate in decisions that affect the resident's life; and

f. The right to have any significant change in the resident's health status reported to the resident's sponsor.

108. These violations are evidence of negligence and conscious disregard of Marvin Ray Leneo's rights and safety, and give rise to a statutory cause of action.

109. As a direct and proximate result of Defendants' violations of R.C. 3721.13, Marvin Ray Leneo endured conscious pain, suffering, and disability, and other harms and losses including death.

110. WHEREFORE, Plaintiff demands judgment against the Defendants in an amount in excess of $25,000.00, together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief to which the court finds is appropriate and/or equitable.

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FOURTH CAUSE OF ACTION
(CIVIL CONSPIRACY)

111. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

112. Defendants and unknown additional potential co-conspirators had an express agreement, mutual understanding, or tacit agreement to, and/or their agents maliciously combined efforts to:

a. defraud residents and their families by delivering wholly inadequate care, contrary to their promises;

b. systemically understaff their facilities in violation of regulations, and for the purposes of their own profit at the expense of resident health and safety;

c. under-capitalize the facilities and syphon money to themselves and related entities for the purposes of their own profit at the expense of resident health and safety;

d. not providing the level of care, by understaffing the facility, paid for by taxpayer dollars; and

e. as otherwise may be described in the Complaint or learned through discovery.

113. This understanding constitutes a malicious combination to injure residents of the Defendants' Facility, including Marvin Ray Leneo.

114. In pursuance of this common plan or design to commit tortious acts, the Defendants actively took part in it, or furthered it by cooperation or request, or lent aid or encouragement to the wrongdoers, or ratified and adopted the wrongdoers' acts done for their benefit.

115. The conspiracy caused injury to Marvin Ray Leneo, including death.

116. The negligent and/or reckless and/or fraudulent acts of the Defendants constitute unlawful acts independent from the conspiracy itself.

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117. WHEREFORE, Plaintiff prays for judgment against Defendants, for damages in an amount of more than Twenty-Five Thousand Dollars ($25,000.00), together with punitive and exemplary damages, attorney fees and expenses, fees, interest, and costs incurred in this action, and any other relief this Court deems just and equitable to compensate Plaintiff for the damages and injuries suffered.

FIFTH CAUSE OF ACTION
(FRAUD)

118. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

119. Defendants concealed facts concerning their staffing levels, pay, patient injuries such as sepsis due to UTIs and pneumonia, and the amount of care they were actually capable of providing Arbors at Fairlawn a.k.a. Fairlawn OPCO, LLC.

120. Not only did Defendants conceal this information, they publicly and privately represented that they provide exceptional services in an effort to induce the family of Marvin Ray Leneo and other potential customers to place their loved ones in their care and custody.

121. These inducements were made falsely, with knowledge of their falsity, or with such utter disregard and recklessness as to whether they were true or false that knowledge may be inferred with the intent of misleading Marvin Ray Leneo's family and other potential customers into placing their loved ones in the care and custody of Defendants.

122. Marvin Ray Leneo's family and the family members of other potential customers reasonably relied on Defendants' representations and concealments regarding the degree of care they provide.

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123. The result of these inducements and concealments was that Marvin Ray Leneo's family, and the family of numerous other residents, allowed their loved one to be placed in Defendants' facility.

124. As a direct and proximate result of Defendants' actions, representations, and concealments, Marvin Ray Leneo suffered injuries, conscious pain and suffering, and death.

125. WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, in an amount in excess of Twenty-Five Thousand Dollars ($25,000.00), together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief to which the court finds is appropriate and/or equitable.

A TRIAL BY JURY IS HEREBY DEMANDED

Respectfully Submitted,

/s/ Matthew A. Mooney

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