IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

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| ESTATE OF ROSEMARIE V. REPAS, DECEASED<br>Through Estate Representative Darlene Grams<br>c/o Michael Hill Trial Law<br>815 Superior Avenue, Suite 623<br>Cleveland, Ohio 44114<br><br>Plaintiff,<br><br>vs.<br><br>150 OMNI LAKE TENANT, LLC AKA HUDSON DANBURY AKA DANBURY HUDSON<br>150 Omni Lake Parkway<br>Hudson, Ohio 44236<br><br>Also Serve c/o Registered Agent:<br><br>Corporation Service Company<br>1160 Dublin Road, Suite 400<br>Columbus, Ohio 43215<br><br>and<br><br>SENIOR VILLAGE MANAGEMENT, LLC AKA STORYPOINT GROUP AKA DANBURY SENIOR LIVING<br>7927 Nemco Way, Suite 200<br>Brighton, Michigan 48116<br><br>Also Serve c/o Registered Agent:<br><br>Cogency Global, Inc.<br>3958-D Brown Park Drive<br>Hilliard, Ohio 43026<br><br>and<br><br>BROOKWOOD MANAGEMENT COMPANY, LLC AKA DANBURY SENIOR LIVING<br>8230 Pittsburgh Avenue NW<br>North Canton, OH 44720 | CASE NO.<br><br>JUDGE<br><br>**COMPLAINT**<br><br>**WITH JURY DEMAND AND AFFIDAVIT OF MERIT ATTACHED** |



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Also Serve c/o Registered Agent:

Thomas W. Winkhart
825 S. Main Street
North Canton, Ohio 44720

and

DLV HUDSON SENIOR LIVING, LLC
c/o Registered Agent:
Thomas W. Winkhart
825 S. Main Street
North Canton, Ohio 44720

and

HUDSON SENIOR LIVING, LLC AKA
HUDSON SENIOR LIVING, INC.
8230 Pittsburgh Avenue NW
North Canton, Ohio 44720

Also Serve c/o Registered Agent:

Thomas W. Winkhart
825 S. Main Street
North Canton, Ohio 44720

and

HUDSON SENIOR LIVING, LLC
280 W. Maple Road
Birmingham, Michigan 48009

Also serve at c/o Registered Agent
Mike Parks
280 W. Maple St., Suite 230
Birmingham, Michigan 48009,

Defendants.

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Plaintiff, the Estate of Rosemarie V. Repas, Deceased, through Estate Representative Darlene Grams, for this Complaint against the above-named Defendant(s), states and avers upon information and belief:

**INTRODUCTION**

1. This action involves multiple claims (medical negligence/negligence, wrongful death, and Resident's Rights Law violations) involving 150 Omni Lake Tenant, LLC aka Hudson Danbury aka Danbury Hudson's ("Facility's") inadequate care of Rosemarie V. Repas and the corporate control of the facility leading to such inadequate care that led to Rosemarie V. Repas' untimely and wrongful death on September 28, 2023.

2. This is a wrongful death case against 150 Omni Lake Tenant, LLC aka Hudson Danbury aka Danbury Hudson, a Senior Village Management, LLC/StoryPoint Group/Danbury Senior Living facility, for failing to implement necessary fall prevention measures to prevent Rosemarie V. Repas from sustaining additional falls, amongst other failures, that resulted in Rosemarie V. Repas to fall and sustain spiral fractures of her right distal tibia and proximal fibula which led to her death on September 28, 2023.

3. Between August 2, 2022, and September 20, 2023, the Defendants allowed Rosemarie V. Repas to fall at least twelve times while under their care, including on August 2, 2022, August 9, 2022, August 22, 2022, August 27, 2022, August 29, 2022, November 30, 2022, January 30, 2023, April 6, 2023, April 26, 2023, May 10, 2023, May 16, 2023, and September 20, 2023.

4. Following the spiral fracture to multiple bones in her lower leg on September 20, 2023, Rosemarie V. Repas experienced a precipitous and uninterrupted decline that was characterized by reduced energy and activity leading to lethargy, pain, screaming, sobbing, decreased appetite and thirst, and her death on September 28, 2023.



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5. Defendants' nursing staff, management, and administration knew that Rosemarie V. Repas was a high fall risk requiring 2-person physical assistance during transfers; yet, they failed to act and allowed a nursing aide to attempt to transfer Rosemarie V. Repas by herself causing her leg to be caught in a wheelchair and twisted with such an amount of force to cause her lower leg to twist in a spiral motion shattering her right distal tibia and proximal fibula.

6. Plaintiff requests a trial by jury.

7. An Affidavit of Merit is attached.

8. 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**

9. 150 Omni Lake Tenant, LLC is a Delaware corporation that holds itself out to the public as a provider of medical and nursing care to elderly individuals through its agents, operatives, and/or employees and does business as Hudson Danbury aka Danbury Hudson.

10. Senior Village Management, LLC, is a Michigan corporation that holds itself out to the public as a provider of medical and nursing care to elderly individuals through its agents, operatives, and/or employees and does business as StoryPoint Group aka Danbury



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Senior Living. Senior Village Management, LLC, manages and controls 150 Omni Lake Tenant, LLC aka Hudson Danbury aka Danbury Hudson.

11. Brookwood Management Company, LLC, is an Ohio corporation that holds itself out to the public as a provider of medical and nursing care to elderly individuals through its agents, operatives, and/or employees and does business as Danbury Senior Living. Brookwood Management Company, LLC, manages and controls 150 Omni Lake Tenant, LLC aka Hudson Danbury aka Danbury Hudson.

12. Hudson Senior Living, LLC, is a Michigan limited liability company that holds itself out to the public as a provider of medical and nursing care to elderly individuals through its agents, operatives, and/or employees and does business as Hudson Senior Living, Inc. Hudson Senior Living, LLC, owns the real property where 150 Omni Lake Tenant, LLC aka Hudson Danbury aka Danbury Hudson operates its assisted living business. Hudson Senior Living, LLC, manages and controls 150 Omni Lake Tenant, LLC aka Hudson Danbury aka Danbury Hudson.

13. DLV Hudson Senior Living, LLC, is an Ohio limited liability company that holds itself out to the public as a provider of medical and nursing care to elderly individuals through its agents, operatives, and/or employees and does business as Hudson Senior Living, Inc. Hudson Senior Living, LLC, owns the real property where 150 Omni Lake Tenant, LLC aka Hudson Danbury aka Danbury Hudson operates its assisted living business. Hudson Senior Living, LLC manages and controls 150 Omni Lake Tenant, LLC aka Hudson Danbury aka Danbury Hudson.

14. The Defendants employ, manage, and direct the care and service providers who were responsible for Rosemarie V. Repas' care, treatment, and safety at 150 Omni Lake Tenant, LLC aka Hudson Danbury aka Danbury Hudson while she was a resident there,



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and/or are responsible for creating unsafe conditions at the Facility through their control of the Facility management that directly led to Rosemarie V. Repas' injuries and untimely and wrongful death on September 28, 2023.

15. 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.

16. The Defendant 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.

**VICARIOUS LIABILITY**

17. The Defendants employ the care providers who were responsible for ensuring Rosemarie V. Repas' care and safety.

18. The Defendants manage, control, and/or employ the nursing staff at the facility.

19. Rosemarie V. Repas and her family looked to the Defendants for care based upon their representations.

20. 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 Hosp. & Family Health Ctr., 68 Ohio St.3d 435, 628 N.E.2d 46 (1994), 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.



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## JURISDICTION AND VENUE

21. This Court has jurisdiction over Defendants because, among other reasons, 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.

22. Venue is proper in Summit County, Ohio under Ohio Civ. R. 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.

## COMMON FACTS

23. The Defendants accepted Rosemarie V. Repas as a resident of their facility's memory care unit on July 26, 2022.

24. Defendants agreed to accept Rosemarie V. Repas into their facility and provide care for her in exchange for monetary payment.

25. Upon admission to the facility, Defendants were aware that Rosemarie V. Repas was at a high risk for falling. Her diagnoses on admission included amongst other things: difficulty walking, unsteadiness on feet, and lack of coordination. It was noted in the facility's fall risk assessments that Rosemarie V. Repas' gait was weak.

26. Over the course of Rosemarie V. Repas first nine months as a resident of the facility, she suffered no fewer than twelve falls while under the care and attention of the Defendants.

27. Defendants failed to update Rosemarie V. Repas' care plan following each of the falls in order to put interventions in place to prevent further falls from happening including updating her assistance level for transfers from a one-person assist to a two-person assist.

28. The Facility's nurse practitioner and other providers repeatedly noted that Rosemarie V. Repas required the assistance of two people when transferring from one



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location to another, but the Defendants chose to never add that to Rosemarie V. Repas' care plan.

29. On September 20, 2023, one of the Defendants' employees transferred Rosemarie V. Repas from her wheelchair to her bed by themselves.

30. As the employee moved Rosemarie V. Repas from her wheelchair to her bed, Rosemarie's right foot slid and got caught between the wheelchair and the bed. Rosemarie V. Repas yelled out in pain and the Defendants' employee heard a pop sound.

31. Rosemarie V. Repas was receiving hospice services from another entity while she was a resident at the Defendants' facility. It was later discovered by her hospice nurse that Rosemarie V. Repas suffered a spiral type fracture of her right distal tibia and proximal fibula as a result of the incident.

32. For the next eight days, hospice care increased Rosemarie V. Repas' medications to try to control her pain following the fracture. Rosemarie V. Repas was bed bound, in extreme pain, not eating or drinking, and noted to be severely declining by the nursing staff.

33. Rosemarie V. Repas died on September 28, 2023.

34. Rosemarie V. Repas endured mental and emotional physical pain and suffering for 8 days and died as a direct and proximate result of Defendants' numerous failures to provide her adequate and appropriate care.

**FIRST CAUSE OF ACTION**
**(MEDICAL NEGLIGENCE/NEGLIGENCE)**

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



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36. Rosemarie V. Repas depended on the Defendants, and their respective nursing and medical staff, for medical and nursing care, treatment, evaluation, and assistance.

37. The Defendants had a duty to provide proper care and treatment to Rosemarie V. Repas and to avoid causing injury to Rosemarie V. Repas.

38. The Defendants, including their medical and nursing staff, failed to provide proper care and treatment to Rosemarie V. Repas, which they knew or should have known she required, and their negligence was the direct and proximate cause of the injuries that Rosemarie V. Repas suffered.

39. 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 not create a patient-specific care plan that addressed Rosemarie's specific needs and fall risks;

c. choosing to provide inadequate resident observation, supervision, and monitoring;

d. choosing to provide improper training to staff members regarding resident monitoring, assessment, response, and treatment;

e. 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 Rosemarie V. Repas;

f. choosing to not provide accurate, adequate, or timely information to Rosemarie V. Repas' family;

g. choosing to provide inadequate supervision to prevent accidents and falls;

h. choosing to violate orders relating to care of Rosemarie V. Repas;

i. choosing to violate state regulations governing care and staffing levels in nursing home facilities by which residents like Rosemarie V. Repas are a member of the class of persons intended to be protected from injuries like those they suffered;



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j. failing to ensure the rights and safety of its residents, including Rosemarie V. Repas, as required by Ohio regulations;

k. choosing not to provide appropriate care to Rosemarie V. Repas while she was a resident of the Facility;

l. repeatedly violating Rosemarie V. Repas' rights as a resident of an assisted living facility (residential care facility) as set forth in Ohio's Resident Rights statute; and

m. such other acts or omissions described in this Complaint or discovered in litigation.

40. These actions constituted a conscious disregard for Rosemarie V. Repas' 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 harm that could result from their willful, wanton, and/or reckless misconduct.

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

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

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



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44. The Defendants and their medical and nursing staff provided care to Rosemarie V. Repas that fell below the standard of care expected of medical care and nursing home organizations, under the same or similar circumstances.

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

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

47. WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, 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)

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

49. Rosemarie V. Repas depended on the Defendants, and their respective nursing and non-nursing caregiver staff, for nursing and non-nursing care, treatment, evaluation, and assistance.

50. The Defendants had a duty to provide proper care and treatment to Rosemarie V. Repas and to avoid causing injury to Rosemarie V. Repas.



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51. The Defendants, including their nursing and non-nursing caregiver staff, failed to provide proper care and treatment to Rosemarie V. Repas, which they knew or should have known she required, and their negligence was the direct and proximate cause of Rosemarie V. Repas' untimely and wrongful death.

52. Rosemarie V. Repas' 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.

53. 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.

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

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

55. Defendants, directly or through their employees or agents, violated Rosemarie V. Repas'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;



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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.

56. These violations are evidence of negligence and conscious disregard of Rosemarie V. Repas' rights and safety and give rise to a statutory cause of action.

57. As a direct and proximate result of Defendants' violations of R.C. 3721.13, Rosemarie V. Repas experienced conscious pain, suffering, and disability, and other harms and losses including death.

58. WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, 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.

**A TRIAL BY JURY IS HEREBY DEMANDED**

Respectfully submitted,

*/s/ Michael A. Hill*
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***Counsel for Plaintiff***



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STATE OF OHIO )
COUNTY OF CUYAHOGA )
)

**AFFIDAVIT OF MERIT**

Affiant KAPIL GULATI, MD, having been first duly sworn, states:

1. I am an adult, have no known disability preventing my truthful testimony, and have personal knowledge of the matters contained within this affidavit.

2. I am a full-time practicing physician in the field Internal Medicine, licensed in the state of Ohio, board certified in Internal Medicine, spending more than 50% of my professional time providing direct patient care.

3. Through my specialized knowledge, skill, training, experience, and education, I am familiar with the standard of care applicable to the medical and nursing care and treatment that was provided to Rosemarie Repas while a resident of 150 Omni Lake Tenant, LLC aka Hudson Danbury aka Danbury Hudson.

4. I have reviewed all medical records reasonably available to the Estate of Rosemarie Repas concerning the allegations contained in the complaint.

5. To a reasonable degree of medical probability, 150 Omni Lake Tenant LLC, aka Hudson Danbury aka Danbury Hudson, Senior Village Management, LLC aka StoryPoint Group aka Danbury Senior Living, Brookwood Management Company, LLC aka Danbury Senior Living, DLV Hudson Senior Living, LLC, Hudson Senior Living, LLC aka Hudson Senior Living, Inc., and Hudson Senior Living, LLC breached the standard of care and the breach caused Rosemarie Repas' injuries and death.

***FURTHER AFFIANT SAYETH NAUGHT.***

KAPIL GULATI, MD

SWORN TO BEFORE ME and subscribed in my presence this 4th day of May, 2024.

NOTARY PUBLIC
Ryan Dvorak
My commission has no expiration
date pursuant to RC § 147.03