COMMONWEALTH OF KENTUCKY
17TH JUDICIAL DISTRICT
CAMPBELL CIRCUIT COURT
DIVISION _____
CIVIL ACTION FILE NO. 25-CI-_____

ELECTRONICALLY FILED

Brenda Roberts PLAINTIFF

v. **COMPLAINT**

Coldspring Transitional Care Center, LLC
d/b/a Coldspring Transitional Care Center
a/k/a Coldspring of Campbell County DEFENDANTS

Serve: John P. Muller
960 Highland
Ave.
Fort Thomas, KY 41075

Carespring Health Care Management, LLC

Serve: John Muller
960 Highland Ave.
Ft. Thomas, KY
41075

Careco LLC

Serve: John Muller
960 Highland Ave.
Ft. Thomas, KY
41075

Carespring Health Care Holdings, LP

Serve: Kentucky Office of the Secretary of
State Summonses Branch
The Capitol Building
700 Capitol Avenue, Ste. 86
Frankfort, KY 40601

Registered Agent: David A. Eppers
390 Wards Corner Road
Loveland, OH 45140

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Ohio Springs Real Estate Investments, Inc.

Serve: Office of the Secretary of
State Summons Branch
700 Capital Avenue, Suite 86
Frankfort, KY 40601

Address: Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19808

Adam Lewandowski, in his capacity as Administrator of
Coldspring Transitional Care Center a/k/a Coldspring of Campbell County

Serve: 300 Plaza Drive
Cold Spring, KY 41076

And John Does 1 through 3,
Unknown Defendants

COMES NOW Plaintiff, Brenda Roberts, and for this cause of action against Defendants, Coldspring Transitional Care Center, LLC d/b/a Coldspring Transitional Care Center a/k/a Coldspring of Campbell County; Carespring Health Care Management, LLC; Careco LLC; Carespring Health Care Holdings, LP; Ohio Springs Real Estate Investments, Inc.; Adam Lewandowski, in his capacity as Administrator of Coldspring Transitional Care Center a/k/a Coldspring of Campbell County; and John Does 1 through 3, Unknown Defendants, state as follows:

1. Brenda Roberts is a resident of the Commonwealth of Kentucky, and rightfully bring this cause of action pursuant to the Residents' Rights Statute (KRS § 216.515) and the Common Law.

2. Upon information and belief, Brenda Roberts was admitted for rehabilitation following an ankle fracture to Coldspring Transitional Care Center a/k/a Coldspring of Campbell County, located at 300 Plaza Drive, Cold Spring, KY 41076 (hereinafter

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sometimes referred to as "the facility"), on or around December 19, 2024.

3. Defendant Coldspring Transitional Care Center, LLC, is a foreign limited liability company authorized to do business in the Commonwealth of Kentucky with its principal office located at 390 Wards Corner Road, Loveland, OH 45140, and is engaged in the business of for-profit custodial care of elderly individuals who are chronically infirm, mentally impaired, and/or in need of nursing care and treatment. Upon information and belief, at all times material to this action, Defendant Coldspring Transitional Care Center, LLC was the "licensee" of the nursing facility. Under the laws and regulations promulgated and enforced by the Cabinet for Health and Family Services, as licensee of the facility, Defendant Coldspring Transitional Care Center, LLC was legally responsible for Coldspring Transitional Care Center a/k/a Coldspring of Campbell County and for ensuring compliance with all laws and regulations related to the operation of the facility. The causes of action made the basis of this suit arise out of such business conducted by said Defendant Coldspring Transitional Care Center, LLC in the ownership, operation, management, control, and/or services provided for the facility during the residency of Brenda Roberts. The registered agent for service of process for Defendant Coldspring Transitional Care Center, LLC is John P. Muller, 960 Highland Avenue, Ft. Thomas, KY 41075.

4. Defendant Carespring Health Care Management, LLC is a foreign limited liability company authorized to do business in the Commonwealth of Kentucky with its principal office located at 390 Wards Corner Road, Loveland, OH 45140 and is engaged in the business of for- profit custodial care of elderly individuals who are chronically infirm, mentally impaired, and/or in need of nursing care and treatment. Upon information and belief, at times material to this action, Defendant Carespring Health Care Management,

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LLC owned, operated, managed, controlled, and/or provided services for nursing facilities, including Coldspring of Campbell County. The causes of action that are the basis of this suit arise out of such business conducted by said Defendant Carespring Health Care Management, LLC, in owning, operating, managing, controlling, licensing, and/or providing services for Coldspring Transitional Care Center a/k/a Coldspring of Campbell County during the residency of Brenda Roberts. The registered agent for service of process for Defendant Carespring Health Care Management, LLC is John P. Muller, 960 Highland Avenue, Ft. Thomas, KY 41075.

5. Defendant Careco, LLC is a foreign limited liability company authorized to do business in the Commonwealth of Kentucky with its principal office located at 390 Wards Corner Road, Loveland, OH 45140 and is engaged in the business of for-profit custodial care of elderly individuals who are chronically infirm, mentally impaired, and/or in need of nursing care and treatment. Upon information and belief, at times material to this action, Defendant Careco, LLC owned, operated, managed, controlled, and/or provided services for nursing facilities, including Coldspring Transitional Care Center a/k/a Coldspring of Campbell County. The causes of action that are the basis of this suit arise out of such business conducted by said Defendant Careco, LLC, in owning, operating, managing, controlling, licensing, and/or providing services for Coldspring Transitional Care Center a/k/a Coldspring of Campbell County during the residency of Brenda Roberts. The registered agent for service of process for Defendant Careco, LLC is John P. Muller, 960 Highland Avenue, Ft. Thomas, KY 41075.

6. Defendant Carespring Health Care Holdings, LP is a foreign limited partnership engaged in the business of for-profit custodial care of elderly individuals who are chronically infirm, mentally impaired, and/or in need of nursing care and treatment.

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Upon information and belief, at all times material to this action, Defendant Carespring Health Care Holdings, LP owned, operated, managed, controlled, and/or provided services to nursing facilities, including Coldspring Transitional Care Center a/k/a Coldspring of Campbell County. The causes of action made the basis of this suit arise out of such business conducted by said Defendant Carespring Health Care Holdings, LP in the ownership, operation, management, control, and/or services provided for the facility during the residency of Brenda Roberts. Defendant Carespring Health Care Holdings, LP is without an agent for service of process within the Commonwealth of Kentucky and should therefore be served by service of process upon the Kentucky Office of the Secretary of State, Summonses Branch, The Capitol Building, 700 Capitol Avenue, Suite 86, Frankfort, Kentucky 40601, for service upon its own agent, David A. Eppers, 390 Wards Corner Road, Loveland, OH 45140.

7. Defendant Ohio Spring Real Estate Investments, Inc. is a foreign corporation engaged in the business of for-profit custodial care of elderly individuals who are chronically infirm, mentally impaired, and/or in need of nursing care and treatment. Upon information and belief, at all times material to this action, Defendant Ohio Spring Real Estate Investments, Inc. owned, operated, managed, controlled, and/or provided services to nursing facilities, including Coldspring Transitional Care Center a/k/a Coldspring of Campbell County. The causes of action made the basis of this suit arise out of such business conducted by said Defendant Ohio Spring Real Estate Investments, Inc. in the ownership, operation, management, control, and/or services provided for the facility during the residency of Brenda Roberts. Defendant Ohio Spring Real Estate Investments, Inc. is without an agent for service of process within the Commonwealth of Kentucky and should therefore be served by service of process upon the Kentucky Office

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of the Secretary of State, Summonses Branch, The Capitol Building, 700 Capitol Avenue, Suite 86, Frankfort, Kentucky 40601, for service upon its own agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

8. Upon information and belief, Defendant Adam Lewandowski was an Administrator of Coldspring Transitional Care Center a/k/a Coldspring of Campbell County during the residency of Brenda Roberts. The causes of action made the basis of this suit arise out of Defendant Adam Lewandowski's administration of the facility during the residency of Brenda Roberts. Defendant Adam Lewandowski may be served with process at his last known business address at 300 Plaza Drive, Cold Spring, KY 41076.

9. Defendants John Does 1 through 3 are entities and/or persons, either providing care and services to Brenda Roberts, or directly or vicariously liable for the injuries of Brenda Roberts. Plaintiff is currently unable to identify these Unknown Defendants, despite diligent efforts, but may discover such identities upon further investigation. Said defendants are named insofar as their acts and/or omissions were negligent, tortious or otherwise wrongful with respect to the care, treatment and services to Brenda Roberts during her residency at Coldspring Transitional Care Center a/k/a Coldspring of Campbell County. Such individuals include the Director of Nursing; MDS Coordinator; and other nursing and administrative personnel responsible for decision making policy and regulatory compliance that effects quality of care. Plaintiff had been unable despite diligence thus far to identify such individuals.

10. Whenever the term "Nursing Home Defendants" is utilized within this suit, such term collectively refers to and includes Coldspring Transitional Care Center, LLC d/b/a Coldspring Transitional Care Center a/k/a Coldspring of Campbell County; Carespring Health Care Management, LLC; Careco LLC; Carespring Health Care Holdings, LP; and

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Ohio Springs Real Estate Investments, Inc.

11. Whenever the term "Defendants" is utilized within this suit, such term collectively refers to and includes all named Defendants in this lawsuit.

12. Whenever the term "Administrator Defendant" is utilized within this suit, such term refers to Adam Lewandowski.

13. Defendants controlled the operation, planning, management, budget and quality control of the facility. The authority exercised by Defendants over the respective nursing homes included, but was not limited to, control of marketing, human resources management, training, staffing, creation, and implementation of all policy and procedure manuals used by the nursing homes, federal and state reimbursement, quality care assessment and compliance, licensure and certification, legal services, medical supply services, and financial, tax and accounting control through fiscal policies established by Defendants.

14. Jurisdiction and venue are proper in this Court.

FACTUAL ALLEGATIONS

15. Plaintiff incorporates by reference, as if fully set forth herein, each allegation set forth in the preceding paragraphs, and further alleges as follows:

16. Upon information and belief, Brenda Roberts was looking to Defendants for treatment of her total needs during her rehabilitation admission including for custodial, nursing, and medical care and not merely as the situs where others not associated with the facility would treat her.

17. At all relevant times mentioned herein, Defendants owned, operated, managed, controlled and/or provided services for Coldspring Transitional Care Center a/k/a

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Coldspring of Campbell County, either directly or through a joint enterprise, partnership or the agency of each other and/or other diverse subalterns, alter egos, subsidiaries, governing bodies, agents, servants or employees.

18. Defendants are directly or vicariously liable for any acts and omissions by any person or entity, directly or indirectly controlled, including any governing body, officer, employee, ostensible or apparent agent, partner, consultant or independent contractor, whether in- house or outside individuals, entities, agencies or pools.

19. Defendants failed to discharge their obligations of care to Brenda Roberts, and in so failing, displayed a conscious disregard for her rights and safety. At all times mentioned herein, Defendants, individually and/or through their corporate officers and administrators, had knowledge of, ratified and/or otherwise authorized all of the acts and omissions that caused the injuries suffered by Brenda Roberts, as more fully set forth below. Defendants knew that this facility could not provide the minimum standard of care to the weak and vulnerable residents of Coldspring Transitional Care Center a/k/a Coldspring of Campbell County, including Brenda Roberts.

20. Defendants failed to follow the orders of Brenda Roberts' orthopedic surgeon for the rehabilitation of her ankle fracture, including failing to remove the immobilizing ankle boot from her left foot while Brenda Roberts was laying in bed and/or seated in a chair, which resulted in her left heel resting against the hard plastic surfaces of the immobilizing boot causing exposure of the skin over her heel to excessive pressure. The exposure to excessive pressure caused a Stage IV Pressure Ulcer to her left heel, meaning the full thickness of skin and tissue over her heel bone had died off due to compression of the tissues from excessive pressure cutting off blood flow to the area. Defendants' failure to remove the immobilizing ankle boot from her left foot while Brenda Roberts was laying

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in bed and/or seated in a chair was not just a failure to follow her doctor's orders but also a failure to follow ordinary care and minimum safety practices expected of the Defendants.

21. Due to the wrongful conduct of Defendants, Brenda Roberts suffered accelerated deterioration of her health and physical condition beyond that caused by the normal aging process, including, but not limited to, the following:

a. Stage IV Pressure Ulcer to Left Heel.

b. Amputation of the Left Leg Below the Knee.

22. Brenda Roberts also suffered unnecessary loss of personal dignity, extreme pain and suffering, degradation, mental anguish, disability, disfigurement, all of which were caused by the wrongful conduct of Defendants as alleged below.

23. The injuries described in this Complaint are a direct and proximate result of the acts or omissions set forth herein, singularly or in combination. As a result of these injuries, Brenda Roberts's health deteriorated, and she required medical treatment.

CAUSES OF ACTION AGAINST NURSING HOME DEFENDANTS

COUNT I – NEGLIGENCE

24. Plaintiff incorporated by reference, as if fully set forth herein, each allegation set forth in the preceding paragraphs, and further alleges as follows:

25. Nursing Home Defendants owed a non-delegable duty to Brenda Roberts to provide the custodial care, services and supervision that a reasonably careful nursing home would provide under similar circumstances.

26. Upon information and belief, Nursing Home Defendants knowingly developed and maintained staffing levels at the facility without regard for patient acuity levels or the minimal time to perform the essential functions of providing care to Brenda Roberts.

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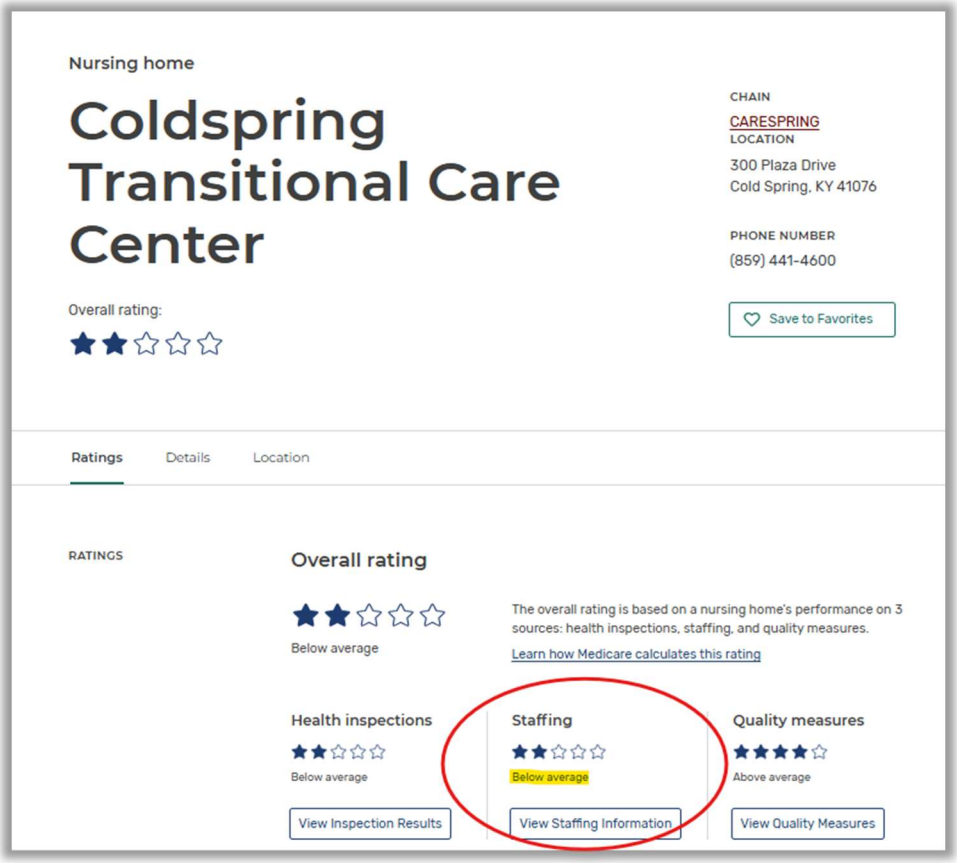
27. The Nursing Home Defendants are required to report significant amounts of data to the federal agency that oversees operations of nursing homes receiving federal or state funding, the Centers for Medicare and Medicaid Services, or "Medicare."

28. The data the Nursing Home 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.

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

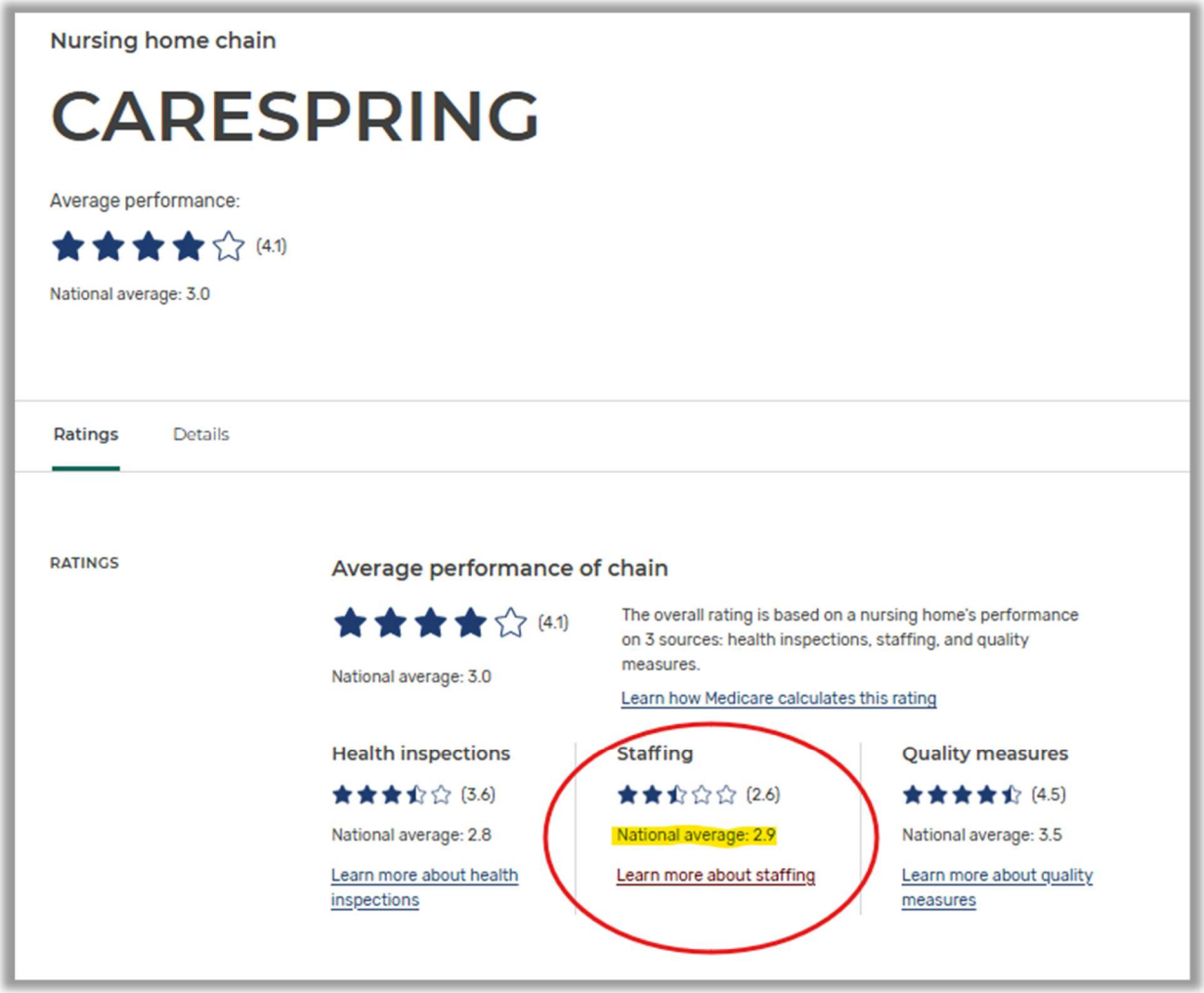
30. Medicare uses some of this data submitted by Nursing Home Defendants to produce its nursing home 5-star rating system, also known as "Nursing Home Compare."

31. The Nursing Home Defendants' choice to understaff the facility is reflected in the star rating Medicare gave the facility for staffing – a 2-star, or "below average" rating:



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32. The Nursing Home Defendants' choice to understaff the facility is a systemic cost-saving and profit-maximizing approach which the Nursing Home Defendants implement in all the facilities under their ownership and/or operational control, resulting in an average Medicare star rating for staffing of 2.6 stars across all Nursing Home Defendants' facilities, below the national average of 2.9 stars:



33. Nursing Home Defendants negligently failed to deliver care, services and supervision, including, but not limited to, the following acts and omissions:

a. Failure by the members of the governing body of the facility to discharge their legal and lawful obligation by:

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i. ensuring compliance with the rules and regulations designed to protect the health and safety of the residents, such as Brenda Roberts, as promulgated by the Cabinet for Health and Family Services, Division of Long Term Care;

ii. ensuring compliance with the resident care policies for the facility; and

iii. ensuring that appropriate corrective measures were implemented to correct problems concerning inadequate resident care;

b. Failure to develop, implement and follow policies to assist Brenda Roberts in attaining and maintaining the highest level of physical, mental and psychological well-being;

c. Failure to maintain all records on Brenda Roberts in accordance with accepted standards and practices;

d. Failure to provide the minimum number of qualified personnel to meet the total needs of Brenda Roberts;

e. Failure to provide adequate nursing and other staff that was properly staffed, qualified and trained;

f. Failure to ensure that Brenda Roberts received adequate and proper custodial care;

g. Failure to maintain all records on Brenda Roberts in accordance with accepted standards and practice that were complete, accurately documented, readily accessible, and systematically organized with respect to her diagnosis, treatment, and appropriate care plans of care and treatment;

h. Failure to monitor or increase the number of nursing personnel at the facility to ensure that Brenda Roberts:

i. received timely and accurate care assessments;
ii. received prescribed treatment and medication;
iii. received appropriate diet and nutrition;
iv. received necessary supervision; and
v. received timely intervention due to significant changes in

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condition;

i. Failure to have in place adequate guidelines, policies and procedures for the facility and to administer those policies through enforcement of any rules, regulations, by- laws or guidelines;

j. Failure to take reasonable steps to prevent, eliminate and correct deficiencies and problems in resident care at the facility;

k. Failure to ensure that Brenda Roberts received timely and appropriate custodial care, including, but not limited to, supervision, personal attention, infection control measures, and hygiene;

l. Failure to provide Brenda Roberts with timely and appropriate pressure offloading and skin assessments to prevent the onset and progression of skin breakdown;

m. Failure to protect Brenda Roberts from abuse and neglect; and

n. Failure to increase the number of personnel at the facility to ensure that Brenda Roberts did not suffer the above-listed failures.

34. A reasonably careful nursing facility would not have failed to provide the care listed above.

35. It was foreseeable that these breaches of ordinary care would result in serious injuries to Brenda Roberts. With regard to each of the foregoing acts of negligence, Nursing Home Defendants acted with oppression, fraud, and/or malice or were grossly negligent by acting with wanton or reckless disregard for the health and safety of Brenda Roberts.

36. Plaintiff also alleges that Nursing Home Defendants violated statutory and regulatory duties of care, the violations of which are evidence of negligence. Violations of said statutory and regulatory standards of care by Nursing Home Defendants caused in part the injuries to Brenda Roberts. Brenda Roberts was injured by the statutory and

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regulatory violations of Nursing Home Defendants and was within the class of persons for whose benefit the statutes and regulations were enacted and promulgated and who was intended to be protected by these statutes and regulations. The violations of the statutory and regulatory standards of care of Nursing Home Defendants included, but is not limited to, violation(s) of the following:

a. Violation(s) of KRS 209.005 et seq. and the regulations promulgated thereunder, by abuse, neglect and/or exploitation of Brenda Roberts; and/or,

b. Violation(s) of the statutory standards and requirements governing licensing and operation of long-term care facilities as set forth by the Cabinet for Health and Family Services, pursuant to provisions of KRS Chapter 216 and the regulations promulgated thereunder.

37. Plaintiff also alleges that Defendants breached the standard of care by violating the Kentucky Residents' Rights Statute. The violations of the resident's rights of Brenda Roberts include, but are not limited to, the following:

a. Violation of the right to be treated with consideration, respect, and full recognition of her dignity and individuality, including privacy in treatment and in care for her personal needs;

b. Violation of the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming;

c. Violation of the right to have a responsible party or family member or guardian notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident;

d. Violation of the right to have an adequate and appropriate resident care plan developed, implemented and updated to meet her needs;

e. Violation of the right to be free from mental and physical abuse and neglect; and

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f. Violation of the statutory standards and requirements governing licensing and operation of long-term care facilities as set forth by the Cabinet for Health and Family Services, pursuant to provisions of K.R.S. Chapter 216 and the regulations promulgated thereunder, as well as the applicable federal laws and regulations governing the certification of long-term care facilities under Titles XVIII or XIX of the Social Security Act.

38. As a direct and proximate result of such oppression, fraud, malice, or gross negligence, Brenda Roberts suffered the injuries described herein. Plaintiff asserts a claim for judgment against Nursing Home Defendants for all compensatory and punitive damages including, but not limited to, medical expenses, extreme pain and suffering, mental anguish, disability, disfigurement, degradation, and unnecessary loss of personal dignity, in an amount to be determined by the jury, but in excess of the minimum jurisdictional limits of this Court and exceeding that required for federal court jurisdiction in diversity of citizenship cases, plus costs and all other relief to which Plaintiff is entitled to by law.

COUNT II – MEDICAL NEGLIGENCE

39. Plaintiff incorporates by reference, as if fully set forth herein, each allegation set forth in the preceding paragraphs, and further alleges as follows:

40. Nursing Home Defendants had a duty to provide the standard of professional medical care and services that a reasonably competent nursing facility acting under the same, and similar, circumstances would provide.

41. Nursing Home Defendants failed to meet the applicable standards of medical care. The medical negligence or malpractice of Nursing Home Defendants included, but was not limited to, the following acts and omissions:

a. The overall failure to ensure that Brenda Roberts:

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i. received timely and accurate care assessments;
ii. received prescribed treatment and medication;
iii. received necessary supervision; and
iv. received timely intervention due to significant changes in condition;

b. Failure to provide sufficient numbers of qualified personnel, including nurses, licensed practical nurses, certified nurse assistants and medication aides to meet the total needs of Brenda Roberts throughout her residency;

c. Failure to provide and implement an adequate nursing care plan based on the needs of Brenda Roberts;

d. Failure to provide care, treatment and medication in accordance with physician's orders;

e. Failure to adequately and appropriately monitor Brenda Roberts and recognize significant changes in her health status, and to timely notify her physician of significant changes in her health status;

f. Failure to ensure Brenda Roberts was not deprived of the services necessary to maintain her health and welfare;

g. Failure to inform the physician and family of significant changes in condition;

h. Failure to ensure that Brenda Roberts received adequate and proper supervision and hygiene as well as infection control procedures;

i. Failure to adequately, timely and appropriately educate and inform the caregivers at the facility of the needs, level of assistance, and prescribed care and treatment for Brenda Roberts; and

j. Failure to provide proper supervision, treatment, assessment and monitoring of Brenda Roberts in order to prevent the above-listed injuries;

k. Failure to administer and secure appropriate medical care following the development and/or discovery of Brenda Roberts's above-listed injuries; and

l. Failure to increase the number of personnel at the facility to ensure that Brenda Roberts not suffer the above-listed failures.

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42. It was foreseeable that the breaches of care listed above would result in serious injuries to Brenda Roberts. A reasonably competent nursing facility acting under the same or similar circumstances would not have failed to provide the care listed above.

43. With regard to each of the foregoing acts of professional or medical negligence, Nursing Home Defendants acted with oppression, fraud, and/or malice, or were grossly negligent by acting with wanton or reckless disregard for the health and safety of Brenda Roberts.

44. As a direct and proximate result of such oppression, fraud, malice, or gross negligence, Brenda Roberts suffered the injuries described herein. Plaintiff asserts a claim for judgment against Nursing Home Defendants for all compensatory and punitive damages including, but not limited to, medical expenses, extreme pain and suffering, mental anguish, disability, disfigurement, degradation, and unnecessary loss of personal dignity, in an amount to be determined by the jury, but in excess of the minimum jurisdictional limits of this Court and exceeding that required for federal court jurisdiction in diversity of citizenship cases, plus costs and all other relief to which Plaintiff is entitled to by law.

COUNT III – CORPORATE NEGLIGENCE AND CORPORATE MANIPULATION OF FUNDS

45. Plaintiff incorporates by reference, as if fully set forth herein, each allegation set forth in the preceding paragraphs, and further alleges as follows:

46. Upon information and belief, Brenda Roberts was looking to Nursing Home Defendants' facility for treatment of her physical ailments and not merely as the situs where others not associated with the facility would treat her for her problems. There is a presumption that the treatment Brenda Roberts received was being rendered through

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employees of Nursing Home Defendants and that any negligence associated with that treatment would render Nursing Home Defendants responsible. Nursing Home Defendants or persons or entities under their control or to the extent Nursing Home Defendants were vicariously liable through the ostensible or apparent agency of others, owed a non-delegable duty to residents, including Brenda Roberts, to act with the degree and skill expected of reasonably competent medical practitioners acting in the same or similar circumstances.

47. Nursing Home Defendants operated and worked in conjunction in a joint venture, partnership, or other business scheme to deliberately withhold or manipulate funds away from the licensee facilities to provide for the necessary staffing, supplies and care of the weak and elderly residents of the licensee facilities. *Richmond Health Facilities-Madison, L.P. v. Clouse*, 473 S.W.3d 79 (Ky. 2015).

48. Nursing Home Defendants owed a non-delegable duty to assist Brenda Roberts in attaining and maintaining the highest level of physical, mental and psychological well-being.

49. Nursing Home Defendants owed a duty to Brenda Roberts to maintain their facility, including providing and maintaining medical equipment and supplies; and hiring, supervising and retaining nurses and other staff employees.

50. Nursing Home Defendants owed a duty to Brenda Roberts to have in place procedures and protocols to properly care for residents and to administer these policies through enforcement of any rules, regulations, bylaws or guidelines, which were adopted by Nursing Home Defendants to ensure a smoothly run facility and adequate resident care.

51. Nursing Home Defendants owed a duty to Brenda Roberts to provide a safe

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environment; to provide treatment and recovery; and to exercise ordinary care and attention for the safety of residents, including Brenda Roberts, in proportion to the physical and mental ailments of each particular resident, known or discoverable by the exercise of reasonable skill and diligence. The duty of reasonable care and attention extended to safeguarding Brenda Roberts from danger due to her inability to care for herself. Nursing Home Defendants had a duty to protect Brenda Roberts from any danger which the surroundings would indicate might befall her in view of any peculiar trait exhibited by her or which her mental condition or aberration would suggest as likely to happen.

52. With regard to each of the foregoing acts of negligence, Nursing Home Defendants acted with oppression, fraud, malice, or were grossly negligent by acting with wanton or reckless disregard for the health and safety of Brenda Roberts.

53. As a direct and proximate result of such oppression, fraud, malice, or gross negligence, Brenda Roberts suffered the injuries described herein. Plaintiff asserts a claim for judgment against Nursing Home Defendants for all compensatory and punitive damages including, but not limited to, medical expenses, extreme pain and suffering, mental anguish, disability, disfigurement, hospitalizations, degradation, and unnecessary loss of personal dignity, in an amount to be determined by the jury, but in excess of the minimum jurisdictional limits of this Court and exceeding that required for federal court jurisdiction in diversity of citizenship cases, plus costs and all other relief to which Plaintiff is entitled by law.

CAUSE OF ACTION AGAINST ADMINISTRATOR DEFENDANT
FACTUAL ALLEGATIONS

54. Plaintiff incorporates by reference, as if fully set forth herein, each allegation set

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forth in the preceding paragraphs, and further alleges as follows:

55. As Administrator of Coldspring Transitional Care a/k/a Coldspring of Campbell County, Administrator Defendant was required to be licensed by the Commonwealth of Kentucky. Administrator Defendant owed ordinary duties of care to Brenda Roberts, as well as professional duties and statutory duties owed to residents by licensed nursing home administrators in Kentucky, pursuant to the Nursing Home Administrators Licensure Act of 1970, codified as Kentucky Revised Statutes sections 216A.010 et seq.

56. Administrator Defendant, as holder of a nursing home administrator's license for Coldspring of Campbell County, were legally and individually responsible for the operation of the facility and the welfare of its residents pursuant to Chapter 216A of the Kentucky Revised Statutes and Title 201, Chapter 6 of the Kentucky Administrative Regulations.

57. Administrator Defendant was also responsible for the total management of Coldspring Transitional Care a/k/a Coldspring of Campbell County pursuant to federal law.

58. Administrator Defendant's management responsibilities included ensuring that Coldspring Transitional Care a/k/a Coldspring of Campbell County operated and provided services in compliance with all applicable federal, state, and local laws, regulations, and codes, and within accepted professional standards and principles.

59. Administrator Defendant was responsible for ensuring that the facility complied with state and federal regulations related to nursing facilities. Administrator Defendant had duties to administrate the facility in a manner that enabled it to use resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychological well-being of each resident. The nursing facility, under the leadership

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of its administrators, is also required to operate and provide services in compliance with all applicable federal, state, and local laws, regulations, and codes and with accepted professional standards and principles that apply to professionals providing services in such a facility. Administrator Defendant breached his duties of care to Brenda Roberts by failing to meet these requirements.

COUNT I– NEGLIGENCE

60. Plaintiff incorporates by reference, as if fully set forth herein, each allegation set forth in the preceding paragraphs, and further alleges as follows:

61. As administrator of Coldspring Transitional Care Center a/k/a Coldspring of Campbell County, Administrator Defendant owed duties to the residents of Coldspring Transitional Care Center a/k/a Coldspring of Campbell County, including Brenda Roberts, to provide services as reasonable administrators within accepted standards for nursing home administrators.

62. Administrator Defendant breached his duties owed to the residents of Coldspring Transitional Care Center a/k/a Coldspring of Campbell County, including Adam Joseph Lewandowski, during his tenure as administrators by failing to supervise nurses and nurses' aides and failing to hire sufficient nurses and nurses' aides and, as such, the nurses and nurses' aides were unable to provide Brenda Roberts the care she required. The negligence of Administrator Defendant include, but is not limited to, the following acts and omissions:

a. Failure to provide sufficient numbers of qualified personnel to meet the total needs of Brenda Roberts throughout her residency and to ensure that Brenda Roberts:

i. received timely and accurate care assessments;
ii. received prescribed treatment and medication;
iii. received adequate supervision to prevent her from onset

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and progression of skin breakdown;

iv. received timely intervention due to a significant change in condition;

v. was protected from accidental injuries by the correct use of ordered and reasonable safety measures;

b. Failure to adequately screen, evaluate, and test for competence in selecting personnel to work at the facility;

c. Failure to ensure that Brenda Roberts was provided with basic and necessary care and supervision;

d. Failure to ensure that Brenda Roberts attained and maintained her highest level of physical, mental, and psychosocial wellbeing;

e. Failure to ensure that Brenda Roberts received care, treatment, and medication as prescribed or in accordance with physician's orders;

f. Failure to ensure that Brenda Roberts was treated with the dignity and respect that all residents are entitled to receive;

g. Failure to provide a safe environment for Brenda Roberts;

h. Failure to take reasonable steps to prevent, eliminate, and correct deficiencies and problems in resident care at the facility;

i. Failure to discipline or terminate employees at the facility assigned to Brenda Roberts that were known to be careless, incompetent, and unwilling to comply with the policy and procedures of the facility and the rules and regulations promulgated by the Cabinet for Health and Family Services;

j. Failure to adopt adequate guidelines, policies, and procedures for:

i. Investigating the relevant facts, underlying deficiencies, or licensure violations or penalties found to exist at the facility by the Cabinet for Health and Family Services or any other authority;

ii. Determining the cause of any such deficiencies, violations, or penalties;

iii. Establishing the method and means for correcting deficiencies or licensure violations or penalties found to exist at the facility;

iv. Determining whether the facility had sufficient numbers of personnel to meet the total needs of Brenda Roberts; and

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v. Documenting, maintaining files, investigating, and responding to any complaint regarding the quality of resident care, or misconduct by employees at the facility, regardless of whether such complaint derived from a resident of said facility, an employee of the facility, or any interested person;

k. Failure to provide nursing personnel sufficient in number to provide proper treatment and assessment to Brenda Roberts and other residents;

l. Failure to provide a safe environment for care, treatment, and recovery, and to exercise ordinary care and attention for the safety of Brenda Roberts in proportion to her particular physical and mental ailments, known or discoverable by the exercise of reasonable skill and diligence;

m. Failure to inform the physician and family of significant changes in condition;

n. Failure to adequately, timely, and appropriately educate and inform the caregivers at the facility of the needs, level of assistance, and prescribed care and treatment for Brenda Roberts;

o. Failure to ensure that staff take other necessary and reasonable custodial measures, including timely turning and repositioning of Brenda Roberts, to prevent the onset and progression of skin breakdown during the residency;

p. Failure to ensure that staff provide Brenda Roberts with adequate hygiene and sanitary care;

q. Failure to increase the number of personnel at the facility to ensure that Brenda Roberts received timely and appropriate custodial care, including, but not limited to, supervision, personal attention, and hygiene;

r. Failure to ensure that staff provide Brenda Roberts with adequate and proper supervision, skin care, infection control measures, and hygiene;

s. Failure to ensure that staff provide Brenda Roberts with timely and appropriate custodial care, including, but not limited to, bathing, grooming, incontinent care, personal attention, and hygiene;

t. Failure to ensure that staff provided proper supervision, treatment,

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assessment, and monitoring of Brenda Roberts in order to prevent the onset and progression of skin breakdown; and

u. Failure to ensure that staff administered and secured appropriate medical care.

63. A reasonably careful Administrator would not have failed to provide the care listed above.

64. It was foreseeable that these breaches of ordinary care would result in serious injuries to Brenda Roberts. Each of the foregoing acts of negligence on the part of Administrator Defendant accompanied by such wanton or reckless disregard for the health and safety of Brenda Roberts as to constitute gross negligence.

65. Additionally, Administrator Defendant failed to operate, manage, or administer Coldspring Transitional Care Center a/k/a Coldspring of Campbell County in compliance with federal, state, and local laws, regulations, and codes intended to protect nursing facility residents, including, but not limited to:

a. Failure to ensure compliance with rules and regulations of the Cabinet for Health and Family Services, pursuant to Chapters 216, 216B, and 13A of the Kentucky Revised Statutes and the administrative regulations promulgated thereunder, and the federal minimum standards imposed by the United States Department of Health and Human Services;

b. Failure to ensure compliance with laws and regulations promulgated by the Cabinet for Health and Family Services to provide the minimum number of staff necessary to assist Brenda Roberts with her needs;

c. Failure to ensure compliance with law and regulations of the Board of Licensure for Nursing Home Administrators pursuant to the Nursing Home Administrators Licensure Act of 1970, Kentucky Revised Statutes sections 216A.010 et seq.;

d. Failure to provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial wellbeing of Brenda Roberts, and in accordance with the comprehensive assessment and plan of care created at the facility;

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e. Failure to provide sufficient nursing staff and nursing personnel to provide adequate and appropriate nursing care to Brenda Roberts in accordance with the resident care plan generated at the facility;

f. Failure to administer the facility in a manner that enabled it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial wellbeing of Brenda Roberts;

g. Failure to ensure a nursing care plan based on Brenda Roberts's problems and needs was established which contained measurable objectives and time tables to meet her medical, nursing, mental, and psychosocial needs as identified in her comprehensive assessment, which was reviewed and revised when the needs of Brenda Roberts changed;

h. Failure to notify Brenda Roberts's family and physician of a need to alter her treatment significantly; and

i. Failure to provide a safe environment.

66. Brenda Roberts is a member of a class intended to be protected by the above laws and regulations. The injuries alleged herein resulted from events the laws and regulations were designed to prevent.

67. It was foreseeable that these breaches of statutory duties would result in serious injuries to Brenda Roberts. Each of the foregoing acts of negligence on the part of Administrator Defendant was accompanied by such wanton or reckless disregard for the health and safety of Brenda Roberts as to constitute gross negligence.

68. As a direct and proximate result of such grossly negligent, wanton, or reckless conduct, Brenda Roberts suffered the injuries described herein, and Plaintiff asserts a claim for judgment for all compensatory and punitive damages against Administrator Defendant, in his capacity as Administrator of Coldspring Transitional Care Center a/k/a Coldspring of Campbell County, including, but not limited to, medical expenses, pain and suffering, degradation, disfigurement, emotional distress, hospitalization, and

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unnecessary loss of personal dignity, in an amount to be determined by the jury, but in excess of the minimum jurisdictional limits of this Court and exceeding that required for federal court jurisdiction in diversity of citizenship cases, plus costs and all other relief to which Plaintiff is entitled by law.

CAUSE OF ACTION AGAINST ALL DEFENDANTS

COUNT I – VIOLATIONS OF LONG-TERM CARE RESIDENTS' RIGHTS

69. Plaintiff incorporates by reference, as if fully set forth herein, each allegation set forth in the preceding paragraphs, and further alleges as follows:

70. Nursing Home Defendants violated statutory duties owed to Brenda Roberts as a resident of a long-term care facility, KRS 216.515 et seq. Plaintiff specifically references KRS 216.515 here, without limiting the import of the remaining portions of the residents' rights statutes. These statutory duties were non-delegable.

71. The violations of the residents' rights of Brenda Roberts, include, but not are limited to, all of those enumerated at KRS 216.515.

72. As a result of the aforementioned violations of the residents' rights statutes by Nursing Home Defendants, pursuant to KRS 216.515(26), Plaintiff is entitled to recover actual damages in an amount to be determined by the jury, but in excess of the minimum jurisdictional limits of this Court and exceeding that required for federal court jurisdiction in diversity of citizenship cases, as well as costs and attorney's fees.

73. With regard to the aforementioned violations of the residents' rights act, Nursing Home Defendants acted with oppression, fraud, malice, or were grossly negligent by acting with wanton and reckless disregard for the rights of Brenda Roberts and, pursuant to KRS 216.515(26), Plaintiff is entitled to punitive damages from Nursing Home Defendants in an amount to be determined by the jury, but in excess of the

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minimum jurisdictional limits of this Court and exceeding that required for federal court jurisdiction in diversity of citizenship cases, as well as costs and attorney's fees.

DAMAGES

74. Plaintiff re-alleges and incorporates all of the allegations as if fully set forth herein.

75. As a direct and proximate result of the negligence of all Defendants as set out above, Brenda Roberts suffered injuries including, but not limited to, those listed herein. As a result, Brenda Roberts incurred significant medical expenses, and suffered embarrassment, and physical impairment.

76. Plaintiff seeks punitive and compensatory damages against all Defendants in an amount to be determined by the jury, plus costs and all other relief to which Plaintiff is entitled by law.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants in an amount to be determined from the evidence, the costs herein expended, and for all other relief to which Plaintiff is entitled, including TRIAL BY JURY.

This *** day of December, 2025.

Respectfully submitted,

By: */s/ Matthew A. Mooney*

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By: */s/ Ross F. Mann*

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CERTIFICATE OF MERIT

Claimant hereby declares by and through the undersigned attorney that Claimant has reviewed the facts of this case and consulted with an expert who is qualified under the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence to give testimony as to the standard of care and/or negligence, and who Claimant and/or Claimant's attorney reasonably believes is knowledgeable in the relevant issues involved in this action and concluded based upon review and consultation that there is a reasonable basis to commence this action.

/s/ Matthew A. Mooney
MICHAEL HILL TRIAL LAW

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