RANDY LAW, CLERK OF COURTS
2025 CV 02892
FILED: 11/13/2025 03:56 PM

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

ESTATE OF JAMES WILLIAM STEWART, DECEASED Through Estate Representative Timothy Reardon c/o Michael Hill Trial Law 815 Superior Ave., Ste. 623 Cleveland, Ohio 44112 Plaintiffs, vs. CLEAR SKIES AHEAD AKA CLEAR SKIES AHEAD, LLC 3584 North Park Ext, Bazetta Township, Ohio 44410 Also Serve c/o Registered Agent: Catherine Brooks 244 Pennsylvania Ave., McDonald, Ohio 44437 and G2 MANAGEMENT CO., LLC c/o Registered Agent: Ryan Beran 6430 Ireland Road Windsor, Ohio 44483 and FAIRHAVEN INDUSTRIES, INCORPORATED 455 Educational Hwy, Warren, OH 44483 and	CASE NO. JUDGE **COMPLAINT WITH JURY DEMAND** **MOTION FOR EXTENSION OF AFFIDAVIT OF MERIT**

UNIVERSITY HOSPITALS MEDICAL GROUP, INC.
c/o Registered Agent:
C T Corporation System
4400 Easton Cmns., Ste. 125
Columbus, OH 43219

and

THOMAS SCHEIDEMANTEL, MD
9150 Sweet Gum Trl.
Olmsted Township, OH 44138

Defendants.

Plaintiff, the Estate of James William Stewart, through Estate Representative Timothy Reardon, for this Complaint against the above-named Defendants, states and avers upon information and belief:

INTRODUCTION

1. This action involves multiple claims (medical negligence, negligence, wrongful death, and Resident Rights violations) involving Clear Skies Ahead aka Clear Skies Ahead, LLC, a residential treatment facility for individuals with intellectual and/or developmental disabilities, and the facility's disregard for the health and well-being of James William Stewart, as well as the corporate control of the facility leading to such inadequate care that led to James William Stewart's untimely and wrongful death on November 15, 2024.

2. This is a negligence case against Defendants for failing to take appropriate action, such as sending James to the hospital, providing medical attention, or even calling anyone for medical advice, despite the fact that James, who had a history of constipation

and was taking medications causing constipation, complained of abdominal pain for several days, had not had a bowel movement in several weeks, and had a long, rectangular bruise (light purple shade) across his abdomen. Defendants did nothing for weeks to help James or prevent his entirely avoidable death.

3. After Defendants failed to take any action after weeks of constipation, James died on November 15, 2024, due to "Obstructive Fecaloma with Massive Fecal Impaction." The autopsy performed by the County Coroner revealed James' colon was obstructed with hardened stool for so long that the collection of impacted feces in his colon weighed over 20 pounds, putting so much pressure on his internal organs that it caused tension pneumoperitoneum – gas from inside James' bowel forcing its way into his abdomen through microtears in the wall of his intestines:

(large bowel, small intestine and stomach) associated with a large obstructive fecaloma (firm mass of fecal matter) that was filling the rectum and entire sigmoid colon. Additionally, the large bowel proximal to the obstruction (cecum, ascending, transverse and descending segments) was filled with a large amount semifluid fecal matter with reflux into the small intestine. The total amount of fecal matter within the large bowel exceeded 20 pounds (9 kg). There was no ascites or free fecal matter within the peritoneal cavity. The rectum had no obstructive mucosal based tumor and there were no obstructive pelvic masses external to the bowel. The gastrointestinal tract had no grossly evident perforations. Additionally, there was no anatomic evidence of significant cardiovascular disease. The postmortem drug screen was negative for alcohol and illicit drugs.

Critical elevation of abdominal pressure can result in morbidity and mortality by mechanical impairment of circulation and respiration. Moreover, individuals with bowel obstruction can develop pneumoperitoneum without grossly evident gastrointestinal defects when intraluminal gas dissects through the bowel wall after being forced through mucosal mirotears. The current investigation and autopsy findings support that Mr. Stewart died due to critical elevation of his intraabdominal pressure resulting from severe gastrointestinal gaseous distension with tension pneumoperitoneum complicating a large obstructive fecaloma with massive fecal impaction. Mr. Stewart's risk factors for fecal impaction include drug induced slow transit constipation, cognitive/psychiatric impairment and obesity.

CAUSE OF DEATH:
Severe Gastrointestinal Gaseous Distension with Tension Pneumoperitoneum
due to Obstructive Fecaloma with Massive Fecal Impaction

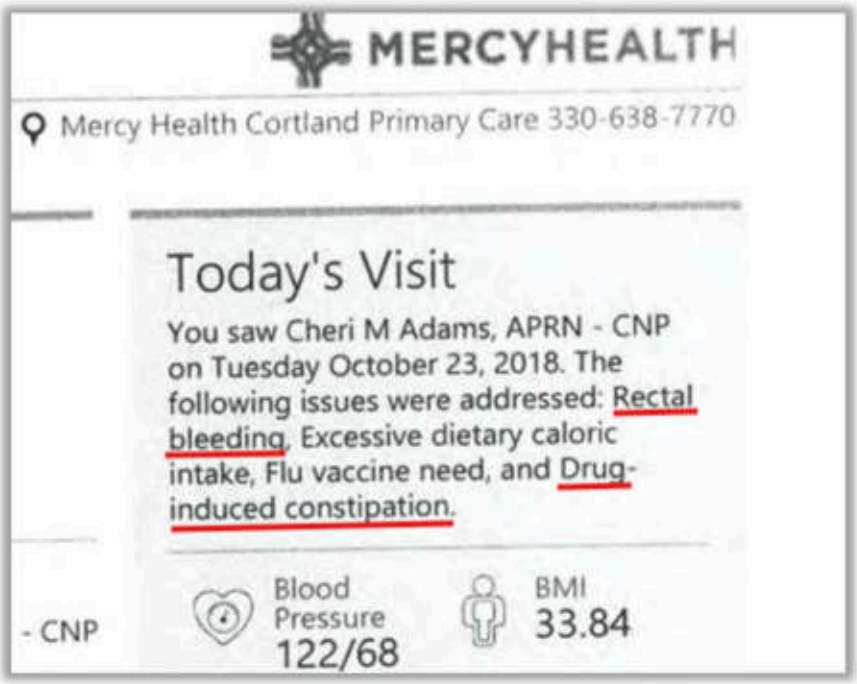
Date 11/23/2024 George C Stenley M.D.

4. James was a 41-year-old man with a history of autism spectrum disorder, bipolar disorder, and schizoaffective disorder with impulse control disorder. James also had a well-known history of severe constipation related to the medications he took for his intellectual disorders. He had episodes of constipation that were so severe it resulted in rectal bleeding.

5. Because he needed daily assistance with his care needs and supervision to keep him safe, James resided at a group home for intellectually disabled adults: Clear Skies Ahead, located in Bazetta Township. James had lived at Clear Skies Ahead for nearly nine years, and had one other male developmentally disabled roommate living with him at Clear Skies Ahead.

6. While James suffered from intellectual disabilities, he was a pleasant and high-functioning individual able to work outside the facility and maintain relationships with friends and family. However, James was unable to live safely independently, and required assistance with taking his medications and monitoring for any resulting episodes of severe constipation.

7. Due to his disabilities and daily needs, James's family entrusted his care to Clear Skies Ahead and its staff. Clear Skies Ahead knew about James' intellectual disability, daily needs, and constipation related to his medications when they accepted James as a resident of their group home. Clear Skies Ahead also knew that James' severe constipation could result in injury to him if it was not acted on quickly, as he had rectal bleeding from episodes of severe constipation while residing at Clear Skies Ahead:



Record of James' appointment with his primary care provider on October 23, 2018, where he had severe constipation and rectal bleeding.

8. Knowing James was at risk of severe constipation from his medications, knowing his bowel movements needed monitored by staff to detect developing severe constipation, and knowing this severe constipation could result in serious injury to James if it was not timely detected, Clear Skies Ahead accepted James as a resident of their facility and agreed to provide him with the care he needed – including monitoring for severe constipation related to his medications.

9. Clear Skies Ahead contracted with Defendant Fairhaven Industries, Incorporated, to provide adult day services to Clear Skies Ahead's residents, including James Stewart. Day services for intellectually disabled adults like James Stewart are intended to provide stimulation, socialization, and entertainment in a safe environment where the residents can be monitored by staff.

10. Defendant Fairhaven Industries, Incorporated, also provided James with a job working in their Champion Workshop. Between the day services and his job, James spent five days a week at Defendant Fairhaven Industries' facilities.

11. Defendants Clear Skies Ahead and Defendant Fairhaven Industries, Incorporated, received compensation in the form of taxpayer money through the Trumbull County Board of Developmental Disabilities in exchange for providing room and board and daily services and support to James Stewart, which included "monitoring [James] for signs and symptoms of illness or injury" including developing severe constipation.

12. Defendants Clear Skies Ahead and Defendant Fairhaven Industries, Incorporated, did not have a system in place for their staff to monitor and record bowel movements for residents, including James.

13. While under Defendants Clear Skies Ahead and Defendant Fairhaven Industries, Incorporated's care and supervision in October through November 2024, Defendants Clear Skies Ahead and Defendant Fairhaven Industries, Incorporated, failed to monitor James for signs and symptoms of constipation – missing completely that James had not had a bowel movement anywhere from several weeks to as long as a month.

14. For several days before November 15, 2024, James complained of abdominal pain, and was not acting like himself.

15. James was typically a happy, friendly, and active individual, who brought joy to those around him.

16. In the days, and even weeks leading up to November 15, 2024, James was despondent, low energy, and complaining of pain.

17. In the days leading up to November 15, 2024, James also had visible bruising to his abdominal area that was noticeable upon any reasonable inspection.

18. On November 14, 2024, James had a telepsych visit with Defendant Dr. Thomas Scheidemantal, MD, a psychiatrist employed by Defendant University Hospitals Medical Group, Inc. During the telepsych visit, Jennifer Petrosky – the manager of James' group home employed by Defendant Clear Skies Ahead – and Renee, an employee of Defendant Fairhaven Industries, Incorporated, were both present.

19. Dr. Scheidemantel documented at this visit that James had "[no] acute or significant health problems over the past few months," "no other side effects today," and documented that he had a "negative" gastrointestinal exam. Dr. Scheidemantel's notes show that neither Jennifer Petrosky nor Renee corrected Dr. Scheidemantel on these findings or advised him that James was having abdominal pain and severe constipation. This directly contradicted the Defendants, Clear Skies Ahead and Fairhaven Industries, Incorporated, obligations according to James' Individual Support Plan:

Healthy Living

Medical and Dental Care

What physical/health conditions/concerns should people know about?	Moderate ID Autism spectrum disorder PDD Bipolar Mood Disorder Psychosis Schizoaffective disorder Depression
Has the person been to the hospital recently?	No
Does the person ever go see a doctor/dentist?	Yes regularly
When the person is not feeling well, what do they do?	James will let his staff know. Staff will also monitor him for signs and symptoms of illness or injury as he may not always be aware something is wrong.
Does the person need help making or attending appointments?	Yes
Explain further	Yes, James relies on staff to assist him with making and attending appointments. Staff will assist with sharing necessary information to his physicians during appointments.
Does the person take medication?	Yes

20. On November 15, 2024, James went to work at his job at Fairhaven Industries, Incorporated's Champion workshop. James returned to Clear Skies Ahead around 2:30 p.m.

21. James once again informed Defendant Clear Skies Ahead's staff member, Robert Tallo, that he was not feeling well and that he had abdominal pain - which he had been experiencing consistently.

22. Robert Tallo instructed James to "sit on the toilet." Even though he sat on the toilet for some time, James could not have a bowel movement.

23. Afterward, James said that he was tired and went to his room to lie down around 4:40 p.m.

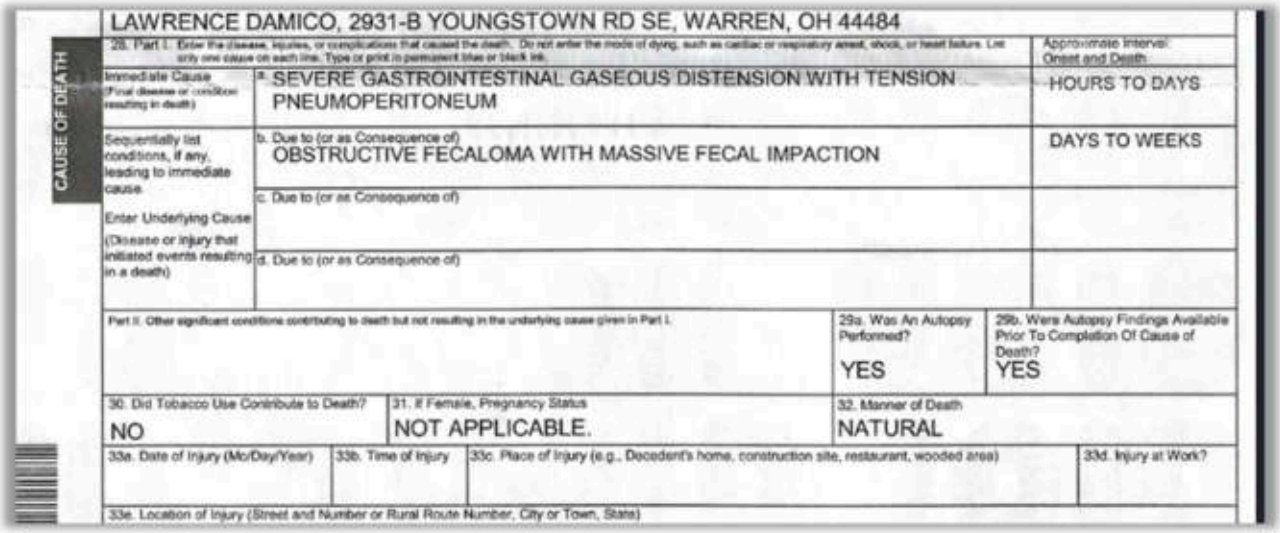
24. Defendants did not notify James' physician of his condition.

25. Defendants did not notify James' family of his condition.

26. At about 5:20 p.m., Defendant Clear Skies Ahead's group home manager, Jennifer Petrosky, found James in his room unresponsive, not breathing, and with no pulse. After finding James unresponsive, Defendant Clear Skies Ahead's staff called 911. Bazetta Township Fire Dept. arrived on the scene shortly after and noted that James had a discolored line across his abdomen, and that his abdomen was significantly distended – or swollen – and rigid to touch.

27. EMS began chest compressions and intubated James, but could not get his heart to function. EMS then took James to MercyHealth St. Joseph Warren Hospital's emergency department. However James never recovered. James passed away on November 15, 2024, at 6:32 p.m.

28. The Trumbull County Coroner's office took jurisdiction over James' case, and performed an investigation into the circumstances surrounding his death as well as an autopsy. Following the autopsy and investigation, Deputy Coroner Dr. George Sterbenz, MD, determined that James died from severe gastrointestinal gaseous distension with tension pneumoperitoneum, due to obstructive fecaloma with massive fecal impaction:



LAWRENCE DAMICO, 2931-B YOUNGSTOWN RD SE, WARREN, OH 44484

CAUSE OF DEATH

28. Part I. Enter the disease, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. Use only one cause on each line. Type or print in permanent blue or black ink. — Approximate Interval: Onset and Death

Immediate Cause (Final disease or condition resulting in death)
a. SEVERE GASTROINTESTINAL GASEOUS DISTENSION WITH TENSION PNEUMOPERITONEUM — HOURS TO DAYS

Sequentially list conditions, if any, leading to immediate cause.
Enter Underlying Cause (Disease or injury that initiated events resulting in a death)
b. Due to (or as Consequence of)
OBSTRUCTIVE FECALOMA WITH MASSIVE FECAL IMPACTION — DAYS TO WEEKS

c. Due to (or as Consequence of)

d. Due to (or as Consequence of)

Part II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I.

29a. Was An Autopsy Performed? YES

29b. Were Autopsy Findings Available Prior To Completion Of Cause of Death? YES

30. Did Tobacco Use Contribute to Death? NO

31. If Female, Pregnancy Status: NOT APPLICABLE.

32. Manner of Death: NATURAL

33a. Date of Injury (Mo/Day/Year) | 33b. Time of Injury | 33c. Place of Injury (e.g., Decedent's home, construction site, restaurant, wooded area) | 33d. Injury at Work?

33e. Location of Injury (Street and Number or Rural Route Number, City or Town, State)

Death Certificate of James Stewart following the investigation and autopsy by the Trumbull County Coroner, giving the legally recognized cause of James' death as severe gastrointestinal gaseous distension with tension pneumoperitoneum, due to obstructive fecaloma with massive fecal impaction lasting days to weeks.

29. Plaintiffs bring 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 their 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.

30. Plaintiffs seek punitive damages in an amount necessary to punish the above-named Defendants and deter the Defendants from engaging in similar conduct in the future, attorneys' fees, and the costs of this litigation.

31. Plaintiffs request a trial by jury.

32. A motion for extension to file an affidavit of merit is attached.

DEFENDANTS

33. Clear Skies Ahead aka Clear Skies Ahead, LLC, is an Ohio limited liability company that holds itself out to the public as a provider residential and intermediate care, through its agents, operatives and / or employees and does business as Clear Skies Ahead.

34. Fairhaven Industries, Incorporated is an Ohio corporation that holds itself out to the public as a provider adult day services for developmentally disabled individuals, through its agents, operatives and / or employees and does business as Fairhaven Industries Incorporated.

35. G2 Management Co., LLC is an Ohio limited liability company that holds itself out to the public as a provider of residential and intermediate care and programming for persons with disabilities, through its agents, operatives and / or employees and does business as Clear Skies Ahead.

36. University Hospitals Medical Group, Inc., is an Ohio corporation and physician practice group offering physician services to patients through its agents, operatives and / or employees, including Defendant Thomas Scheidemantel, MD. At all times relevant, Defendant University Hospitals Medical Group, Inc., was the employer of

Defendant Thomas Scheidemantel, MD, and is vicariously liable for his conduct through the doctrine of Respondeat Superior.

37. Thomas Scheidemantel, MD, is a resident of the State of Ohio, and a physician practicing in the field of psychiatry. At all times relevant, Defendant Thomas Scheidemantel, MD, was acting within the course and scope of his employment as a psychiatrist with Defendant University Hospitals Medical Group, Inc., making Defendant University Hospitals Medical Group, Inc., vicariously liable for his conduct through the doctrine of Respondeat Superior.

38. Defendants Clear Skies Ahead aka Clear Skies Ahead, LLC, Fairhaven Industries, Incorporated, and G2 Management Co., LLC, will be referred to collectively as "Corporate Defendants."

39. Defendants University Hospitals Medical Group, Inc., and Thomas Scheidemantel, MD, will be referred to as "Psychiatric Defendants."

40. The Corporate Defendants are not a "home" as that term is defined by O.R.C. 2305.113(E)(14), which defines a "home" as:

> "(1) a home as defined in section 3721.01 of the Revised Code;
>
> (2) any facility or part of a facility not defined as a home under section 3721.01 of the Revised Code that is a skilled nursing facility or nursing facility, both as defined in section 5165.01 of the Revised Code; and
>
> (3) a county home or district home operated pursuant to Chapter 5155. of the Revised Code."

O.R.C. 2305.113(E)(14). O.R.C. 3721.01(A)(1)(a) further defines a "home" as:

> "'[h]ome' means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care

facility, home for the aging, and a veterans' home operated under Chapter 5907 of the Revised Code."

O.R.C. 3721.01(A)(1)(a). O.R.C. 3721.01(A)(1)(b) states:

> "'[h]ome' also means both of the following:
>
> (i) Any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section 3702.521 of the Revised Code or division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;
>
> (ii) A county home or district home that is or has been licensed as a residential care facility.

O.R.C. 3721.01(A)(1)(b). O.R.C. 5123.19(A)(5)(b)(iv) states that a "[r]esidential facility" is ***not*** "[a] dwelling in which the only residents with developmental disabilities are in independent living arrangements or are being provided supported living."

41. Because the Corporate Defendants are ***not*** a "home" as that term is defined by O.R.C. 2305.113(E)(14), the claims against them are ***not*** "medical claims" pursuant to O.R.C. 2305.113, and so are not subject to the pleading requirements and damages limitations imposed upon "medical claims" by Ohio law, and are ordinary negligence claims.

DIRECT AND VICARIOUS CORPORATE LIABILITY

42. Some or all of the Corporate Defendants employ the care providers who were responsible for ensuring James Stewart's care and safety at Clear Skies Ahead.

43. The Defendants manage, control, and/or employ the staff and other caregivers at the Facility.

44. James Stewart and his family looked to Corporate Defendants for care based upon their representations.

45. Corporate Defendants are vicariously liable for the negligent actions of their employees and agents (respondent superior and agency liability) and/or independent contractors (Clark v. Southview agency by estoppel), including residential care providers.

JURISDICTION AND VENUE

46. This Court has Jurisdiction over Defendant(s) because, among other things, all Defendant(s) 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.

47. Venue is proper in Trumbull 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.

CONTINUED ON NEXT PAGE

COMMON FACTS

Who is James Stewart?



Photo of James Stewart

48. James Stewart was a 41-year-old man who loved music, swimming, concerts, sporting events, and all kinds of other social events.

49. James Stewart was diagnosed with Bipolar, Mood Disorder, Psychosis, and Schizoaffective disorder, and because of his conditions, needed "staff to recognize and respond to emergencies, to call 911 and to keep himself and his home safe." ISP October 12, 2024 (p. 1013 of 2378).

50. James and his family relied on Corporate Defendants to provide services to keep him safe, recognize emergencies, and call 911 when it was needed. Corporate Defendants were contractually obligated to monitor James for signs and symptoms of illness or injury, and to communicate signs and symptoms of injury to his medical providers – especially when attending James' medical appointments.

Defendants' Negligence and Recklessness with James Stewart

51. Corporate Defendants accepted James Stewart as a resident/attendee for long-term care for issues related to his developmental disabilities.

52. Corporate Defendants agreed to accept James Stewart into their facility and provide care in exchange for monetary payment.

53. Corporate Defendants knew James Stewart's care needs when accepting him into their care.

54. James Stewart endured mental and physical pain suffering as a direct and proximate result of Corporate Defendants' failure to provide adequate care.

55. For several days before November 15, 2024, James complained of abdominal pain, and was not acting like himself.

56. James was typically a happy, friendly, and active individual, who brought joy to those around him.

57. In the days, and even weeks leading up to November 15, 2024, James was despondent, low energy, and complaining of pain.

58. In the days leading up to November 15, 2024, James also had visible bruising to his abdominal area that was noticeable upon any reasonable inspection.

59. For several days before November 15, 2024, James had not had a bowel movement.

60. In the days leading up to November 15, 2024, James also had visible bruising to his abdominal area that was noticeable upon any reasonable inspection.

61. On November 14, 2024, James had a telepsych visit with Defendant Dr. Thomas Scheidemantal, MD, a psychiatrist employed by Defendant University Hospitals Medical Group, Inc. During the telepsych visit, Jennifer Petrosky – the manager of James' group home employed by Defendant Clear Skies Ahead – and Renee, an employee of Defendant Fairhaven Industries, Incorporated, were both present.

62. Dr. Scheidemantel documented at this visit that James had "[no] acute or significant health problems over the past few months," "no other side effects today," and documented that he had a "negative" gastrointestinal exam. Dr. Scheidemantel's notes show that neither Jennifer Petrosky nor Renee corrected Dr. Scheidemantel on these findings or advised him that James was having abdominal pain and severe constipation. This directly contradicted the Defendants, Clear Skies Ahead and Fairhaven Industries, Incorporated, obligations according to James' Individual Support Plan.

63. On November 15, 2024, James went to work at his job at Fairhaven Industries, Incorporated's Champion workshop. James returned to Clear Skies Ahead around 2:30 p.m.

64. James once again informed Defendant Clear Skies Ahead's staff member, Robert Tallo, that he was not feeling well and that he had abdominal pain - which he had been experiencing consistently.

65. Robert Tallo instructed James to "sit on the toilet." Even though he sat on the toilet for some time, James could not have a bowel movement.

66. Afterward, James said that he was tired and went to his room to lie down around 4:40 p.m.

67. Defendants did not notify James' physician of his condition.

68. Defendants did not notify James' family of his condition.

69. At about 5:20 p.m., Defendant Clear Skies Ahead's group home manager, Jennifer Petrosky, found James in his room unresponsive, not breathing, and with no pulse. After finding James unresponsive, Defendant Clear Skies Ahead's staff called 911. Bazetta Township Fire Dept. arrived on the scene shortly after and noted that James had a discolored line across his abdomen, and that his abdomen was significantly distended – or swollen – and rigid to touch.

70. EMS began chest compressions and intubated James, but could not get his heart to function. EMS then took James to MercyHealth St. Joseph Warren Hospital's emergency department. However James never recovered. James passed away on November 15, 2024, at 6:32 p.m.

CORPORATE CONTROL

71. Corporate Defendants hold themselves out to the public as providers of residential and intermediate care services.

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

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

74. Corporate Defendants manage, control, and / or employ the staff at Defendants Clear Skies Ahead aka Clear Skies Ahead, LLC, and Fairhaven Industries, Incorporated.

75. Corporate Defendants exercise actual control over Defendants Clear Skies Ahead aka Clear Skies Ahead, LLC, Fairhaven Industries, Incorporated's management and operations to maximize profits, including control over facility-level, including:

a. Policies and procedures, including regarding resident supervision and 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;

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;

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

76. As the result of this control, Corporate Defendants make decisions that affect the day-to-day care of residents of Defendants Clear Skies Ahead aka Clear Skies Ahead, LLC, Fairhaven Industries, Incorporated, such as the resources available for

providing well-qualified, trained, and knowledgeable staff to residents like James Stewart, meaning they are responsible for the foreseeable harm that results from careless decisions while voluntarily exercising that control.

77. Corporate Defendants failed to ensure, through their operational, budgetary, consultation and managerial decisions and actions, that the facilities were sufficiently staffed with well-qualified, trained, and knowledgeable staff to meet the individual needs of its residents, including James Stewart.

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

79. This lack of sufficient well-qualified, trained, and knowledgeable staff directly resulted in James Stewart not receiving basic and necessary services to prevent, among other things, neglect and abuse leading to her injuries.

Misleading Advertising

80. To persuade the families of patients to become customers, Corporate 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.

81. The intent and outcome of this misleading practice is to cause residents, their families, and external care providers to believe the facility is staffed with well-qualified, trained, and knowledgeable staff to provide the promised care more so than what is actually the practice of the Corporate Defendants with regard to staffing the facility with well-qualified, trained, and knowledgeable staff.

82. 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 resources at the expense of patient safety.

FIRST CAUSE OF ACTION
(NEGLIGENCE / RECKLESSNESS)

83. Plaintiff(s) incorporate all other paragraphs of this Complaint as if fully rewritten herein.

84. James Stewart depended on Corporate Defendants, and their respective staff, to provide care and services due to his developmental disabilities.

85. Corporate Defendants had a duty to provide proper care and treatment to James Stewart and to avoid causing him injury.

86. Corporate Defendants, including their staff, failed to provide proper care and treatment to James Stewart, which they knew or should have known she required, and their negligence was the direct and proximate cause of the injuries that James Stewart suffered.

87. Corporate Defendants' failure to provide proper care 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, and treatment;

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

e. Choosing to not provide accurate, adequate, or timely information to James Stewart's family;

f. Choosing to not provide accurate, adequate, or timely information to James Stewart's family;

g. Choosing to provide inadequate supervision to prevent accidents and injuries;

h. Choosing to violate state and federal regulations governing care and staffing levels in facilities by which residents like James Stewart are a member of the class of persons intended to be protected from injuries like those he suffered;

i. Failing to ensure the rights and safety of its residents, including James Stewart, as required by Ohio and federal regulations;

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

88. These actions constituted a conscious disregard for James Stewart's rights and safety with a great probability of causing substantial harm from this misconduct, by which—through heedless indifference to the consequences— Corporate 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 care were rendered, constituting an unreasonable risk of injury, death, or loss to person or property, or intentional misconduct or willful or wanton misconduct. Corporate Defendants were aware of the great probability of harm that could result from their willful, wanton, and/or reckless misconduct.

89. Corporate Defendants' disregard for the rights and safety of residents like James Stewart created circumstances under which it became substantially certain that serious injuries would result, entitling Plaintiff to awards for compensatory and punitive damages.

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

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

92. As a direct and proximate result of the negligent and/or willful, wanton and/or reckless actions of the Defendants described above, James Stewart suffered severe pain and suffering before he passed away on November 15, 2024.

93. WHEREFORE, Plaintiffs demand judgment against the Corporate 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
(RESIDENTS' RIGHTS CLAIM)

94. Plaintiff(s) incorporate all other paragraphs of this Complaint as if fully rewritten herein.

95. Corporate Defendants, directly or through their employees or agents, violated James Stewart's rights as a resident of Corporate Defendants' residential facilities, as enumerated in Ohio Admin. Code 5122-30-22, including, but not limited to:

a. The right to be treated all times with courtesy and respect, and with consideration for personal dignity, autonomy and privacy.

b. The right to receive services in the least restrictive, feasible environment.

c. The right to receive humane services in a clean, safe, comfortable, welcoming, stable and supportive environment.

d. The right to reasonable protection from physical, sexual and emotional abuse, neglect, and exploitation.

e. The right to be informed of one's own condition.

96. As a direct and proximate result of Corporate Defendants' violations of Ohio Admin. Code 5122-30-22, James Stewart endured conscious pain and suffering, emotional distress, permanent bodily disfigurement, and death.

97. WHEREFORE, Plaintiff demands judgment against Corporate Defendants, jointly, in an amount more than 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.

THIRD CAUSE OF ACTION
(MEDICAL NEGLIGENCE)

98. Plaintiff(s) incorporate all other paragraphs of this Complaint as if fully rewritten herein.

99. James Stewart depended on the Corporate Defendants and Psychiatric Defendants, and their respective nursing and medical staff, for nursing and medical care, treatment, evaluation, and assistance.

100. Corporate Defendants and Psychiatric Defendants had a duty to provide proper care and treatment to James Stewart and to avoid causing injury to James Stewart.

101. Corporate Defendants and Psychiatric Defendants, and their respective nursing and medical staff, failed to provide proper care and treatment to James Stewart, which they knew or should have known they required, and their negligence was the direct and proximate cause of the injuries that James Stewart suffered.

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

a. Choosing not to perform complete, comprehensive, accurate, fair, and thorough assessment of James Stewart's condition;

b. Choosing not to obtain a complete, comprehensive, accurate, fair, and thorough history of James Stewart's condition;

c. Choosing not to follow-up on James Stewart's known severe constipation as a side-effect of medications which the Psychiatric Defendants themselves were managing;

d. Choosing not to provide appropriate care to James Stewart while he was a patient of the Psychiatric Defendants; and

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

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

a. Choosing not to monitor James Stewart's condition for signs and symptoms of injury or illness;

b. Choosing not to regularly assess James Stewart for constipation related to the known severe constipation side-effect of his medications;

c. Failing to appreciate, or choosing not to act on, the obvious signs of fecal impaction including weeks of no bowel movement, abdominal pain, and a distended and rigid abdomen;

d. Choosing not to report the signs of fecal impaction and severe constipation to James Stewart's medical providers;

e. Choosing not to provide appropriate care to James Stewart while he was a resident of the Corporate Defendants' facilities; and

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

104. These actions constituted a conscious disregard for James Stewart's rights and safety with a great probability of causing substantial harm from this misconduct, by which—through heedless indifference to the consequences—the Corporate Defendants and Psychiatric 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 Corporate Defendants and Psychiatric Defendants were aware of the great probability of the harm that could result from their willful, wanton, and/or reckless misconduct.

105. The Corporate Defendants and Psychiatric Defendants' disregard for the rights and safety of residents like James Stewart created circumstances under which it became substantially certain that serious injuries would result, entitling Plaintiff to awards for compensatory and punitive damages.

106. Corporate Defendants and Psychiatric Defendants are directly liable for their own willful, wanton, and/or reckless misconduct.

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

108. Corporate Defendants and Psychiatric Defendants, and their respective nursing and medical staff, provided care to James Stewart that fell below the standard of care expected of nursing and medical care under the same or similar circumstances.

109. As a direct and proximate result of the negligent and/or willful, wanton and/or reckless actions of the Corporate Defendants and Psychiatric Defendants described above, James Stewart sustained permanent injury and loss including, but not limited to, conscious pain and suffering, disability, and death.

110. 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.

FOURTH CAUSE OF ACTION
(WRONGFUL DEATH)

111. Plaintiff(s) incorporate all other paragraphs of this Complaint as if fully rewritten herein.

112. As a direct and proximate result of the negligent actions of the Defendants described above, James Stewart sustained injuries and passed away on November 15, 2024.

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

114. WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly, in an amount more than Twenty-Five Thousand Dollars ($25,000.00) to compensate the decedent's next of kin and heirs at law, together with costs of suit, attorney's fees and expenses, and any other relief to which the Plaintiff may be entitled to and/or that the court finds is appropriate and/or equitable.

A TRIAL BY JURY IS HEREBY DEMANDED

Respectfully Submitted,

/s/ Matthew A. Mooney

MATTHEW A. MOONEY (0093332)
C. JOSEPH MCCOY (0092669)
MICHAEL A. HILL (0088130)
MICHAEL HILL TRIAL LAW
815 Superior Ave., Suite 623
Cleveland, Ohio 44114
(800) 659-2712 (o) | (216) 304-6630 (f)
matthew.mooney@protectseniors.com
joe.mccoy@protectseniors.com
michael.hill@protectseniors.com
www.protectseniors.com

Counsel for Plaintiff