IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

ESTATE OF ROBERT L. WEAVER, DECEASED Through Estate Representative Troy A. Weaver c/o Michael Hill Trial Law 815 Superior Avenue, Suite 623 Cleveland, Ohio 44114 Plaintiff, vs. CHERRY BLOSSOM SENIOR LIVING AKA CONTINENTAL SENIOR COMMUNITIES AKA CONTINENTAL SENIOR LIVING MANAGEMENT, LLC 150 E. Broad Street Columbus, OH 43215 Also Serve c/o Registered Agent: Mark A. Damante 150 E. Broad St. Columbus, OH 43215 and CHERRY BLOSSOM SENIOR LIVING AKA CONTINENTAL SENIOR COMMUNITIES, LLC 1466 Manning Pkwy Powell, OH 43065 Also Serve c/o Registered Agent: Cogency Global, Inc. 3958-D Brown Park Drive Hilliard, OH 43026 and CHERRY BLOSSOM SENIOR LIVING AKA CSC CHERRY BLOSSOM MANAGEMENT	CASE NO. JUDGE **COMPLAINT** **JURY DEMAND ENDORSED HEREON AND AFFIDAVIT OF MERIT ATTACHED**

CO., LLC)
1466 Manning Pkwy)
Powell, OH 43065)
)
Also Serve c/o Registered Agent:)
)
Barmi Akbar)
1466 Manning Pkwy)
Powell, OH 43065)
)
Defendants.)

Plaintiff, the Estate of Robert L. Weaver, Deceased, through Estate Representative Troy A. Weaver, for this Complaint against the above-named Defendants, states and avers upon information and belief:

INTRODUCTION AND COMMON FACTS

1. This action involves multiple claims (medical negligence/negligence, wrongful death, Resident Rights Law violations) involving Cherry Blossom Senior Living ("Cherry Blossom"), an assisted living facility (aka residential care facility) located at 79 Blossom Field Blvd. in Columbus, Ohio, which is located with Franklin County and is owned, operated, and under the management and control of Defendants Continental Senior Living Management, LLC, Continental Senior Living Communities, LLC, and CSC Cherry Blossom Management Co., LLC for providing inadequate care to their resident Robert L. Weaver and allowing him to wander away from the facility where he suffered a severe head injury and froze to death on January 20, 2024.

2. Robert Weaver, age 76, was diagnosed with Alzheimer's dementia and began wandering away from his home, including wandering to the Sheriff's Department and hiding under his deck. Mr. Weaver's family and physicians determined that he required

24/7 care to prevent him from wandering away (elopement) and potentially suffering injuries from falls or hypothermia due to exposure from inclement weather in the coming winter months.

3. On November 30, 2023, Robert Weaver became a resident of Cherry Blossom to receive supervision and monitoring to protect him from the risks of wandering away and being injured. In less than 2 months after entering Cherry Blossom, Robert was found dead from hypothermia after Cherry Blossom allowed him to wander away from the facility on one of the coldest and harshest winter nights in 2024 for hours before anyone noticed he was missing.

4. Cherry Blossom was aware of Robert's risk of wandering as a result of his Alzheimer's dementia, which they were actively providing him medication for, including quetiapine (Seroquel), haloperidol (Haldol), galantamine (Razadyne), memantine (Ebixa), and trazadone (Desyril).

5. Despite these known risks, which were the very reason that Robert became a resident of Cherry Blossom, Cherry Blossom failed to appropriately assess Robert and assessed him as having no behavioral issues, not being at risk for wandering behavior, and scoring him as nearly perfect on a brief interview for mental status (BIMS) exam—all of which were false. Contrary to these assessments, Robert was also noted to suffer from paranoia and hallucinations upon admission, and hospital records, from just days prior to the date upon which Robert was admitted to Cherry Blossom, identified Robert as a wandering and elopement risk.

6. Cherry Blossom's video surveillance from the very early morning hours of January 20, 2024, captured the events immediately before Robert's death.



7. January 20, 2024 (12:22AM) – Robert Weaver is seen wandering the hallways of Cherry Blossom by himself.



8. January 20, 2024 (12:22AM) – Robert Weaver is seen wandering the hallways of Cherry Blossom by himself.



9. January 20, 2024 (12:22AM) – Robert Weaver is seen wandering the hallways of Cherry Blossom by himself.



10. January 20, 2024 (12:22AM) – Robert Weaver is seen wandering the hallways of Cherry Blossom by himself.



11. January 20, 2024 (12:22AM) – Robert Weaver is seen wandering the hallways of Cherry Blossom by himself.



12. January 20, 2024 (12:23AM) – Robert Weaver is seen wandering the hallways of Cherry Blossom by himself. He continues wandering the hallways for several minutes.



13. January 20, 2024 (12:23AM) – Robert Weaver takes a seat on a table in a common area of Cherry Blossom.



14. January 20, 2024 (12:28AM) – Robert Weaver stays seated on the table in the common area for several minutes. Cherry Blossom's staff remains nonexistent throughout the video, and no one checks on Robert or notices that he is wandering throughout the building.



15. January 20, 2024 (12:30AM) – Robert Weaver stays seated on the table in the common area. Nobody responds to him as he appears distressed by himself, in the middle of the hallway past midnight.



16. January 20, 2024 (12:51AM) – Robert Weaver continues to stay seated in the common area. He is going through his wallet. Robert has been seated, by himself, in the middle of the hallway for almost thirty minutes without a Cherry Blossom staff member responding to the situation.



17. January 20, 2024 (12:58AM) – After being seated on top of the common area table for over thirty minutes, Robert stands up and shuffles through his wallet. Not a single Cherry Blossom staff member responded to Robert up to this point.



18. January 20, 2024 (1:00AM) – Robert Weaver sits down on the couch in the common area. He has been wandering the hallways and common area space by himself for over forty minutes without a response from Cherry Blossom's staff.



19. January 20, 2024 (1:05AM) – Robert Weaver stays seated on the couch by himself. He appears to be confused and anxious.



20.January 20, 2024 (1:08AM) – Robert Weaver shuffles through the couch cushions as if he is looking for something.



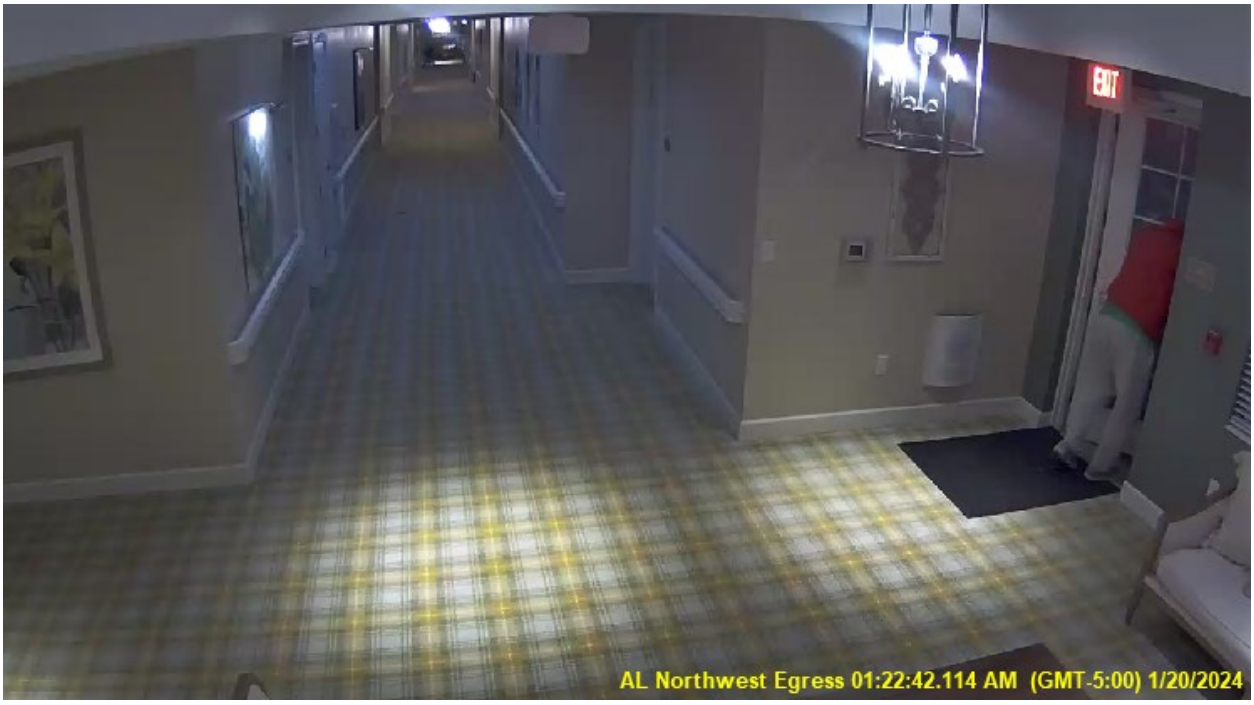
21. January 20, 2024 (1:21AM) – Robert Weaver is seated back on the couch and reaching for decorations off the table. He has been wandering the hallways and common area space by himself without any staff intervention for approximately an hour.



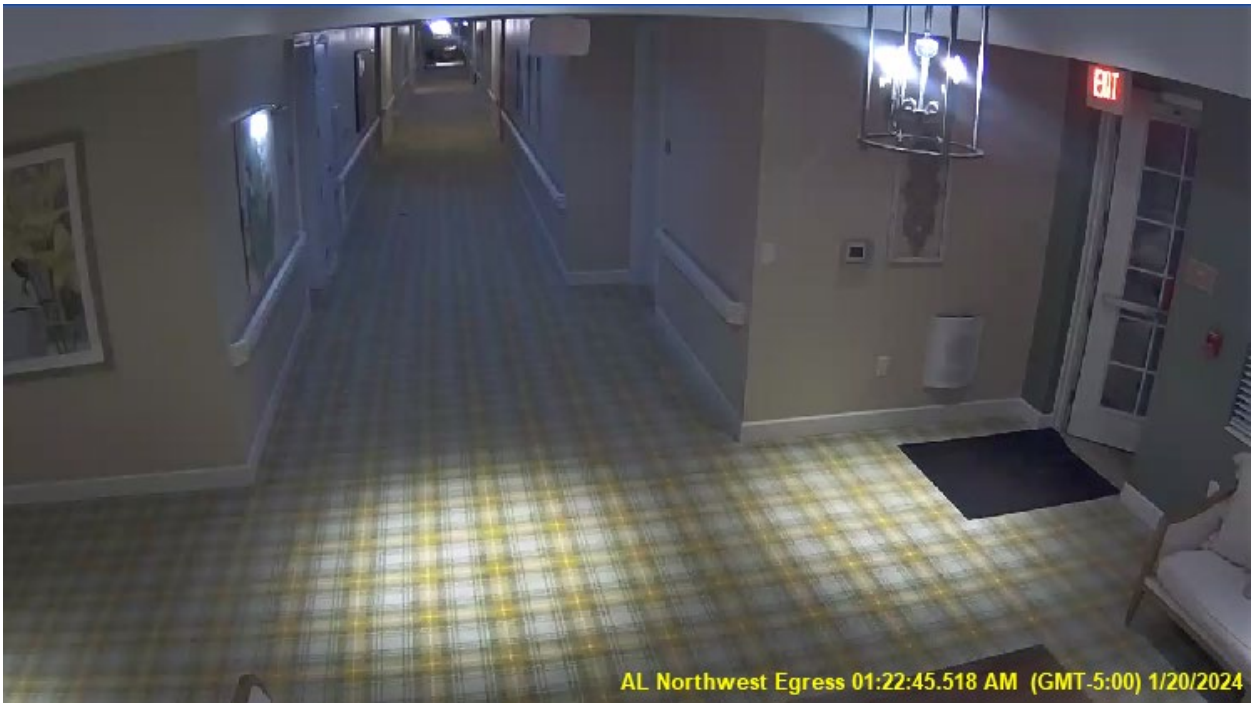
22. January 20, 2024 (1:22AM) – Robert Weaver puts the decorations back on the table and walks away from the common area. He has been wandering the hallways of Cherry Blossom for an hour without a staff member recognizing and addressing the situation.



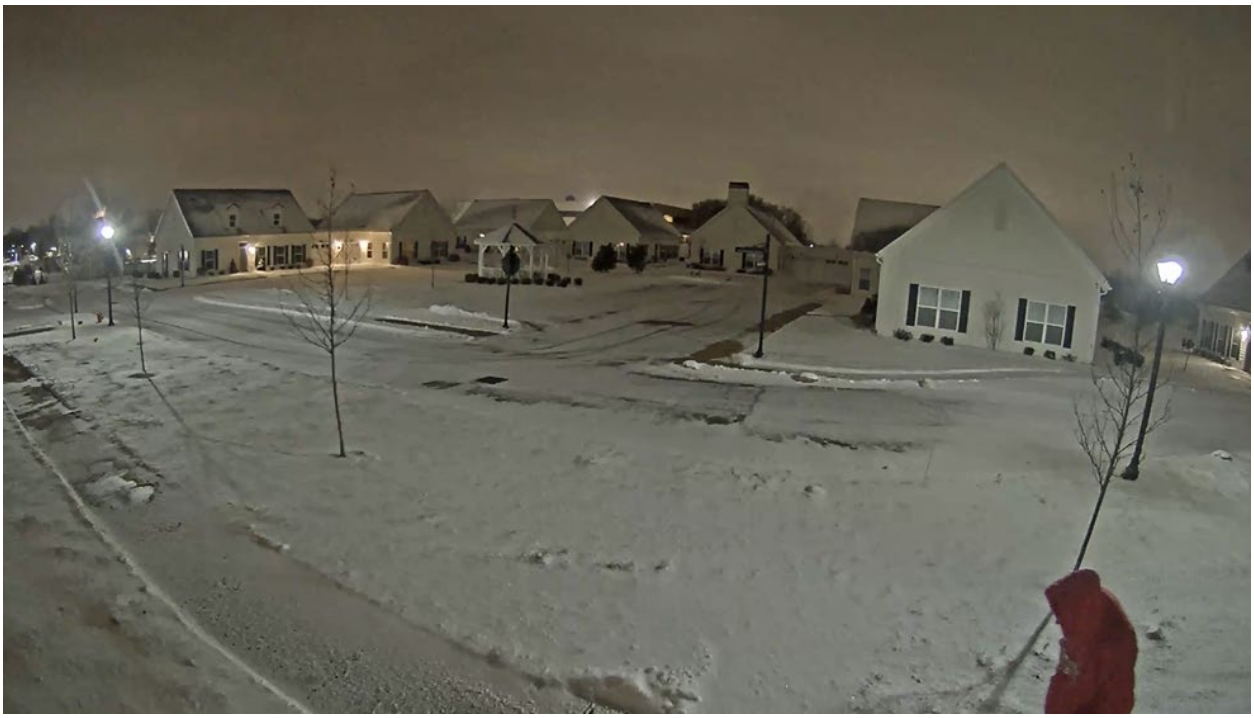
23. January 20, 2024 (1:22AM) – Robert Weaver walks towards the door to exit the facility.



24. January 20, 2024 (1:22AM) – Robert Weaver pushes the door open and starts to walk out of the facility. He has been wandering Cherry Blossom for over an hour at this point. None of Cherry Blossom's staff members have responded to the situation.



25. January 20, 2024 (1:22AM) – Robert Weaver walks out of the facility by himself. No Cherry Blossom staff member responds.



26. January 20, 2024 (after 1:22AM) – Robert Weaver is walking outside in the middle of a winter night by himself. Cherry Blossom staff members still have not realized that Robert left the building in the middle of the night. The temperature was 7 degrees Fahrenheit when Robert walked out of the building.



27. January 20, 2024 (after 1:22AM) – Robert Weaver walks through inches of snow in the middle of the night without proper clothing to keep him warm and safe.



28. January 20, 2024 (after 1:22AM) – Robert Weaver continues to walk through the snow without proper clothing. Cherry Blossom staff members still have not responded to the situation. This is the last time Robert is seen on camera before his body is discovered later that morning.

29. Cherry Blossom did not recognize that Robert Weaver was missing until the following morning when he was not present for breakfast.

30. The Franklin County Coroner's Office performed an autopsy and determined that Robert died from hypothermia due to cold temperature exposure after wandering away from Cherry Blossom. Additional injuries included several brain bleeds caused by blunt force trauma to his head.

CAUSE AND MANNER OF DEATH			
Immediate Cause Hypothermia			**Time Interval** Mins to Hrs
As a Consequence Of			**Time Interval**
As a Consequence Of			**Time Interval**
As a Consequence Of			**Time Interval**
Other Significant Conditions Blunt force injuries of head and Alzheimer's dementia			
Manner Accident	**Autopsy** Full	**Date Examined** 01/22/2024	**Time Examined** 09:49AM
Name, Title and Address of Person Who Completed Cause of Death Tyler Haffler, M.D. 2090 Frank Road Columbus, OH 43223			
Name, Title and Address of Person Who Performed Examination and or Reviewed Medical Records Tyler Haffler, M.D. 2090 Frank Road Columbus, OH 43223			
Date of Injury Unknown	**Time of Injury**		**Injury at Work?** No
Address of Injury 79 Blossom Field Boulevard			**Place of Injury** Outside
City Columbus	**State** Ohio		**Zip** 43213
How Injury Occurred Cold temperature exposure			

DEFENDANTS

31. Cherry Blossom Senior Living is an assisted living facility, also referred to as a residential care facility in Ohio, located at 79 Blossom Field Blvd. in Columbus, Ohio, in Franklin County, which is owned, operated, and under the management and control of Defendants Continental Senior Living Management, LLC, Continental Senior Living Communities, LLC, and CSC Cherry Blossom Management Co., LLC.

32. Continental Senior Management, LLC is an Ohio for-profit corporation headquartered in Franklin County, Ohio, 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 Cherry Blossom Senior Living and was responsible for Robert Weaver's care from his admission on November 30, 2023, through his death on January 20, 2024.

33. Continental Senior Communities, LLC is an Ohio for-profit corporation headquartered in Franklin County, Ohio, 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 Cherry Blossom Senior Living and was responsible for Robert Weaver's care from his admission on November 30, 2023, through his death on January 20, 2024.

34. CSC Cherry Blossom Management Co., LLC is an Ohio for-profit corporation headquartered in Franklin County, Ohio, 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 Cherry Blossom Senior Living and was responsible for Robert Weaver's care from his admission on November 30, 2023, through his death on January 20, 2024.

35. The Defendants employ, manage, and direct the care and service providers who were responsible for Robert Weaver's care, treatment, and safety at Cherry Blossom while he was a resident there, and/or are responsible for creating unsafe conditions at Cherry Blossom through their control of the facility management that directly led to Robert Weaver's injuries and untimely and wrongful death on January 20, 2024.

36. The Defendants direct and control operations at Cherry Blossom and are therefore directly liable for mismanagement of the facility without regard to piercing the corporate veil.

37. The Defendant organizations control Cherry Blossom 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 Robert Weaver from such control and wrong, meaning the Defendants should be held directly liable for such harms and losses.

VICARIOUS LIABILITY

38. The Defendants employ the care providers who were responsible for ensuring Robert Weaver's care and safety.

39. The Defendants manage, control, and/or employ the licensed nursing and unlicensed caregiver staff at the facility.

40. Robert Weaver and his family looked to the Defendants for care based upon their representations that Defendants would keep Robert Weaver safe and would not let him leave the facility under unsafe conditions.

41. 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 (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.

JURISDICTION AND VENUE

42. 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.

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

FIRST CAUSE OF ACTION
(MEDICAL NEGLIGENCE/NEGLIGENCE)

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

45. Robert Weaver depended on the Defendants, and their respective nursing staff, for nursing care, treatment, evaluation, and assistance.

46. The Defendants had a duty to provide proper care and treatment to Robert Weaver and to avoid causing injury to Robert Weaver.

47. The Defendants, including their nursing staff, failed to provide proper assessment, care, treatment, monitoring, and supervision to Robert Weaver, which they knew or should have known he required, and their negligence was the direct and proximate cause of Robert Weaver's injuries.

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

a. Choosing to improperly assess Robert Weaver for his memory, behaviors, and elopement (wandering) risks;

b. Choosing to not create an appropriate plan for Robert Weaver's memory, behavior, and elopement (wandering risks);

c. Choosing to not implement an appropriate plan for Robert Weaver's memory, behavior, and elopement (wandering risks);

d. Choosing to not assess and reassess the adequacy of the assessments and plan for Robert Weaver's memory, behavior, and elopement risks;

e. Choosing to have inadequate elopement (wandering) prevention measures in place;

f. Choosing to not train and supervise its staff on performing assessments and creating resident care plans to address elopement (wandering) risks in its residents;

g. Choosing to have insufficient staffing to monitor and supervise residents to prevent elopement (wandering) events or identify elopement (wandering) events before catastrophic injuries occur; and

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

i. Choosing not to provide appropriate care to Robert Weaver while he was a resident of Cherry Blossom;

j. Repeatedly violating Robert Weaver's rights as a resident of an assisted living facility (residential care facility) as set forth in Ohio's Resident Rights statute; and

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

49. These actions constituted a conscious disregard for Robert Weaver's rights and safety with a great probability of causing substantial harm from this misconduct, by which—through heedless indifference to the consequences—the Defendants or their staff disregarded a substantial and unjustifiable risk that the health care provider's conduct

was likely to cause, at the time those services or that treatment or care were rendered, constituting an unreasonable risk of injury, death, or loss to person or property, or intentional misconduct or willful or wanton misconduct. The Defendants were aware of the great probability of harm that could result from their willful, wanton, and/or reckless misconduct.

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

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

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

53. The Defendants and their licensed nursing and unlicensed caregiver staff provided care to Robert Weaver that fell below the standard of care expected of assisted living (residential care) facilities, under the same or similar circumstances.

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

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

56. 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 of life, 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)

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

58. Robert Weaver depended on the Defendants, and their respective nursing and unlicensed caregiver staff, for nursing and non-nursing care, treatment, evaluation, supervision, and assistance.

59. The Defendants had a duty to provide proper care and treatment to Robert Weaver and to avoid causing injury to Robert Weaver.

60. The Defendants, including their nursing and non-nursing caregiver staff, failed to provide proper care and treatment to Robert Weaver, which they knew or should have known he required, and their negligence was the direct and proximate cause of Robert Weaver's untimely and wrongful death.

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

62. 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)

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

64. Defendants, directly or through their employees or agents, violated Robert Weaver'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 living environment;

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

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

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

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

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

65. These violations are evidence of negligence and conscious disregard of Robert Weaver's rights and safety and give rise to a statutory cause of action.

66. As a direct and proximate result of Defendants' violations of R.C. 3721.13, Robert Weaver experienced conscious pain, suffering, and disability, and other harms and losses including death.

67. 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.

Respectfully Submitted,

/s/ Michael A. Hill

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Co-counsel for Plaintiff

JURY DEMAND

The undersigned counsel for Plaintiff hereby demands a trial by jury on any and all triable issues, such demand being made pursuant to Ohio R. Civ. P. 38.

/s/ Michael A. Hill

Franklin County Ohio Clerk of Courts of the Common Pleas- 2024 Oct 15 11:32 AM-24CV007886

STATE OF OHIO)
) **AFFIDAVIT OF MERIT**
CUYAHOGA COUNTY)
)
)

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 of 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 Robert L. Weaver while a resident of Cherry Blossom Senior Living from November 30, 2023, until his death from hypothermia on January 20, 2024, when he was allowed to elope from Cherry Blossom Senior Living.

4. I have reviewed all medical records reasonably available to the Estate of Robert L. Weaver, Deceased, concerning the allegations contained in the Complaint.

5. To a reasonable degree of medical probability, the Defendants' nursing, caregiving, and administrative staff of Cherry Blossom Senior Living and Continental Senior Living Management, LLC, Continental Senior Communities, LLC, and CSC Cherry Blossom Management Co., LLC grossly violated the standard of care causing Robert L. Weaver to experience conscious pain and suffering and death from hypothermia due to exposure to subfreezing temperatures.

FURTHER AFFIANT SAYETH NAUGHT.

Kapil Gulati
KAPIL GULATI, MD

SWORN TO BEFORE ME and subscribed in my presence this 14th day of October, 2024.

NOTARY PUBLIC
Barb Dvorak
My commission has no expiration date
Pursuant to ORC 147.03