

DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac Street Centennial, Colorado 80112	DATE FILED: August 21, 2019 4:56 PM FILING ID: 119A8C0E7B679 CASE NUMBER: 2019CV31980
<p>Plaintiffs: CORNELIUS D. MAHONEY and BARBARA MORRIS, MD</p> <p>v.</p> <p>Defendant: CENTURA HEALTH CORPORATION, a Colorado non-profit corporation.</p>	▲ COURT USE ONLY ▲
<p>Attorneys for Plaintiffs: Steven J. Wienczkowski (Reg. No. 33105) Jason Spitalnick (Reg No. 51037) Katherine A. Roush (Reg. No. 39267) Melanie MacWilliams-Brooks (Reg. No. 45322) Foster Graham Milstein & Calisher, LLP 360 South Garfield Street, 6th Floor Denver, Colorado 80209 Telephone: 303-333-9810 Email: swienczkowski@fostergraham.com; jspitalnick@fostergraham.com; roush@fostergraham.com; mbrooks@fostergraham.com</p> <p>Kathryn L. Tucker, JD, Executive Director End of Life Liberty Project 3890 Lopez Sound Road Lopez, Washington 98261 Telephone: 206-595-0097 E-mail: kathrynlucker@yahoo.com (<i>Pro hac vice</i> application forthcoming)</p>	<p>Case No.:</p> <p>Division:</p>
COMPLAINT FOR DECLARATORY RELIEF	

Plaintiffs Cornelius D. Mahoney (“Mr. Mahoney” or “Neil”¹) and Barbara Morris, MD (“Dr. Morris”)(collectively, “Plaintiffs”), by and through their undersigned counsel, submit their Complaint and allege as follows:

¹ Mr. Mahoney prefers to go by “Neil.”

INTRODUCTION

This action stems from a terminally ill patient's desire to receive aid-in-dying ("AID")² pursuant to The Colorado End-of-Life Options Act, C.R.S. § 25-48-101, *et seq.* ("EOLOA"). This option, overwhelmingly favored by Coloradans,³ provides an additional compassionate 'option of last resort' for those patients trapped in a dying process they find unbearable. It vests the patient with autonomy to determine how much suffering s/he will bear in the final ravages of the dying process. Some patients will want the option of ingesting medication prescribed by their physician, in the privacy and familiarity of their home, to achieve a more peaceful death. Indeed, although it is not always possible, terminally ill patients overwhelmingly choose to die at home rather than in an institution when it is possible, and that choice is explicitly protected by the EOLOA.

The EOLOA explicitly provides a limited 'opt out', allowing a health care facility to prohibit its physicians from writing prescriptions for aid-in-dying medication for patients who intend to take the medication on the premises of the facility. However, the defendant in this case has adopted a much broader policy than the EOLOA permits. The defendant's overly broad policy prohibits its physicians from prescribing medication for AID, even if the patient intends to take the medication at home. The defendant's policy also prohibits its physicians from engaging "in any stage of qualifying a patient for use of Medical Aid in Dying Medication." These restrictions go beyond what the EOLOA permits.

Further, pursuant to C.R.S. § 25-3-103.7(3), health care facilities such as defendant may not "...limit or otherwise exercise control over the physician's independent professional judgment concerning the practice of medicine or diagnosis or treatment[.]" Here, the defendant's policy relating to AID impermissibly limits and controls a physicians' independent professional judgment concerning the practice of medicine.

Plaintiffs in this case include Neil Mahoney, a man dying of a painful form of cancer which has spread throughout his body (including a tumor located at the junction of his esophagus and stomach), and his physician, Dr. Barbara Morris. Neil knows he wants the comfort of AID, to allow him to die peacefully at home, and has discussed this with Dr. Morris, who is willing to support Neil's informed choice. However, the defendant's policy forbids her from doing so. Because the policy at issue is contrary to Colorado law, and because Neil's medical condition is dynamic, advancing and exacerbating, Plaintiffs seek a judicial declaration that Centura may not lawfully prohibit Dr. Morris from, or sanction or penalize Dr. Morris for, providing AID related

² "Medical aid in dying" is "the medical practice of a physician prescribing medical aid-in-dying medication to a qualified individual that the individual may choose to self-administer to bring about a peaceful death." C.R.S. § 25-48-102 (7).

³ 64.87 percent of Colorado voters approved the measure.

(<https://www.sos.state.co.us/pubs/elections/Results/2016/General/2016GeneralAbstractResultsCertAndReport.pdf>)(p. 131)

services to Neil, including but not limited to, prescribing AID medication to Neil for use somewhere other than at a Centura facility.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Cornelius D. Mahoney is an individual who resides at 15150 South Golden Road, Golden, Colorado 80401.

2. Plaintiff Barbara Morris, M.D. is a board-certified medical doctor who specializes in primary care and geriatrics.

3. Dr. Morris currently practices medicine at Centura Health Physician Group located at 750 Warner Drive, Golden, Colorado 80401 (“CHPG”).

4. Defendant Centura Health Corporation (“Centura” or “Defendant”) is a Colorado non-profit corporation with a principal office address of 9100 E. Mineral Circle, Centennial, Colorado 80112.

5. CHPG is one of Centura’s facilities.

6. Venue is proper pursuant to C.R.C.P. 98(c) or otherwise.

7. The Court has personal jurisdiction over the parties pursuant to C.R.S. § 13-1-124(1).

GENERAL ALLEGATIONS

Neil’s Terminal Diagnosis

8. Prior to 2019, Neil, age 64, was generally in good health and had not experienced any serious medical issues or physical injuries. *Ex 1, Affidavit of Cornelius D. Mahoney*, ¶ 4.

9. Until June of this year, Neil was employed at Welby Gardens. Neil enjoyed the physical nature of his work and enjoyed working with plants and flowers. *Id.*, ¶ 5.

10. In January, 2019,⁴ Neil began experiencing persistent neck pain. *Id.*, ¶ 10.

11. Although Neil is not very comfortable being seen by physicians, the pain was persistent enough that he determined he should be evaluated. *Id.*, ¶¶ 6, 11.

⁴ All dates referenced herein refer to 2019 unless otherwise indicated.

12. Neil elected to be evaluated at CHPG because it is close to where he lives, he has been treated there in the past, and he is comfortable with the health care providers at CHPG. *Id.*, ¶ 7-9, 12.

13. On January 14 and February 4, Hollie Brieske (“Brieske”), a Nurse Practitioner at CHPG evaluated Neil’s neck pain. *Id.*, ¶ 13; **Ex: 2**, *Affidavit of Barbara A. Morris, MD*, ¶ 10.

14. Neil had been treated by Brieske in the past and feels comfortable with her because of her good bed-side manner. **Ex: 1**, ¶ 14.

15. Over the course of the next several months, the neck pain subsided such that Neil did not feel the need to follow up with Brieske. *Id.*, ¶ 15.

16. In April and May, Neil began to experience occasional nausea. Neil tried to vomit to relieve the discomfort but would only “dry-heave.” *Id.*, ¶ 16.

17. In early June, Neil also suffered from severe diarrhea and cramping which he had hoped would be relieved by over-the-counter medications. *Id.*, ¶ 17.

18. On June 10, Neil experienced severe abdominal pain and vomiting and was treated at Centura Health Golden Emergency and Urgent Care located in Golden, Colorado. **Ex: 1**, ¶ 18; **Ex: 2**, ¶ 11.

19. A CT scan revealed that Neil had multiple masses on his liver with probable spread to his lymph nodes. **Ex: 1**, ¶ 19; **Ex: 2**, ¶ 12.

20. Neil was referred to Rocky Mountain Cancer Centers (“RMCC”) in Lakewood for further evaluation and testing. **Ex: 1**, ¶ 20; **Ex: 2**, ¶ 13.

21. Neil was evaluated at RMCC on June 14. **Ex: 1**, ¶ 21.

22. A liver biopsy and other testing revealed multiple liver metastases, including a tumor located at the junction of Neil’s esophagus and stomach and a likely tumor in his chest. **Ex: 1**, ¶¶ 23-24; **Ex: 2**, ¶ 14.

23. Neil was diagnosed with stage IV adenocarcinoma with an unknown primary origin. **Ex: 1**, ¶ 25; **Ex: 2**, ¶ 15.

24. Adenocarcinoma is a type of cancer which originates in the glandular cells which lines certain internal organs. **Ex: 2**, ¶ 16; *See, also:*
<https://www.cancer.gov/publications/dictionaries/cancer-terms/def/adenocarcinoma>.

25. On or about July 16, Neil's physician at RMCC (Nauman Moazzam, MD) discussed the seriousness of Neil's diagnosis and explained to Neil that there is no cure for his cancer. Dr. Moazzam informed Neil that his life expectancy without treatment would be four months, and with treatment it could possibly be extended to 14 months. **Ex: 1, ¶¶ 22, 26; Ex: 2, ¶¶ 17-19.**

26. With no surgical intervention options, the treatment protocol for Neil is chemotherapy. Although chemotherapy is not a cure for Neil's condition, Neil was advised chemotherapy treatment *might* extend his life by an additional several months. **Ex: 1, ¶ 27; Ex: 2, ¶¶ 19-20.**

Neil's Desire to Die Peacefully at His Own Home if his Disease Progresses

27. Neil was devastated by his cancer diagnosis and the grim prognosis, but his main concern centered on how he would die from this disease. **Ex: 1, ¶ 33.**

28. Neil has witnessed several deaths in his immediate family. Neil's mother's death was particularly slow and painful. *Id.*, ¶ 34.

29. Neil is disturbed by how difficult and prolonged the dying experience can be. *Id.*, ¶¶ 34-35.

30. Neil has the clear and certain desire to avoid a prolonged and painful death. *Id.*, ¶¶ 35-38.

31. Neil wants to be able to control (to the greatest extent possible) when and where he dies and for his death to be peaceful. *Id.*

32. Neil wants to avoid having his family witness him experience a prolonged and painful death. *Id.*, ¶ 36.

33. At the time of his diagnosis, Neil was generally aware that Colorado voters had passed a proposition in 2016 which he understood would allow certain terminally ill patients in Colorado to seek AID from their physicians, empowering them with the means to achieve a peaceful death. *Id.*, ¶ 39.

34. Neil supports the idea of qualified patients receiving AID based upon his moral, ethical and spiritual views that terminally ill patients should have the right to control how much pain and diminished quality of life they endure, and should die as peacefully as possible. *Id.*

35. Neil wants to obtain a prescription for aid-in-dying medication to self-administer at home if the inexorable advance of his terminal cancer causes him suffering he finds unbearable. *Id.*, ¶¶ 40-41, 57-59.

36. On July 16, Neil asked Dr. Moazzam whether he would support his wish for AID. **Ex: 1, ¶ 42; Ex: 2, ¶ 22.**

37. Dr. Moazzam advised Neil that he would not provide AID and that no one from RMCC would do so. **Ex: 1, ¶ 42.**

38. On July 24, Neil asked a social worker who had been assigned to his case at RMCC whether he could obtain AID. The social worker also told Neil that he would not be able to access this end of life option through RMCC. **Ex: 1, ¶ 43; Ex: 2, ¶ 22.**

39. Neil experienced severe anxiety about his diagnosis and the prospect of facing a prolonged and agonizing death without the means for him to control when and where he would die. **Ex: 1, ¶ 44.**

40. On July 16, Neil discussed his anxiety about not being able to obtain AID with Brieske at CHPG. Neil asked Brieske if he could obtain AID at CHPG. **Ex: 1, ¶ 45; Ex: 2, ¶ 21.**

41. Brieske referred Neil's request to Dr. Morris, who discussed the issue with Brieske on July 16 and reviewed Neil's medical chart that same day. **Ex: 1, ¶ 45; Ex: 2, ¶ 23.**

42. Dr. Morris evaluated Neil on July 22. Neil again expressed his certain and clear desire for AID. **Ex: 1, ¶ 46; Ex: 2, ¶ 24.**

43. During her evaluation of Neil on July 22, Dr. Morris determined that Neil was neither cognitively impaired nor suffering from clinical depression. Dr. Morris determined Mahoney's request for AID was based upon his own informed decision. **Ex: 2, ¶ 25.**

44. Dr. Morris is familiar with the EOLOA. **Ex: 2, ¶ 26.**

45. Dr. Morris supports the EOLOA because she holds personal, moral, ethical and spiritual views which lead her to believe that a patient dying of a terminal illness should be able to choose how much suffering to endure before death. **Ex: 2, ¶ 27.**

46. Dr. Morris believes that providing AID to qualified patients who request it is consistent with the standard of care, Colorado law, and her own personal, moral, ethical and spiritual views. *Id.*

47. Based upon her knowledge, training, experience and her evaluation of Neil's situation, Dr. Morris believes Neil qualifies for AID under the EOLOA. *Id.*, ¶ 28.

48. At any given time in her practice, Dr. Morris treats mentally competent terminally ill patients. A fraction of those patients will request AID. Dr. Morris would provide AID to qualified patients but for Centura's Policy. Dr. Morris believes that providing AID would be

consistent with her professional judgment and her personal, moral, ethical, spiritual and religious beliefs. **Ex: 2, ¶ 30.**

49. Although Dr. Morris believes Neil qualifies for AID, she explained to him that the process would require two physicians agreeing that Neil qualifies. *Id.*, ¶¶ 28, 32.

50. Dr. Morris also explained to Neil that she was constrained by Centura's policy, which would not permit her to provide AID, even though Neil intends to take the medication at home. **Ex: 1, ¶ 47; Ex: 2, ¶¶ 29, 31.**

51. Dr. Morris suggested Neil try to transfer care to a provider who would be permitted by institutional policy to provide AID. **Ex: 1, ¶ 48; Ex: 2, ¶ 33.**

52. Dr. Morris believes a transfer of care for a patient with advanced illness such as in Neil's case is not a choice she considers professionally or ethically appropriate, as it is not in the best interests of the patient. **Ex: 2, ¶ 34.**

53. Dr. Morris believes that patients who seek AID are managing a multitude of stresses and a transfer of care would exacerbate the situation. *Id.*

54. But for Centura's policy, Dr. Morris would not have considered suggesting Neil transfer his care to receive AID. *Id.*

55. After Neil's conversation with Dr. Morris, Neil called the University of Colorado Anschutz Medical Campus ("CU Anschutz") to inquire about what it would take to obtain AID. **Ex: 1, ¶ 49.**

56. CU Anschutz advised Neil that, in order to obtain AID he would need to transfer all of his care to that facility and have a complete reevaluation of his condition, which would likely involve additional CT scans, biopsies, blood work, and other tests which have already been performed. *Id.*

57. Neil does not want to transfer his care to a different facility and endure additional testing related to his diagnosis. *Id.*, ¶ 50.

58. Neil also does not want to transfer his care because he has developed a good relationship with his caregivers at a location that is convenient for him. *Id.*, ¶ 51.

59. Keeping his care at CHPG with Brieske and Dr. Morris is important for Neil's mental well-being. *Id.*

60. In addition, given his grave prognosis, Neil does not want to spend his final days searching for a new health care provider to obtain AID when Dr. Morris is willing and able to provide it. *Id.*, ¶ 52.

Neil's Current Treatment

61. Neil received his first round of chemotherapy treatment on July 24. **Ex: 1, ¶ 30.**

62. Neil was reluctant to receive chemotherapy treatment because he is aware that it is not likely that the chemotherapy will significantly extend his life. **Ex: 1, ¶ 28; Ex: 2, ¶ 20.**

63. However, Neil is willing to undergo some chemotherapy treatment in the hopes that he responds favorably and can handle the side effects. **Ex: 1, ¶ 29.**

64. Although the first two days of Neil's first round of chemotherapy treatment were tolerable for Neil, the third and fourth days after the treatment were extremely miserable for Neil. Neil was so exhausted he could barely get out of bed. **Ex: 1, ¶ 30.**

65. On August 8, Neil received a second round of chemotherapy treatment. **Ex: 1, ¶ 31.**

66. His experience with the second round of chemotherapy treatment was similar to the first. *Id.*

67. Neil is undecided as to whether he wants to endure additional chemotherapy treatment. *Id.*, ¶ 32.

Neil's Current and Anticipated Symptoms

68. Although it is possible that Neil may have a brief, positive response to chemotherapy, it will not likely cure the cancer. **Ex: 2, ¶ 35.**

69. Neil is suffering from numerous worsening symptoms associated with stage IV adenocarcinoma. **Ex: 1, ¶ 53.**

70. Neil is experiencing significant and frequent abdominal pain. This pain is likely due to the mass at the junction of his esophagus and the stomach as well as the multiple metastatic lesions on his liver. **Ex: 1, ¶ 54; Ex: 2, ¶ 36.**

71. Neil will likely continue to experience significant abdominal pain as the tumors continue to grow. **Ex: 2, ¶ 37.**

72. Neil is experiencing leg pain and leg restlessness. The pain is likely associated with muscle spasms due to his inability to exercise. **Ex: 1, ¶ 54; Ex: 2, ¶ 38.**

73. Neil periodically takes oxycodone and morphine to help alleviate his pain, but he is taking those medications in limited amounts to avoid side effects. **Ex: 1, ¶ 55.**

74. Neil has difficulty eating and swallowing. This is also likely due to the mass at the junction of his esophagus and stomach which prevents food from passing through easily. **Ex: 1, ¶ 54; Ex: 2, ¶ 39.**

75. Neil has been offered a feeding tube to help him receive nutrients. Neil does not want to use a feeding tube because he feels it will diminish his quality of life and would be humiliating. **Ex: 1, ¶ 56; Ex: 2, ¶ 40.**

76. Neil has developed ascites (fluid build-up in in the abdomen) which causes the abdomen to distend. The ascites is extremely uncomfortable for Neil. Although Neil has been taking medication which is designed to help limit the fluid accumulation, it has proved mostly ineffective. As the ascites increases, Neil may consider paracentesis (the draining of the fluid), but it is sometimes a lengthy and uncomfortable procedure which does not provide long term relief. **Ex: 2, ¶ 41.**

77. Neil has experienced rapid and significant weight loss, losing nearly 30 pounds since April. He continues to lose weight in most parts of his body other than his abdomen, which continues to swell because of the ascites. **Ex: 1, ¶ 54; Ex: 2, ¶ 43.**

78. Neil easily bleeds and bruises. **Ex: 1, ¶ 54**

79. The ascites will likely continue to increase, making it more difficult for Neil to walk and bend. **Ex: 2, ¶ 42.**

80. Neil has had difficulty breathing. The ascites alone can make breathing difficult. Further, because there is evidence that the cancer has already spread to Neil's lymph nodes and his chest, the cancer may also spread to his lungs. If this occurs, Neil's breathing will likely continue to worsen. Neil may experience "air hunger," a sensation of suffocation, precipitating extreme deep ventilations, gasping for breath, and very labored breathing. **Ex: 1, ¶ 54; Ex: 2, ¶ 44-45.**

81. Neil's bowel and bladder function will likely decrease as a result of the increasing pressure from the masses in his abdomen, forcing him to wear diapers. **Ex: 2, ¶ 46.**

82. Neil is likely to experience additional painful and uncomfortable symptoms as the cancer spreads. **Ex: 2, ¶ 47.**

Colorado EOLOA

83. In November, 2016 Colorado voters, by a margin of 64.87 percent,⁵ approved Proposition 106: The Colorado End-of-Life Options Act (“EOLOA”), which went into effect on December 16, 2016. *See*, C.R.S. § 25-48-101, *et seq.*

84. The EOLOA provides that mentally competent terminally ill adult residents of Colorado⁶ may seek and receive AID from their physician; the medications must be self-administered by the patient. C.R.S. § 25-48-102-03.

85. The EOLOA allows health care facilities to prohibit its employee or contractual physicians from writing a prescription for AID when the individual “intends to use the medical aid-in-dying medication *on the facility’s premises.*” C.R.S. § 25-48-118(1)(emphasis added).

86. A health care facility which elects to prohibit its physicians from writing prescriptions for AID must notify its physician and patients in advance of its policy regarding medical aid-in-dying. C.R.S. § 25-48-118(1), (3).

87. A health care facility may not subject its physicians, nurses, and pharmacists to disciplinary action, suspension, or revocation of privileges or licenses related to conduct taken in good faith reliance on the EOLOA. C.R.S. § 25-48-118(2).

Centura’s Policy

88. On February 10, 2017, and in response to the EOLOA, Centura issued its policy entitled “Colorado End-of-Life Options Act/Medical Aid in Dying (Centura).” *See*, **Exhibit 3** (hereinafter, the “Policy”).

89. The Policy applies to:

all facilities and entities owned, operated, or managed by Centura Health (“Centura Health Facilities”); physicians and providers who are employed by Centura Health; PorterCare Adventist Health System, or Catholic Health Initiatives Colorado; and physicians and providers providing services at Centura Health Facilities.

Ex: 3, at 1.

⁵(<https://www.sos.state.co.us/pubs/elections/Results/2016/General/2016GeneralAbstractResultsCertAndReport.pdf>)(p. 131)

⁶ A “qualified individual” entitled to receive AID is a “terminally ill adult with a prognosis of six months or less, who has the mental capacity, has made an informed decision, is a resident of the state, and has satisfied the requirements of this article in order to obtain a prescription for medical aid-in-dying medication to end his [.] life in a peaceful manner.” C.R.S. § 25-48-102(13).

90. The Policy prohibits Centura physicians and providers from “prescribing or dispensing medication intended to be used as a Medical Aid-in-Dying Medication for patients of Centura Health Facilities.” *Id.*, at ¶ 1.

91. The Policy also prohibits physicians and providers providing services at Centura facilities from engaging “in any stage of qualifying a patient for use of Medical Aid in Dying Medication.” *Id.*, at ¶ 2.

92. Centura’s Policy is broader than the opt out allowed under EOLOA because it prohibits Centura physicians from prescribing aid-in-dying medication for any patient, *irrespective of where the patient intends to take the medication.*

93. Centura’s Policy is also broader than the permissible prohibition allowed under EOLOA because it prohibits Centura physicians from engaging in any stage of qualifying a patient for aid-in-dying medication.

94. But for Centura’s Policy, Dr. Morris would provide AID for Neil and other similarly situated patients. Ex: 2, ¶¶ 28-31.

Centura’s Control over the Independent Medical Judgment of its Physicians

95. Health care facilities such as Centura may not “...limit or otherwise exercise control over the physician's independent professional judgment concerning the practice of medicine or diagnosis or treatment or to require physicians to refer exclusively to the health care facility or to the health care facility's employed physicians.” C.R.S. § 25-3-103.7(3)

96. If a health care facility “knowingly or recklessly” limits or controls a physician’s independent professional judgment, the physician, the patient, or both may bring a claim against the health care facility and recover damages. *Id.*

97. Via its Policy, Centura is impermissibly limiting and/or exercising control over its physicians’ independent professional judgment concerning the practice of medicine.

FIRST CLAIM FOR RELIEF
(Declaratory Judgment-Barbara Morris, MD)

98. Plaintiffs incorporate the paragraphs above as though fully set forth herein.

99. One or more controversies exist between Dr. Morris and Defendant.

100. Dr. Morris’s rights, status, and/or legal relations are affected by one or more statutes, contracts, and policies, including but not limited to the Policy, the EOLOA, and C.R.S. § 25-3-103.7(3).

101. A declaratory judgment by the Court would terminate the controversy or remove an uncertainty with respect to Dr. Morris's rights, status, and/or legal relations.

102. Pursuant to C.R.C.P. 57, C.R.S. § 13-51-106, the EOLOA, and C.R.S. § 25-3-103.7(3), Dr. Morris is entitled to entry of an order declaring her rights and legal relations with respect to this issue.

103. Dr. Morris therefore seeks a judicial declaration that Centura may not lawfully prohibit Dr. Morris from, or sanction or penalize Dr. Morris for, providing AID related services to Neil, including but not limited to, prescribing AID medication to Neil for use somewhere other than at a Centura facility.

104. Due to Neil's prognosis and the advanced stage of his cancer, Dr. Morris requests that the Court expedite ruling on this matter and order a speedy hearing pursuant to C.R.C.P. 57(m).

SECOND CLAIM FOR RELIEF
(Declaratory Judgment-Cornelius D. Mahoney)

105. Plaintiffs incorporate the paragraphs above as though fully set forth herein.

106. One or more controversies exist between Neil and Defendant.

107. Neil's rights, status, and/or legal relations are affected by one or more statutes, contracts, and policies, including but not limited to the Policy, the EOLOA, and C.R.S. § 25-3-103.7(3).

108. A declaratory judgment by the Court would terminate the controversy or remove an uncertainty with respect to Neil's rights, status, and/or legal relations.

109. Pursuant to C.R.C.P. 57, C.R.S. § 13-51-106, the EOLOA, and C.R.S. § 25-3-103.7(3), Neil is entitled to entry of an order declaring his rights and legal relations with respect to this issue.

110. Neil therefore seeks a judicial declaration that Centura may not lawfully prohibit Dr. Morris from providing AID related services to Neil, including but not limited to, prescribing AID medication to Neil for use somewhere other than at a Centura facility.

111. Due to Neil's prognosis and the advanced stage of his cancer, Neil requests that the Court expedite ruling on this matter and order a speedy hearing pursuant to C.R.C.P. 57(m).

RELIEF REQUESTED

WHEREFORE, Plaintiffs request this Court enter judgment in their favor and against Defendant as follows:

1. Declare that Defendant may not lawfully prohibit Dr. Morris from, or sanction or penalize Dr. Morris for, providing AID related services to Neil, including but not limited to, prescribing AID medication to Neil for use somewhere other than at a Centura facility;
2. For recoverable attorney fees and costs herein, by statute, agreement, or otherwise;
3. For recoverable pre-judgment and post-judgment interest;
4. For such other and further relief as the Court deems just and/or proper.

DATED this 21st day of August, 2019.

**FOSTER GRAHAM MILSTEIN
& CALISHER, LLP**

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