

ØŠÖÖ
 GEGEÁUÁFÁFÁKÍÁF
 ŠÖÖÁUWVY
 ÛWÖÜWÜÁUWÜVÁÖŠÖÜS
 ÖZŠÖÖ
 ÖÜÖÁKÖGEIÎJĚÁÜÖE

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

DEBORAH DE LOS ANGELES, individually
and as Daughter and Personal Representative of
the Estate of TWILLA JUNE MORIN,

Plaintiff,

V.

LIFE CARE CENTERS OF AMERICA, INC.
d/b/a LIFE CARE CENTER OF KIRKLAND, a
foreign corporation; LAKE VUE
OPERATIONS, LLC, a foreign limited liability
company; ELLIE BASHAM, individually;
TODD FLETCHER, individually; and
UNKNOWN JOHN and JANE DOES,

Defendants.

NO.

COMPLAINT FOR DAMAGES: FRAUD AND WRONGFUL DEATH

COMES NOW the Plaintiff, Deborah de los Angeles, by and through her attorneys of record, Mickelsen Dalton LLC, and brings this action against the above-named Defendants to discover the true causes and actions leading up to her mother's wrongful death and to protect the thousands of employees and residents at Life Care Centers who may be at risk if Defendants do not make sweeping changes to their policies.

COMPLAINT OF DAMAGES:
FRAUD AND WRONGFUL DEATH - 1 of 12

MICKELSEN DALTON LLC

Address: 1017 Chuck Dawley Blvd., Suite 200,
Mt. Pleasant, SC 29464

Email: stephen@mickelsendalton.com

Phone: 843.804.0428

1 **INTRODUCTION**

2 The Life Care Center of Kirkland (“the subject facility”), a nursing home owned and
3 operated by Defendants, has become the epicenter of COVID-19. To date, 129 cases and over
4 37 deaths resulting from COVID-19 are linked to this single facility. On March 4, 2020,
5 Plaintiff Deborah de los Angeles learned in voicemails that the coronavirus had killed her
6 mother, Twilla June Morin (“Plaintiff’s Decedent” or “Ms. Morin”). Ms. Morin contracted
7 COVID-19 while at Life Care Center of Kirkland under the care and supervision of Defendants.
8

9 Although Defendants were on high-alert for COVID-19 since January 2020, they lacked
10 a clear plan of action leading to a systemic failure. Instead of quarantining residents and staff,
11 Defendants admitted new residents and threw a Mardi Gras party. Instead of immediately
12 notifying authorities of a “flu” outbreak, Defendants sat on it for 17 days before reporting
13 anything.
14

15 On March 16, 2020, the Centers for Medicare and Medicaid Services (“CMS”)
16 inspected the subject facility and found widespread deficiencies. Inspectors concluded that
17 Defendants failed to report an outbreak of respiratory illness to local authorities, gave
18 inadequate care to their residents during the outbreak, and failed to provide 24-hour emergency
19 doctor services. Defendants were fined \$611,325.00. Nevertheless, Defendants have refused to
20 take responsibility for failing to protect their employees and residents in the midst of a global
21 pandemic.
22
23
24
25
26

COMPLAINT OF DAMAGES:
FRAUD AND WRONGFUL DEATH - 2 of 12

PARTIES

1. Plaintiff Deborah de los Angeles is a resident of Washington and the duly appointed Personal Representative of the Estate of Twilla June Morin. Deborah de los Angeles is the daughter of Twilla Morin, deceased.
2. Defendant Life Care Centers of America, Inc. is a foreign corporation which at all times material to this lawsuit was doing business in Washington State under the assumed name of a nursing home facility known as Life Care Center of Kirkland, which is located at 10101 NE 120th Street, Kirkland, WA 98034. Its registered agent is Corporation Service Company, 300 Deschutes Way SW, Suite 304, Tumwater, WA 98501. Defendant Life Care Centers of America, Inc. is the largest privately owned long-term facility chain in the United States and owns and operates more than 200 facilities in 28 states.
3. Defendant Lake Vue Operations, LLC is a foreign limited liability company which at all times material to this lawsuit was engaged in business in Washington State through its operation, management, and control of the Life Care Center of Kirkland. Its registered agent is identified as Corporation Service Company located at 300 Deschutes Way SW, Suite 208 MC-CSC1, Tumwater, WA 98501.
4. Defendant Ellie Basham is the Executive Director of Life Care Center of Kirkland and a resident of Washington State. Upon information and belief, it was later discovered that Defendant Ellie Basham transferred from a facility in Augusta, GA to the subject facility in January 2020. Washington State allows administrators arriving in the state to transfer existing licenses issued by states that it deems to have comparable requirements. Georgia is not one of them.

- 1 5. Defendant Todd Fletcher is the Vice President of Operations – West for Life Care
2 Centers of America, Inc. Defendant Todd Fletcher is a resident of Washington State.
- 3 6. Upon information and belief, Plaintiff alleges that there may be other health care
4 providers and staff who oversaw and/or provided care to Twilla Morin, and/or
5 corporations, stockholders and/or partners of the named Defendants whose identities are
6 presently unknown and who, for purposes of this Complaint, are referred to as John and
7 Jane Does. When the true names of these Defendants are discovered, this Complaint
8 will be amended to add these names.

9 10 **JURISDICTION**

- 11 7. Jurisdiction is proper in this Court under RCW 4.12.020(3) and 4.12.025; RCW
12 2.08.010; and RCW 4.20 et. seq.

13 14 **VENUE**

- 15 8. Venue is proper in King County, Washington under RCW 4.12.020(3) and 4.12.025(1)
16 and (3) because Defendants reside in King County having substantially transacted
17 business in King County when the action arose, currently transacting business in King
18 County and having at least one nursing home facility in King County.

19 20 **FACTS**

- 21 9. COVID-19 is a respiratory illness that has been declared a world-wide pandemic.
22 COVID-19 can spread rapidly in long-term residential care facilities. Persons with
23 chronic underlying medical conditions are at greater risk for COVID-19.

- 1 10. On January 21, 2020, the United States identified its first case of COVID-19 in
2 Washington State. Since the first case was in a neighboring county, Defendants and their
3 Kirkland, WA facility were immediately put on high alert.
- 4 11. On February 10, 2020, Defendants began discouraging visitors due to a spike in illness
5 at the subject facility, which they assumed to be seasonal influenza. Defendants did not
6 file a report with authorities until 17 days later.
- 7 12. Defendants were required to report any suspected flu outbreak to county authorities
8 within 24 hours. King County said it first received notice from Defendants of an increase
9 in respiratory illnesses at the subject facility on February 27, 2020. Defendants provided
10 few details.
- 11 13. Defendants failed to hold consistent or effective quality-assurance and performance-
12 improvement (QAPI) meetings in 2019 – which are intended to flag disease and viral
13 outbreaks.
- 14 14. Managers at the subject facility held quality-assurance meetings on January 27, 2020
15 and February 19, 2020. However, COVID-19 concerns did not come up at either
16 meeting.
- 17 15. In fact, upon information and belief, the February 19, 2020 monthly QAPI meeting
18 minutes under the nursing section revealed: “no reports of infection concerns at the
19 facility.”
- 20 16. The medical director at the subject facility did not attend the January 27, 2020 or the
21 February 18, 2020 meetings.
- 22
23
24
25
26

- 1 17. Even as the assumption of ongoing influenza cases persisted at the facility, new patients
2 were admitted, and events held – there was a Mardi Gras party where residents sat
3 wheelchair to wheelchair.
- 4 18. On February 19, 2020, Defendants suspected the first case of COVID-19 at the subject
5 facility. However, the subject facility was not quarantined until early March 2020.
6 Plaintiff was not notified of the facility’s first case of COVID-19.
- 7 19. On February 29, 2020, Plaintiff received a call at around 12:30pm from Defendants.
8 Defendants told her that her mother was not eating and drinking and had been placed
9 on quarantine.
- 10 20. On March 1, 2020 at around 5:00pm, Defendants told Plaintiff that everyone at the
11 facility was on quarantine.
- 12 21. On March 2, 2020, Defendants told Plaintiff there was no change in her mother’s
13 condition.
- 14 22. On March 3, 2020, Defendants left Plaintiff a voice message stating that the facility did
15 not anticipate that her mother would survive. Defendants also stated that Plaintiff’s
16 mother had a 104-degree temperature and was suspected to have COVID-19.
- 17 23. Later that day, Defendants informed Plaintiff that her mother was declining quickly.
18 When Plaintiff asked where the resident physician was, one of Defendants’ employees
19 told Plaintiff that the physician had not been on site for weeks.
- 20 24. In the early morning hours of March 4, 2020, Defendants left a voice message for
21 Plaintiff that her mother, Twilla Morin, had passed away.
- 22
23
24
25
26

1 25. Tragically, Plaintiff was not able to visit her mother due to the risk of COVID-19 and
2 Plaintiff's medical conditions.

3 26. Twilla Morin was not the first person killed by COVID-19 at the subject facility.

4 27. Defendants never notified Plaintiff of the previous deaths resulting from COVID-19 at
5 the subject facility.

6 28. On March 16, 2020, CMS and Washington State Department of Social and Health
7 Services ("DSHS") inspected the subject facility. CMS determined that the subject
8 facility no longer met requirements for participation as a provider of services in the
9 Medicare program established under Titles XVII and XIX of the Social Security Act.

10 29. Furthermore, CMS found the most serious deficiencies at the subject facility to be
11 widespread, thereby constituting an Immediate Jeopardy ("IJ") to resident health and
12 safety.

13 30. Specifically, CMS concluded that Defendants were in violation of the following
14 regulations (among others):

- 15 a. 42 C.F.R. 483.24 – F 684 – S/S: L – Quality of Care;
- 16 b. 42 C.F.R. § 483.30(d) – F 713 – S/S: L – Physician for Emergency Care,
17 Available 24 Hours;
- 18 c. 42 C.F.R. § 483.80(b)(1)-(4)(c) – F 880 – S/S: L – Infection Prevention &
19 Control;
- 20 d. 42 C.F.R. § 483.70(d)(1)(2) – F0837 – S/S: F – Governing Body;
- 21 e. 42 C.F.R. § 483.70(h)(1)(2) – F0841 – S/S: F – Responsibilities of Medical
22 Director;
- 23 f. 42 C.F.R. § 483.20(f)(5), 483.70(i)(1)-(5) – F0842 – S/S: F – Resident Records
24 -Identifiable Information; and
- 25 g. 42 C.F.R. § 483.75(a)(2)(h)(i) – F0865 – S/S: F – QAPI Program/Plan,
26 Disclosure.

33. CMS fined Defendants \$13,585 per day effective February 12, 2020 and continuing
through March 27, 2020, for a total of \$611,325.00.

COMPLAINT OF DAMAGES:
FRAUD AND WRONGFUL DEATH - 7 of 12

MICKELSEN DALTON LLC

Address: 1017 Chuck Dawley Blvd., Suite 200,
Mt. Pleasant, SC 29464

Email: stephen@mickelsendalton.com

Phone: 843.804.0428

1 **VIOLATION OF THE ABUSE OF VULNERABLE ADULTS ACT**

2 34. Plaintiff incorporates the foregoing paragraphs of this Complaint as if fully set forth
3 herein.

4 35. Defendants, directly and by and through their employee and agent health care providers
5 who were, at all times material hereto, acting within the course and scope of their
6 employment and agency for the Defendants, failed to provide the services necessary to
7 maintain the physical and mental health of Twilla Morin, a vulnerable adult, and failed
8 to avoid or prevent physical and mental harm and pain to Twilla Morin in violation of
9 the Abuse of Vulnerable Adults statute, RCW 74.34 et. seq.
10

11 36. Defendants performed acts or omissions that demonstrated a serious disregard of
12 consequences of such a magnitude as to constitute a clear and present danger to Twilla
13 Morin's welfare and safety. Defendants also, on a routine basis, abandoned, abused, and
14 neglected Twilla Morin, a vulnerable adult, residing in a facility as defined in this
15 statute.
16

17 37. Defendants' conduct directly and proximately caused the injuries to and the ultimate
18 death of Twilla Morin as pled herein.

19 **NEGLIGENCE**

20 38. Plaintiff incorporates the foregoing paragraphs of this Complaint as if fully set forth
21 herein.
22

23 39. The negligence of Defendants as outlined above was a proximate cause of Twilla
24 Morin's injuries and ultimate death resulting from neglect and negligence.
25
26

1 **FRAUD, FRAUDULENT CONCEALMENT**
2 **AND NEGLIGENT MISREPRESENTATION**

3 40. Plaintiff incorporates the foregoing paragraphs of this Complaint as if fully set forth
4 herein.

5 41. In addition to the wrongful conduct described above, Defendants engaged in a
6 continuing and routine practice of fraud and/or negligent misrepresentations which were
7 a proximate cause of Twilla Morin's injuries, damages, and death.

8 42. More specifically, Defendants engaged in fraud by concealing, suppressing and failing
9 to disclose material facts when:
10

- 11 a. Defendants were aware and knowledgeable of such material facts;
12 b. Defendants had a duty to disclose such facts;
13 c. Defendants knew that Twilla Morin and her Daughter were unaware of the same;
14 d. Defendants knew that Twilla Morin and her Daughter did not have an equal
15 opportunity to discover the truth; and
16 e. Defendants' concealment, suppression, and failure to disclose these material
17 facts was intended to induce Twilla Morin and her Daughter to take or refrain
18 from taking some action, to wit: to keep Twilla Morin at the Life Care Center in
19 Kirkland in an environment, and under the care of individuals and entities,
20 dangerous to her health and safety.
21

22 43. Defendants concealed and suppressed the acts and omissions described above to deceive
23 Twilla Morin, her responsible parties, and her daughter, Deborah de los Angeles. Such
24 conduct was intended to hide the ongoing danger and threat to Twilla Morin's health
25 and safety, thereby protecting Defendants' assets, reputation, and revenue stream.
26

COMPLAINT OF DAMAGES:
FRAUD AND WRONGFUL DEATH - 9 of 12

MICKELSEN DALTON LLC
Address: 1017 Chuck Dawley Blvd., Suite 200,
Mt. Pleasant, SC 29464
Email: stephen@mickelsendalton.com
Phone: 843.804.0428

1 44. At all material times, Defendants owed a duty to Twilla Morin, her responsible parties,
2 and her Daughter to disclose material facts that would have affected the decision to keep
3 Twilla Morin at the Life Care Center of Kirkland.

4 45. This duty arose from the confidential and/or fiduciary relationship between Defendants
5 and Twilla Morin and Deborah de los Angeles which existed by virtue of reasons,
6 including, but not limited to:

- 7
- 8 a. Twilla Morin required skilled care and treatment from a professional and
9 licensed healthcare provider as well as custodial care and assistance with her
10 activities of daily living;
 - 11 b. The nursing home represented it was a professional and licensed healthcare
12 provider that represented it could provide Twilla Morin with the necessary level
13 of care, services, and treatment she required; and
 - 14 c. Twilla Morin, her responsible parties, and her daughter, Deborah de los Angeles,
15 depended solely upon the nursing home to meet her medical, nursing, and health
16 care needs.
17

18 46. Moreover, at all material times, Defendants' knowledge of the specific care,
19 responsibilities, and duties imposed by nursing home statutes, laws, regulations, and
20 minimum standards was vastly superior to that of Twilla Morin and Deborah de los
21 Angeles. Not only was the discharge of the foregoing duties the sole responsibility of
22 Defendants, but Defendants held themselves out to Twilla Morin and Deborah de los
23 Angeles and to the State and Federal licensing and certification authorities as being
24
25
26

1 qualified, knowledgeable, skilled, and trained to provide resident care prescribed by law
2 and professional standards.

3 47. This information was uniquely within the knowledge and understanding of Defendants
4 and underscored the fiduciary relationship existing between Twilla Morin and
5 Defendants, as well as the fiduciary duty owed by Defendants to disclose to Deborah de
6 los Angeles: a) any threat to Twilla Morin's health and safety, and b) any dangerous
7 practice or condition at Life Care Center of Kirkland which posed a threat to her health
8 and safety.
9

10 48. On an ongoing basis before and after Twilla Morin's contraction of COVID-19,
11 Defendants suppressed, concealed, and covered-up material facts, described below, in
12 order to hide from residents such as Twilla Morin, the ongoing danger and threat to
13 residents' health and safety. Such suppression, concealment, and failure to disclose was
14 intended to induce Twilla Morin and Deborah de los Angeles to keep Twilla Morin at
15 Life Care Center of Kirkland and discourage Plaintiff from removing Twilla Morin from
16 the facility, thereby protecting Defendants' assets, reputation, and revenue stream.
17

18 49. Defendants' ongoing fraudulent suppression, concealment, and failure to disclose these
19 material facts and their material consequences detailed herein was a direct and
20 proximate cause of Twilla Morin's catastrophic injuries, subsequent complications, and
21 ultimate death.
22

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff requests a judgment against Defendants:
25
26

- 1 (a) Awarding Plaintiff general damages and special damages in an amount to be
2 proven at trial;
3 (b) Awarding her reasonable attorney's fees and costs as available under law;
4 (c) Awarding her any and all applicable interest on the judgment; and
5 (d) Awarding her such other and further relief as the Court deems just and proper
6 under the circumstances of this case.
7

8 Respectfully submitted this 10th day of April, 2020.

9 MICKELSEN DALTON LLC

10 By /s/ Stephen Mickelsen
11 Stephen B. Mickelsen, WSBA No. 54039
12 Attorney for Plaintiff
13
14
15
16
17
18
19
20
21
22
23
24
25
26