GARCIA, ARTIGLIERE & MEDBY
Stephen M. Garcia, State Bar No. 123338
edocs@lawgarcia.com
One World Trade Center, Suite 1950
Long Beach, California 90831
Telephone: (562) 216-5270
Facsimile: (562) 216-5271

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CATHY CAMPBELL, by and through her Successor in Interest, Imani Newton,

Plaintiff,

vs.

SHLOMO RECHNITZ; ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC; SOL HEALTHCARE, LLC; RECHNITZ CORE, GP.; ROCKPORT ADMINISTRATIVE SERVICES, LLC; BOARDWALK FINANCIAL SERVICES, LLC; and DOES 1 through 250, inclusive,

Defendants.

CASE NO. BC709855

COMPLAINT FOR DAMAGES

1) Dependent Adult Abuse (Pursuant the Elder Abuse and Dependent Adult Civil Protection Act–*Welfare & Institution Code* § 15600 *et seq.*)
2) Negligent Hiring and Supervision (CACI 426)

COMES NOW Plaintiff CATHY CAMPBELL (alternatively, "PLAINTIFF") and, based upon information and belief and investigation of counsel, hereby alleges as follows:

THE PARTIES

1. CATHY CAMPBELL was born on September 6, 1956, and died on December 7, 2017. CATHY CAMPBELL was at all relevant times a resident of the State of California, and brings this action by and through Imani Newton, her natural child as her Successor in Interest.

2. Defendant ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC and DOES 1-50 were at all relevant times operating a licensed 24-hour skilled nursing FACILITY under the fictitious name Alameda Healthcare & Wellness Center, and were subject to the requirements of

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE 562) 216-5271

federal and state law regarding the operation of skilled nursing facilities operating in the State of California which accept federal funds as a source of reimbursement. (Hereinafter ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC and DOES 1-39 are collectively referred to as the "FACILITY")

3. ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC is and was at all times relevant licensed by the California Department of Public Health (License No. 020000268) to operate a 166-bed, 24-hour skilled nursing FACILITY under the fictitious name Alameda Healthcare & Wellness Center.

4. Defendants ROCKPORT ADMINISTRATIVE SERVICES, LLC and DOES 41-50 provide "professional services" to ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC were effectively the day to day operators of ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC.

5. SOL HEALTHCARE, LLC, and DOES 51-60 are the 'Managers" of ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC with all duties and responsibilities thereto and maintain their principal place of business as reported to the Secretary of State of California at 5900 Wilshire Blvd. Suite 2600, Los Angeles, California 90036 (the same mailing address as defendant ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC. just different suite numbers).

6. BOARDWALK FINANCIAL SERVICES, LLC lists as its principle place of business 5900 Wilshire Blvd. Suite 2600, Los Angeles, California 90036, the same mailing address as SOL HEALTHCARE, LLC., just a different suite and the same mailing address, including suite number, as ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC. The managing member of BOARDWALK FINANCIAL SERVICES, LLC as reported to the Secretary of State of California is SHLOMO RECHNITZ, who to the Secretary of State of California reports his address as 5900 Wilshire Blvd. Suite 1600, Los Angeles, California 90036, the same mailing address as BOARDWALK FINANCIAL SERVICES, LLC and ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC. and the same building as SOL HEALTHCARE, LLC.

7. RECHNITZ CORE, GP and DOES 61-70 are, per filings with the Secretary of State of California the "Manager" of SOL HEALTHCARE, LLC. with all duties and responsibilities thereto.

8. SHLOMO RECHNITZ and DOES 71-75 are the "general partner" of RECHNITZ

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

CORE, GP with all duties and responsibilities thereto and therefore effectively manages and controls as a matter of law RECHNITZ CORE, GP.; SOL HEALTHCARE, LLC; and ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC.

9. Defendant SHLOMO RECHNITZ is the managing agent and/or controlling owner of SOL HEALTHCARE, LLC; BOARDWALK FINANCIAL SERVICES, LLC; RECHNITZ CORE GP; and ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC, and either through upon information and belief ROCKPORT ADMINISTRATIVE SERVICES, LLC, and uses these entities as a single enterprise to unjustly enrich himself.

10. An example of such misbehavior of SHLOMO RECHNITZ is the well above market lease costs paid by ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC. to its landlord Eretz Alameda Properties, LLC which, per filings with the Secretary of State of California maintains it principal place of business at 5900 Wilshire Blvd. Los Angeles, California 90036, and is "managed by SYTR Real Estate Holdings, LLC which per filings with the Secretary of State of California maintains its principal place of business at 5900 Wilshire Blvd. Los Angeles, California 90036 and is managed by SHLOMO RECHNITZ. SHLOMO RECHNITZ in actuality utilizes each of the defendants, as well as SYTR Real Estate Holdings, LLC and Eretz Alameda Properties, LLC. as vehicles to operate each as a single enterprises unlawfully siphoning off exorbitant and unjustified fees for simply to no actual services, as is the case with BOARDWALK FINANCIAL SERVICES, LLC and grossly inflated property leases which no way match true value. as is the case with Eretz Alameda Properties, LLC and SYTR Real Estate Holdings, LLC. (Hereinafter, SHLOMO RECHNITZ, SOL HEALTHCARE, LLC, BOARDWALK FINANCIAL SERVICES, LLC, RECHNITZ CORE, GP, ROCKPORT ADMINISTRATIVE SERVICES, LLC. and DOES 41-100 shall be collectively referred to as the "MANAGEMENT DEFENDANTS."

11. The DEFENDANTS, by and through their corporate officers and directors including, SHLOMO RECHNITZ, Aaron Robin, Wesley Rogers, Sol Majer (FACILITY Officer and operational/Managerial Controller), Chantal Wilbur (FACILITY Administrator), Shirley Ma (FACILITY Administrator and Managing Employee), Marina Domingo (FACILITY Director of Nursing); and others presently unknown and according to proof, ratified the conduct of their co-

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

defendants and the FACILITY, in that they were aware of the understaffing of the FACILITY, in both number and training, the relationship between understaffing and sub-standard provision of care to patients of the FACILITY, including CATHY CAMPBELL, the rash, and truth, of lawsuits against the DEFENDANTS' skilled nursing facilities including the FACILITY, and the FACILITY'S customary practice of being issued deficiencies by the State of California's Department of Health Services. That notwithstanding this knowledge, these officers, directors, and/or managing agents meaningfully disregarded the issues even though they knew the understaffing could, would and did lead to unnecessary injuries to FACILITY residents, including CATHY CAMPBELL.

12. CATHY CAMPBELL is informed and believes and therefore alleges that at all times relevant to this Complaint, DOES 101-250 were licensed and unlicensed individuals and/or entities, and employees of the DEFENDANTS rendering care and services to CATHY CAMPBELL and whose conduct caused the injuries and damages alleged herein. It is alleged that at all times relevant hereto, the DEFENDANTS were aware of the unfitness of DOES 101-250 to perform their necessary job duties and yet employed these persons and/or entities in disregard of the health and safety of CATHY CAMPBELL.

13. The liability of the FACILITY and MANAGEMENT DEFENDANTS for the abuse and neglect of CATHY CAMPBELL as alleged herein arises from their own direct misconduct as well as all other legal basis and according to proof at the time of trial.

14. Upon information and belief, it is alleged that the misconduct of the DEFENDANTS, which led to the injuries to CATHY CAMPBELL as alleged herein, was the direct result and product of the financial and control policies and practices forced upon the FACILITY by the financial limitations imposed by the MANAGEMENT DEFENDANTS by and through the corporate officers and directors identified in paragraph 11 of this Complaint and others presently unknown and according to proof at time of trial.

ALTER EGO ALLEGATIONS

15. The FACILITY and the MANAGEMENT DEFENDANTS operated in such a way as to make their individual identities indistinguishable, and therefore are mere alter-egos of one another.

16. At all relevant times, the FACILITY and the MANAGEMENT DEFENDANTS and

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

each of their tortious acts and omissions, as alleged herein, were done in concert with one another in furtherance of their common design and agreement to accomplish a particular result, namely maximizing profits from the operation of the FACILITY by underfunding and understaffing the FACILITY. Moreover, the FACILITY and the MANAGEMENT DEFENDANTS aided and abetted each other in accomplishing the acts and omissions alleged herein. (See Restatement (SECOND) of Torts §876 (1979)).

17. The DEFENDANTS set forth hereinabove, and each of them, fail to recognize the uniqueness and independence of each of their co-defendants. That at all times relevant hereto there was a such a unity of interest and ownership between the DEFENDANTS such that the individual distinctions between them had ceased and that the facts as alleged herein are such that an adherence to the fiction of the separate existence of the DEFENDANTS would, under the particular circumstances alleged herein, sanction a fraud and/or promote injustice.

18. And in point of fact the MANAGEMENT DEFENDANTS controlled the FACILITY to such a degree that it was a "mere instrumentality" of the MANAGEMENT DEFENDANTS used for an improper purpose.

19. And in fact, SHLOMO RECHNITZ owns the vast majority or in effect all, of BRIUS MANAGEMENT CO. serving as its Chief Financial Officer and Chief Executive Officer and putting his conduit and fully controlled wife Tamara Rechnitz as the only other officer of the corporation.

20. Furthermore, SHLOMO RECHNITZ is the managing member of BOARDWALK FINANCIAL SERVICES, LLC, a company which siphoned off more significant amounts from the FACILITY in the financial disclosure report for the fiscal year ending 2016 filed under penalty of perjury by the FACILITY for services which were not worth a quarter of that amount. This is yet another manner by which SHLOMO RECHNITZ exerts operational control of each entity with all feeding untoward profit to him and his investors at the expense of the legally required minimum care to be provided to elder and infirm residents. And perhaps predictably the authorized agent for service of process for BOARDWALK FINANCIAL SERVICES, LLC is the accountant of SHLOMO RECHNITZ, Steven Stroll and the principal place of business reported by BOARDWALK FINANCIAL SERVICES, LLC to the Secretary of State of California is 5900 Wilshire Boulevard,

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

Suite 1600, Los Angeles, California, which is, at least in some submissions to the Secretary of State of California, also the principal place of business reported to Secretary of State of California of BRIUS MANAGEMENT CO. and which is also, not coincidentally also the mailing address as reported to the Secretary of State of California for Healthcare Centre of Fresno, the FACILITY. And also not by coincidence SHLOMO RECHNITZ in submissions to the Secretary of State of California reports his address as 5600 Wilshire Boulevard in Los Angeles as well. BOARDWALK FINANCIAL SERVICES, LLC is yet another vehicle by which SHLOMO RECHNITZ operates each of the DEFENDANTS as single enterprise, by (1) commingling of funds and other assets; treating each entity as if it was solely his, holding out to lenders that he is personally liable for debts of the entities, failing to maintain adequate corporate records, owning all of the stock in, for example, BRIUS MANAGEMENT CO. by himself and his family members, use of the different entities as mere conduit for a single enterprise, and concealment of his financial interest in the companies, including BOARDWALK FINANCIAL SERVICES, LLC and other mechanisms and according to proof at time of trial.

21. ROCKPORT ADMINISTRATIVE SERVICES, LLC is a company which was created out of nowhere, by an accountant Steven Stroll who no by coincidence is not only the accountant for SHLOMO RECHNITZ but also the authorized agent for service for the FACILITY and SOL HEALTHCARE, LLC, and ROCKPORT ADMINISTRATIVE SERVICES, LLC reports its principal place of business to the Secretary of State of California as 5900 Wilshire Boulevard, Suite 1600, Los Angeles, California, which is, at least in some submissions to the Secretary of State of California, also the principal place of business Secretary of State of California of BRIUS MANAGEMENT CO. and which is also, not coincidentally also the mailing address as reported to the Secretary of State of California for Healthcare Centre of Fresno, the FACILITY. And also not by coincidence SHLOMO RECHNITZ, as evidenced in submissions to the Secretary of State of California, reports his address as 5600 Wilshire Boulevard in Los Angeles as well. ROCKPORT ADMINISTRATIVE SERVICES, LLC is yet another vehicle by which SHLOMO RECHNITZ operates each of the DEFENDANTS as single enterprise, by (1) commingling of funds and other assets; treating each entity as if it was solely his, (2) holding out to lenders that he is personally liable for debts of the entities, failing to maintain

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

adequate corporate records, (3) owning all of the stock in, for example, BRIUS MANAGEMENT CO. by himself and his family members, (4) using different entities as mere conduit for a single enterprise, and (5) concealing his financial interest in the companies, including ROCKPORT ADMINISTRATIVE SERVICES, LLC and (6) using other mechanisms and according to proof at time of trial.

22. And for this effort, the DEFENDANTS, to SHLOMO RECHNITZ siphoned off huge and unwarranted amounts of money under the guise of providing services of some unknown type, through numerous "related parties" including entities referred to in reports submitted to the State of California's Office of Statewide Health Planning and Development under penalty of perjury as "Core Healthcare Center (to which the FACILITY reports a "receivable from related party" of $711,389.00 for the last reporting period[1] and RDS, Inc. relating to which the FACILITY reported a payment in the last reporting period of $611,000.00 for a "related party transaction" of "fixed assets."[2]

23. This control of the FACILITY by ROCKPORT ADMINISTRATIVE SERVICES, LLC is achieved via a "Professional Services Agreement" between the FACILITY and ROCKPORT ADMINISTRATIVE SERVICES, LLC, which sets forth the services ROCKPORT ADMINISTRATIVE SERVICES, LLC is to provide to the FACILITY which in sum is the functional equivalent of operational control over the FACILITY and includes, but is not limited, the following:

- providing for nursing services that relate to the direct care of the patients of the FACILITY;
- providing nursing personnel to fill in for temporarily vacant positions at the FACILITY;
- providing nursing compliance services to the FACILITY required to ensure that nursing services were in compliance with the requirements of the FACILITY;
- providing nursing personnel to assess patients and make clinical coverage decisions at the FACILITY;

[1] There is no entity entitled "Core Healthcare Center" listed with the Secretary of State of California and this is believed to be yet another straw company for SHLOMO RECHNITZ and his investors who prop him up to unlawfully siphon off cash from operations of skilled nursing facilities.

[2] Not surprisingly, RDS, Inc. is a suspended California corporation and yet another straw company for SHLOMO RECHNITZ and his investors who prop him up to unlawfully siphon off cash from operations of skilled nursing facilities.

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

- providing the FACILITY with nursing personnel to achieve and maintain high clinical standards in the FACILITY;
- providing nursing personnel to prepare the nursing staff at the FACILITY for the Regulatory Inspections of both State Licensing and Federal;
- provided nursing personnel to ensure the FACILITY nursing staff were up to date with respect to accepted Standards of Practice and Standards;
- providing nursing personnel for Resident Assessment at the FACILITY;
- providing oversight to FACILITY nursing staff aimed at Compliance with applicable guidance that controls clinical coverage decisions;
- providing nursing personnel provided to the FACILITY to ensure residents at the FACILITY are provided with the skilled services they require based on their acuity level in order to help ensure proper staffing levels.

24. ROCKPORT ADMINISTRATIVE SERVICES, LLC's direct control over the operations of the FACILITY is further exemplified by the "Rockport Healthcare Services FACILITY Operations" organizational chart, which indicates that ROCKPORT ADMINISTRATIVE SERVICES, LLC, by and through its officers, directors, and managing agents named hereinabove and according to proof at trial, exert direct operational and managerial control over the FACILITY.

25. Moreover, ROCKPORT ADMINISTRATIVE SERVICES, LLC directs the operations of FRESNO SKILLED NURSING & WELLNESS CENTRE; LLC as a mere instrumentality by way of total control of ROCKPORT ADMINISTRATIVE SERVICES, LLC through "State of the Division" directives (Exhibit 1); Rockport Annual Administrator Incentive Plans (Exhibit 2); Directives of Organization Changes (Exhibit 3); Directive of how and when "Business Performance Reviews" as to staffing issues will be performed (Exhibit 4); and many other mechanisms including hiring of Administrators of the facilities with Directive that the Administrator report directly to Rockport Healthcare services management (Exhibit 5); transferring of Administrators from one Rockport FACILITY to another as dictated by Rockport (Exhibit 6); directives of when and where FACILITY personnel will appear for executive training (Exhibit 7); provide monthly financials to direct staffing and payer mix at the FACILITY (Exhibit 8); and many other mechanisms and according to proof at time of trial.

26. All action alleged above was all a ploy by the MANAGEMENT DEFENDANTS to

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

divert false profit from the operations of the FACILITY to common owners of various entities each and every one of which was controlled by the MANAGEMENT DEFENDANTS thereby leaving insufficient funds to lawfully operate the FACILITY leading to the wrongful withholding of required care to residents of the FACILITY such as CATHY CAMPBELL which foreseeably, and inevitably, caused injury such as that alleged herein below as to CATHY CAMPBELL. In sum, the MANAGEMENT DEFENDANTS commingled the funds of the FACILITY with the operations of other skilled nursing facilities operated and controlled by them siphoning funds from one to the other to cover the fact that the MANAGEMENT DEFENDANTS were unlawfully siphoning off cash from the FACILITY leaving insufficient funds to operate any of their facilities. The intermingling of the finances between the FACILITY and the MANAGEMENT DEFENDANTS is so complete as to render them simply alter egos of one another.

27. Further evidence of not only the complete lack of actual separation of interests of the DEFENDANTS and the total operational control over the FACILITY by the MANAGEMENT DEFENDANTS may be found in reports which confirm the total focus of the DEFENDANTS on unlawful profit at the expense of applicable rules, laws and regulations and most specifically chronic understaffing at the FACILITY as reflected in documents shared amongst the DEFENDANTS which include, "Staffing Affidavits", "Immediate Priorities" reports, "Financial Performance Goals/Expectations" reports, "Med A Census YOY" reports, "Total Census" reports, "Labor (Non-Nursing)" reports, "Labor (Nursing)" reports, "Business Performance Reviews", "PPD Comparison", "P&L Detail PPD", "Labor Report YTD", "Labor Report Month Over Month", "Semi Annual Labor Report", "Comprehensive Strategic Plan", "Annual DON Incentive Plan", "Annual Administrator Incentive Plan", "Dynamic GP Financials", "State of the Division" report, "RN Wage Scale", "LVN Wage Scale", and "CNA Wage Scale" through which the DEFENDANTS know full well that the FACILITY was grossly understaffed to meet the needs of its residents, including CATHY CAMPBELL, in chronic and knowing violation of Title 22 California Code of Regulations §§72515(b), 72329.1 and Title 42 Code of Federal Regulations §483.35 and all so the MANAGEMENT DEFENDANTS and SHLOMO RECHNITZ could, would and did take unlawful profit from the FACILITY at the expense of minimum care lawfully required for FACILITY

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

residents, including CATHY CAMPBELL.

28. In addition to the aforementioned allegations, it is alleged upon information and belief that the managerial and operational control exerted by the MANAGEMENT DEFENDANTS over the FACILITY is also achieved through the implementation of uniform policies and procedures that the MANAGEMENT DEFENDANTS disseminate to the FACILITY and with which the FACILITY and its employees and agents are mandated to comply.

29. While the MANAGEMENT DEFENDANTS exert complete operational control over the FACILITY as set forth in the immediately preceding paragraphs, pursuant to applicable state law the FACILITY also remains responsible to their licensing authority (the Department of Public Health) for their conduct in the exercise of their licenses and each has the "responsibility to see to it that the license is not used in violation of law." *California Assn. of Health Facilities v. Department of Health Services* (1997) 16 Cal.4th 284, 295. In fact, Title 22 California *Code of Regulations* §72501 mandates that the FACILITY "shall be responsible for compliance with the licensing requirements and for the organization, management, operation and control of the licensed facility. The delegation of any authority by a licensee shall not diminish the responsibilities of such licensee." Title 22 C.C.R. §72501.

30. Upon information and belief, it is alleged that the misconduct of the DEFENDANTS, which led to the injuries to PLAINTIFF as alleged herein, was the direct result and product of the financial and control policies and practices forced upon the FACILITY by the financial limitations imposed upon the FACILITY by the MANAGEMENT DEFENDANTS, by and through the officers, directors and/or managing agents enumerated in herein below and others presently unknown to PLAINTIFF and according to proof at time of trial.

31. Upon information and belief SHLOMO RECHNITZ, SOL HEALTHCARE, LLC, and DOES 101-110 were members of the "Governing Body" of the FACILITY, responsible for creation and implementation of policies and procedures for the operation of the FACILITY pursuant to Title 42 Code of Federal Regulations §483.70.

32. It is alleged that these "Governing Body" members, as executives, managing agents and/or owners of the FACILITY, failed to adequately perform their legal responsibilities so as to

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

endanger the residents of the FACILITY, including CATHY CAMPBELL. This failure were a result of the reality that these members, as executives, managing agents and/or owners of the FACILITY, were focused on unlawfully increasing the earnings in the operation of DEFENDANTS' businesses as opposed to providing the legally mandated minimum care to be provided to elder and/or infirm residents in their skilled nursing facilities, including CATHY CAMPBELL That the focus of these individuals on their own attainment of profit played a part in the under-funding of the FACILITY which led to the FACILITY violating state and federal rules, laws and regulations and led to the injuries and to CATHY CAMPBELL as alleged herein.

33. CATHY CAMPBELL is ignorant of the true names and capacities of those DEFENDANTS sued herein as DOES 1 through 250, and for that reason has sued such DEFENDANTS by fictitious names. CATHY CAMPBELL will seek leave of the Court to amend this Complaint to identify said DEFENDANTS when their identities are ascertained.

34. As more fully set forth hereinafter, this lawsuit neither CATHY CAMPBELL and/or her legal representatives did not discover, and had no knowledge of facts that would have caused reasonable persons to suspect, that the harm suffered by CATHY CAMPBELL was caused by the DEFENDANTS' wrongful conduct alleged herein, and, until on a date within 12 months of the filing of this Complaint.

FIRST CAUSE OF ACTION
DEPENDENT ADULT ABUSE
BY PLAINTIFF AGAINST ALL DEFENDANTS

35. CATHY CAMPBELL hereby incorporates the allegations asserted in paragraphs 1 through 34 above as though set forth at length below.

36. At all relevant times, CATHY CAMPBELL was a "dependent adult" as defined in *Welfare and Institutions Code* § 15610.23 in that CATHY CAMPBELL was at all relevant times a person between the ages of 18 and 64 with physical and mental limitations that restricts her ability to carry out normal activities and restricts her ability to protect her rights which includes but is not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.

37. That the DEFENDANTS provided "care or services" to elderly and dependent adults,

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

including CATHY CAMPBELL, and housed elderly and dependent adults, including CATHY CAMPBELL and therefore were in a trust and fiduciary relationship with CATHY CAMPBELL and owed a duty to CATHY CAMPBELL to provide care and services that met her needs and were in accordance with State and Federal laws and regulations governing skilled nursing facilities during her residency in the FACILITY.

38. CATHY CAMPBELL was a resident of the FACILITY from April 20, 2017 through May 28, 2017. Attached hereto as Exhibit 9 is a copy of the "Face Sheet" from this admission period.

39. Upon admission, CATHY CAMPBELL had no pressure sores present on her body. Attached hereto as Exhibit 10 is a copy of the "History & Physical" dated April 21, 2017 authored by FACILITY noting skin examination findings of "Warm, dry, nondiaphoretic, and nonicteric."

40. While a resident of the FACILITY, the DEFENDANTS wrongfully withheld necessary care and services from CATHY CAMPBELL, and as a result CATHY CAMPBELL suffered a severe and "avoidable" stage IV pressure ulcer[3] on her coccyx area[4], multiple catheter-associated urinary tract

[3] A pressure sore is a skin wound. Pressure sores usually develop on bony parts of the body such as the tailbone, hip, ankle, or heel. They are usually caused by constant pressure on one part of the skin. Pressure sores are sometimes called bedsores. These sores can be caused from the pressure on the skin from chairs, wheelchairs, or beds. Severe pressure sores may take a long time to heal. **Stage 1** – A persistent area of skin redness (without a break of the skin) that does not disappear when pressure is relieved. **Stage II** – A partial loss of thickness loss of skin layers that presents clinically as an abrasion, blister or shallow crater. **Stage III** – A full thickness of skin is lost, exposing the subcutaneous tissues – presents as a deep crater with or without undermining adjacent tissue. **Stage IV** – A full thickness of skin and subcutaneous tissue is lost, exposing muscle or bone.

[4] Many groups and organizations look at pressure ulcers as a quality indicator. One of the more controversial aspects of pressure ulcers is that of avoidability. The United States Centers for Medicaid and Medicare Services adopted the reality that that pressure ulcers should be prevented in residents in long-term care settings - the 2004 CMS regulatory language specifically reads, Based on the comprehensive assessment of an individual, the FACILITY must ensure that an individual who enters the FACILITY without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates that they were unavoidable. Civil money penalties can be assessed of long-term care settings when pressure ulcers occur, although such regulation does not exist in acute care or home care facilities. In 2007, the classification by the CMS of full-thickness pressure ulcers (Stage III and Stage IV) as "never events" - that is, ulcers should never occur or are reasonably preventable. Thus, on February 25, 2010, the National Pressure Ulcer Advisory Panel (NPUAP) organized and hosted a conference, An International Multidisciplinary Consensus Panel on the Issues of Avoidable and Unavoidable Pressure Ulcers in All Care Settings at Johns Hopkins University in Baltimore, Maryland. The purpose of the conference was to establish consensus on whether there are individuals in whom pressure ulcer development may be unavoidable and whether a difference exists. The conference attendees determined and defined an "Avoidable pressure ulcer" as follows: An avoidable pressure ulcer can develop when the provider did not do one or more of the following: evaluate the individual's clinical condition and pressure ulcer risk factors; define and implement interventions consistent with individual needs, individual goals, and recognized standards of practice; monitor and evaluate the impact of the interventions; or revise the interventions as appropriate.

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

infections (UTI)[5], sepsis[6], and an entirely preventable fall on or about May 9, 2017. Attached hereto as Exhibit 11 are exemplars of the horrendous pressure sore suffered by CATHY CAMPBELL.

41. Specifically, and without limiting the generality of the foregoing, the DEFENDANTS owed a duty to provide residents such as CATHY CAMPBELL specific care and services including but not limited to:

- The duty to "employ an adequate number of qualified personnel to carry out all of the functions of the facility" as set forth in 22 California *Code of Regulations* §72527(a)(24) and *Health and Safety Code* Section 1599.1(a).
- The duty to provide services to CATHY CAMPBELL pursuant to Title 42 Code of Federal Regulations §483.30 and 22 California *Code of Regulations* §72329.1 to have sufficient number of personnel on duty at the FACILITY on a 24-hour basis to provide appropriate custodial and professional services to CATHY CAMPBELL in accordance CATHY CAMPBELL'S resident care plans.
- The duty to provide CATHY CAMPBELL with the necessary custodial and professional care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care, as required by 22 California *Code of Regulations* §72515(b), 42 U.S.C. §1396r(b)(4)(C), and Title 42 Code of Federal Regulations § 483.25.
- The duty to o notify a physician of any sudden or marked adverse changes in the signs, symptoms or behaviors exhibited by residents such as CATHY CAMPBELL, which right is protected by 22 California *Code of Regulations* §72311(3)(b).
- The duty to assess patients such as CATHY CAMPBELL upon admission and develop individual care plans indicating the care to be given, the objectives to

[5] **Catheter-Associated Urinary Tract Infections (UTI)** is an infection involving the urinary system attributed to the use of an indwelling urinary catheter. This type of UTI is one of the most common infections acquired by patients in health care facilities. The major determinant for development of bacteriuria is duration of catheterization. While the proportion of bacteriuric subjects who develop symptomatic infection is low, the high frequency of use of indwelling urinary catheters means there is a substantial burden attributable to these infections.

Catheter-acquired urinary infection is the source for about 20% of episodes of health-care acquired bacteremia in acute care facilities, and over 50% in long term care facilities. The most important interventions to prevent bacteriuria and infection are to limit indwelling catheter use and, when catheter use is necessary, to discontinue the catheter as soon as clinically feasible.

Infection control programs in health care facilities must implement and monitor strategies to limit catheter-acquired urinary infection, including surveillance of catheter use, appropriateness of catheter indications, and complications. Ultimately, prevention of these infections will require technical advances in catheter materials which prevent biofilm formation.

[6] **Sepsis** occurs when an infection, usually bacterial, spreads throughout the body via the bloodstream. The infection can start anywhere in the body, but commonly begins in the lung or urinary tract. The source may be chronic pressure sores. Sepsis has a very high mortality rate, especially in the elderly. Reduced level of consciousness and any change in mental status may be the only symptoms of a serious infection.

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

be accomplished, and the professional discipline responsible for each element of care and develop individual care plans indicating the care to be given, the objectives to be accomplished, and the professional discipline responsible for each element of care (Title 22 California *Code of Regulations* § 72311(a)(1)(A)-(C); 42 U.S.C §1395i-3; Title 42 Code of Federal Regulations § 483.20(k));

- The duty to respect CATHY CAMPBELL'S right to be free from mental and physical abuse, which right is protected by 22 California *Code of Regulations* §72527(a)(9).

- The duty to review, evaluate, and update the patient care plan upon a chance in CATHY CAMPBELL'S condition (Title 22 California *Code of Regulations* § 72311(a)(1)(C));

- The duty to continually assess the care needs of CATHY CAMPBELL (Title 42 Code of Federal Regulations § 483.20(b) and (c));

- The duty to promptly answer the call signals of CATHY CAMPBELL (Title 22 California *Code of Regulations* § 72315(m);

- The duty to transfer CATHY CAMPBELL to a higher level of care when the medical needs and conditions of CATHY CAMPBELL required such elevated provision of care (Title 22 California *Code of Regulations* § 72519; 42 U.S.C. §13935i-3(c)(2)(i)(iii)-(iv);

- The duty to provide sufficient staff to provide nursing care to all FACILITY including CATHY CAMPBELL in accordance with patient care plans (Title 22 California *Code of Regulations* § 72329.1(a); 42 U.S.C. §1395i-3(b)(4)(C); Title 42 Code of Federal Regulations § 483.30(a));
- The duty to promptly notify CATHY CAMPBELL'S family, physician, and/or legal representatives of significant changes in CATHY CAMPBELL'S condition, including sudden and/or marked adverse change in signs, symptoms or behavior exhibited by CATHY CAMPBELL and, unusual occurrences involving CATHY CAMPBELL such as fall incidents(Title 22 California *Code of Regulations* § 72311(a)(3)(B));

- The duty to provide CATHY CAMPBELL f care in a manner and in such environment to maintain or enhance CATHY CAMPBELL'S quality of life (42 U.S.C. §13951-3(b)(1); Title 42 Code of Federal Regulations § 483.15);

- The duty to immediately 911 in an injury or other circumstances resulted in imminent threat to CATHY CAMPBELL'S health Immediate 911 notification under circumstances posing imminent threat to CATHY CAMPBELL'S health and safety (Title 22 California *Code of Regulations* § 72519);

- The duty to provide sufficient staffing personnel in the FACILITY to meet CATHY CAMPBELL'S needs (Title 22 California *Code of Regulations* §§ 72329.1 and 72329.1).

42. The State of California's Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) is found at *Welfare & Institutions Code* §15600 *et seq.* In the EADACPA at *Welfare & Institutions Code* §15610.07 "abuse" of an elder or dependent adult is defined to include "Physical

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering."

43. *Welfare and Institutions Code* §15610.57 specifically defines "Neglect" to include "negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise" including, but not limited to: (1) Failure to assist with personal hygiene, and failure to provide food, clothing, or shelter; (2) Failure to provide medical care for physical and mental health needs; (3) Failure to protect from health and safety hazards; and (4) Failure to prevent malnutrition or dehydration.

44. As more fully set forth in the paragraphs below, the DEFENDANTS, and each of them, committed elder "Neglect" as defined *Welfare and Institutions Code* §15610.57 in their dealing with CATHY CAMPBELL in that the DEFENDANTS themselves, as well as their employees, failed to exercise the degree of care that reasonable persons in a like position would have exercised as is more fully alleged herein. Specifically, and without limiting the generality of the foregoing and proof, the DEFENDANTS, as well as their employees, committed "Neglect" as defined by *Welfare and Institutions Code* §15610.57 by the following acts and omissions:

(1) Failing to assist CATHY CAMPBELL in personal hygiene, and failing to provide CATHY CAMPBELL with food, clothing, and shelter by leaving CATHY CAMPBELL in her urine and feces for extended periods of time, failing to keep CATHY CAMPBELL clean and dry at all times to stave off infection, with adequate and proper personal hygiene. This failure resulted in CATHY CAMPBELL'S acquiring recurrent multiple catheter-associated infections, sepsis, and needless suffering.

(2) Failing to provide CATHY CAMPBELL medical care for physical and mental health needs by failing to turn and reposition CATHY CAMPBELL while she was in bed so as to relieve pressure from CATHY CAMPBELL'S bony prominences, failing to ensure CATHY CAMPBELL'S catheter was properly maintained so as not to breed signs and symptoms of infection, and failing to provide CATHY CAMPBELL with adequate nutrition and hydration so as to stave off infection and skin breakdown, and failing to plan the care to be received by CATHY CAMPBELL. This failure resulted in CATHY CAMPBELL'S acquiring recurrent multiple catheter-associated infections, falls, sepsis, and needless suffering.

(3) Failing to protect CATHY CAMPBELL from health and safety hazards by failing to ensure CATHY CAMPBELL was kept distanced from signs and symptoms of infection, failing to ensure her catheter was kept sanitary to stave off signs and symptoms of infection, failing to implement fall-interventions to address her substantial risk of falling out of wheelchair. This failure resulted in CATHY CAMPBELL'S acquiring recurrent multiple catheter-associated

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

infections, sepsis, and needless pain and suffering.

The DEFENDANTS' wrongful withholding of care outlined above and according to proof, resulted in CATHY CAMPBELL suffering from entirely preventable injuries and needless pain and suffering. These injuries would not have occurred had the DEFENDANTS simply adhered to applicable State and Federal rules, laws and regulations, as well as the acceptable standards of practice governing the operation of a skilled nursing facility.

45. It is alleged that the injuries suffered by CATHY CAMPBELL during her residency in the FACILITY were the result of DEFENDANTS' plan to cut costs at the expense of their residents such as CATHY CAMPBELL. Integral to this plan was the DEFENDANTS' practice and pattern of staffing the FACILITY with an insufficient number of service personnel, many of whom were not properly trained or qualified to care for the elders and/or dependent adults, whose lives were entrusted to them. The "under staffing" and "lack of training" plan was designed as a mechanism as to reduce labor costs and predictably and foreseeably resulted in the abuse and neglect of many residents of the FACILITY, and most specifically, CATHY CAMPBELL.

46. The DEFENDANTS, by and through the corporate officers, directors and managing agents, ratified the conduct of their co-defendants and FACILITY, in that they were, or in the exercise of reasonable diligence should have been, aware of the understaffing of FACILITY, in both number and training, the relationship between understaffing and sub-standard provision of care to patients of FACILITY including CATHY CAMPBELL, and the FACILITY'S practice of being issued deficiencies by the State of California's Department of Health Services as to all skilled nursing facilities in the State of California. Furthermore, the DEFENDANTS, by and through their corporate officers and directors, ratified the conduct of themselves and their co-defendants in that they were aware that such understaffing and deficiencies would lead to injury to patients of the FACILITY, including CATHY CAMPBELL and insufficiency of financial budgets to lawfully operate FACILITY. This ratification by the DEFENDANTS and FACILITY itself is that ratification of the customary practice and usual performance of FACILITY.

47. In ratifying the customary practice and usual performance of the FACILITY referenced in the immediately preceding paragraph , the DEFENDANTS, by and through its officers, directors and

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

managing agents, acted in reckless and conscious disregard for the safety of CATHY CAMPBELL and further disregarded the probability that severe injury would result from their failure to carefully adhere to their duties including, but not limited, to (1) failing to provide frequent turning and repositioning to relieve pressure from CATHY CAMPBELL'S bony prominences as ordered by physician in order to reduce labor costs associated with providing this 24-hour level of care, monitoring, and supervision; (2) failing to take all reasonable infection control and skin breakdown prevention interventions necessary based on ongoing assessments, including employing sufficient number of care staff personnel (3) failing to summon and/or arrange for emergency medical treatment after the coccyx pressure wound exposed bone knowing of the high probability of life-threatening injury given the fact that CATHY CAMPBELL was suffering from recurrent catheter-associated urinary tract infections and sepsis, and other conditions, which increased her risk of injury.

48. That the DEFENDANTS, and each of them, acted in reckless and conscious disregard of the laws and regulations governing the operations of skilled nursing facilities, including, but not limited to:

- Failing to assess patients upon admission and develop individual care plans indicating the care to be given, the objectives to be accomplished, and the professional discipline responsible for each element of care and develop individual care plans indicating the care to be given, the objectives to be accomplished, and the professional discipline responsible for each element of care (Title 22 California *Code of Regulations* § 72311(a)(1)(A)-(C); 42 U.S.C §1395i-3; Title 42 Code of Federal Regulations § 483.20(k));
- Failing to review, evaluate, and update the patient care plan upon a chance in CATHY CAMPBELL'S condition (Title 22 California *Code of Regulations* § 72311(a)(1)(C));
- Failing to continually assess the care needs of CATHY CAMPBELL (Title 42 Code of Federal Regulations § 483.20(b) and (c));
- Failing to promptly answer the call signals of CATHY CAMPBELL (Title 22 California *Code of Regulations* § 72315(m);
- Failing to transfer CATHY CAMPBELL to a higher level of care when the medical needs and conditions of CATHY CAMPBELL required such elevated provision of care (Title 22 California *Code of Regulations* § 72519; 42 U.S.C. §13935i-3(c)(2)(i)(iii)-(iv);
- Failing to provide sufficient staff to provide nursing care to all FACILITY including CATHY CAMPBELL in accordance with patient care plans (Title 22 California *Code of Regulations* § 72329.1(a); 42 U.S.C. §1395i-3(b)(4)(C); Title 42 Code of Federal Regulations § 483.30(a));

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

- Failing to promptly notify CATHY CAMPBELL'S family, physician, and/or legal representatives of significant changes in CATHY CAMPBELL'S condition, including sudden and/or marked adverse change in signs, symptoms or behavior exhibited by CATHY CAMPBELL and, unusual occurrences involving CATHY CAMPBELL such as fall incidents(Title 22 California *Code of Regulations* § 72311(a)(3)(B));

- Failing to provide CATHY CAMPBELL necessary care and services to attain and/or maintain the highest practicable physical, mental, and psychosocial well-being of CATHY CAMPBELL (42 U.S.C. §13951-3(b)(2); Title 42 Code of Federal Regulations § 483.25; Title 22 California *Code of Regulations* § 72315);

- Failing to provide CATHY CAMPBELL f care in a manner and in such environment to maintain or enhance CATHY CAMPBELL'S quality of life (42 U.S.C. §13951-3(b)(1); Title 42 Code of Federal Regulations § 483.15);

- Failing to immediately 911 in an injury or other circumstances resulted in imminent threat to CATHY CAMPBELL'S health Immediate 911 notification under circumstances posing imminent threat to CATHY CAMPBELL'S health and safety (Title 22 California *Code of Regulations* § 72519);

- Failing to provide sufficient staffing personnel in the FACILITY to meet CATHY CAMPBELL'S needs (Title 22 California *Code of Regulations* § 72329.1).

49. That the DEFENDANTS' misconduct alleged herein was reckless and undertaken in conscious disregard of the substantial probability of injury to CATHY CAMPBELL. The misconduct and neglect described herein was undertaken in blatant disregard of laws and regulations governing the operations of skilled nursing facilities, further demonstrating callous indifferences to the outcome. Finally, the breaches were undertaken in an environment designed to provide care and services to vulnerable, disabled, and elderly persons, where all persons involved in caring for vulnerable, disabled, and elderly persons knows of the potentially life-threatening consequences of ignoring the need for basic services. To wit, but not limited to, basic reassessments and revisions of Care Plans, basic and reasonable measures to prevent pressure sore development and infection control and management interventions necessary based on ongoing assessments, and basic summons and arrangement or emergency medical treatment once the pressure sore upon the body of CATHY CAMPBELL exposed bone concurrent with signs and symptoms of infection knowing of the high probability of injury given the already compromised condition of CATHY CAMPBELL.

50. Evidencing the DEFENDANTS' callous disregard over the rights and safety of

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

CATHY CAMPBELL is exposed is the incomplete, erroneous, and internally inconsistent patient records maintained by the FACILITY for CATHY CAMPBELL. Most notably perhaps is the FACILITY Admission Interdisciplinary Care Plan dated May 23, 2017 for CATHY CAMPBELL (Exhibit 12), or nearly a month following admission, noting CATHY CAMPBELL'S "high risk for skin breakdown".

51. Further evidencing the DEFENDANTS' reckless and conscious disregard is the reality that their misconduct was committed notwithstanding advance knowledge that CATHY CAMPBELL suffered from conditions upon admission to the FACILITY all of which rendered her particularly vulnerable to the development and worsening of pressure sores. The DEFENDANTS knew, or should have known, that CATHY CAMPBELL was at substantial risk for these problems upon admission through assessment information, family information, physicians order and her medical documentation provided the FACILITY.

52. Specifically, the DEFENDANTS knew, or should have known, that immediately before her admission, CATHY CAMPBELL was living at home when she developed an aortic dissection (a severe heart condition).[7] The DEFENDANTS further knew, or should have known, she thereafter underwent triple bypass open heart surgery at San Jose Hospital. And that after surgery, CATHY CAMPBELL required weaning off a ventilator before she was transferred to Folsom Hospital.

53. Specifically, the DEFENDANTS knew, or should have known, that CATHY CAMPBELL was admitted to the FACILITY in May 2017 for post-operative care and rehabilitation following a severe heart condition requiring then-recent major open heart surgery.. The DEFENDANTS knew, or should have known, that CATHY CAMPBELL'S post-operative condition upon admission left her non-ambulatory. The DEFENDANTS knew, or should have known, that CATHY CAMPBELL suffered from myriad of conditions predisposing her to infection and worsening of pressure sores including hypertension (HTN) and chronic kidney failure. The

[7] An **aortic dissection**—a split, tear, or weakened area in the lining of your body's main artery—is often a life-threatening condition and represents one of the rare true emergencies in cardiac surgery. Medication can sometimes be an appropriate treatment option for a dissection of the descending aorta. But immediate surgery will be advisable for nearly all dissections of the ascending aorta or aortic arch. Once a dissection occurs in the ascending aorta, between 25% and 30% of patients die within hours, and the risk of death approaches 100% after a week without an operation.

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

DEFENDANTS knew, or should have known, that by virtue of her post-operative non-ambulatory status and infirmities, that CATHY CAMPBELL was dependent upon the DEFENDANTS, and each of them, and the FACILITY'S care staff for basic personal everyday activities including, but not limited to, tasks such as eating, toileting, grooming, dressing, bathing, transferring in and out of bed and wheelchair, and repositioning in bed, personal hygiene, and continence care.

54. Specifically, the DEFENDANTS knew, or should have known, that CATHY CAMPBELL'S was rapidly decline following her admission to the FACILITY. The DEFENDANTS knew, or should have known, that CATHY CAMPBELL'S post-operative condition upon admission left her non-ambulatory. The DEFENDANTS knew, or should have known, that CATHY CAMPBELL suffered from myriad of conditions predisposing her to infection and worsening of pressure sores including hypertension (HTN) and chronic kidney failure. The DEFENDANTS knew, or should have known, that by virtue of her post-operative non-ambulatory status and infirmities, that CATHY CAMPBELL was dependent upon the DEFENDANTS, and each of them, and the FACILITY'S care staff for basic personal everyday activities including, but not limited to, tasks such as eating, toileting, grooming, dressing, bathing, transferring in and out of bed and wheelchair, and repositioning in bed, personal hygiene, and continence care.

55. Specifically, the DEFENDANTS knew, or should have known, that CATHY CAMPBELL was rapidly declining following her admission to the FACILITY and that she had suffered a fall in the FACILITY from her wheelchair, and was there at increasingly high risk for the development of pressure sores and infection. Attached hereto as Exhibits 13 is a copy of the Interdisciplinary Progress Note dated May 9, 2017 wherein the FACILITY staff fraudulently documented and concealed CATHY CAMPBELL'S fall. It is a statistical fact known to all in long term care including the FACILITY, as determined and forewarned by the Centers for Disease Control and Prevention, that "among older adults falls are the leading cause of both fatal and non-fatal injuries."[8] And that "twenty-thirty percent of people who fall suffer moderate to severe injuries..."[9] Further, that

[8] Stevens JA, Corso PS, Finkelstein EA, Miller TR. The costs of fatal and nonfatal falls among older adults. Injury Prevention 2006a;12:290–5.

[9] Sterling DA, O'Connor JA, Bonadies J. Geriatric falls: injury severity is high and disproportionate to mechanism. Journal (footnote continued)

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

"[M]any people who fall....develop a fear of falling."[10] This fear will likely cause the elder adult, such as CATHY CAMPBELL, "to limit their activities, which leads to reduced mobility and loss of physical fitness"[11]

56. Accordingly, and a fact well known to the FACILITY, elderly and dependent adult such as CATHY CAMPBELL are at high risk of suffering pressure sores and infection and resulting injury. Thus, skilled nursing facilities such as the FACILITY are to not only conduct assessments of high fall risk residents such as CATHY CAMPBELL, but also are to update the assessments as frequently as necessary to determine the specific interventions that should be put in place to prevent a resident such as CATHY CAMPBELL from suffering further skin breakdown and infection and resulting injury. These interventions include such innocuous interventions as frequent turning and repositioning to relieve and non-ambulatory resident such as CATHY CAMPBELL off her bony prominences and keeping CATHY CAMPBELL clean and dry from her own feces and urine at all times to stave off further skin breakdown and acquisition of infection. The DEFENDANTS wrongfully and consistently withheld these required services and interventions from CATHY CAMPBELL notwithstanding a full knowledge that the CATHY CAMPBELL required such services, and as the predictable and proximate result, CATHY CAMPBELL suffered the painful injuries and needless pain and suffering alleged herein. Yet, DEFENDANTS meaningfully ignored these problems thereby failing to provide proper medical and/or custodial care to CATHY CAMPBELL thereby causing injury to CATHY CAMPBELL.

57. Further evidencing the DEFENDANTS' reckless and conscious disregard is the reality that the DEFENDANTS, no one from the FACILITY notified or report to CATHY CAMPBELL'S family, physician, or legal representative that she had suffered in the FACILITY from her wheelchair, had developed a pressure sore on her coccyx, acquired multiple urinary tract infections through her

---

of Trauma–Injury, Infection and Critical Care 2001;50(1):116–9.
Alexander BH, Rivara FP, Wolf ME. The cost and frequency of hospitalization for fall–related injuries in older adults. American Journal of Public Health 1992;82(7):1020–3.

[10] Bell AJ, Talbot-Stern JK, Hennessy A. Characteristics and outcomes of older patients presenting to the emergency department after a fall: a retrospective analysis. Medical Journal of Australia 2000;173(4):176–7.

[11] Vellas BJ, Wayne SJ, Romero LJ, Baumgartner RN, Garry PJ. Fear of falling and restriction of mobility in elderly fallers. Age and Ageing 1997;26:189–193.

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

prolonged and unnecessary use of a catheter, sepsis, or what was being done to treat them. In an unfortunate effort to conceal the FACILITY'S failure to provide required care, FACILITY nurses simply concealed these conditions from CATHY CAMPBELL'S family, physician, and legal representative and untruthfully stated that nothing of the aforementioned injuries occurred. As a result of the FACILITY'S failure to provide required care and failure to bring these conditions to the attention of CATHY CAMPBELL'S family, physician, and legal representative CATHY CAMPBELL'S conditions unnecessarily and preventable exacerbated and as a result CATHY CAMPBELL suffered a horrendous coccyx pressure sore, recurrent catheter-associated UTIs, sepsis, and other injuries according to proof that the FACILITY had ignored as the result of the inadequacy of FACILITY staff in both number and training, leading directly to unnecessary injury and needless pain and suffering to CATHY CAMPBELL.

58. Further evidencing the DEFENDANTS' reckless and conscious disregard is the reality that the DEFENDANTS, and the FACILITY care staff had a duty to provide necessary care and services to ensure that residents such as CATHY CAMPBELL did not suffer falls, pressure sore development and worsening, and recurrent catheter-associated infections and sepsis and to ensure that residents such as CATHY CAMPBELL were transferred to a high level of care specifically if the coccyx bedsore worsened to Stage III while concurrently exhibiting signs and symptoms of prolonged unresolved infection resulted in sepsis and other changes of condition. The DEFENDANTS and the FACILITY care staff had a duty to assess and reassess CATHY CAMPBELL'S Care Plans, especially after her risk of pressure sore development and infection was increasing. It is well known to all in long-term care of elderly and dependent adults such as CATHY CAMPBELL that the failure to provide adequate assistance, monitoring, safety and infection control measures and precautions for a resident with a known risk for pressure sore development and infections such as CATHY CAMPBELL will likely result in residents such as CATHY CAMPBELL suffering from horrendous pressure sores, recurrent infections, and sustaining serious and potentially life-threatening injuries.

59. Every skilled nursing FACILITY including the FACILITY should know well that signs and symptoms relating to infected Stage III+ pressure sores with sepsis and recurrent catheter-associated infections be closely monitored to prevent further deterioration of pressure sores,

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

complications related to infection, and deterioration of other conditions. This basic required service of observation was incumbent upon the FACILITY. The required care required by CATHY CAMPBELL from the DEFENDANTS in this regard included observation for emergent and adverse signs and symptoms which included constant fatigue and lethargy, a fear of falling, and rapidly altering mental status, especially for dependent adults recovering from invasive open heart surgery such as CATHY CAMPBELL. The most simple of required services required by CATHY CAMPBELL from the DEFENDANTS was one of observation and reporting. And yet, the DEFENDANTS wrongfully withheld even this required service to CATHY CAMPBELL.

60. The DEFENDANTS also knew well that CATHY CAMPBELL required basic preventative care as to the prevention of pressure sore worsening and infection which included very basic care including turning and repositioning CATHY CAMPBELL to relieve pressure from her bony prominences and making sure CATHY CAMPBELL was clean and dry at all times to stave off infection and further skin breakdown. And yet, the DEFENDANTS wrongfully withheld even this required service to CATHY CAMPBELL. As the result of the failure of the DEFENDANTS to provide the most basic of care as to CATHY CAMPBELL'S known risk relating to infection control and pressure sore development and worsening, the DEFENDANTS did not turn and reposition CATHY CAMPBELL as frequently to relieve pressure from her bony prominences and left CATHY CAMPBELL lying in her own urine and feces and failed to properly observe her emergent conditions notwithstanding her exhibiting precise symptomology of the debilitating effects of a horrendous pressure sore wound and recurrent urinary-tract infection and sepsis.

61. Instead of providing this required basic care, the DEFENDANTS simply ignored the bedsore and recurrent infection until in June 2017 when FACILITY staff finally transferred Alameda Hospital due to the infected Stage IV decubitus ulcer on her coccyx that was leaking all over her bed

62. By the time CATHY CAMPBELL was transferred to Alameda Hospital in June 2017, the coccyx bedsore had severely deteriorated. The wound had developed sepsis and required Vacuum-assisted closure (VAC)[12]. The DEFENDANTS wrongful withholding was so severe that Alameda

[12] **Vacuum-assisted closure** (VAC) of a wound is a type of therapy to help wounds heal. It's also known as wound VAC. (footnote continued)

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

Hospital staff summoned the local authorities to investigate CATHY CAMPBELL'S injuries. A police report was authored by an Officer "Clark".

63. After CATHY CAMPBELL was discharged from the FACILITY in June 2017, she never returned to the FACILITY. Unfortunately, CATHY CAMPBELL never recovered from the severe and preventable injuries she suffered in the FACILITY. After her discharge, her health continued to decline and she endured an unnecessarily painful prolonged recovery requiring stays at Windsor Healthcare in Oakland, Highland Hospital and Golden Living Center – Chateau before she passed away on December 8, 2017.

64. That no one from the FACILITY informed CATHY CAMPBELL'S family, physician, or legal representative about the horrendous pressure sore or severe urinary tract infection , or what was being done to treat them. In an unfortunate effort to conceal the FACILITY'S failure to provide required care, FACILITY nurses simply concealed the bedsore from CATHY CAMPBELL'S family, physician, and legal representative. As a result of the FACILITY'S failure to provide required care and failure to bring these conditions to the attention of CATHY CAMPBELL'S family, physician, and legal representative CATHY CAMPBELL was allowed to needless suffer from an entirely preventable and painful coccyx pressure sore exposing bone that the FACILITY ignored and allowed to develop infection as the result of the inadequacy of staff in both number and training, leading directly to CATHY CAMPBELL'S injuries as alleged herein and according to proof at trial.

65. Further evidencing the DEFENDANTS' reckless and conscious disregard, as if the foregoing was not enough, is the unfortunate reality that DEFENDANTS continued their ignorance of the required care needs of CATHY CAMPBELL by also failing to notice, report and respond to emerging signs of urinary tract infection which rapidly worsened due the FACILITY staff's inability to adequately treat and address the catheter used by CATHY CAMPBELL. The DEFENDANTS were required to assess, care plan and implement a care plan relating to same. The DEFENDANTS did not provide these required services.

66. The FACILITY Administrator, Director of Nursing, and nursing personnel knew

---

During the treatment, a device decreases air pressure on the wound.

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

CATHY CAMPBELL'S was increasing because day after day, shift after shift, the FACILITY'S care staff observed and monitored CATHY CAMPBELL, including documenting her increasing risk for pressure sore development and worsening, infection, and resulting injury.

67. The FACILITY Administrator, Director of Nursing, and nursing personnel knew CATHY CAMPBELL, based on their background, training and expertise in caring for elderly and dependent adults, that pressure sores, sepsis, and recurrent catheter-associated infections pose a serious threat to life. This is because a Stage III+ bedsore presents a very high risk of life-threatening infection to develop within the wound. Its effects are more lethal with the passage of time if left untreated and unaddressed to worsen..

68. The FACILITY Administrator, Director of Nursing, and nursing personnel wrongfully withheld and denied needed care from CATHY CAMPBELL despite knowing that by so doing, injury was substantially certain to CATHY CAMPBELL or with conscious disregard of the probability of such injury. The FACILITY Administrator, Director of Nursing, and nursing personnel knew that by retaining CATHY CAMPBELL instead of promptly CATHY CAMPBELL to a higher level of care immediately after her bedsore reached Stage III while still experiencing signs and symptoms of infection they were violating the law and making a conscious choice to wrongfully withhold and deny needed medical care. The DEFENDANTS' denial and withholding of basic care to CATHY CAMPBELL care caused her entirely preventable injury and needless pain and suffering.

69. The FACILITY Administrator, Director of Nursing, and nursing personnel's willful failure to protect CATHY CAMPBELL from health and safety hazards and willful failure to provide medical care for CATHY CAMPBELL'S health needs, as herein alleged, constitutes recklessness, malice, oppression, and/or fraud within the meaning of *Welfare & Institutions Code* § 15657.

70. Over the course of the residency of CATHY CAMPBELL in the FACILITY, the DEFENDANTS just flat out ignored the known needs of CATHY CAMPBELL, and wrongfully withheld required services required by the standard of practice which included, and without limitation to that to be adduced in discovery and according to proof at time of trial, wrongfully withholding required care to CATHY CAMPBELL by not properly and competently evaluating CATHY CAMPBELL'S clinical condition and risk factors; define and implement interventions consistent with

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

CATHY CAMPBELL'S needs, individual goals, and recognized standards of practice; monitor and evaluate the impact of the interventions; or revise the interventions as appropriate as it relates to CATHY CAMPBELL'S risk factors for infection development and worsening.

71. The accumulated and consistent withholding of required care to CATHY CAMPBELL by the DEFENDANTS included, and subject to further discovery and proof:

- Wrongfully withholding from CATHY CAMPBELL required care by failing to timely, accurately and properly create Plans of Care so as to provide assistance to CATHY CAMPBELL when ambulating and/or transferring so as to prevent falls, assistance with nutrition and hydration to stave off infection, assistance with mobility to relieve pressure from bony prominences so as to prevent skin breakdown, and assistance with personal hygiene to stave off infection;

- Wrongfully withholding from CATHY CAMPBELL required care by failing to timely, accurately and properly implement Plans of Care so as to provide assistance to CATHY CAMPBELL when ambulating and/or transferring so as to prevent falls, assistance with nutrition and hydration to stave off infection, assistance with mobility to relieve pressure from bony prominences so as to prevent skin breakdown, and assistance with personal hygiene to stave off infection;

- Wrongfully withholding from CATHY CAMPBELL required care by failing to timely and properly provide assistance to CATHY CAMPBELL ambulating and/or transferring so as to prevent falls, assistance with nutrition and hydration to stave off infection, assistance with mobility to relieve pressure from bony prominences so as to prevent skin breakdown, and assistance with personal hygiene to stave off infection;

- Wrongfully withholding from CATHY CAMPBELL required care in failing to timely, accurately and competently perform assessments of the care needs of CATHY CAMPBELL as required by 22 California *Code of Regulations* § 72311 as appropriate following changes of conditions;

- Wrongfully withholding from CATHY CAMPBELL required care in failing to timely and accurately notify CATHY CAMPBELL'S physician of sudden and/or marked adverse changes in the signs, symptoms or behavior by CATHY CAMPBELL as required by 22 California *Code of Regulations* § 72311 so as to;

- Wrongfully withholding from CATHY CAMPBELL required care in failing to treat her with dignity and respect as required by 22 California *Code of Regulations* § 72315;

- Wrongfully withholding from CATHY CAMPBELL required care in failing to answer CATHY CAMPBELL'S call signals promptly as required by 22 California *Code of Regulations* § 72315;

- Wrongfully withholding from CATHY CAMPBELL required care in failing to have employed and on duty sufficient staff to provide the necessary nursing services for CATHY CAMPBELL as required by 22 California *Code of Regulations* § 72329.1;

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

- Wrongfully withholding from CATHY CAMPBELL required care in failing to have employed and on duty staff with required qualifications to provide the necessary nursing services for patients admitted care as required by 22 California *Code of Regulations* § 72329.1;

- Wrongfully withholding from CATHY CAMPBELL required care in failing to provide CATHY CAMPBELL with the necessary custodial and professional care to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care, as required by 22 California *Code of Regulations* § 72515(b);

- Wrongfully withholding from CATHY CAMPBELL required care in failing to ensure that CATHY CAMPBELL'S environment remains as free of accident hazards as is possible as required by 42 C.F.R. § 483.25 (h)(1);

- Wrongfully withholding from CATHY CAMPBELL required care in failing to ensure that CATHY CAMPBELL receives adequate supervision and assistance devices to prevent accidents as required by 42 C.F.R. § 483.25 (h)(2).

- Wrongfully withholding from CATHY CAMPBELL required care by failing to ensure that that her need for constant attention and care to for her skin via interventions such as placement on isolation of residents exhibiting sign and symptoms of recurrent infection and deteriorating pressure sores;

- Wrongfully withholding from CATHY CAMPBELL required care by failing to ensure that CATHY CAMPBELL was clean and dry and free from feces and urine at all times so as to prevent infection;

- Wrongfully withholding from CATHY CAMPBELL required care by failing to ensure that CATHY CAMPBELL was properly hydrated and received sufficient nutrition to fight off the development of infection.

- Wrongfully withholding from CATHY CAMPBELL required care failing to ensure that staff provided CATHY CAMPBELL with care and interventions which were called for by FACILITY Care Plan and physician orders and assessments.

- Wrongfully withholding from CATHY CAMPBELL required care by failing to adhere to physician's orders relating to the monitoring of intake and output of food and urine

- Wrongfully withholding from CATHY CAMPBELL required care by failing to to monitor and report to the physician of CATHY CAMPBELL the nature, content, and color of the urine of CATHY CAMPBELL so as to catch infection at an early stage and before worsening,

- Wrongfully withholding from CATHY CAMPBELL required care by ignoring the signs and symptoms of scabies infection exhibited by CATHY CAMPBELL,

- Wrongfully withholding from CATHY CAMPBELL required care by failing to monitor and take corrective action in a timely fashion relating to the known susceptibility of CATHY CAMPBELL to the development of infection.

72. The DEFENDANTS wrongfully withheld this required care to CATHY CAMPBELL due to their refusal to provide services to her with sufficient budget and sufficient staffing to meet the

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

needs of CATHY CAMPBELL consistent with the requirements of 42 U.S.C. § 1396r(b)(4)(C).

73. The DEFENDANTS wrongfully withheld this required care to CATHY CAMPBELL due to their refusal to provide services to CATHY CAMPBELL with a sufficient number of personnel on duty at the FACILITY on a 24-hour basis to provide appropriate custodial and professional services to CATHY CAMPBELL in accordance CATHY CAMPBELL'S resident care plans as required by Title 42 Code of Federal Regulations § 483.30 and 22 California *Code Of Regulations* § 72329.1.

74. That the injuries suffered by CATHY CAMPBELL while a resident of the FACILITY were the result of DEFENDANTS' practice and pattern of staffing the FACILITY with an insufficient number of service personnel, many of whom were not properly trained or qualified to care for the elders and/or dependent adults, whose lives were entrusted to them. The "under staffing" and "lack of training" plan was designed as a mechanism as to reduce labor costs and predictably and foreseeably resulted in the abuse and neglect of many residents of the FACILITY, and most specifically, CATHY CAMPBELL

75. At all times herein mentioned DEFENDANTS had actual and/or constructive knowledge of the unlawful conduct and business practices alleged herein, yet represented to CATHY CAMPBELL and/or her legal representatives that the FACILITY would provide care which met legal standards. Moreover, such unlawful business practices were mandated, directed, authorized, and/or personally by the officers, directors and/or managing agents of the DEFENDANTS.

76. The DEFENDANTS knew that where their skilled nursing FACILITY suffered from understaffing, lack of training, failure to allot sufficient economic resources, unfitness of staff in capacity and competency, the consequences would ultimately lead to the improper withholding of required medical and/or custodial services to residents and injury therefrom was not only likely, but inevitable. The DEFENDANTS knew that by understaffing their facilities, in quality and quantity, they putting CATHY CAMPBELL and others similarly situated at risk for known, harmful, and life-threatening injuries, including a horrendous Stage IV coccyx pressure sore and recurrent catheter-associated urinary tract infections. This is because all involving in the operations of skilled nursing facilities , including the owners, operators, administrators, and Director of nursing understand the

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

direct relationship between staffing and patient outcomes–the high the staffing ration, the better the patient outcome. The FACILITY ignored this known peril which led to the wrongful withholding of required care to CATHY CAMPBELL which led to the injuries of CATHY CAMPBELL.

77. The DEFENDANTS represented to the general public and to CATHY CAMPBELL and/or her legal representative that the FACILITY was sufficiently staffed so as to be able to meet the needs of CATHY CAMPBELL and the FACILITY operated in compliance with all applicable rules, laws and regulations governing the operation of skilled nursing facilities in the State of California. In particular, the DEFENDANTS represented that each of the DEFENDANTS' skilled nursing facilities operating in California would ensure the rights afforded to all residents of skilled nursing facilities under *Health & Safety Code* §1599.1(a) and Title 22 California *Code of Regulations* § 72527(a)(25), most specifically the right to live in a FACILITY that employs "an adequate number of qualified personnel to carry out all of the functions of the facility." As more fully alleged herein, these representations by the DEFENDANTS were, and are, false and/or in the exercise of reasonable diligence should have been known to be false when made.

78. Upon information and belief, at all relevant times, the FACILITY and MANAGEMENT DEFENDANTS, acting by and through its managers, directors, officers, and other agents directly oversaw, managed, and/or controlled all aspects of the operation and management of the FACILITY. Accordingly, the MANAGEMENT DEFENDANTS, and each of them, were responsible for the abuse of CATHY CAMPBELL as alleged herein. The MANAGEMENT DEFENDANTS were responsible for the overall operations of the FACILITY including, but not limited to that, FACILITY budgeting, FACILITY staffing, FACILITY staff training, FACILITY policies and procedures regarding assessments, care planning, changes of condition, patient transfers and discharges, and infection control and management measures and interventions.

79. The DEFENDANTS, and each of them, knew that where their skilled nursing facilities, such as the FACILITY suffered from understaffing, lack of training, failure to allot sufficient economic resources, unfitness of staff in capacity and competency, inevitably led to the improper withholding of required medical and/or custodial services to residents of the FACILITY such as CATHY CAMPBELL and such as alleged above.

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

80. Notwithstanding the fact that the DEFENDANTS knew that it was highly probable that their conduct in the FACILITY as to understaffing, lack of training, failure to allot sufficient economic resources, unfitness of staff in capacity and competency inevitably led to the improper withholding of required medical and/or custodial services to residents of the FACILITY and resulting harm, the DEFENDANTS disregarded this risk in favor of untoward economic gain at the expense of the provision of required care to infirm and dependent adults such as CATHY CAMPBELL.

81. The DEFENDANTS represented to the general public and to CATHY CAMPBELL and/or her legal representative that the FACILITY was sufficiently staffed so as to be able to meet the needs of CATHY CAMPBELL and the FACILITY operated in compliance with all applicable rules, laws and regulations governing the operation of skilled nursing facilities in the State of California. In particular, the DEFENDANTS represented that each of the DEFENDANTS' skilled nursing facilities operating in California would ensure the rights afforded to all residents of skilled nursing facilities under *Health & Safety Code* §1599.1(a) and Title 22 California *Code of Regulations* § 72527(a)(25), most specifically the right to live in a FACILITY that employs "an adequate number of qualified personnel to carry out all of the functions of the facility." As more fully alleged herein, these representations by the DEFENDANTS were, and are, false and/or in the exercise of reasonable diligence should have been known to be false when made.

82. That, CATHY CAMPBELL, and or her legal representatives acting on her behalf, justifiably relied on these false representations made by the DEFENDANTS in agreeing to the terms and obligations set forth in the DEFENDANTS' admission agreement as mandated by Title 22 California *Code of Regulations*, §72516. *Health & Safety Code* §1599.74. This justified reliance on DEFENDANTS' false representations was to CATHY CAMPBELL'S as more fully set forth herein.

83. It is alleged that DEFENDANTS' false representations that they would ensure their residents such as CATHY CAMPBELL their right to live in adequately staffed facilities were false because, instead of providing the represented standard of care, at all times herein relevant the DEFENDANTS intentionally concealed from residents such as CATHY CAMPBELL that the MANAGEMENT DEFENDANTS conceived and implemented a plan to wrongfully increase business profits at the expense of the rights and health of residents such as residents such as CATHY

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

CAMPBELL, and others similarly situated through the chronic understaffing and under-funding of the defendant facilities which prevented the DEFENDANT FACILITY from ensuring their residents' statutory right to live in adequately staffed facilities that would meet the needs of the residents, rendering the representations of the DEFENDANTS as to the nature and quality of their services as false.

84. It is alleged that the regulations enacted pursuant to the California *Health and Safety Code*[13] also requires that a skilled nursing FACILITY maintain staffing at levels sufficient to meet the needs of residents, even if that required staffing level is more than the bare minimum numeric ratio of 3.2 NHPPD required by *Health & Safety Code* §1276.5. Title 22 *California Code of Regulations* § 72501(g) (italics added). "Nursing service personnel shall be employed and on duty in at least the number and with the qualifications determined by the Department to provide the necessary nursing services for patients admitted for care.

85. Thus, it is alleged that DEFENDANTS, as operators of skilled nursing facilities must, pursuant to statutes and regulations with which DEFENDANTS are required to comply, know that sufficient nursing staff is required to meet the needs of residents and to ensure the health and safety of residents. Conversely, DEFENDANTS, as operators of skilled nursing facilities must also know that a failure to maintain sufficient staffing to comply with the minimum requirements of *Health & Safety Code* §1276.5 and/or to meet the needs of residents, will endanger the health and safety of FACILITY residents such CATHY CAMPBELL. The DEFENDANTS, as operators of skilled nursing facilities, cannot claim ignorance of these regulatory requirements without endangering their very licensure. Skilled nursing facilities have the "responsibility to see to it that the license is not used in violation of law." (*California Assn. of Health Facilities v. Department of Health Services* (1997) 16 Cal.4th 284, 295.); see also *California Code of Regulations*, §72501, subd. (a) (skilled nursing facilities "shall be responsible for compliance with the licensing requirements and for the organization, management,

[13] These regulations set the standard of care with which skilled nursing facilities must comply. See Cal. Health & Saf. Code §1276(a) ("The building standards published in the State Building Standards Code by the Office of Statewide Health Planning and Development, and the regulations adopted by the state department shall, as applicable, prescribe standards of adequacy, safety, and sanitation of the physical plant, of staffing with duly qualified licensed personnel, and of services, based on the type of health FACILITY and the needs of the persons served thereby.").

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

operation and control of the licensed facility.").

86. Thus, it is alleged that at all times relevant hereto, the DEFENDANTS were required to know pursuant to applicable statues and regulations (or risk forfeiture of licensure) that understaffing their skilled nursing facilities such as the FACILITY creates a high risk of harm to residents of that facility. That at all times relevant hereto the DEFENDANTS consciously disregarded that knowledge and continued to maintain insufficient staffing levels in the FACILITY.

87. And, minimum staffing of personnel in the FACILITY was dependent by law upon the acuity (need) level of the residents of the FACILITY. Here, as is more fully set forth below, the FACILITY'S residents acuity level during the residency of CATHY CAMPBELL in the FACILITY were so high and that the "minimum" staffing ratios exceeded the numeric minimum of *Health and Safety Code* § 1276.5 pursuant to the provisions of Title 22 California *Code of Regulations* § § 72515(b), 72329.1 and Title 42 Code of Federal Regulations § 483.30. During the residency of CATHY CAMPBELL in the FACILITY, the FACILITY did not meet these minimum staffing requirements which led to the wrongful withholding of required care to CATHY CAMPBELL.

88. CATHY CAMPBELL has reason to believe that DEFENDANTS' staffing was not based on the acuity of the patient population but rather upon occupancy levels at its nursing homes including the FACILITY.

89. CATHY CAMPBELL has reason to believe that the DEFENDANTS' focus and intent to carry out the financial strategies and business practices alleged herein to increase revenues and profit margins caused widespread neglect of residents, including CATHY CAMPBELL.

90. Due to the DEFENDANTS' misconduct, as well as their practice of aiding and abetting the wrongful acts and omissions alleged herein, CATHY CAMPBELL suffered the injuries alleged of herein. These injuries were not the product of isolated failure but rather the result of prolonged neglect and abuse that arose out of four (4) calculated business practices by DEFENDANTS:

a) understaffing;

b) relentless marketing and sales practices to increase resident census despite knowledge of ongoing care deprivation;

c) ongoing practice of utilizing unqualified and untrained employees who, by law, were forbidden by law to administer nursing care to residents;

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

d) ongoing practice of recruiting heavier care residents for which the nursing home received higher reimbursements, despite the dangerous levels of staff who were incapable of meeting the needs of the existing resident population.

91. Accordingly, decisions by DEFENDANTS as to staffing and census were made irrespective of patient population needs within the FACILITY, but rather, were determined by the financial needs of the company.

92. Accordingly, decisions by DEFENDANTS as to staffing and census were made irrespective of patient population needs within the FACILITY, but rather, were determined by the financial needs of the company.

93. That at all times relevant hereto the DEFENDANTS were aware that where the residents of the FACILITY require care beyond that which the staff has either the time or the competency to provide, such as CATHY CAMPBELL did, the FACILITY would fail to provide to the residents, such as CATHY CAMPBELL, with the care which they required as specified by their own physicians, as well as all applicable laws and regulations.

94. That at all times relevant hereto the DEFENDANTS were aware that where there is insufficient staff in both number and competency to meet the needs of residents, as there was in the FACILITY during the period time which CATHY CAMPBELL was a resident, residents' needs would not be met and injuries such as those suffered by CATHY CAMPBELL as alleged herein, are not only likely but inevitable.

95. That were there sufficient staff at the FACILITY in both numbers and competency, then the injuries to CATHY CAMPBELL as alleged herein would not have occurred. Specifically, had there been sufficient staff to comply with applicable rules, laws, and regulations and to provide care to CATHY CAMPBELL as should have been specifically called for by the FACILITY Care Plan relating to CATHY CAMPBELL and physician orders and assessments, then CATHY CAMPBELL would not have been suffered the painful injuries alleged herein; CATHY CAMPBELL would have received proper assistance so as prevent the suffering of the painful injuries alleged herein; CATHY CAMPBELL would have received adequate supervision to protect CATHY CAMPBELL from health and safety hazards; CATHY CAMPBELL would have received the physician-ordered care to prevent

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

the injuries alleged herein; and CATHY CAMPBELL would have been treated with other interventions so as to prevent suffering of the painful injuries alleged herein. As a direct result of the DEFENDANTS' failure to comply with applicable rules, laws, and regulations, CATHY CAMPBELL did not receive the care set forth hereinabove which led to the injuries alleged herein.

96. At all times herein mentioned DEFENDANTS had actual and/or constructive knowledge of the unlawful conduct and business practices alleged herein. The DEFENDANTS, and each of them, were further aware (and thus had notice and knowledge) of the danger to their residents when they violated applicable rules, laws and regulations via these unlawful business practices, yet they acted in conscious disregard of these known perils and at the expense of legally mandated minimum care to be provided to residents in skilled nursing facilities in the state of California.

97. In the operation of the FACILITY, DEFENDANTS, and each of them, held themselves out to the general public via websites, brochures, admission agreements and other mechanisms presently unknown and according to proof at time of trial, to the CATHY CAMPBELL, and others similarly situated, that their skilled nursing facilities provided services which were in compliance with all applicable federal and state laws, rules and regulations governing the operation of a skilled nursing FACILITY in the State of California. In the operation of the subject facility, the DEFENDANTS, and each of them, held themselves out to the CATHY CAMPBELL that the FACILITY would be able to meet the needs of CATHY CAMPBELL. These representations of the nature and quality of the nature of services to be provided were, in fact, false.

98. The DEFENDANTS, by and through the corporate officers, directors and managing agents, identified in the preceding paragraphs of this Complaint and others presently unknown to CATHY CAMPBELL and according to proof at time of trial, ratified the conduct of their co-defendants and the FACILITY, in that they were, or in the exercise of reasonable diligence should have been aware of the understaffing of the FACILITY, in both number and training, the relationship between understaffing and sub-standard provision of care to patients of the FACILITY including CATHY CAMPBELL, and the FACILITY'S practice of being issued deficiencies by the State of California's Department of Public Health as to all skilled nursing facilities in the State of California. Furthermore, the DEFENDANTS, by and through the corporate officers and directors enumerated in

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

paragraph 11, and others presently unknown to CATHY CAMPBELL and according to proof at time of trial, ratified the conduct of themselves and their co-defendants in that they were aware that such understaffing and deficiencies would lead to injury to patients of FACILITY, including CATHY CAMPBELL and insufficiency of financial budgets to lawfully operate the FACILITY. This ratification by the DEFENDANTS the and FACILITY itself, is that ratification of the customary practice and usual performance of FACILITY as set forth in *Schanafelt v. Seaboard Finance Company,* (1951) 108 Cal.App.2d 420, 423-424.

99. Upon information and belief, the DEFENDANTS enacted, established and implemented the financial plan and scheme which led to the FACILITY being understaffed, in both number and training, by way of imposition of financial limitations on the FACILITY in matters such as, and without limiting the generality of the foregoing, the setting of financial budgets which clearly did not allow for sufficient resources to be provided to CATHY CAMPBELL by the FACILITY. These choices and decisions were, and are, at the express direction of the DEFENDANTS management personnel including the corporate officers and directors enumerated in paragraph 11 and others presently unknown to CATHY CAMPBELL and according to proof at time of trial, having power to bind the DEFENDANTS as set forth in *Bertero v. National General Corporation* (1974) 13 Cal.3d 43, 67 and *McInerney v. United Railroads of San Francisco*, (1920) 50 Cal.App.538, 549.

100. The Corporate authorization and enactment of the DEFENDANTS, alleged in the preceding paragraphs, constituted the permission and consent of the FACILITY'S misconduct by the DEFENDANTS, by and through the corporate officers and directors enumerated in paragraph 11 and others presently unknown to CATHY CAMPBELL and according to proof at time of trial, who had within their power the ability and discretion to mandate that the FACILITY employ adequate staff to meet the needs of their patients, including CATHY CAMPBELL, as required by applicable rules, laws and regulations governing the operation of skilled nursing facilities in the State of California. The conduct constitutes ratification of the FACILITY'S misconduct by the DEFENDANTS, which led to injury to CATHY CAMPBELL as set forth in *O'Hara v. Western Seven Trees Corp.,* (1977) 75 Cal.App.3d. 798, 806 and *Kisesky v. Carpenters Trust for So. Cal* (1983) 144 Cal.App.3d 222, 235.

101. CATHY CAMPBELL has reason to believe that DEFENDANTS' staffing was not based

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

on the acuity of the patient population but rather upon occupancy levels at its nursing homes including the FACILITY.

102. Evidence for DEFENDANTS' indifference for the acuity levels of the FACILITY'S patient population can be found through a comparison of the average staff personnel to resident ratios in California facilities verses the FACILITY. In fact, while at a time when the California ratios of licensed nurses to residents in skilled nursing facilities was 1 hour and 6 minutes per resident, the "FACILITY" average was 1 hour per resident. The services of licensed nurses are crucial to the health and safety of residents as by law, registered nurses must assess residents' needs. Registered nurses and Licensed Vocational Nurses work together to plan care, implement care and treatment, and evaluate residents' outcomes. Nurses must be licensed in the state and are on site to provide care to residents twenty-four hours per day, seven days a week. When there are insufficient licensed nurses on duty as was the case in the FACILITY during the residency of CATHY CAMPBELL, the case here, residents such as CATHY CAMPBELL suffer injury as CATHY CAMPBELL did here.

103. In fact, at a time when the California average for ratios of certified nurses assistants to residents in skilled nursing facilities was 2 hours and 39 minutes per resident, the "FACILITY" average was 1 hour and 56 minutes per resident. The services of certified nursing assistants are crucial to the health and safety of residents as certified nursing assistants provide care on a twenty-four hour basis. They work under the direction of a licensed nurse to assist residents with activities of daily living, i.e., eating, grooming, hygiene, dressing, transferring, and toileting as was the case in the FACILITY during the residency of CATHY CAMPBELL, the case here, residents such as CATHY CAMPBELL suffer injury as CATHY CAMPBELL did here.

104. And, minimum staffing of personnel in the FACILITY was dependent by law upon the acuity (need) level of the residents of the FACILITY. Here, as is more fully set forth below, the FACILITY'S residents acuity level during the residency of CATHY CAMPBELL in the FACILITY were so high and that the "minimum" staffing ratios exceeded the numeric minimum of *Health and Safety Code* §1276.5 pursuant to the provisions of 22 California Code of Regulations §§72515(b), 72329.1 and 42 Code of Federal Regulations §483.30. During the residency of CATHY CAMPBELL in the FACILITY, the FACILITY did not meet these minimum staffing requirements.

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

105. The fact that the FACILITY was so woefully understaffed is underscored and rendered even more significant given the high acuity levels of the FACILITY residents as alleged below.

106. At a time when the average in California for long-term residents whose need for help with activities of daily living increased during a residency in a skilled nursing FACILITY was a mere 10.5%, the FACILITY actually suffered from 14.2% ratio of its residents having these high acuity issues which required more, not less, staff on duty in the FACILITY. This is an important issue because residents in a skilled nursing FACILITY value being able to take care of themselves. It is important that nursing home residents do as much as they can for themselves and in most cases, and here, it takes more staff time to allow residents to do these tasks for themselves. Residents who do perform these basic activities of daily living with little help feel better about themselves and stay more active. This affects their health in a beneficial manner. When residents stop taking care of themselves, it generally means their health has gotten worse during their stay in a skilled nursing facility. The resident's ability to perform activities of daily living is important in maintaining their current status and quality of life. The existence of higher ratio of residents with these high acuity problems in the FACILITY is a further indication of the substandard provision of care in the totality of the FACILITY. This high acuity need stretched the understaffed FACILITY beyond its abilities and caused injury to CATHY CAMPBELL.

107. At a time when the average in California for high risk long stay residents who suffer from pressure sores in skilled nursing FACILITY was 5.6%, the FACILITY actually suffered from 6.3% ratio of its residents having these high acuity issues which required more, not less, staff on duty in the FACILITY. The existence of higher ratio of residents with these high acuity problems in the FACILITY is a further indication of the substandard provision of care in the totality of the FACILITY. This high acuity need stretched the understaffed FACILITY beyond its abilities and caused injury to CATHY CAMPBELL.

108. And while the average in California skilled nursing FACILITY residents who lost control of their bowels and bladder was 43.7%, the FACILITY average was 51.5% of its residency having these high acuity issues which required more, not less, staff on duty in the FACILITY. This is important because loss of bowel and bladder is not a normal sign of aging and can often successfully

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

treated. Finding the cause and treating the problem with bowel and bladder is important for many reasons. Physically, it helps prevent infections and pressure sores. Mentally, treatment will help the well-being of the resident by restoring dignity and social interaction. Where there is a higher and significant bowel and bladder control issues, there is a higher pull on staff time requiring higher minimum ratios. The FACILITY did not so adjust their minimum staffing to meet these higher acuity needs of their residents. This high acuity need stretched the understaffed FACILITY beyond its abilities and caused injury to CATHY CAMPBELL.

109. At a time when the average in California for residents developing urinary tract infections in skilled nursing FACILITY was 2.3%, the FACILITY actually suffered from 3.6% ratio of its residents having these high acuity issues which required more, not less, staff on duty in the FACILITY. The existence of higher ratio of residents with these high acuity problems in the FACILITY is a further indication of the substandard provision of care in the totality of the FACILITY. This high acuity need stretched the understaffed FACILITY beyond its abilities and caused injury to CATHY CAMPBELL.

110. While the average in California skilled nursing FACILITY residents who lost too much weight was a mere 5.8%, the FACILITY average was 9.8% having these high acuity issues which required more, not less, staff on duty in the FACILITY. This is important indicator of sub-standard care because a loss of 5% or more in the body weight in one month is considered unhealthy. Too much weight loss will make a person weak, change how medicine works in their body and cause skin breakdown which leads to pressure sores. Too much weight loss will mean that the resident is ill, refuses to eat, is depressed or has medical problem which makes eating difficult. It also often means that the resident is not fed properly, a medical care is not properly managed or the nursing home nutrition program is poor. This high acuity need stretched the understaffed FACILITY beyond its abilities and caused injury to CATHY CAMPBELL.

111. That at all times relevant hereto the DEFENDANTS were aware that where the residents of the FACILITY require care beyond that which the staff has either the time or the competency to provide, such as CATHY CAMPBELL did, the FACILITY would fail to provide to the residents, such as CATHY CAMPBELL, with the care which they required as specified by their own physicians, as well as

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

all applicable laws and regulations.

112. That at all times relevant hereto the DEFENDANTS were aware that where there is insufficient staff in both number and competency to meet the needs of residents, as there was in the FACILITY during the period time which CATHY CAMPBELL was a resident, residents' needs would not be met and injuries such as those suffered by CATHY CAMPBELL as alleged herein, are not only likely but inevitable.

113. That were there sufficient staff at the FACILITY in both numbers and competency, then the injuries to CATHY CAMPBELL as alleged herein would not have occurred. Specifically, had there been sufficient staff to comply with applicable rules, laws, and regulations and to provide care to CATHY CAMPBELL as should have been specifically called for by the FACILITY Care Plan relating to CATHY CAMPBELL and physician orders and assessments, then CATHY CAMPBELL would not have been suffered the painful injuries alleged herein and would not have died; CATHY CAMPBELL would have received proper assistance so as prevent the suffering of the painful injuries alleged herein; CATHY CAMPBELL would have received adequate supervision to protect CATHY CAMPBELL from health and safety hazards; CATHY CAMPBELL would have received the physician-ordered care to prevent the injuries alleged herein; and CATHY CAMPBELL would have been treated with other interventions so as to prevent suffering of the painful injuries alleged herein. As a direct result of the DEFENDANTS' failure to comply with applicable rules, laws, and regulations, CATHY CAMPBELL did not receive the care set forth hereinabove which led to the injuries and resulting death alleged herein.

114. DEFENDANTS, and each of them, were aware (and thus had notice and knowledge) of the danger to their residents when they violated applicable rules, laws and regulations, yet they acted in conscious disregard of these known perils and at the expense of legally mandated minimum care to be provided to residents in skilled nursing facilities in the state of California. In fact, DEFENDANTS and each of them were aware that the FACILITY had received several deficiencies for failing to provide care as required by the rules, laws and regulations governing the FACILITY.

115. That *prior* to the injuries as alleged herein the FACILITY was chronically under staffed so as to be in violation of applicable rules, laws, and regulations. This knowledge was transmitted to DEFENDANTS through their corporate officers named herein above through daily census reports, key

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

factor summary reports, profit and loss reports, and other mechanisms presently unknown to CATHY CAMPBELL and according to proof at the time of trial.

116. The advance knowledge of their malfeasance as alleged in the immediately preceding paragraph was accomplished by many means, including lawsuits against the DEFENDANTS alleging under staffing and violation of the Elder Abuse and Dependent Adult Civil Protection Act found at *Welfare and Institutions Code* §15600 et seq.

117. The advance knowledge of their malfeasance on the part of the defendants as alleged herein was also acquired by way of the issuance of deficiencies to the FACILITY by the State of California's Department of Public Health. For example, at a time when the average number of deficiencies issued in California was a mere 9.6, the FACILITY was issued 12 citations of deficiency by the State of California's Department of Public Health. This systemic substandard care led to the injuries to CATHY CAMPBELL and CATHY CAMPBELL 'S resulting death as alleged herein.

118. In fact, before and during the residency of CATHY CAMPBELL, the FACILITY was repeatedly issued deficiencies by the California Department of Public Health for the regulatory violations alleged herein which proximately caused the injuries to CATHY CAMPBELL alleged herein. The rampant regulatory violations in the FACILITY is memorialized in Statement of Deficiencies completed by the DPH including the Statement of Deficiencies dated October 27, 2016, October 27, 2016, July 20, 2017, and July 26, 2017 attached hereto Exhibits 14, 15, 16, and 17 memorializing the substandard care in and regulatory violations by the FACILITY and which led to the injuries to CATHY CAMPBELL alleged herein.

119. The DEFENDANTS fraudulently concealed the Statement of Deficiencies mentioned herein and others and represented to the general public and to CATHY CAMPBELL and/or her legal representative, that the FACILITY was sufficiently staffed so as to be able to meet the needs of CATHY CAMPBELL and the FACILITY operated in compliance with all applicable rules, laws and regulations governing the operation of skilled nursing facilities in the State of California. These representations were, and are, false.

120. Notwithstanding the knowledge of the DEFENDANTS, and their managing agents as alleged herein above, the DEFENDANTS consciously chose not to increase staff, in number or

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

training, at the FACILITY and as the direct result thereof wrongfully withheld required service to CATHY CAMPBELL causing his to suffer the injuries alleged herein. This ignorance, on the part of the DEFENDANTS and their corporate officers named in paragraph 8, constituted at a minimum, a reckless disregard for the health and safety of CATHY CAMPBELL.

121. That at all times relevant hereto, the DEFENDANTS owed a duty to, and represented they would, provide services to CATHY CAMPBELL pursuant to Title 42 Code of Federal Regulations §483.30 and 22 California *Code of Regulations* §72329.1 to have sufficient number of personnel on duty at the FACILITY on a 24-hour basis to provide appropriate custodial and professional services to CATHY CAMPBELL in accordance CATHY CAMPBELL'S resident care plans. The DEFENDANTS did not provide these legally required services to CATHY CAMPBELL thereby causing injury to CATHY CAMPBELL as alleged herein.

122. Title 22 California *Code of Regulations* §72311 mandates that a skilled nursing FACILITY shall provide, and the DEFENDANTS promised to provide CATHY CAMPBELL with, nursing service which shall include an individual, written plan of care which indicates the care to be given, and the objectives to be accomplished and which shall be updated as frequently as necessary, including when a resident undergoes a change in condition. The DEFENDANTS represented that they would provide services consistent with the regulations yet failed to do so causing injury to CATHY CAMPBELL.

123. Title 22 California *Code of Regulations* §72315 mandates that a skilled nursing FACILITY provide, and DEFENDANTS represented they provided each patient with good nutrition and with necessary fluids for hydration. The DEFENDANTS represented that they would provide services consistent with the regulations yet failed to do so causing injury to CATHY CAMPBELL.

124. Title 22 California *Code of Regulations* §72517 mandates that a skilled nursing FACILITY have an ongoing education program planned and conducted for the development and improvement of necessary skills and knowledge for all FACILITY personnel which shall include: the prevention and control of infections, accident prevention and safety measures, and preservation of resident dignity. The DEFENDANTS represented that they would provide services consistent with the regulations yet failed to do so causing injury to CATHY CAMPBELL.

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

125. Notwithstanding the knowledge of DEFENDANTS, and their managing agents as alleged herein above, DEFENDANTS consciously chose not to increase staff, in number or training, at the FACILITY and as the direct result thereof CATHY CAMPBELL suffered injuries alleged herein. This ignorance, on the part of DEFENDANTS and their corporate officers named in paragraph 7, constituted at a minimum, a reckless disregard for the health and safety of CATHY CAMPBELL.

126. That DEFENDANTS as care custodians willfully caused and allowed CATHY CAMPBELL to be injured and maliciously, fraudulently, oppressively, willfully or recklessly caused CATHY CAMPBELL to be placed in situations such that his health would be in danger in doing the acts specifically alleged herein.

SECOND CAUSE OF ACTION
NEGLIGENT HIRING AND SUPERVISION (CACI 426)
BY PLAINTIFF AGAINST ALL DEFENDANTS

127. CATHY CAMPBELL hereby incorporates the allegations asserted in paragraphs 1 through 126 above as though set forth below.

128. That the DEFENDANTS negligently hired, supervised and/or retained employees including Chantal Wilbur, Shirley Ma, Marina Domingo, and many certified nursing assistants, registered nurses, licensed vocational nurses and others whose names are presently not known to CATHY CAMPBELL but will be sought via discovery.

129. That in fact Chantal Wilbur, Shirley Ma, Marina Domingo, and many certified nursing assistants, registered nurses, licensed vocational nurses and others whose names are presently not known to CATHY CAMPBELL but will be sought via discovery, were unfit to perform their job duties and the DEFENDANTS knew, or should have known, that that they were unfit and that this unfitness created a risk to elder and infirm residents of the FACILITY such as CATHY CAMPBELL.

130. This knowledge on the part of the DEFENDANTS was, or should have been, acquired by the DEFENDANTS through various mechanisms including the pre-employment interview process, reference checks, probationary period job performance evaluations, other periodic job performance evaluations and/or disciplinary processes.

131. The DEFENDANTS failed to properly and completely conduct a comprehensive pre-employment interview process and reference checks as to Chantal Wilbur, Shirley Ma, Marina

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

Domingo, and many certified nursing assistants, registered nurses, licensed vocational nurses and others whose names are presently not known to CATHY CAMPBELL but will be sought via discovery. Had the DEFENDANTS done so they would have discerned that these persons were unfit to perform their job duties in a licensed skilled nursing FACILITY in California.

132. The DEFENDANTS failed to properly and completely conduct, and thereafter ignored the content of, probationary period job performance evaluations, other periodic job performance evaluations and/or disciplinary processes as to Chantal Wilbur, Shirley Ma, Marina Domingo, and many certified nursing assistants, registered nurses, licensed vocational nurses and others whose names are presently not known to CATHY CAMPBELL but will be sought via discovery, and had the DEFENDANTS done so they would have discerned that these persons were unfit to perform their job duties in a licensed skilled nursing FACILITY in California.

133. That as the result of the unfitness of Chantal Wilbur, Shirley Ma, Marina Domingo, and many certified nursing assistants, registered nurses, licensed vocational nurses and others whose names are presently not known to CATHY CAMPBELL but will be sought via discovery, CATHY CAMPBELL was injured in an amount and manner to be proven at time of trial.

134. That the DEFENDANTS' negligence in hiring, supervising and/or retaining Chantal Wilbur, Shirley Ma, Marina Domingo, and many certified nursing assistants, registered nurses, licensed vocational nurses and others whose names are presently not known to CATHY CAMPBELL but will be sought via discovery, caused CATHY CAMPBELL injury in an amount and manner to be proven at time of trial.

///

///

///

///

///

///

///

///

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271

WHEREFORE, CATHY CAMPBELL prays for judgment and damages as follows:

1. For general damages according to proof;

2. For special damages according to proof;

3. For punitive and exemplary damages (as to the First Cause of Action only);

4. For attorney's fees and costs as allowed by law according to proof at the time of trial (as to the First Cause of Action only);

5. For attorneys' fees and costs as allowed by law according to on all legal basis;

6. For statutory damages and penalties pursuant to *Health & Safety Code* §1430(b);

7. For treble damages pursuant to *Civil Code* Section 3345;

8. For costs of suit; and

9. For such other and further relief as the Court deems just and proper.

DATED: June 11, 2018

GARCIA, ARTIGLIERE & MEDBY

By: _____
Stephen M. Garcia
Attorneys for Plaintiff

GARCIA, ARTIGLIERE & MEDBY
ONE WORLD TRADE CENTER, SUITE 1950
LONG BEACH, CALIFORNIA 90831
TELEPHONE (562) 216-5270 • FACSIMILE (562) 216-5271