



IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

ROBERT H. PIERCE, individually and as)
Executor of the Estate of SYLVIA)
PIERCE, and SANDRA R. AHN)
and JAMES R. PIERCE, individually,)

Plaintiffs,)

v.)

GENESIS HEALTHCARE, INC.,)
GENESIS OPERATIONS LLC,)
GENESIS DE HOLDINGS LLC,)
GHC HOLDINGS LLC,)
700 MARVEL ROAD OPERATIONS LLC, d/b/a)
MILFORD CENTER, MILFORD CENTER LLC,)
MEDOPTIONS OF MASSACHUSETTS LLC,)
MEDOP ACQUISITION LLC,)
CHARLES WAGNER, M.D., and)
SUSAN COREY, D.N.P.,)

Defendants.)

C.A. No.

TRIAL BY JURY DEMAND

COMPLAINT MUST BE
ANSWERED BY
AFFIDAVIT
IN ACCORDANCE WITH
10 DEL. C. §3915

COMPLAINT

COMES NOW the Plaintiffs Robert H. Pierce, individually and as a wrongful death beneficiary and as the Executor of the Estate of Sylvia Pierce, and Sandra R. Ahn and James R. Pierce, also wrongful death beneficiaries, through their undersigned counsel who hereby state and allege as follows:

PARTIES

1. Plaintiff Robert H. Pierce is a resident of the State of Delaware and the natural born son of Sylvia Pierce. Plaintiff Robert Pierce is a wrongful death beneficiary pursuant to 10 Del. C. §3724 and is the Executor of the Estate of Sylvia Pierce.

2. Plaintiff Sandra R. Ahn is a resident of the State of Delaware and the natural born daughter of Sylvia Pierce. Plaintiff Sandra R. Ahn is a wrongful death beneficiary pursuant to 10 Del. C. §3724.

3. Plaintiff James R. Pierce is a resident of the State of Georgia and the natural born son of Sylvia Pierce. Plaintiff James R. Pierce is a wrongful death beneficiary pursuant to 10 Del. C. §3724.

4. Defendant Genesis Healthcare, Inc. is a business that, at all material times, was involved in the ownership, management and/or operation of 700 Marvel Road Operations LLC, d/b/a Milford Center, a nursing facility located at 700 Marvel Road, Milford, Delaware 19963 (hereafter referred to as "Milford Center"). Defendant Genesis Healthcare may be served through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

5. Defendant Genesis Operations LLC is a business that, at all material times, was involved in the ownership, management and/or operation of Milford Center. Defendant Genesis Operations may be served through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

6. Defendant Genesis De Holdings LLC is a business that, at all material times, was involved in the ownership, management and/or operation of Milford Center. Defendant Genesis

De Holdings may be served through its registered agent, Corporation Service Company, 2711 Centerville Road, Wilmington, Delaware 19808.

7. Defendant GHC Holdings LLC is a business that, at all material times, was involved in the ownership, management and/or operation of Milford Center. Defendant GHC Holdings may be served through its registered agent, Corporation Service Company, 2711 Centerville Road, Wilmington, Delaware 19808.

8. Defendant 700 Marvel Road Operations LLC, d/b/a Milford Center is a business that, at all material times, was involved in ownership, management and/or operation of Milford Center. At all material times, Defendant 700 Marvel Road Operations LLC was owned, operated, managed and/or existed for the economic and financial benefits of Defendants Genesis Healthcare Inc., Genesis De Holdings LLC, Genesis Operations LLC, and GHC Holdings LLC. At all material times, Defendant 700 Marvel Road Operations LLC's employees, agents, representatives, and servants were acting in the course and scope of their agency, servitude and/or employment and were under the direct supervision and control of and acted on behalf of and for the benefit of Defendants 700 Marvel Road Operations LLC, Genesis Healthcare Inc., Genesis De Holdings LLC, Genesis Operations LLC, and GHC Holdings LLC. Defendant 700 Marvel Road Operations LLC may be served through its registered agent, Corporation Service Company, 2711 Centerville Road, Wilmington, Delaware 19808.

9. Defendant Milford Center LLC (hereafter, "MC LLC") is a business that, at all material times, was involved in ownership, management and/or operation of Milford Center. By information and belief, at all material times, Defendant MC LLC was owned, operated, managed and/or existed for the economic and financial benefits of Defendants Genesis Healthcare Inc., Genesis De Holdings LLC, Genesis Operations LLC, and GHC Holdings LLC. At all material

times, Defendant MC LLC's employees, agents, representatives, and servants were acting in the course and scope of their agency, servitude and/or employment and were under the direct supervision and control of and acted on behalf of and for the benefit of Defendants MC LLC, Genesis Healthcare Inc., Genesis De Holdings LLC, Genesis Operations LLC, and GHC Holdings LLC. Defendant MC LLC may be served through its registered agent, Corporation Service Company, 2711 Centerville Road, Wilmington, Delaware 19808.

10. Defendant Charles Wagner, M.D., was, at all material times, the attending physician for Sylvia Pierce and the Medical Director of Milford Center. He is also a Regional Director Medical Director for Defendant Genesis Healthcare, Inc. Defendant Charles Wagner is licensed as a medical doctor by the State of Delaware and was at all material times acting in the course and scope of his agency, servitude, and/or employment and was under the direct supervision and control of and acted on behalf of and for the benefit of Defendants 700 Marvel Road Operations LLC, MC LLC, Genesis Healthcare Inc., Genesis De Holdings LLC, Genesis Operations LLC, and GHC Holdings LLC. Defendant Charles Wagner can be served at his place of employment at 700 Marvel Road, Milford, Delaware 19963.

11. At all material times, Defendants Genesis Healthcare, Inc., Genesis De Holdings LLC, Genesis Operations LLC, GHC Holdings LLC, MC LLC, and 700 Marvel Road Operations LLC engaged as their agents, servants, and employees, various healthcare providers including but not limited to physicians, interns, physician assistants, nurses, occupational therapists, physical therapists, fellows and others, known only to those Defendants at this time, including the individually named Defendant Charles Wagner, M.D., who provided medical and nursing treatment to Sylvia Pierce. Accordingly, Defendants Genesis Healthcare Inc., Genesis De Holdings LLC, Genesis Operations LLC, GHC Holdings LLC, Milford Center, and MC LLC

are liable for the negligent acts and omissions of the aforementioned physicians, interns, physician assistants, nurses, fellows, and others in the care of Sylvia Pierce, including the individuals named herein, under the theories of *respondent superior*, master-servant, and right of control.

12. Defendant MedOptions of Massachusetts LLC provides behavioral health services to patients living in skilled nursing and assisted living facilities, including Defendant Milford Center. At all material times, Defendant MedOptions of Massachusetts's employees, agents, representatives, and servants were acting in the course and scope of their agency, servitude and/or employment and were under the direct supervision and control of and acted on behalf of and for the benefit of Defendant MedOptions of Massachusetts. Defendant MedOptions of Massachusetts may be served through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

13. Defendant Medop Acquisition LLC is a business that was involved in the ownership, management and/or operation of Defendant MedOptions of Massachusetts. Defendant Medop Acquisition LLC may be served through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

14. Defendant Susan C. Corey, D.N.P., at all material times, provided behavioral health services to Sylvia Pierce at Milford Center. Defendant Susan C. Corey is licensed as a registered nurse, advanced practice registered nurse, and psychiatric mental health clinical nurse specialist by the State of Delaware. At all material times, Defendant Susan C. Corey was acting in the course and scope of her agency, servitude, and/or employment and was under the direct supervision and control of and acted on behalf of and for the benefit of Defendants Medop

Acquisition LLC and MedOptions of Massachusetts LLC. Defendant Susan C. Corey can be served at her place of employment at 31576 Sarah Road, Lewes, Delaware 19958.

OVERVIEW

15. On September 10, 2014, the decedent, Sylvia Pierce, became a resident at Milford Center for the purpose of receiving health care services. Prior to her admission to Milford Center, she had resided at the assisted living facility that was adjacent to Milford Center. Defendant Genesis Healthcare operated both facilities.

16. For at least a year prior to her admission to Milford Center, Mrs. Pierce was diagnosed with dementia, a fact which was known to Defendants at the time she was admitted to Milford Center.

17. Defendants deviated from the standard of care when they provided medical treatment to Mrs. Pierce and failed to obtain informed consent from her legally authorized medical decision-makers prior to administering drugs, including, but not limited to, the drug Zyprexa/Olanzapine ("Zyprexa").

18. As a direct and proximate cause of Defendants' acts and omissions, Mrs. Pierce suffered serious and debilitating harm and injuries, resulting in her untimely death 59 days after her admission.

FACTUAL SUMMARY

19. Mrs. Sylvia Pierce lived most of her life as a resident of Kent County, Delaware. She worked for 25 years as a third grade teacher in Dover's Capital School District. She was married to Louis F. Pierce and had three children – Robert Pierce, Sandra Ahn, and James Pierce- and eight grandchildren.

20. On September 3, 2007, Mrs. Pierce executed a Power of Attorney for Health Care (“HCPOA”), which appointed her son Plaintiff Robert Pierce as her healthcare agent. In the HCPOA, Mrs. Pierce expressly authorized Plaintiff Robert Pierce to make all healthcare decisions for her, including decisions regarding medications. Mrs. Pierce appointed her daughter Plaintiff Sandra Ahn as her alternate healthcare agent. She never revoked these appointments.

21. In 2012, Mrs. Pierce moved to Heritage at Milford, a senior living community located in Milford, Delaware that Defendant Genesis Healthcare owned and continues to own. Mrs. Pierce was diagnosed with dementia, but carried out many activities of daily living, such as talking, standing, feeding herself, using the bathroom by herself, and participating in social activities, including word games and trivia.

22. On September 5, 2014, Mrs. Pierce was admitted to Bayhealth Medical Center for constipation and impaction. She was discharged from Bayhealth to Milford Center on September 10, 2014, for rehabilitation.

23. At the time that Mrs. Pierce was admitted to Milford Center, Defendants were provided a copy of the HCPOA identifying Plaintiffs Robert Pierce and Sandra Ahn as her legally-authorized medical decision-makers because she was deemed unable to make her own medical decisions.

24. At the time Mrs. Pierce was admitted, she was evaluated and it was noted that she had dementia. Her evaluation did not identify that she had bipolar disorder or schizophrenia.

25. Between September 10 and November 6, 2014, staff employed by Defendants improperly treated Mrs. Pierce, causing her medical condition to rapidly deteriorate, resulting in her death.

26. Between September 10 and November 6, 2014, staff employed by Defendants, including Dr. Wagner and Dr. Corey, recommended, prescribed, and administered drugs, including Zyprexa, to Mrs. Pierce as a chemical restraint to stop her from yelling out.

27. Between September 10 and November 6, 2014, staff employed by Defendants prescribed and administered Zyprexa to Mrs. Pierce without first securing informed consent from either Plaintiff Robert Pierce or Sandra Ahn, her legally appointed medical decision-makers.

28. Zyprexa is known as an atypical anti-psychotic drug. Zyprexa is an extremely powerful psychotropic medication that has been approved by the Food and Drug Administration (“FDA”) for the treatment of psychotic conditions such as schizophrenia and bipolar disorder. Critically, Zyprexa brings an increased risk of death to elderly patients with dementia. It is well-documented in medical studies and literature that using Zyprexa and other atypical anti-psychotic drugs materially increase mortality in elderly patients suffering from this condition.

29. Because of these risks, the FDA has required manufacturers of Zyprexa to include “black box” warnings on these medications. The black box warning for Zyprexa states as follows:

WARNING: INCREASED MORTALITY IN ELDERLY PATIENTS WITH DEMENTIA-RELATED PSYCHOSIS

See full prescribing information for complete boxed warning.

• Elderly patients with dementia-related psychosis treated with antipsychotic drugs are at an increased risk of death. ZYPREXA is not approved for the treatment of patients with dementia-related psychosis. (5.1, 5.14, 17.2)

When using ZYPREXA and fluoxetine in combination, also refer to the Boxed Warning section of the package insert for Symbyax.

WARNING: INCREASED MORTALITY IN ELDERLY PATIENTS WITH DEMENTIA-RELATED PSYCHOSIS

Elderly patients with dementia-related psychosis treated with antipsychotic drugs are at an increased risk of death. Analyses of seventeen placebo-controlled trials (modal duration of 10 weeks), largely in patients taking atypical antipsychotic

drugs, revealed a risk of death in drug-treated patients of between 1.6 to 1.7 times the risk of death in placebo-treated patients. Over the course of a typical 10-week controlled trial, the rate of death in drug-treated patients was about 4.5%, compared to a rate of about 2.6% in the placebo group. Although the causes of death were varied, most of the deaths appeared to be either cardiovascular (e.g., heart failure, sudden death) or infectious (e.g., pneumonia) in nature. Observational studies suggest that, similar to atypical antipsychotic drugs, treatment with conventional antipsychotic drugs may increase mortality. The extent to which the findings of increased mortality in observational studies may be attributed to the antipsychotic drug as opposed to some characteristic(s) of the patients is not clear. ZYPREXA (olanzapine) is not approved for the treatment of patients with dementia-related psychosis [see Warnings and Precautions (5.1, 5.14) and Patient Counseling Information (17.2)]. When using ZYPREXA and fluoxetine in combination, also refer to the Boxed Warning section of the package insert for Symbyax.

The FDA has not approved the use of these medications with elderly patients with dementia, such as Mrs. Pierce.

30. By failing to inform the legally authorized medical decision-makers about the prescription of Zyprexa, alternatives to its use, and its risks, Defendants withheld material information that a reasonable person would have needed to make a decision about whether to consent to the treatment.

31. Between September 10 and November 6, 2014, staff employed by Defendants also prescribed and administered Remeron and Zylift/Setraline to Mrs. Pierce without first securing informed consent from either Plaintiff Robert Pierce or Sandra Ahn, her legally appointed medical decision-makers.

32. By failing to inform the legally authorized medical decision-makers about the prescription of Remeron and Zylift, alternatives to their use, and their risks, Defendants withheld material information that a reasonable person would have needed to make a decision about whether to consent to the treatment.

33. Mrs. Pierce's medical condition deteriorated rapidly due to Defendants' care. On November 6, 2014, Plaintiffs Robert Pierce and Sandra Ahn requested that Mrs. Pierce be discharged from Milford Center to Delaware Hospice.

34. On November 6, 2014, Mrs. Pierce was moved to the Hospice facility at Milford. The next day, she was moved to Plaintiff Robert Pierce's home.

35. Mrs. Pierce passed away on November 8, 2014.

36. Defendants violated numerous federal and state statutes and regulations that applied to the care Mrs. Pierce was entitled to receive, including but not limited to:

- a. Failure to accurately assess and develop/implement a plan to address a diagnosed illness. (42 C.F.R. § 483.20 (a) and (b));
- b. Failure to provide appropriate treatment. (42 C.F.R. § 483.25);
- c. Failure to avoid using unnecessary drugs. (42 C.F.R. § 483.25(l)(1));
- d. Failure to monitor for side effects of treatments, including drug treatments. (42 C.F.R. § 483.25(l)(1));
- e. Failure to use antipsychotic drugs only to diagnose/treat a mental illness. (42 C.F.R. § 483.25(l)(2));
- f. Failure to ensure all residents free from chemical restraints for the purpose of discipline or convenience. (Del. Admin. C. §3201.6.3.8);
- g. Failure to use least restrictive interventions to address Mrs. Pierce's yelling out behaviors. (Del. Admin. C. §3201.6.3.8.6);
- h. Failure to periodically conduct a comprehensive, accurate, standardized, and reproducible assessment of Mrs. Pierce's functional capacity and needs. (42 C.F.R. §483.20(b));

- i. Failure to conduct a comprehensive assessment of Mrs. Pierce within 14 calendar days after the facility determined, or should have determined, that there was a significant change in her physical or mental condition. (42 C.F.R. §483.20(b)(2));
- j. Failure to report changes in Mrs. Pierce's health problems or health conditions to an immediate supervisor. (16 Del. C. §1131(10));
- k. Failure to review and revise Mrs. Pierce's care plan when there was a significant change in her physical and mental condition. (42 C.F.R. §483.20(d), 42 C.F.R. §483.20(k)(1), Del. Admin. C. §3201.6.3.7);
- l. Failure to obtain informed consent from legally authorized decision maker. (42 U.S.C.S. §1395i-3(c)(i), 42 U.S.C.S. § 1396r(c)(i), 42 C.F.R. §483.10(b)(4), and 42 C.F.R. §483.10(d));
- m. Failure to immediately inform Mrs. Pierce's legally authorized decision makers when there was a significant change in her physical, mental, or psychosocial status or a need to alter treatment significantly (commence a new form of treatment). (42 C.F.R. §483.10(b)(11));
- n. Failure to supply information regarding treatment to the extent customarily given to patients or other person authorized to give consent. (18 Del. C. §6852(a));
- o. Failure to provide sufficient information to enable Plaintiffs to reasonably appreciate and comprehend the hazards apparent in the use of Zyprexa, Remeron, and Zoloft. (18 Del. C. §6852(b)(1));
- p. Failure to give Plaintiffs complete and current information concerning Mrs. Pierce's diagnosis and treatment and the opportunity to refuse medication and be

informed of the medical consequences of all medication and treatment alternatives. (16 Del. C. §1121(4));

- q. Failure to allow Plaintiffs to exercise Mrs. Pierce's rights under state law. (16 Del. C. §1122); and
- r. Other negligent conduct as discovery may reveal.

37. Defendants' acts and omissions triggered a spiraling decline in Mrs. Pierce's overall condition from which she would never recover and which ultimately caused her death on November 8, 2014.

38. As a direct and proximate result of the acts and omissions of Defendants, Mrs. Pierce did not receive proper treatment while she was under Defendants' care. With the proper standard of care medicine, Mrs. Pierce would not have suffered the pain, indignity, bodily harm, and death that she experienced as a result of Defendants' conduct.

39. The injuries to Mrs. Pierce, her rapidly deteriorating medical condition, and her death were the direct and proximate result of, and were caused and occasioned by, the negligence, carelessness, recklessness, willfulness, and wantonness on the part of Defendants, in failing to exercise the degree of medical training, competency, and skill ordinarily and customarily possessed and exercised by physicians and staff under similar circumstances, and they thereby rendered inappropriate medical care of Ms. Pierce by deviating from and falling below the prevailing and acceptable standards of care in one or more of the particulars stated above in paragraph 36.

40. As a direct and proximate result of Defendants' conduct, Ms. Pierce suffered physical pain and suffering, mental and psychological pain and suffering, and death.

41. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered and continue to suffer damages, including, but not limited to, severe mental anguish as a result of Mrs. Pierce's death.

42. As a direct and proximate result of Defendants' conduct, Plaintiffs have incurred medical bills, funeral expenses, costs, and other pecuniary damages as delineated by 10 Del. C. §3724.

43. Defendants are jointly and severally liable for all damages suffered by Plaintiffs.

CAUSES OF ACTION
COUNT I
NEGLIGENCE AGAINST ALL DEFENDANTS

44. Plaintiffs hereby incorporate by reference as though fully set forth in this Count paragraphs 1 through 43 above.

45. As set forth above, individuals working at Milford Center were employees, agents, representatives or servants acting in the course and scope of their agency, employment and/or servitude and were under the direct supervision and control of Defendants, and were negligent, willful, wanton, intentional, reckless and deviated from appropriate standards of medical and/or nursing care which proximately resulted in injury to and death of Mrs. Pierce as set forth in paragraphs 36(a) - (k) and 36(r) of this Complaint, which is incorporated in Count I of this Complaint alleging negligence against Defendants. Defendants were otherwise negligent, willful, wanton, reckless and deviated from the appropriate standards of medical and/or nursing care which proximately resulted in injuries, damage, and death of Mrs. Pierce as detailed in paragraphs 25 through 43.

46. As a direct and proximate result of the negligence, carelessness, gross negligence, recklessness, intentional abuse and neglect, and departure from the professional standards of care

by Defendants, Mrs. Pierce suffered severe injuries and damage which resulted in pain and suffering and death, as a result of which the Estate of Mrs. Pierce is entitled to recover a sum to compensate her for her pain and suffering, medical expenses, mental anguish, loss of enjoyment of life, loss of earnings capacity, and other damages. The Estate of Mrs. Pierce is also entitled to recover a sum of punitive damages to punish and deter these defendants and others like them from similar conduct in the future.

47. As a direct and proximate cause of Defendants' negligent, willful, wanton, reckless, and intentional abuse and neglect as set forth above, Plaintiffs suffered and continue to suffer damages including but not limited to severe mental anguish as a result of Mrs. Pierce's death as delineated by 10 Del. C. §3724.

48. As a direct and proximate cause of Defendants' negligent, willful, wanton, reckless, and intentional abuse and neglect as set forth above, Plaintiffs have incurred medical bills, funeral expenses, costs and other pecuniary damages as delineated by 10 Del. C. §3724.

49. Defendants are jointly and severally liable for all damages suffered by Plaintiffs.

COUNT II
NEGLIGENCE AGAINST DEFENDANTS GENESIS HEALTHCARE, GENESIS HOLDINGS, GHC HOLDINGS, 700 MARVEL ROAD OPERATIONS LLC, MC LLC, AND CHARLES WAGNER, M.D.

50. Plaintiffs hereby incorporate by reference as though fully set forth in this Count paragraphs 1 through 49 above.

51. As set forth above, individuals working at Milford Center were employees, agents, representatives or servants acting in the course and scope of their agency, employment and/or servitude and were under the direct supervision and control of Defendants 700 Marvel Road Operations LLC, MC LLC, Genesis Healthcare Inc., Genesis De Holdings LLC, Genesis Operations LLC, GHC Holdings LLC, and Charles Wagner, and were negligent, willful, wanton,

intentional, reckless and deviated from appropriate standards of medical and/or nursing care which proximately resulted in injury to and death of Mrs. Pierce as set forth in paragraph 36(l) - (q) of this Complaint, which is incorporated in Count II of this Complaint alleging negligence against Defendants 700 Marvel Road Operations LLC, MC LLC, Genesis Healthcare Inc., Genesis De Holdings LLC, Genesis Operations LLC, GHC Holdings LLC, and Charles Wagner.

52. As a direct and proximate result of the negligence, carelessness, gross negligence, recklessness, intentional abuse and neglect, and departure from the professional standards of care by Defendants 700 Marvel Road Operations LLC, MC LLC, Genesis Healthcare Inc., Genesis De Holdings LLC, Genesis Operations LLC, GHC Holdings LLC, and Charles Wagner, Mrs. Pierce suffered severe injuries and damage which resulted in pain and suffering and death, as a result of which the Estate of Mrs. Pierce is entitled to recover a sum to compensate her for her pain and suffering, medical expenses, mental anguish, loss of earnings capacity, loss of enjoyment of life, and other damages. The Estate of Mrs. Pierce is also entitled to recover a sum of punitive damages to punish and deter these defendants and others like them from similar conduct in the future.

53. As a direct and proximate cause of Defendants' negligent, willful, wanton, reckless, and intentional abuse and neglect as set forth above, Plaintiffs suffered and continue to suffer damages including but not limited to severe mental anguish as a result of Mrs. Pierce's death as delineated by 10 Del. C. §3724.

54. As a direct and proximate cause of Defendants' negligent, willful, wanton, reckless, and intentional abuse and neglect as set forth above, Plaintiffs have incurred medical bills, funeral expenses, costs and other pecuniary damages as delineated by 10 Del. C. §3724.

55. Defendants are jointly and severally liable for all damages suffered by Plaintiffs.

COUNT III

NEGLIGENCE – AGENCY

56. Plaintiffs hereby incorporate by reference as though fully set forth in this Count paragraphs 1 through 55 above.

57. At all material times, Defendants Genesis Healthcare, Inc., Genesis De Holdings LLC, Genesis Operations LLC, and GHC Holdings LLC were responsible for ownership, management and/or operation of Milford Center.

58. At all material times, Defendant 700 Marvel Road Operations LLC was licensed as a nursing facility by the State of Delaware and was responsible for performing the acts of management, supervision, and was generally in charge of Milford Center.

59. At all material times, Defendant MC LLC was licensed as a nursing facility by the State of Delaware and was responsible for performing the acts of management, supervision, and was generally in charge of Milford Center.

60. At all material times, Defendant Charles Wagner was the Medical Director at Milford Center and was licensed as a doctor by the State of Delaware and was responsible for performing the acts of management, supervision, and was generally in charge of Milford Center. He also was Mrs. Pierce's attending physician.

61. At all material times, Defendant Susan Corey was an employee, agent, representative and servant of Defendants Medop Acquisition LLC and MedOptions of Massachusetts LLC.

62. The acts or omissions set forth in the paragraphs above and below are matters within Defendants Genesis Healthcare, Inc., Genesis De Holdings LLC, Genesis Operations LLC, GHC Holdings LLC, 700 Marvel Road Operations LLC, MC LLC, Medop Acquisition

LLC, MedOptions of Massachusetts LLC, Charles Wagner and Susan Corey's areas of responsibility. More specifically, Defendants were negligent as detailed in paragraph 36.

63. Defendants Genesis Healthcare, Inc., Genesis De Holdings LLC, Genesis Operations LLC, GHC Holdings LLC, 700 Marvel Road Operations LLC, MC LLC, and Charles Wagner are liable for the conduct of Defendants Wagner and Corey, their employees, agents, representatives and servants pursuant to the doctrine of *respondeat superior*.

64. As a direct and proximate result of the negligence, carelessness, gross negligence, recklessness, intentional abuse and neglect, and departure from the professional standards of care by Defendants, Mrs. Pierce suffered severe injuries and damage which resulted in pain and suffering and death, as a result of which the Estate of Mrs. Pierce is entitled to recover a sum to compensate her for her pain and suffering, medical expenses, mental anguish, loss of enjoyment of life, loss of earnings capacity, and other damages. The Estate of Mrs. Pierce is also entitled to recover a sum of punitive damages to punish and deter these defendants and others like them from similar conduct in the future.

65. As a direct and proximate cause of Defendants' negligent, willful, wanton, reckless, and intentional abuse and neglect as set forth above, Plaintiffs suffered and continue to suffer damages including but not limited to severe mental anguish as a result of Mrs. Pierce's death as delineated by 10 Del. C. §3724.

66. As a direct and proximate cause of Defendants' negligent, willful, wanton, reckless, and intentional abuse and neglect as set forth above, Plaintiffs have incurred medical bills, funeral expenses, costs and other pecuniary damages as delineated by 10 Del. C. §3724.

67. Defendants are jointly and severally liable for all damages suffered by Plaintiffs.

COUNT IV
BREACH OF FIDUCIARY DUTY AGAINST ALL DEFENDANTS

68. Plaintiffs hereby incorporate by reference as though fully set forth in this Court paragraphs 1 through 67.

69. As a resident of Milford Center, Mrs. Pierce was particularly dependent for her daily care and well-being upon Defendants, their employees, agents, representatives and servants. Because of the nature of her dependency and the representations of Defendants that they could and would provide necessary care, Mrs. Pierce and her family held in Defendants a special confidence and trust which Defendants accepted by admitting Mrs. Pierce to their facility, and by determining the level of care to be provided to Mrs. Pierce.

70. Mrs. Pierce and her family relied upon the supposed superior knowledge, skill, and abilities of Defendants that the Defendants held themselves out to have. Mrs. Pierce and her family also relied on Defendants for care for Mrs. Pierce.

71. By virtue of the nature of the services rendered to Mrs. Pierce by Defendants, and the special relationship which developed between Defendants and Mrs. Pierce as well as the huge disparity of power and unequal bargaining position existing between Defendants and Mrs. Pierce, Defendants occupied a position of confidence toward Mrs. Pierce which required loyalty, fidelity, good faith, and fair dealing by Defendants.

72. Defendants breached their fiduciary duty and duty of good faith and fair dealing to Mrs. Perce by failing to provide the appropriate level of care and services to which Mrs. Pierce was entitled, by accepting payment for services and care not provided to Mrs. Pierce, and by their concealment of and failure to disclose Defendants' abuse and neglect of Mrs. Pierce.

73. As a direct and proximate cause of Defendants' breach of fiduciary duty as set forth above, Mrs. Pierce suffered physical and emotional injury from the time of her admission to the time of her death.

74. As a direct and proximate result of Defendants' breach of fiduciary duty as set forth above, Mrs. Pierce suffered severe injuries and damage which resulted in pain and suffering and death, as a result of which the Estate of Mrs. Pierce is entitled to recover a sum to compensate her for her conscious pain and suffering, medical expenses, mental anguish, loss of enjoyment of life, loss of earnings capacity, and other damages. The Estate of Mrs. Pierce is also entitled to recover a sum of punitive damages to punish and deter these defendants and others like them from similar conduct in the future.

75. As a direct and proximate cause of Defendants' breach of fiduciary duty as set forth above, Plaintiffs suffered and continue to suffer damages including but not limited to severe mental anguish as a result of Mrs. Pierce's death as delineated by 10 Del. C. §3724.

76. As a direct and proximate cause of Defendants' breach of fiduciary duty as set forth above, Plaintiffs have incurred medical bills, funeral expenses, costs and other pecuniary damages as delineated by 10 Del. U. §3724.

77. Defendants are jointly and severally liable for all damages suffered by Plaintiffs.

COUNT V
SURVIVAL CLAIM

78. Plaintiffs hereby incorporate by reference as though fully set forth in this Count paragraphs 1 through 77 above.

79. As a direct and proximate cause of Defendants' negligent, willful, wanton, reckless, and intentional abuse and neglect as set forth above, Mrs. Pierce suffered conscious

physical and emotional injury from September 10, 2014, to the time of her death on November 8, 2014.

80. As a direct and proximate result of Defendants' negligence, willful, wanton, reckless, and intentional abuse and neglect which evidences a willful, wanton or reckless disregard for the safety of others, Mrs. Pierce died on November 8, 2014, thereby incurring funeral, burial, and other related expenses as delineated by 10 Del. C. Ch. 37.

COUNT VI
GENERAL CLAIM FOR GROSS NEGLIGENCE AND PUNITIVE DAMAGES
AGAINST ALL DEFENDANTS

81. Plaintiffs hereby incorporate by reference as though fully set forth in this Count paragraphs 1 through 80.

82. The conduct of Defendants herein describes was outrageous, willful, and wanton, and done with reckless disregard to the safety and rights of Mrs. Pierce.

83. As a direct and proximate of Defendants' outrageous, willful, and wanton conduct done with reckless disregard to the rights and safety of Mrs. Pierce, she suffered conscious physical and emotional injury from September 10, 2014, until her death on November 8, 2014.

84. As a direct and proximate result of Defendants' outrageous, willful, and wanton conduct done with reckless disregard to the rights and safety of Mrs. Pierce, Mrs. Pierce suffered severe injuries and damage which resulted in pain and suffering and death, as a result of which the Estate of Mrs. Pierce is entitled to recover a sum to compensate her for her pain and suffering, medical expenses, mental anguish, loss of enjoyment of life, and other damages. The Estate of Mrs. Pierce is also entitled to recover a sum of punitive damages to punish and deter these defendants and others like them from similar conduct in the future.

85. As a direct and proximate cause of Defendants' outrageous, willful, and wanton conduct done with reckless disregard to the rights and safety of Mrs. Pierce as set forth above, Plaintiffs suffered and continue to suffer damages including but not limited to severe mental anguish as a result of Mrs. Pierce's death as delineated by 10 Del. C. §3724.

86. As a direct and proximate cause of Defendants' Defendants' outrageous, willful, and wanton conduct done with reckless disregard to the rights and safety of Mrs. Pierce as set forth above, Plaintiffs have incurred medical bills, funeral expenses, costs and other pecuniary damages as delineated by 10 Del. C. §3724

87. Defendants are jointly and severally liable for all damages suffered by Plaintiffs.

COUNT VII
CLAIM OF ESTATE OF SYLVIA PIERCE FOR GROSS NEGLIGENCE AND
PUNITIVE DAMAGES

88. Plaintiffs hereby incorporate by reference as though fully set forth in this Count paragraphs 1 through 87.

89. The conduct of Defendants herein described was outrageous, willful and wanton, and done with reckless disregard to the rights of Mrs. Pierce.

90. As a direct and proximate of Defendants' outrageous, willful and wanton conduct done with reckless disregard to the rights of Mrs. Pierce, she suffered physical and emotional injury and death.

COUNT VIII
CLAIMS OF THE WRONGFUL DEATH BENEFICIARIES FOR GROSS
NEGLIGENCE AND PUNITIVE DAMAGES

91. Plaintiffs hereby incorporate by reference as though fully set forth in this Count paragraphs 1 through 90.

92. The conduct of Defendants herein was outrageous, willful and wanton, and done with reckless disregard to the rights of others, including Mrs. Pierce.

93. As a proximate result of Defendants' outrageous and willful and wanton conduct done with reckless disregard to the rights of others, the wrongful death beneficiaries as pursuant to 10 Del. C. §3724 have suffered, and continue to suffer, damages as hereinabove described.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and against Defendants, jointly and severally, and award them compensatory and punitive damages for the physical, emotional, psychological and economic damages they have sustained, continue to sustain and will sustain in the future, proximately caused by Defendants' misconduct as set forth above, together with the costs, fees and expenses incurred in the prosecution of this matter and all other relief which the Court deems just and reasonable.

BY: /s/Chase T. Brockstedt
Chase T. Brockstedt (#3815)
Baird Mandalas Brockstedt, LLC
1413 Savannah Road, Suite 1
Lewes, DE 19958
(302) 645-2262

Kelly Bagby
Maame Gyamfi
AARP Foundation
601 E Street, N.W.
Washington DC 20049
(202) 434-2103
(202) 434-6291

Attorneys for the Plaintiffs