

IN THE COURT OF COMMON PLEAS
CIVIL DIVISION
WASHINGTON COUNTY

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PHILIP A. RICE, II, Individually and on
Behalf of the ESTATE OF PHILIP RICE SR
c/o Smith Clinesmith, LLP
325 N. St. Paul Street, 29th Floor
Dallas, Texas 75201

Case No. 24PT103

KERENYI

Plaintiff,

COMPLAINT

vs.

Jury Demand Endorsed Hereon

MARIETTA OPCO LLC d/b/a ARBORS AT
MARIETTA
400 Seventh Street
Marietta, OH 45750

Also serve at:
Corporation Service Company
1160 Dublin Road, Suite 400
Columbus OH 43215

ARK OPCO GROUP, LLC
In Care of registered Agent:
Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19808

B&Y HEALTHCARE S CORP
In Care of registered Agent:
Cogency Global Inc.
850 New Burton Road, Suite 201
Dover, DE 19904

CODY HEALTHCARE S CORP
In Care of Registered Agent
Cogency Global Inc.
850 New Burton Road, Suite 201
Dover, DE 19904

NOBLE HEALTHCARE
MANAGEMENT, LLC
In Care of registered Agent:
Corporation Service Company

1160 Dublin Road, Suite 400
Columbus OH 43215

PRESTIGE ADMINISTRATIVE
SERVICES, LLC

In Care of registered Agent:
Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19808

ADAM/ANNE DOE (Facility Administrator)
c/o Arbors At Marietta
400 Seventh Street
Marietta, OH 45750

DAVID/DIANE DOE (Director of Nursing)
c/o Arbors At Marietta
400 Seventh Street
Marietta, OH 45750

JOHN/JANE DOE RN 1-10 providing
medical care to PHILIP RICE SR, name and
address unknown despite reasonable inquiry

HEARTLAND-RIVERVIEW OF SOUTH
POINT OH LLC d/b/a LEGACY
RIVERVIEW
7743 County Road 1
South Point, OH 45680

Also serve at:
CT Corporation System
4400 Easton Commons Way, Suite 125
Columbus, OH 43219

Also serve at:
The Corporation Trust Company
Corporation Trust Center 1209 Orange ST
Wilmington, DE 19801

HCR IV HEALTHCARE, LLC
In Care of registered Agent:
The Corporation Trust Company
Corporation Trust Center 1209 Orange ST
Wilmington, DE 19801

HCR HEALTHCARE, LLC
In Care of registered Agent:
The Corporation Trust Company
Corporation Trust Center 1209 Orange ST
Wilmington, DE 19801

HCR II HEALTHCARE, LLC
In Care of registered Agent:
The Corporation Trust Company
Corporation Trust Center 1209 Orange ST
Wilmington, DE 19801

HCR III HEALTHCARE, LLC
In Care of registered Agent:
The Corporation Trust Company
Corporation Trust Center 1209 Orange ST
Wilmington, DE 19801

HCR MANORCARE, INC.
In Care of registered Agent:
The Corporation Trust Company
Corporation Trust Center 1209 Orange ST
Wilmington, DE 19801

PROMEDICA HEALTH SYSTEM, INC
In Care of registered Agent:
4400 Easton Commons Way, Suite 125
Columbus, OH 43219

LEGACY RIVERVIEW OF SOUTH POINT
OPERATING COMPANY, LLC fka
LEGACY SOUTH POINT OPERATING
COMPANY, LLC
In Care of registered Agent:
Eliav Sharvit, Esq.
Legacy Health Services, 12380 Plaza Drive
Parma OH 44130

FRED/FAITH DOE (Facility Administrator)
c/o Legacy Riverview
7743 County Road 1
South Point, OH 45680

NICK/NANCY DOE (Director of Nursing)
c/o Legacy Riverview
7743 County Road 1

South Point, OH 45680

JOHN/JANE DOE RN 11-20 providing
medical care to PHILIP RICE SR, name and
address unknown despite reasonable inquiry

Defendants.

Complaint

Plaintiff PHILIP A. RICE, II, Individually and on Behalf of the ESTATE OF PHILIP RICE SR, states for his Complaint against Defendants as follows:

INTRODUCTION

1. This is a **nursing home** neglect, wrongful death, and punitive damage action involving PHILIP RICE SR's care at the **nursing homes** located at 400 Seventh Street, Marietta, OH 45750 and 7743 County Road 1, South Point, OH 45680.
2. Mr. Rice's care was mismanaged, and he suffered multiple falls and developed pressure wounds and numerous infections resulting in his death. The combination of negligence contributed to Mr. Rice's pain, suffering, and death as a result of the care provided by the employees and/or agents of the entities stated above, as well as the result of the understaffing provided at the above facilities.
3. Plaintiff PHILIP A. RICE, II is the son and duly appointed Administrator of the Estate of PHILIP RICE SR.
4. Plaintiff PHILIP A. RICE, II brings this action individually and on behalf of the Estate of PHILIP RICE SR.
5. Plaintiff's Decedent, PHILIP RICE SR, looked to Arbors at Marietta and Legacy Riverview for medical care.

6. At all times material, Defendants MARIETTA OPCO LLC d/b/a ARBORS AT MARIETTA, ARK OPCO GROUP, LLC, B&Y HEALTHCARE S CORP, CODY HEALTHCARE S CORP, NOBLE HEALTHCARE MANAGEMENT, LLC, and PRESTIGE ADMINISTRATIVE SERVICES, LLC (hereafter collectively referred to as “Arbors Defendants”) are and were corporations and/or other legal entities duly organized and existing pursuant to the laws of the State of Ohio, and who owned and operated a health care facility and/or **nursing home** located at 400 Seventh Street, Marietta, OH 45750.
7. At all times material, Arbors Defendants were licensed to render health care services to patients in the State of Ohio and held itself out to the public, including Plaintiff PHILIP RICE SR, as having the requisite skilled personnel, staff, and equipment to render quality health care services to the public, including PHILIP RICE SR.
8. At all times material, the Arbors Defendants employed physicians, nurses, nurses aids, and other medical care providers who provided care to PHILIP RICE SR, and in so doing, were acting within the course and scope of their duties for the Arbors Defendants, and held themselves out to the public, including PHILIP RICE SR and his family, as having the requisite skills and ability to render health care services to the public.
9. At all times material, the Arbors Defendants operated a **nursing home** as is defined in O.R.C. 3721.10.
10. Arbors Defendants are/were corporations or other legal entities that employed healthcare professionals to provide care at various **nursing homes**, including Arbors at Marietta, the **nursing home** located at 400 Seventh Street, Marietta, OH 45750.
11. The Arbors Defendants employed physicians, nurse practitioners, nurses, and other medical care providers, including medical care providers who rendered treatment to Mr.

- Rice, and in doing so, were acting within the course and scope of their duties with the above listed Defendants, and held themselves out to the public, including Mr. Rice and his family, as having the requisite skills and ability to render quality health care services to the public.
12. The Arbors Defendants are vicariously liable for the negligent actions of their employees and agents (*respondeat superior* and agency liability) and/or contractors (*Clark v. Southview* agency by estoppel).
 13. At all times material, ADAM/ANNE DOE was the Facility Administrator during the time PHILIP RICE SR resided at Arbors at Marietta and was directly responsible for the oversight of nursing staff, resident conditions and daily operations of the facility.
 14. At all times material, DAVID/DIANE DOE was the Director of Nursing during the time PHILIP RICE SR resided at Arbors at Marietta and was directly responsible for the oversight of nursing staff, who had a duty to care for PHILIP RICE SR.
 15. At all times material, JOHN/JANE DOE RN 1-10 were registered nurses during the time PHILIP RICE SR resided at Arbors at Marietta and were directly responsible for providing competent nursing services and had a duty to care for PHILIP RICE SR. ADAM/ANNE DOE, DAVID/DIANE DOE, and JOHN/JANE DOE RN 1-10 will hereafter be described as the “Arbors Doe Defendants”.
 16. At all times material, Defendants HEARTLAND-RIVERVIEW OF SOUTH POINT OH LLC d/b/a LEGACY RIVERVIEW, HCR IV HEALTHCARE, LLC, HCR HEALTHCARE, LLC, HCR II HEALTHCARE, LLC, HCR III HEALTHCARE, LLC, HCR MANORCARE, INC., PROMEDICA HEALTH SYSTEM, INC, and LEGACY RIVERVIEW OF SOUTH POINT OPERATING COMPANY, LLC fka LEGACY SOUTH POINT OPERATING COMPANY, LLC (hereafter collectively referred to as

“Riverview Defendants”) are and were corporations and/or other legal entities duly organized and existing pursuant to the laws of the State of Ohio, and who owned and operated a health care facility and/or **nursing home** located at 7743 County Road 1, South Point, OH 45680.

17. At all times material, Riverview Defendants were licensed to render health care services to patients in the State of Ohio and held itself out to the public, including Plaintiff PHILIP RICE SR, as having the requisite skilled personnel, staff, and equipment to render quality health care services to the public, including PHILIP RICE SR.
18. At all times material, the Riverview Defendants employed physicians, nurses, nurses aids, and other medical care providers who provided care to PHILIP RICE SR, and in so doing, were acting within the course and scope of their duties for the Riverview Defendants, and held themselves out to the public, including PHILIP RICE SR and his family, as having the requisite skills and ability to render health care services to the public.
19. At all times material, the Riverview Defendants operated a **nursing home** as is defined in O.R.C. 3721.10.
20. Riverview Defendants are/were corporations or other legal entities that employed healthcare professionals to provide care at various **nursing homes**, including Legacy Riverview, the **nursing home** located at 7743 County Road 1, South Point, OH 45680.
21. The Riverview Defendants employed physicians, nurse practitioners, nurses, and other medical care providers, including medical care providers who rendered treatment to Mr. Rice, and in doing so, were acting within the course and scope of their duties with the above listed Defendants, and held themselves out to the public, including Mr. Rice and his family, as having the requisite skills and ability to render quality health care services to the public.

22. The Riverview Defendants are vicariously liable for the negligent actions of their employees and agents (*respondeat superior* and agency liability) and/or contractors (*Clark v. Southview* agency by estoppel).
23. At all times material, FRED/FAITH DOE was the Facility Administrator during the time PHILIP RICE SR resided at Legacy Riverview and was directly responsible for the oversight of nursing staff, resident conditions and daily operations of the facility.
24. At all times material, NICK/NANCY DOE was the Director of Nursing during the time PHILIP RICE SR resided at Legacy Riverview and was directly responsible for the oversight of nursing staff, who had a duty to care for PHILIP RICE SR.
25. At all times material, JOHN/JANE DOE RN 11-20 were registered nurses during the time PHILIP RICE SR resided at Legacy Riverview and were directly responsible for providing competent nursing services and had a duty to care for PHILIP RICE SR. FRED/FAITH DOE, NICK/NANCY DOE, and JOHN/JANE DOE RN 11-20 will hereafter be described as the “Riverview Defendants”.

JURISDICTION AND VENUE

26. This Court has Jurisdiction over all Defendants because, among other things, all Defendants do, and all times relevant, did, reside or have their domicile in the State of Ohio, purposefully avail themselves of the laws of the state of Ohio, and/or commit tortious acts within the state of Ohio.
27. Venue is proper in Washington County under Civil Rule (C) because the Arbors Defendants conducted activity that gave rise to the claim for relief in Washington County.

FACTS PERTINENT TO ALL COUNTS

28. Plaintiff hereby realleges and reavers the allegations contained in the prior paragraphs of his **Complaint** as if fully rewritten herein.
29. On October 27, 2020, PHILIP RICE SR executed a Medical Power of Attorney appointing his son, PHILIP A. RICE, II, to act as his agent and to make any and all medical decisions on his behalf.
30. From November 1, 2020 through January 2023, PHILIP RICE SR was a 70-year-old resident at the health care facility and/or **nursing home**, Arbors at Marietta, located at 400 Seventh Street, Marietta, OH 45750, owned and operated by the Arbors Defendants.
31. On or about the end of 2021, Mr. Rice's family began noticing bruises and lacerations on Mr. Rice during their visits to Arbors at Marietta. Upon inquiry, they learned that he was regularly falling out of his bed.
32. Mr. Rice's family later learned that he was admitted to Marietta Memorial Hospital many times due to his falls without their knowledge, and that a permanent catheter was inserted in Mr. Rice.
33. Mr. Rice missed multiple doctor's appointments. When the family learned of this and inquired with Arbors at Marietta, they were informed that the nursing home did not take him to appointments because Mr. Rice did not want to go.
34. Mr. Rice contracted a UTI and other infections due to improper care of the catheter and was admitted to OhioHealth Doctors Hospital in October 2022.
35. On January 5, 2023, a nursing report indicated that Mr. Rice was at risk of developing pressure ulcers, but that he did not currently have any pressure wounds.
36. Despite the above, only fifteen days later on January 20, 2023, Mr. Rice was noted to have a stage IV pressure ulcer and two additional unstageable pressure wounds.

37. Mr. Rice's family requested medical records from Arbors at Marietta, but Arbors at Marietta refused to show them to PHILIP A. RICE, II. despite him being the medical attorney-in-fact for Mr. Rice.
38. Mr. Rice's family was unhappy with the care he was receiving at Arbors at Marietta and transferred him to Legacy Riverview on January 20, 2023.
39. From January 20, 2023 through June 3, 2023, PHILIP RICE SR was a 70-year-old resident at the health care facility and/or **nursing home**, Legacy Riverview, located at 7743 County Road 1, South Point, OH 45680, owned and operated by the Riverview Defendants.
40. Mr. Rice's family informed Legacy Riverview of his prior falls at Arbors at Marietta and requested a lowered bed and bed rails, neither of which were provided to Mr. Rice by Legacy Riverview.
41. Mr. Rice fell out of his bed at Legacy Riverview multiple times and was reported to have remained on the floor for long periods of time.
42. On or about the end of January 2023, Mr. Rice fell from his bed and suffered a large gash in his head which required admission to St. Mary's Medical Center.
43. Mr. Rice's family was not informed of his admission to the hospital, and only learned of his admission when a friend of Mr. Rice attempted to visit him at Legacy Riverview and learned that he was in the hospital.
44. Upon arriving at St. Mary's Medical Center, Mr. Rice's family learned that he had suffered severe gashes, bruising, and two fractured vertebrae and that he would require a neck brace. They were also informed that his pressure wounds had not improved and that his legs would need to be amputated if they did not improve.
45. On March 3, 2023, Mr. Rice's left leg was amputated due to his severe pressure wounds.

46. Mr. Rice became seriously ill due to numerous infections as a result of his pressure wounds and died on June 3, 2023.

COUNT I – NEGLIGENCE AS TO THE ARBORS DEFENDANTS

47. Plaintiff hereby realleges and reavers the allegations contained in the prior paragraphs of his **Complaint** as if fully rewritten herein.

48. Mr. Rice's rights under Ohio's Residents' Bill of Rights, O.R.C. 3721.10 to 3721.17, along with his rights found in 42 C.F.R. Part 483 were violated when he suffered avoidable injuries from mismanaged care, multiple falls, pressure wounds, and infections.

49. As a direct and proximate result of the negligence of all Arbors Defendants, jointly and/or severally, caused Mr. Rice to suffer serious pressure wounds and infections, which contributed to his death.

50. The Arbors Defendants, themselves or through their employees, failed to properly provide medical services, failed to have proper protocols and policies in place, and failed to take appropriate measures at a time when such medical care, treatment, and attention was required.

51. The Arbors Defendants failed to provide appropriate staffing to its **Nursing Home Facility**.

52. The Arbors Defendants were negligent in failing to employ individuals who could and would treat Mr. Rice in accordance with accepted practices of **nursing homes**.

53. The Arbors Defendants negligently failed to establish appropriate standards for physicians, nurses, aids, and other employees using and/or employed at their facilities.

54. As a direct and proximate result of the negligence of all Defendants, jointly and/or severally, Mr. Rice was not provided proper medical treatment within the requisite standard of care and suffered damages, including, but not limited to, wrongful death and all related damages under Ohio's Wrongful Death Statute.
55. As a further direct and proximate result of the collective and/or individual negligence of the Arbors Defendants, the beneficiaries of Mr. Rice's Estate have suffered damages in the form of, inter alia, loss of the society of Mr. Rice, including loss of companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, economic support, training and education, mental anguish and emotional suffering, grief, and other damages which will continue into the indefinite future.
56. By reason of the death of Mr. Rice, the Estate of Mr. Rice has incurred sums for medical, funeral, and burial expenses.

COUNT II – MEDICAL NEGLIGENCE AS TO THE ARBORS DEFENDANTS

57. Plaintiff hereby realleges and reavers the allegations contained in the prior paragraphs of his **Complaint** as if fully rewritten herein.
58. The Arbors Defendants are health-care providers licensed by the State of Ohio to provide health care.
59. The subject injuries caused by the tortious misconduct of the Arbors Defendants and each of them, occurred while Defendants' agents, including the Arbors Doe Defendants, were within the regular scope of their employment by the Arbors Defendants, and under the doctrine of respondeat superior, The Arbors Defendants may be held liable for the negligent acts of its agents/employees committed during the regular course and scope of their agency/employment even if the employer did not personally commit a wrong.

60. The Arbors Defendants owed Mr. Rice a duty of care to exercise that degree of care required by Mr. Rice's known physical conditions. This duty of care was breached by the Arbors Defendants and the Doe Defendants through the acts and omissions that amount to negligence, by the Arbors Defendants and their agents, employees and representatives, including the following:

- Failing to observe, intervene, and care for PHILIP RICE SR;
- Accepting and retaining a resident whose needs they could not meet;
- Neglecting PHILIP RICE SR to such a degree that he suffered multiple falls with injury, a UTI, pressure ulcers, and infections;
- Failing to develop and implement fall and pressure ulcer prevention and follow up care plans;
- Failing to provide the medical and nursing care reasonably required for PHILIP RICE SR's known conditions;
- Failing to maintain accurate and complete clinical records reflective of current clinical conditions;
- Failing to provide the appropriate supervision and training to its staff and personnel that were providing care to PHILIP RICE SR including appropriate care related to PHILIP RICE SR's treatment needs at all relevant times.

61. As a direct and proximate result of the negligence of all Arbors Defendants, jointly and/or severally, Mr. Rice, from the time he developed pressure ulcers and infections through the time of his death, endured pain and suffering, disability, significant medical expenses, and physical injuries.

COUNT III – CORPORATE NEGLIGENCE AS TO THE ARBORS DEFENDANTS

62. Plaintiff hereby realleges and reavers the allegations contained in the prior paragraphs of his **Complaint** as if fully rewritten herein.
63. The above actions by the Arbors Defendants constitute a conscious disregard and lack of care toward residents like Mr. Rice.
64. There was a great probability that harm would result from the above willful, wanton, and/or reckless misconduct.
65. The Arbors Defendants and the Arbors Doe Defendants were aware of the great probability of the harm that could result from their willful, wanton, and/or reckless misconduct.
66. The Arbors Defendants' and the Arbors Doe Defendants' disregard for the rights and safety of residents like Mr. Rice created circumstances under which it became substantially certain that serious injuries would result, entitling Plaintiff to awards for compensatory and punitive damages.
67. The Arbors Defendants and the Arbors Doe Defendants are directly liable for their own willful, wanton, and/or reckless misconduct.
68. The Arbors Defendants are also vicariously liable for their employees' and agents' willful, wanton, and/or reckless misconduct.
69. As a direct and proximate result of all Arbors Defendants' willful, wanton, and/or reckless misconduct, Mr. Rice sustained permanent injury and loss, including, but not limited to, conscious pain and suffering, disability, significant medical expenses, and physical injuries that caused his untimely and wrongful death.

COUNT IV – WRONGFUL DEATH AS TO THE ARBORS DEFENDANTS

70. Plaintiff hereby realleges and reavers the allegations contained in the prior paragraphs of his **Complaint** as if fully rewritten herein.

71. Plaintiff PHILIP A. RICE, II alleges that as a direct result of the foregoing conduct, negligence, and reckless disregard for the care of PHILIP RICE SR, PHILIP RICE SR died on June 3, 2023, depriving his family, including PHILIP A. RICE, II, of the society and companionship, affection, moral support, love, care and comfort he provided, including the ability to share and express love as they provided care to Mr. Rice.
72. Plaintiff PHILIP A. RICE, II also alleges that he suffered funeral and burial expenses, in an amount according to proof at time of trial.
73. As a direct and proximate result of the Arbors Defendants' willful, wanton, and/or reckless misconduct, Mr. Rice sustained permanent injury and loss, including, but not limited to, conscious pain and suffering, disability, significant medical expenses, and physical injuries that caused his untimely and wrongful death.

COUNT V – NEGLIGENCE AS TO THE RIVERVIEW DEFENDANTS

74. Plaintiff hereby realleges and reavers the allegations contained in the prior paragraphs of his **Complaint** as if fully rewritten herein.
75. Mr. Rice's rights under Ohio's Residents' Bill of Rights, O.R.C. 3721.10 to 3721.17, along with his rights found in 42 C.F.R. Part 483 were violated when he suffered avoidable injuries from mismanaged care, multiple falls, pressure wounds, and infections.
76. As a direct and proximate result of the negligence of all Riverview Defendants, jointly and/or severally, caused Mr. Rice to suffer serious pressure wounds and infections, which contributed to his death.
77. The Riverview Defendants, themselves or through their employees, failed to properly provide medical services, failed to have proper protocols and policies in place, and failed

to take appropriate measures at a time when such medical care, treatment, and attention was required.

78. The Riverview Defendants failed to provide appropriate staffing to its **Nursing Home** Facility.
79. The Riverview Defendants were negligent in failing to employ individuals who could and would treat Mr. Rice in accordance with accepted practices of **nursing homes**.
80. The Riverview Defendants negligently failed to establish appropriate standards for physicians, nurses, aids, and other employees using and/or employed at their facilities.
81. As a direct and proximate result of the negligence of all Riverview Defendants, jointly and/or severally, Mr. Rice was not provided proper medical treatment within the requisite standard of care and suffered damages, including, but not limited to, wrongful death and all related damages under Ohio's Wrongful Death Statute.
82. As a further direct and proximate result of the collective and/or individual negligence of the Riverview Defendants, the beneficiaries of Mr. Rice's Estate have suffered damages in the form of, inter alia, loss of the society of Mr. Rice, including loss of companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, economic support, training and education, mental anguish and emotional suffering, grief, and other damages which will continue into the indefinite future.
83. By reason of the death of Mr. Rice, the Estate of Mr. Rice has incurred sums for medical, funeral, and burial expenses.

COUNT VI – MEDICAL NEGLIGENCE AS TO THE RIVERVIEW DEFENDANTS

84. Plaintiff hereby realleges and reavers the allegations contained in the prior paragraphs of his **Complaint** as if fully rewritten herein.

85. The Riverview Defendants are health-care providers licensed by the State of Ohio to provide health care.
86. The subject injuries caused by the tortious misconduct of the Riverview Defendants and each of them, occurred while Defendants' agents, including the Riverview Doe Defendants, were within the regular scope of their employment by the Riverview Defendants, and under the doctrine of respondeat superior, The Riverview Defendants may be held liable for the negligent acts of its agents/employees committed during the regular course and scope of their agency/employment even if the employer did not personally commit a wrong.
87. The Riverview Defendants owed Mr. Rice a duty of care to exercise that degree of care required by Mr. Rice's known physical conditions. This duty of care was breached by the Riverview Defendants and the Riverview Doe Defendants through the acts and omissions that amount to negligence, by the Riverview Defendants and their agents, employees and representatives, including the following:
- Failing to observe, intervene, and care for PHILIP RICE SR;
 - Accepting and retaining a resident whose needs they could not meet;
 - Neglecting PHILIP RICE SR to such a degree that he suffered multiple falls with injury, pressure wounds, and amputation;
 - Failing to develop and implement fall and pressure ulcer prevention and follow up care plans;
 - Failing to provide the medical and nursing care reasonably required for PHILIP RICE SR's known conditions;
 - Failing to maintain accurate and complete clinical records reflective of current clinical conditions;

- Failing to provide the appropriate supervision and training to its staff and personnel that were providing care to PHILIP RICE SR including appropriate care related to PHILIP RICE SR's treatment needs at all relevant times.

88. As a direct and proximate result of the negligence of all Riverview Defendants, jointly and/or severally, Mr. Rice, from the time he developed pressure ulcers and infections through the time of his death, endured pain and suffering, disability, significant medical expenses, and physical injuries.

COUNT VII – CORPORATE NEGLIGENCE AS TO THE RIVERVIEW DEFENDANTS

89. Plaintiff hereby realleges and reavers the allegations contained in the prior paragraphs of his **Complaint** as if fully rewritten herein.

90. The above actions by the Riverview Defendants constitute a conscious disregard and lack of care toward residents like Mr. Rice.

91. There was a great probability that harm would result from the above willful, wanton, and/or reckless misconduct.

92. The Riverview Defendants and the Riverview Doe Defendants were aware of the great probability of the harm that could result from their willful, wanton, and/or reckless misconduct.

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

94. The Riverview Defendants and the Riverview Doe Defendants are directly liable for their own willful, wanton, and/or reckless misconduct.
95. The Riverview Defendants are also vicariously liable for their employees' and agents' willful, wanton, and/or reckless misconduct.
96. As a direct and proximate result of all Riverview Defendants' willful, wanton, and/or reckless misconduct, Mr. Rice sustained permanent injury and loss, including, but not limited to, conscious pain and suffering, disability, significant medical expenses, and physical injuries that caused his untimely and wrongful death.

COUNT VIII – WRONGFUL DEATH AS TO THE RIVERVIEW DEFENDANTS

97. Plaintiff hereby realleges and reavers the allegations contained in the prior paragraphs of his **Complaint** as if fully rewritten herein.
98. Plaintiff PHILIP A. RICE, II alleges that as a direct result of the foregoing conduct, negligence, and reckless disregard for the care of PHILIP RICE SR, PHILIP RICE SR died on June 3, 2023, depriving his family, including PHILIP A. RICE, II, of the society and companionship, affection, moral support, love, care and comfort he provided, including the ability to share and express love as they provided care to Mr. Rice.
99. Plaintiff PHILIP A. RICE, II also alleges that he suffered funeral and burial expenses, in an amount according to proof at time of trial.
100. As a direct and proximate result of the Riverview Defendants' willful, wanton, and/or reckless misconduct, Mr. Rice sustained permanent injury and loss, including, but not limited to, conscious pain and suffering, disability, significant medical expenses, and physical injuries that caused his untimely and wrongful death.

WHEREFORE, Plaintiff prays for damages against all Defendants, jointly and/or severally, on all counts in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) for

compensatory damages, punitive damages, plus attorney fees, interest and costs of litigation and any other relief that this Court deems appropriate.

JURY DEMAND

A jury pursuant to Civil Rule 38(B) is hereby demanded for all issues.

Respectfully submitted,

Isl Robert Daniell

Robert Daniell (#0098708)

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