

FILED
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THIRD DISTRICT COURT
SALT LAKE DEPARTMENT

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THIRD JUDICIAL DISTRICT COURT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

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PATRICIA DURRANT, STEVEN A.)
HOLMAN, JERRY HOLMAN, DIANE)
HOLMAN, CAROL A. CETRARO, KRISTINE)
GUTHRIE, SCOTT HOLMAN individually and)
as heirs at law to BRUCE ALLRED HOLMAN,)

Plaintiffs,)

vs.)

SANDY REGIONAL, INCORPORATED and)
DOES 1 through 100 inclusive,)

Defendants.)

COMPLAINT FOR DAMAGES

Plaintiffs Request
Trial by Jury

CASE NO.: 0409104369

JUDGE: Frederick

Plaintiffs PATRICIA DURRANT, STEVEN A. HOLMAN, JERRY HOLMAN, DIANE HOLMAN, CAROL A. CETRARO, KRISTINE GUTHRIE and SCOTT HOLMAN as the adult children and lawful heirs of BRUCE ALLRED HOLMAN, Decedent, allege:

GENERAL ALLEGATIONS

1. Venue is proper in this jurisdiction as the acts and/or omissions giving rise to this lawsuit occurred within this Court's jurisdictional area, under Utah Code Ann. §78-3-4, (1953, as amended).

2. Plaintiffs PATRICIA DURRANT, STEVEN A. HOLMAN, JERRY HOLMAN, DIANE HOLMAN, CAROL A. CETRARO, KRISTINE GUTHRIE, SCOTT HOLMAN are the adult children and lawful heirs of BRUCE ALLRED HOLMAN, Decedent.

3. Plaintiffs are informed and believe that Defendant SANDY REGIONAL INCORPORATED (hereinafter referred to as "SANDY REGIONAL") is a Utah corporation with its principle place of business located at 50 West 9000 South, Sandy, Utah 84070.

4. Plaintiffs are informed and believe and thereon allege that Defendant SANDY REGIONAL is and at all relevant times was, a legal business entity located in the County of Salt Lake in the State of Utah. Plaintiffs further believe that Defendant SANDY REGIONAL is a hospital and residential care facility that among other things

was in the business of providing board and medical care to the elderly. The acts of Defendant SANDY REGIONAL, its staff, agents, and employees were a substantial factor in causing the death of BRUCE ALLRED HOLMAN.

5. Plaintiffs filed a Notice of Intent to Commence Action and filed a Request for Pre-litigation Panel Review Hearing in accordance with Utah Code Ann. § 78-14-12. Plaintiffs' claims were heard on December 2, 2003, before the Division of Occupational and Professional Licensing Board of the State of Utah, which issued a Certificate of Compliance on January 5, 2004. Plaintiffs timely filed this complaint.

6. DOES 1 through 100, inclusive, are sued herein under fictitious names. Their true names and capacities are unknown to Plaintiffs. When their true identities are ascertained, Plaintiffs will amend this complaint by inserting their true names and capacities herein. Plaintiffs are informed and believe and thereon allege that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiffs' damages were proximately caused by those defendants. Each reference to "Defendant" or "Defendants", or a specifically named Defendant, refers also to all defendants sued under fictitious names.

7. Defendant(s), SANDY REGIONAL and DOES 1 through 50, are engaged in/licensed to operate the business of maintaining and providing medical care, extended care, convalescent care, rehabilitation and/or hospice and provided such care to the public, and to the elderly and to Decedent, BRUCE ALLRED HOLMAN.

8. Defendant(s) DOES 51 through 100, are nurses, technicians, or other employees of SANDY REGIONAL and DOES 1 through 50 involved in providing care and supervisory services incidental to operation of SANDY REGIONAL and DOES 1 through 50 and providing health services and/or care to the general public and to Decedent, BRUCE ALLRED HOLMAN. Each said Defendant(s) was held out to the public and to Decedent, BRUCE ALLRED HOLMAN, as possessing, and using, that degree of skill, knowledge, care and diligence ordinarily possessed and exercised by reputable professionals of good standing.

9. Plaintiffs are informed and believe and thereon allege that at all times relevant hereto each of the named Defendants and DOES 1 through 100 were the agents and employees of each other and in doing the things alleged were acting within the course and scope of this agency and employment, and with the knowledge consent and approval of their co-defendants. Further each defendant's conduct was ratified by each co-defendant.

10. At all times relevant hereto Decedent, BRUCE ALLRED HOLMAN was a person who was older than 65 years of age and therefore an "Elder Adult" and a "Vulnerable Adult" under Utah Code Ann. § 62A-3-301.

11. Defendant SANDY REGIONAL and DOES 1 through 100 were responsible for the care, treatment and custody of BRUCE ALLRED HOLMAN when the events complained of occurred.

12. Decedent, BRUCE ALLRED HOLMAN entered SANDY REGIONAL on or about July 12, 2000, so that his special medical and living needs would be met by a facility that was licensed and in the business of providing such care.

13. Shortly after admission to Defendant SANDY REGIONAL, Decedent BRUCE ALLRED HOLMAN was diagnosed by Defendant SANDY REGIONAL and its physicians with Alzheimer's disease. He was noted to be severely impaired in his decision making ability, easily distracted, as having periods of altered perception and confusion, episodes of disorganized speech, varied levels of mental function and periods of lethargy. Defendants SANDY REGIONAL and DOES 1 through 100 held themselves out to the public and to Decedent and his family as having the degree of skill, knowledge, care and expertise in treating and caring for patients such as Decedent BRUCE ALLRED HOLMAN.

14. On September 11, 2001 Decedent, BRUCE ALLRED HOLMAN was attacked and beaten by Viri Vannoy, who was also a resident of Defendant SANDY REGIONAL. Decedent was found on the floor in a decreased level of consciousness with bruising and a hematoma on his forehead. The beating occurred while Defendant SANDY REGIONAL, and DOES 1 through 100 were responsible and had a duty to protect Decedent from health and safety hazards. He was taken by ambulance to Alta View Hospital where the admitting physician noted that the family was not comfortable

allowing the patient to return to SANDY REGIONAL, and ordered a Social Service Consult regarding elder abuse.

15. Decedent BRUCE ALLRED HOLMAN was diagnosed with a lacerated spleen and underwent a splenectomy on September 12, 2001. Subsequent to surgery, Decedent BRUCE ALLRED HOLMAN suffered from respiratory insufficiency that subsequently developed into pneumonia and difficulty swallowing, necessitating feeding tube placement.

16. Decedent, BRUCE ALLRED HOLMAN was discharged from Alta View Hospital to St. Joseph's Villa on October 11, 2001.

17. On November 5, 2001 BRUCE ALLRED HOLMAN was pronounced dead, with the cause of death identified as aspiration pneumonia, resulting directly from the injuries received on September 11, 2001.

FIRST CAUSE OF ACTION

(NEGLIGENCE AGAINST

SANDY REGIONAL, INCORPORATED; and DOES 1 through 100 inclusive BY ALL
PLAINTIFFS)

18. Plaintiffs incorporate by reference paragraphs 1 through 17 as though fully set forth herein.

19. SANDY REGIONAL and DOES 1 through 100 knew, or should have known, of the foreseeable risk of injury to patients from each other.

20. SANDY REGIONAL and DOES 1 through 100 had a duty to use reasonable care to protect BRUCE ALLRED HOLMAN from health and safety hazards. SANDY REGIONAL failed to exercise the requisite degree of care, thereby breaching such duty by, among other things failing to provide adequate supervision and protection from health and safety hazards to BRUCE ALLRED HOLMAN.

21. The acts of, and failure to act by defendants as stated, fell below the standard of care and, at a minimum constitute neglect. The failure to properly provide adequate supervision and protection from health and safety hazards to BRUCE ALLRED HOLMAN causing him serious bodily injury and damages eventually death.

22. As a direct and proximate result of defendant's negligence, BRUCE ALLRED HOLMAN suffered great pain and physical suffering and death, and therefore Plaintiffs PATRICIA DURRANT, STEVEN A. HOLMAN, JERRY HOLMAN, DIANE HOLMAN, CAROL A. CETRARO, KRISTINE GUTHRIE, SCOTT HOLMAN as the adult children and lawful heirs to BRUCE ALLRED HOLMAN, Decedent, are entitled to recover damages in excess of this Court's jurisdictional minimum.

SECOND CAUSE OF ACTION

(Negligence Per AGAINST

SANDY REGIONAL, and DOES 1 through 100 inclusive by ALL PLAINTIFFS)

23. Plaintiffs incorporate by reference paragraphs 1 through 22 as though fully set forth herein.

24. SANDY REGIONAL and DOES 1 through 100 had a duty to use reasonable care to protect BRUCE ALLRED HOLMAN from health and safety hazards. SANDY REGIONAL failed to exercise the requisite degree of care, thereby breaching their duty by failing to provide adequate supervision and protection from health and safety hazards to BRUCE ALLRED HOLMAN.

25. At all times relevant hereto, BRUCE ALLRED HOLMAN was under the care of defendant SANDY REGIONAL and DOES 1 through 100.

26. At all times relevant hereto there were in effect Utah Statutes, Codes and Regulations which were designed to protect BRUCE ALLRED HOLMAN from neglect and health and safety hazards.

27. Utah Code, Title 76, Chapter 5 Section 111 states that one who has the care or custody of a vulnerable adult and permits that adult's person or health to be injured, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of abuse.

28. BRUCE ALLRED HOLMAN was a member of the class of persons for whose protections the aforementioned codes were adopted, namely an Elder Adult and a Vulnerable Adult as defined by Utah Code, Title 62A, Chapter 3 Part 3 Section 301.

29. The aforementioned violations by SANDY REGIONAL directly and proximately caused great pain, physical injuries and death to BRUCE ALLRED HOLMAN.

30. BRUCE ALLRED HOLMAN 'S injuries resulted from conduct the nature of which the aforementioned statutes were designed to prevent.

31. Defendants SANDY REGIONAL and DOES 1 through 100 violated the above-referenced statutes, causing physical harm and death to Decedent BRUCE ALLRED HOLMAN.

32. As a direct and proximate result of the violation of said codes, BRUCE ALLRED HOLMAN sustained severe injuries and died, and therefore Plaintiffs PATRICIA DURRANT, STEVEN A. HOLMAN, JERRY HOLMAN, DIANE HOLMAN, CAROL A. CETRARO, KRISTINE GUTHRIE, SCOTT HOLMAN as the adult children and lawful heirs to BRUCE ALLRED HOLMAN, Decedent, are entitled to recover damages in excess of this Court's jurisdictional minimum.

THIRD CAUSE OF ACTION

(Wrongful Death by All Plaintiffs individually AGAINST SANDY REGIONAL, INCORPORATED; and DOES 1 through 100 inclusive)

33. Plaintiffs incorporate by reference paragraphs 1 through 32 as though fully set forth herein.

34. As a proximate result of Defendant's negligence and that of its agents and employees, Decedent suffered severe injuries resulting in his death on November 5, 2001.

35. As a further, direct and legal result of the negligence, careless conduct and other wrongdoing of defendants, and the death of Decedent, Plaintiffs suffered pecuniary loss and all other damage provided by law, including loss of care, comfort, support, companionship, love, affection, society and services, and future contributions of the decedent, without limitations thereto, all to their general damage.

Wherefore, Plaintiffs individually and as heirs at law to BRUCE ALLRED HOLMAN pray for relief against SANDY REGIONAL and DOES 1 through 100 as follows:

1. For compensatory damages in an amount according to proof;
 2. All wrongful death damages permitted by law;
 3. Medical/hospital/health expenses according to proof;
 4. For general damages as to all applicable causes of action, in an amount according to proof;
 5. For attorney's fees generally as to all applicable cause of action, in an amount according to proof;
 6. Funeral and burial expenses according to proof;
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7. For interest at the legal rate permitted by law;
 8. For cost of suit incurred herein; and
 9. For each other relief as the Court deems just and proper.

PLAINTIFFS REQUEST TRIAL BY JURY.

DATED: March 2, 2004

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