

IN THE COURT OF COMMON PLEAS  
MEDINA COUNTY, OHIO

THE ESTATE OF JOAN STRNAD, by  
KAREN J. STRNAD, Estate Representative  
c/o Eadie Hill Trial Lawyers  
3100 E. 45th St., Suite 400  
Cleveland, Ohio 44127

Plaintiff,

vs.

LIFE CARE CENTERS OF AMERICA, INC.  
3570 Keith Street NW  
Cleveland, TN 37312

and

MEDINA OPERATIONS, LLC dba Life  
Care Center of Medina  
c/o Registered Agent  
Corporation Service Company  
50 West Broad Street, Suite 1330  
Columbus, OH 43215

and

Forrest Lee Preston  
3570 Keith St NW  
Cleveland, TN 37312

and

MEDINA MEDICAL INVESTORS, LLC  
c/o Registered Agent  
Corporation Service Company  
50 West Broad Street, Suite 1330  
Columbus, OH 43215

Defendants.

) CASE NO.

) JUDGE

) **COMPLAINT**

) **With Jury Demand and**

) **Affidavit Of Merit Attached**

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Now comes Plaintiff, The Estate of Joan Strnad, Medina County Probate Court case  
number 2019 04 ES 00214, through Karen J. Strnad, its duly appointed Estate

Representative, and by and on behalf of the putative next of kin, and for Plaintiff's Complaint against the above captioned Defendants, states and avers upon information and belief as follows:

### **INTRODUCTION**

1. This is a negligence, recklessness, and wrongful death action involving Joan Strnad's care at Life Care Center of Medina, located at 2400 Columbia Road, Medina, Ohio 44256 that led to her untimely and wrongful death on February 19, 2019.

2. Life Care Center of Medina abandoned Joan Strnad on the toilet, even though it knew she required assistance toileting to keep her safe, allowing her to fall and break both legs and suffer a traumatic head injury. Joan died two days later, on February 19, 2019. Life Care Center of Medina had allowed Joan to fall in the facility multiple times before this final, fatal fall.



*Life Care Center of Medina is a two-star facility in Medina, Ohio.*

3. The Medina County Coroner's office determined the cause of Joan Strnad's death was her broken legs ("femur fracture") days earlier at Life Care Center of Medina, which is located at 2400 Columbia Road in Medina, Ohio:

CERTIFIER	25a. Certifier (Check only one) <input type="checkbox"/> Certifying Physician: To the best of my knowledge, death occurred at the time, date, and place; and due to the cause(s) and manner stated. <input checked="" type="checkbox"/> Coroner or Medical Examiner: On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place; and due to the cause(s) and manner stated.			
	26b. Time of Death 1415	26c. Date Pronounced Dead (Month/Day/Year) FEBRUARY 19, 2019	26d. Was Case Referred to Medical Examiner or Coroner? YES	
CAUSE OF DEATH	25e. Certifier Name and Title LISA DERANEK MD	26f. License Number 35.060402	26g. Date Signed (Month/Day/Year) FEBRUARY 22, 2019	
	27. Name and Address of Person who Completed Cause of Death LISA DERANEK, 4800 LEDGEWOOD, MEDINA, OH 44258			
	28. Part I. Enter the disease, injuries, or complications that caused this death. Do not enter the cause of death as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. Type or print in permanent blue or black ink.	a. FEMUR FRACTURE	Approximate Interval: Onset and Death DAYS	
	Immediate Cause (Final disease or condition resulting in death)	b. Due to (or as Consequence of) FALL FROM A STANDING POSITION	DAYS	
	Sequentially list conditions, if any, leading to immediate cause.	c. Due to (or as Consequence of)		
	Enter Underlying Cause (Disease or injury that initiated events resulting in a death)	d. Due to (or as Consequence of)		
Part II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I. METASTATIC COLON AND BREAST CANCER		29a. Was An Autopsy Performed? NO	29b. Were Autopsy Findings Available Prior To Completion Of Cause of Death? NOT APPLICABLE	
30. Did Tobacco Use Contribute to Death? NO	31. If Female, Pregnancy Status NOT APPLICABLE	32. Manner of Death ACCIDENT		
33a. Date of Injury (Month/Year) 02/17/2019	33b. Time of Injury AFTERNOON	33c. Place of Injury (e.g., Decedent's home, construction site, restaurant, wooded area) HOSPICE CARE CENTER	33d. Injury at Work? NO	
33e. Location of Injury (Street and Number or Rural Route Number, City or Town, State) 2400 COLUMBIA ROAD, MEDINA, OHIO			33f. Describe How Injury Occurred DECEDENT FELL WHILE GETTING UP FROM COMMODE	
			33g. If Transportation Injury, Specify:	

*The Medina County Coroner's office determined the cause of Joan Strnad's death was her broken legs ("femur fracture") days earlier at Life Care Center of Medina, which is located at 2400 Columbia Road in Medina, Ohio.*

4. Plaintiff requests a trial by jury.
5. An Affidavit of Merit is attached as Exhibit 1
6. Karen J. Strnad is the duly appointed Estate Representative of The Estate of Joan Strnad.
7. Plaintiff brings this action on behalf of the Estate of Joan Strnad, the next of kin of Joan Strnad, and anyone else entitled to compensation for the harms and losses

sustained as the result of the negligence, recklessness, and other wrongful conduct described herein or discovered during litigation.

8. Plaintiff seeks punitive damages in an amount necessary to punish the above-named Defendants and deter the Defendants from engaging in similar conduct in the future.

9. Plaintiff requests attorneys' fees and the costs of this litigation.

#### **DEFENDANTS**

10. Defendant Life Care Centers of America, Inc. is a Tennessee for-profit corporation that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and / or employees and provides nursing services to more than 200 nursing home facilities in Ohio and throughout the country, including exercising operational and managerial control over the following Ohio facilities:

- i. Life Care Center of Medina  
2400 Columbia Road  
Medina, OH 44256
- ii. Life Care Center of Westlake  
26520 Center Ridge Road  
Westlake, OH 44145
- iii. Life Care Center of Elyria  
1212 South Abbe Road  
Elyria, OH 44035
- iv. The Abbewood Retirement Center  
1210 South Abbe Road  
Elyria, OH 44035
- v. Mayfair Village Nursing Care Center  
3000 Bethel Road  
Columbus, OH 43220

vi. Mayfair Village Retirement Center  
3011 Hayden Road  
Columbus, OH 43235

11. Life Care Center of Medina (Medina Operations, LLC) is an Ohio for-profit company that holds itself out to the public as a provider of medical and nursing care, including but not limited to, rehabilitation and skilled nursing care, through its agents, operatives and / or employees and does business as Life Care Center of Medina.

12. Life Care Centers of America and Life Care Center of Medina employ, manage, and direct the care and service providers who were responsible for Joan Strnad's care, treatment, and safety at Life Care Center of Medina while she was a resident there.

13. Forrest Lee Preston is the founder, Chairperson of the Board, and owner of Life Care Centers of America and its various subsidiary shell companies used to hold the licenses for, run, and control the various Life Care Center facilities.

14. Medina Medical Investors, LLC, is one of those shell companies, used to hold title to the land on which Life Care Center of Medina operates.

15. Forrest L. Preston owns 100% of Life Care Centers of America, Inc.

16. Forrest L. Preston owns 100% of the other Defendants, either directly or through Life Care Centers of America, Inc. or other shell company subsidiaries or entities.

17. Defendant Life Care Centers of America Inc. is organized as an "S Corporation" under the Internal Revenue Code and, therefore, all of Life Care Centers of America Inc.'s income and losses are reported on Forrest L. Preston's personal tax returns and are taxed to Forrest L. Preston (rather than at a corporate level).

18. Forrest L. Preston is the ultimate financial beneficiary of most revenues billed and collected, including Medicare funds, by Life Care Centers of America Inc., and its affiliated nursing home facilities.

19. Forrest L. Preston operates Life Care Centers of America Inc., and its related entities without regard for the separateness between himself and the corporate forms among the entities.

20. The hundreds of Life Care Centers of America Inc., facilities are all part of a single, unitary nursing home business that Forrest L. Preston runs without regard to any individual corporate entities involved.

21. Forrest L. Preston owns and controls most of the nursing home facilities throughout the United States that are managed by Life Care, either in whole or in part, via a complex corporate structure and web of related entities.

22. Forrest L. Preston owns the facilities either directly, or through Life Care, or through partnerships that he owns in whole.

23. Regardless of the ownership structure, Life Care manages and/or operates all of Preston's Life Care facilities and charges those facilities a management fee for its services.

24. Forrest L. Preston's control over his unitary nursing home business allowed him to secure significant loans on behalf of Life Care and his other businesses, and to leverage business losses – including overpayments to other entities – to reduce his tax liability.

25. Forrest L. Preston has asserted (both in state tax related litigation and to the Internal Revenue Service) that he materially participates on a regular, continuous and

substantial basis in the operations of his unitary nursing home business, and that he “is an active manager of his nursing home business.”

26. Forrest L. Preston’s control over Life Care Centers of America Inc., is reflected in the company by-laws, under which he has the sole authority to appoint and remove any member of Life Care Centers of America Inc., Board of Directors without cause and to amend the corporation’s by-laws at will.

27. The by-laws further provide him with the unilateral power to remove all other directors, thereby allowing his sole vote to constitute a quorum of the Directors to overturn any decision with which he disagrees.

28. Forrest L. Preston has further controlled Life Care Centers of America Inc., and its operations by filling open positions on the Board with his personal friends and advisors, and at times, even his administrative staff.

29. Forrest L. Preston restricted who could speak directly to the Board and what information individuals could share with the Board. Preston required materials to be filtered through him before being shared with the Board, and executives were not allowed to speak at Board meetings unless called on by Preston directly.

30. Through his actions, Preston dominated Life Care Centers of America Inc., and its various shell company subsidiaries, and restricted the Board’s ability to adequately manage and oversee the company.

31. Forrest L. Preston operated Life Care and its related entities without regard for the separateness between himself and the corporate forms among the entities.

32. Forrest L. Preston’s control over the corporations is so complete that the corporations have no separate mind, will, or existence of their own.

33. Forrest L. Preston exercised control over the corporations in such a manner as to commit fraud, an illegal act, or similarly unlawful act, as described herein.

34. Injury or unjust loss resulted from such control and wrong.

35. Forrest L. Preston willfully participated in the tortious acts that are the subject of this Complaint, including willfully failing to ensure that Life Care Center of Medina had appropriate policies and procedures for its nursing staff; was properly capitalized, funded, staffed; and that staff received adequate training and supervision while Joan Strnad was a resident.

36. Joan Strnad and her family looked to the Defendants for care based upon their representations.

37. The Defendants are vicariously liable for the negligent actions of their employees and agents (*respondeat superior* and agency liability) and / or independent contractors (*Clark v. Southview* agency by estoppel).

### **JURISDICTION AND VENUE**

38. This Court has Jurisdiction over the 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.

39. Venue is proper in this County under Civil Rule 3 because, among other reasons: (a) Defendants reside, domicile, carry on their principal place of business, or practice medicine / nursing, in this County; and / or (b) part of the claim for relief arose in this County, in which county Joan Strnad died.



## COMMON FACTS

40. Defendants hold themselves out to the public as providers of long-term nursing home, skilled nursing, and memory care services.

41. Defendants' for-profit model means their primary goal is to maximize profit, measured by revenues minus expenses.

42. For nursing homes generally, the largest individual revenue source is residents (filling beds), and the largest individual expense is the cost of employing nursing staff to provide care to those residents. This creates a financial incentive to take on more residents with greater care needs than the nursing staff can properly care for, a violation of federal nursing home regulations regarding staffing levels.

43. Defendants manage, control, and / or employ the nursing staff at Life Care Center of Medina.

44. Defendants exercise actual control over the facility's management and operations to maximize profits, including control over facility-level:

- a. Policies and procedures, including regarding resident care;
- b. Finances, including obtaining credit and loans, guaranteeing loans (both at the corporate and individual facility level), maintaining funds and banking, obtaining, owning, and leasing facility land and buildings, and capital expenditures;
- c. Budgeting, including controlling the amount of funds available for staffing facilities;
- d. Personnel management, including hiring and firing, or having authority to hire and fire, the supervisory and management personnel in each facility;
- e. Supervision of management, care providers, and staff in each facility, including compliance with federal and state regulations;
- f. Employment, such as setting pay scales, shifts, and time and vacation policies;

- g. Systems for training, monitoring, and supervising staff;
- h. Medical record systems and management;
- i. Financial control systems, including budgeting and payment processing;
- j. Marketing, including setting the image and expectations residents and their family should expect at the facility, and even the name of the facility;
- k. Reporting procedures, including reporting to Medicare as to individual resident care and facility-wide issues.

45. Life Care Centers of America, Inc., maintains a centralized financial reporting system which aids in the administration of all of Forrest L. Preston's nursing homes and provides a thorough and uniform report to Life Care Centers of America, Inc., senior management, including monthly profit and loss statements, which permits close supervision and timely monitoring of the operating results of all such homes by Life Care Centers of America, Inc., senior management.

46. All general ledgers and financial statements for all of Forrest L. Preston's nursing homes and retirement centers are processed at Life Care Centers of America, Inc., corporate offices in Cleveland, Tennessee.

47. The budgeting process and the preparation of all tax returns for all of Forrest L. Preston's nursing homes and retirement centers are coordinated at Life Care Centers of America, Inc., corporate offices in Cleveland, Tennessee.

48. All expenditures over a pre-determined amount by any of Forrest L. Preston's nursing homes – including Life Care Center of Medina – must be approved by Life Care Centers of America, Inc., personnel in Cleveland, Tennessee.

49. As the result of this control, Defendants make decisions that affect the day-to-day care of Life Care Center of Medina residents, such as the resources available for providing nursing staff and care to residents like Joan Strnad, meaning they are

responsible for the foreseeable harm that results from careless decisions while voluntarily exercising that control.

### **Reporting Data**

50. Life Care Center of Medina is required to report significant amounts of data to the federal agency that oversees operations of nursing homes receiving federal or state funding, the Centers for Medicare and Medicaid Services, or “Medicare.”

51. The data Defendants submit to Medicare regarding its facility includes data on its residents (numbers, care needs, and bed days), its finances, and its nurse and nursing aide staffing levels as compared to resident care needs.

52. This data is certified correct by the Defendants and / or submitted under penalty of perjury and / or civil or criminal penalties.

53. Medicare uses some of this data submitted by Defendants to produce its nursing home 5-star rating system, also known as “Nursing Home Compare.”

### **Nursing Home Resident Care Needs and Staffing Levels (MDS and RUG Scores)**

54. Every nursing home receiving Medicare or Medicaid funding—the clear majority of nursing homes, including Life Care Center of Medina Care Center and others operated and / or controlled by Defendants—is required to provide detailed information regarding the health status, care and treatment, and services provided to each resident in the facility using a questionnaire called the **Minimum Data Set**, or **MDS**. This evaluation is done for all nursing home residents regardless of whether their care is being paid for by Medicare.

55. Nursing homes like Life Care Center of Medina are required to evaluate every resident using the Minimum Data Set questionnaire shortly after the time of

admission, every 90 days thereafter, when a resident has a significant improvement or decline in health (physical, mental, or psychosocial), and upon discharge.

56. Based on this Minimum Data Set, each resident's individual care needs (called "acuity level") are assigned into a group signifying how much nursing or staff care the resident requires, called a **Resource Utilization Group** score, or **RUG score**.

57. Each resident's Resource Utilization Group score is contained in section Z of their Minimum Data Set evaluations, meaning the total care needs of the residents in any facility at a specific time is available by totaling the residents' Resource Utilization Group scores from their Minimum Data Set evaluations.

58. Medicare has commissioned and made available to every nursing home studies and data showing the number of minutes of nursing and nursing aide care a person at a specific RUG level should be expected to require, which Medicare calls "expected staffing."

59. When these Resource Utilization Group scores are combined for all residents in a nursing home facility, the nursing home knows exactly how many minutes of nursing and nursing aide care should be provided, on average, to meet the expected care needs of their residents.

### **Misleading Advertising**

60. In an effort to persuade the families of patients with memory care disorders to become customers, Defendants make promises to the families of such potential residents that they will provide a level of care that they know they are incapable of providing, including touting their expertise in patient safety issues concerning memory care, Alzheimer's, and dementia.

61. The intent and outcome of this misleading practice is to cause residents, their families, and external care providers to believe the nursing facility is much better staffed than it is.

62. The intent and outcome of this misleading practice is to drastically limit the budget and overhead needed to run a safe facility in order to maximize profits and syphon resources at the expense of patient safety.

### **Systemic Understaffing and Joan Strnad's Care**

63. Defendants failed to ensure, through their operational, budgetary, consultation and managerial decisions and actions, that Life Care Center of Medina was sufficiently staffed to meet the individual needs of Joan Strnad.

64. Defendants engaged in a systemic practice to understaff its nursing home facility to maximize its profits at the expense of its residents' care.

65. This lack of sufficient staff directly resulted in Joan Strnad not receiving basic and necessary services to prevent, among other things, neglect leading to repeated falls, injuries, and, ultimately, her death.

### **Defendants' Negligence and Recklessness with Joan Strnad**

66. Defendants agreed to accept Joan Strnad into their facility and provide care to her in exchange for monetary payment.

67. Joan Strnad was 89 years old when these events happened.

68. Defendants admitted Joan Strnad into Life Care Center of Medina with an admitting diagnosis of "repeated falls." Clearly, Defendants knew that Joan Strnad was a fall risk, with a history of walking difficulties, dementia, mixed receptive expressive

language disorder, and dysphagia among her active diagnoses upon her admission on January 18, 2017.

69. On February 18, 2017, Defendants allowed Joan Strnad to suffer an unwitnessed fall. They found her sitting on the floor next to her bed after she made an unassisted attempt to transfer from her bed into her wheelchair.

70. On December 5, 2017, Defendants allowed Joan Strnad to suffer another unwitnessed fall. She was once again found sitting on the floor next to her bed and wearing cloth slippers.

71. The Defendants allowed Joan to fall again on October 5, 2018.

72. On March 28, 2018, Defendants discovered Joan Strnad laying on the floor at the foot of her bed following yet another unwitnessed fall.

73. Joan Strnad suffered her final unwitnessed fall on February 17, 2019 when she fell in the bathroom, striking her head and injuring her legs.

74. Joan Strnad was transported to Medina General Hospital and was found to have a hematoma to her scalp and broken legs.

75. Joan Strnad died on February 19, 2019.

76. Joan Strnad's Death Certificate lists "femur fracture" and "fall from a standing position" as the immediate causes of her death.

77. Defendants solicited patients with dementia and Alzheimer's and publicly advertised themselves as full providers of memory care, including holding Life Care Center of Medina out as a secured Alzheimer's, dementia, and memory care unit in an effort to attract nursing home residents with dementia, Alzheimer's and other memory disorders.

78. People with memory disorders are known to be at an increased risk of falling for, among other reasons, gait-related disturbances that cause unsteadiness and weakness, short and long-term memory disorders, loss of impulse control, lack of insight into what actions are safe and unsafe, and related behaviors.

79. In addition to dementia and its associated cognitive decline, Joan Strnad had numerous other risk factors for falling including her admitting diagnosis of prior falls, advanced age, multiple medication usage, and frailty.

80. Because of these numerous risk factors, Joan Strnad required additional supervision and precautions to prevent falls and fall-related injuries.

81. The Defendants knew or should have known Joan Strnad was at high risk for falls and fall-related injuries.

**FIRST CAUSE OF ACTION**  
**(SURVIVORSHIP / NEGLIGENCE / RECKLESSNESS)**

82. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

83. Joan Strnad depended on the Defendants, and their respective nursing and medical staff, for medical and nursing care, treatment, evaluation, and assistance.

84. The Defendants, including their medical and nursing staff, failed to provide proper care and treatment to Joan Strnad, which they knew or should have known she required, resulting in her injury and death.

85. The Defendants' failure to provide proper care and treatment included, but is not limited to:

- a. Choosing to put inadequate prevention and response interventions in place to prevent falling and injuries, including deaths;

- b. Choosing to provide inadequate resident observation, supervision, and monitoring;
- c. Choosing to provide improper training to staff members regarding fall prevention and response;
- d. Choosing to provide too few, and / or underqualified nursing staff members for the resident needs at the facility to protect and provide adequate care to residents like Joan Strnad;
- e. Choosing to not provide accurate, adequate, or timely information to Joan Strnad's family;
- f. Choosing to violate state and federal regulations governing care and staffing levels in nursing home facilities by which residents like Joan Strnad are a member of the class of persons intended to be protected from injuries like she suffered;
- g. Choosing not to timely report to a physician significant changes in Joan Strnad's condition;
- h. Choosing not to carry out the instructions of Joan Strnad's physician;
- i. Choosing not to adequately, timely and consistently prevent, assess, and treat Joan Strnad's risk for falls;
- j. Choosing not to timely transfer Joan Strnad to a facility that could provide adequate care;
- k. Choosing not to have and/or implement appropriate policies and procedures regarding the prevention, assessment and treatment of residents at risk for falls;
- l. Choosing not to timely carry out and follow standing orders, instructions and protocol regarding the prevention of falls; and
- m. Such other acts or omissions described in this Complaint or discovered during litigation.

86. The Defendants and their medical and nursing staff provided care to Joan Strnad that fell below the standard of care expected of medical care and nursing home organizations, under the same or similar circumstances.



87. The departures from the standard of care included violating sections of Federal Regulations, 42 C.F.R. § 483 *et seq.*, and Ohio Administrative Code sections, OAC 3701-17 *et seq.*

88. As a direct and proximate result of the negligence described above, Joan Strnad sustained permanent injury and loss including, but not limited to, conscious pain and suffering, disability, and her untimely and wrongful death.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, in an amount more than Twenty-Five Thousand Dollars (\$25,000.00), for conscious pain and suffering, loss of enjoyment of life, together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief to which the decedent may be entitled to and / or that the court finds is appropriate and / or equitable.

**SECOND CAUSE OF ACTION**  
**(WRONGFUL DEATH)**

89. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

90. Plaintiff brings this Cause of Action pursuant to Ohio's Wrongful Death Statute, Ohio Revised Code section 2125 *et seq.*, for the benefit of Joan Strnad's heirs and next of kin who have suffered loss and damage due to Joan Strnad's wrongful and untimely death.

91. As a direct and proximate result of the negligence / recklessness described above, Joan Strnad sustained physical injuries that caused her untimely and wrongful death.

92. Plaintiff and Joan Strnad's additional next-of-kin suffered damages as set forth in the Ohio Wrongful Death statute, including mental anguish and grief, medical

and funeral expenses, and loss of Joan Strnad's support, services, society and companionship.

93. WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, in an amount more than Twenty-Five Thousand Dollars (\$25,000.00) to compensate the decedent's next of kin and heirs at law, together with costs of suit, attorney's fees and expenses, exemplary damages, and any other relief the court finds is appropriate and / or equitable.

**THIRD CAUSE OF ACTION**  
**(NURSING HOME RESIDENT RIGHTS VIOLATION R.C. 3721.13)**

94. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

95. Defendants, directly or through their employees or agents, violated Joan Strnad's rights as a resident of the Defendants' facilities, as enumerated in Ohio Revised Code section 3721.13, including, but not limited to, the right to adequate and appropriate medical treatment and nursing care.

96. These violations constitute negligence per se and give rise to a statutory cause of action.

97. As a direct and proximate result of Defendants' violations of R.C. 3721.13, Joan Strnad endured conscious pain and suffering and disability, incurred medical expenses, suffered her untimely death, and was otherwise harmed.

98. WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief to which the court finds is appropriate and / or equitable.

**FOURTH CAUSE OF ACTION**  
**(CIVIL CONSPIRACY)**

99. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

100. Defendants and unknown additional potential co-conspirators had an express agreement, mutual understanding or tacit agreement to, and/or their agents maliciously combined efforts to:

- a. defraud residents and their families by delivering wholly inadequate care, contrary to their promises;
- b. systemically understaff their facilities in violation of federal regulations, and for the purposes of their own profit at the expense of resident health and safety;
- c. under-capitalize the facilities and syphon money to themselves and related entities for the purposes of their own profit at the expense of resident health and safety;
- d. inflate resident RUG levels to obtain excessive and unjustified payments from Medicare and Medicaid while not providing the care paid for with these taxpayer dollars;
- e. not providing the level of care, by understaffing the facility, paid for by taxpayer dollars;
- f. misrepresenting to Medicare the staffing level of the facility to increase their 5-star rating;
- g. ignoring employee reports and complaints regarding the systemic process of putting profits above patient safety leading to resident injuries;
- h. terminating employees who raise concerns about the system of putting profits ahead of patient safety; and
- i. as otherwise may be described in the Complaint or learned through discovery.

101. Life Care's compliance office, known as the Integrity Services Department or the Corporate Compliance Department, received dozens of internal complaints from

around the country regarding Life Care's corporate pressure tactics and inappropriate billing for therapy services. Chief Integrity Services/Compliance Officers reported directly to Forrest L. Preston. Forrest L. Preston personally terminated a compliance officer who raised concerns regarding the investigation of complaints and was substantially involved in the firing of another compliance officer after she raised concerns regarding the investigation of complaints.

102. A study conducted by Integrity Services found that Life Care terminated approximately 57 percent of the employees who provided their names within three weeks of filing their complaint. Forrest L. Preston was aware of this study and discussed it with the Chief Compliance Officer. Forrest L. Preston interfered with any follow up, and personally instructed Integrity Services personnel that they were not permitted to make unannounced visits to Life Care facilities.

103. Life Care's corporate strategy and pressure to drive up profits succeeded in significantly inflating the money it received from Medicare and resulted in Life Care knowingly submitting false claims to Medicare for medically unreasonable, unnecessary and unskilled therapy services, and using false records and statements to support those false claims.

104. As the sole shareholder of Life Care, Forrest L. Preston was the ultimate financial beneficiary of the proceeds of Life Care's schemes.

105. This understanding constitutes a malicious combination to injure residents of Life Care Centers of America, Inc. facilities like Life Care Center of Medina and Joan Strnad.

106. In pursuance of this common plan or design to commit tortious acts, the Defendants actively took part in it, or furthered it by cooperation or request, or lent aid or encouragement to the wrongdoers, or ratified and adopted the wrongdoers' acts done for their benefit.

107. The conspiracy caused injury to Joan Strnad, including her death.

108. The negligent and / or reckless and / or fraudulent acts of the Defendants constitute unlawful acts independent from the conspiracy itself.

109. WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with costs of suit, attorney's fees and expenses, punitive and exemplary damages, and any other relief to which the court finds is appropriate and / or equitable.

**A TRIAL BY JURY IS HEREBY DEMANDED.**

Respectfully Submitted,

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WILLIAM B. EADIE (0085627)  
MICHAEL K. ASTRAB (0068439)  
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***Counsel for Plaintiff***

STATE OF OHIO  
MEDINA COUNTY

) **AFFIDAVIT OF MERIT**  
)  
)  
)  
)

Affiant MARK SHOAG, M.D., having been first duly sworn, states:

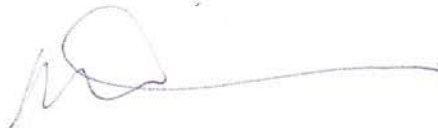
1. I am an adult, with no known disability preventing my truthful testimony, and have personal knowledge of the matters contained within this affidavit.
2. I am a full-time practicing physician in the fields of Geriatric and Internal Medicine, licensed in the state of Ohio, board certified in Internal Medicine, and a medical director of a long-term acute care hospital, spending more than 50% of my professional time providing direct patient care.
3. Through my specialized knowledge, skill, training, experience, and education, I am familiar with the standard of care applicable to the medical and nursing care and treatment that was provided to Joan Strnadin 2017-2019, while a resident at Life Care Center of Medina.
4. I have reviewed all medical records reasonably available to the Estate of Joan Strnad concerning the allegations of negligence causing her death.
5. To a reasonable degree of medical probability, it is my opinion that the medical and nursing care and treatment provided to Joan Strnad deviated from the established standard of care and the breach caused Ms. Strnad's fall and subsequent death.

**FURTHER AFFIANT SAYETH NAUGHT.**



MARK SHOAG, M.D.,

SWORN TO BEFORE ME and subscribed in my presence this 11<sup>th</sup> day of February 2020.



NOTARY PUBLIC

Peter Dvorak

My commission expires 12/31/23  
present till 12/31/23