

CAUSE NO. DC-17-00706

AMANDA NORRIS AND JAMES JORDAN	§	IN THE DISTRICT COURT
Individually, and AS PERSONAL	§	
REPRESENTATIVES OF THE ESTATE	§	
OF SALLY JORDAN,	§	
Plaintiffs,	§	
	§	
v.	§	
	§	116TH JUDICIAL DISTRICT
RICHARDSON SNF OPERATIONS, LP	§	
d/b/a THE PLAZA AT RICHARDSON, GH	§	
SNF OPERATIONS, LLC d/b/a GARNET	§	
HILL	§	
REHABILITATION AND SKILLED	§	
CARE, and NEERAJ SHARMA MD,	§	
Defendants.	§	
	§	
	§	
	§	
	§	DALLAS COUNTY, TEXAS

PLAINTIFFS’ SECOND AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Amanda Norris and James Jordan, individually and as personal representatives of the Estate of Sally Jordan, (collectively known as the “Plaintiffs”) complaining of Richardson SNF Operations, LP d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care (both collectively referred to as “In-Patient Hospice”), Neeraj Sharma MD, and all referred to herein as "Defendants" as follows:

I. DISCOVERY

1. Plaintiffs intend to conduct discovery in this action under Level 3 of the Texas Rules of Civil Procedure 190.4.

II. PARTIES AND SERVICE

2. Plaintiffs, Amanda Norris and James Jordan, as personal representatives of the Estate of Sally Jordan, Amanda Norris, individually and James Jordan, individually.

3. Defendant, SNF Operations, LP, d/b/a The Plaza at Richardson, is a Texas limited partnership that may be served by serving its registered agent, John F. Taylor, at 1001 Cross Timber Road, Suite 2180, Flower Mound, Texas 75028.

4. Defendant, GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care is a Texas Limited Liability Company that may be served by serving its registered agent, Capitol Corporate Services, Inc., at 206 E. 9th Street, Suite 1300, Austin, Texas 78701.

5. Dr. Neeraj R. Sharma, MD is an individual residing in Texas who may be served at 1314 W. McDermott Drive, Suite 106, Allen, Texas 75013 or wherever he may be found.

III. JURISDICTION AND VENUE

6. Plaintiffs repeat, re-allege, and reassert each and every allegation set forth in forgoing paragraphs as if set forth more fully herein.

7. The Court has subject matter jurisdiction over this lawsuit as Plaintiffs' damages exceed the minimum jurisdictional limits of this Court.

8. Pursuant to Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code, venue is proper in Dallas County, Texas because a substantial part of the events forming the basis of this lawsuit occurred in Dallas County, Texas. Specifically, certain actions and omissions took place at The Plaza at Richardson, 1301 Richardson Dr., Richardson, Texas 75080-4648 in Dallas County.

IV. STATUTORY NOTICE AND RULE 47 STATEMENT

9. Pursuant to Tex. Civ. Prac. & Rem. Code §§ 74.051 & 74.052, Plaintiffs served Defendants with pre-suit notice before the filing of this suit.

10. Pursuant to Tex. Civ. Prac. & Rem. Code § 74.051, the statute of limitations in this matter was tolled for a period of seventy-five (75) days following the service of the above-described pre-suit notice.

11. Plaintiffs prefer to have this Honorable Judge or a jury determine the fair amount of compensation for Plaintiffs' damages, and Plaintiffs place the decision regarding the amount of compensation to be awarded in this Honorable Judge or jury's hands. However, pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiffs are required to provide a statement regarding the amount of monetary relief sought. Accordingly, Plaintiffs state that the monetary relief sought is more than one million dollars and zero cents (\$1,000,000.00).

V. FACTS

12. During her lifetime, the decedent, Sally Jordan, was diagnosed with kyphoscoliosis which caused numerous medical complications including but not limited to restrictive lung disease and acute chronic respiratory failure. As her life progressed breathing became difficult and, at times, the condition was life-threatening.

13. On October 6, 2014, Sally Jordan duly executed her living will, titled Texas Directive to Physicians and Family of Surrogates, which provides do-not-resuscitate provisions in part as follows:

“I, Sally Dell Jordan, recognize that the best health care is based upon a partnership of trust and communication with my physician. My physician and I will make health care decisions together as long as I am of sound mind and able to make my wishes known. If there comes a time that I am unable to make medical decisions about myself because of illness or injury, I direct that the following treatment preferences be honored:

If, in the judgment of my physician, I am suffering with a terminal condition from which I am expected to die within six months, even with available life-sustaining treatment provided in accordance with prevailing standards of medical care:

I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible; OR

If, in the judgment of my physician, I am suffering with an irreversible condition so that I cannot care for myself or make decisions for myself and I am expected to die without life-sustaining treatment provided in accordance with prevailing standards of care:

I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible.”

“After signing this directive, if my representative or I elect hospice care, I understand and agree that only those treatments needed to keep me comfortable would be provided and I would not be given available life-sustaining treatments.”

“If, in the judgment of my physician, my death is imminent within minutes to hours, even with the use of all available medical treatment provided within the prevailing standard of care, I acknowledge that all treatments may be withheld or removed except those needed to maintain my comfort.”

“This directive will remain in effect until I revoke it. No other person may do so.”

14. Also on October 6, 2014, Sally Jordan duly executed her Medical Power of Attorney and designated her son, James Jordan, as her health care agent which empowered him to make any and all health care decisions for Sally Jordan if she were unable to make her own health care decisions. Within the same document Sally Jordan designated her daughter, Amanda Norris, as the first alternate health care agent empowered with the same abilities should James Jordan be unable or unwilling to make such decisions for Sally Jordan.

15. On April 17, 2015, Sally Jordan experienced a painful shortness of breath while attending her granddaughter's dance competition necessitating a physician to examine her condition. Thereafter, Sally Jordan was transported to Methodist Richardson Medical Center (hereafter "Methodist Richardson") for treatment.

16. On April 17, 2015, Sally Jordan was admitted to Methodist Richardson. During this stay, Amanda Norris personally delivered to hospital staff a copy of Sally Jordan's Medical Power of Attorney and Texas Directive to Physicians and Family of Surrogates; said document was entered into the Methodist Richardson filing system and a copy was added to Sally Jordan's medical file.

17. On April 20, 2015, Methodist Richardson conducted an intake of Sally Jordan and her attending physician, Nadia Takieddine, MD, dictated a document titled History and Physical explicitly divulging Sally Jordan's "DO NOT RESUSCITATE" order in accordance with her Texas Directive to Physicians and Family of Surrogates.

18. During her hospitalization at Methodist Richardson, Sally Jordan was diagnosed with acute respiratory failure, pneumonia, decubitus ulcer, mucus plugging of bronchi, and kyphoscoliosis; Sally Jordan was sufficiently treated for said conditions.

19. On April 28, 2015, Sally Jordan was discharged from Methodist Richardson in fair condition. Particularly, Sally Jordan's discharge document from Methodist Richardson listed her abdomen as soft/non-tender, her cardiac had a regular rhythm, her neck was supple, she had no incontinence, and there was no deficit in her neurological condition. In addition, the discharge document identified Sally Jordan was a "fall risk" with a history of various falls causing injury. Said document, completed by Sally Jordan's attending physician at Methodist Richardson, Nadia

Takieddine, MD, titled Physician Discharge Summary, listed Sally Jordan's code status as "DO NOT RESUSCITATE."

20. At the time of release from Methodist Richardson, Amanda Norris and James Jordan considered home care for Sally Jordan; however, after consultation, the family determined that care at a skilled nursing facility was more suitable.

21. On or around April 28, 2015, Amanda Norris and James Jordan requested Sally Jordan reside at Garnet Hill Rehabilitation and Skilled Care (hereafter "Garnet Hill") as she was a fall risk and they felt it was the most suitable to provide the specialized skilled nursing care she needed; however, Garnet Hill was then at full capacity. A social worker at Methodist Richardson, Brandi S. Allen, arranged for Sally Jordan to temporarily reside at The Plaza at Richardson (hereafter "The Plaza"), which is a sister property of Garnet Hill, until a room became available at Garnet Hill.

22. On or around April 29, 2015, Sally Jordan was admitted to The Plaza. Upon admission to The Plaza Amanda Norris provided its staff member with Sally Jordan's Medical Power of Attorney and Texas Directive to Physicians and Family of Surrogates. Multiple copies of said documents were made and added to Sally Jordan's file; also, Sally Jordan's do-not-resuscitate provisions were explicitly notated within her file.

23. On or around May 1, 2015, management at The Plaza informed Amanda Norris that space was made available at Garnet Hill and Sally Jordan would subsequently be transported to the same. In response, Amanda Norris questioned the active staff member of The Plaza whether she needed to provide a copy of Sally Jordan's Medical Power of Attorney and Texas Directive to Physicians and Family of Surrogates to Garnet Hill; said staff member assured her that a copy of Sally Jordan's entire file would be expeditiously forwarded from The Plaza to Garnet Hill.

24. On May 1, 2015, Sally Jordan was transported to Garnet Hill for admission. Garnet Hill should have properly completed all facets of its intake process for Sally Jordan before she was admitted into the facility.

25. On May 1, 2015, Garnet Hill received a document from The Plaza via facsimile describing categories of Sally Jordan's medical file such as her diet, medical history, various messages from her physician, and rehabilitation needs. Said document contains an entry made in Sally Jordan's file at The Plaza stating "04/29/2015 Advanced Directives CODE STATUS – DNR." As such, Garnet Hill possessed explicit instructions Sally Jordan's code status was that of do-not-resuscitate.

26. On May 1, 2015, Garnet Hill employee Donna Tully electronically signed a document titled "Physician's Telephone Order" scribing attending physician Neeraj Sharma listed Sally Jordan as "CODE STATUS Full Code." Said document was electronically signed by Neeraj Sharma on May 4, 2015.

27. On information and belief, Sally Jordan's condition began to deteriorate on May 3, 2015. Sally Jordan was found on the floor next to her bed, complained of pain but refused pain medication when offered.

28. On May 4, 2015, after the injury sustained to Sally Jordan, Garnet Hill staff completed Sally Jordan's "Resident Assessment and Care Screening" intake document. Within said document, in direct contrast to the April 28, 2015 discharge document of Methodist Richardson, Garnet Hill staff stipulated that Sally Jordan had not "have a fall any time in the last month" or "in the last 2-6 months prior to admission/entry."

29. On May 4, 2015, Sally Jordan's condition rapidly worsened and she was found by Garnet Hill staff to be unresponsive to verbal and touch stimuli. Rather than abide by Sally

Jordan's wishes, Garnet Hill staff administered life-sustaining treatment to Sally Jordan in complete violation of the do-not-resuscitate provisions in her Living Will titled Texas Directive to Physicians and Family of Surrogates.

30. Garnet Hill staff called 911. The Wylie Fire Department EMT arrived and took Sally Jordan via ambulance to Methodist Richardson. While in route, the Wylie Fire Department EMT paramedic continued the administration of rapid sequence intubation to Sally Jordan that Garnet Hill staff commenced.

31. Later that day, Garnet Hill staff called Amanda Norris requesting her presence to sign documentation on behalf of Sally Jordan. During this conversation, Amanda discovered that Garnet Hill staff had already transferred Sally Jordan to the hospital. Amanda Norris immediately questioned the Garnet Hill staff member as to why Sally Jordan was transferred and which hospital. The staff member could not identify which hospital Sally Jordan was taken to. Amanda Norris informed her brother and together they contacted local hospitals to inquire if Sally Jordan was in attendance. Finally, the parties were able to locate Sally Jordan at Methodist Richardson.

32. James Jordan later discovered that a staff person at Garnet Hill, Paul Macharia, left a voicemail on his cellular phone stating Sally Jordan was "taken to the hospital" but failed to identify which hospital she was taken to. James Jordan, and Amanda Norris, after learning of Sally Jordan's condition, attempted to contact Garnet Hill for additional information, but found the phone lines at Garnet Hill inoperable at that time. No messages or phone calls were left for Amanda Norris despite the fact she was also listed as a primary contact with Garnet Hill.

33. Amanda Norris arrived at Methodist Richardson and entered the emergency room where Sally Jordan had been treated. Amanda Norris viewed Sally Jordan placed on a ventilator. In response, Amanda Norris immediately informed the Methodist Richardson Nurse Desk

regarding the do-not-resuscitate orders included in Sally Jordan's Living Will. The intubation of Sally Jordan and the life-sustaining treatment provided to her violated her wishes demarcated in the Texas Directive to Physicians and Family of Surrogates.

34. Sally Jordan would have died of natural causes as explicitly notated in her Texas Directive to Physicians and Family of Surrogates if not for the life-sustaining treatment she received from Garnet Hill and later at Richardson Methodist in violation of said directive. Further, The Plaza failed to properly transfer Sally Jordan and her medical file to Garnet Hill.

35. Subsequently, on May 4, 2015, Sally Jordan's pulmonologist at the Methodist Richardson emergency room, Marcum Quinn, MD, advised Amanda Norris and James Jordan they must make a decision whether to remove Sally Jordan's life-sustaining tubes to end her life. Quinn explained that it was "cruel to make [Sally] work that hard to breathe." As Sally Jordan's granddaughter's (Amanda Norris's daughter) birthday was the next day on May 5, 2015, Amanda Norris requested time to make such a grave decision. Quinn urged Amanda Norris and James Jordan to make the decision within twenty-four (24) hours. The parties felt unnecessarily pressured and rushed to make such a choice which never would have occurred had Defendants adhered to Sally Jordan's Living Will.

36. During her stay, Sally Jordan remained connected to a feeding tube. At this time Sally Jordan became conscious, but was unable to speak due to the intubated tube in her mouth. Sally Jordan attempted to communicate with Amanda Norris utilizing hand gestures. Amanda Norris then drew large alphabet characters to help facilitate Sally Jordan's communication. Sally Jordan weakly pointed to various letters and spelled "who placed this tube." At that time, Amanda Norris and James Jordan were forced to explain to their mother that her do-not-resuscitate order

within her Living Will was not followed. Sally Jordan reacted in an extremely pained and frustrated manner.

37. On May 6, 2015, Amanda Norris and James Jordan were again faced with the decision whether to remove the intubated tubes providing life-sustaining treatment to Sally Jordan. Prior to said decision, an x-ray revealed Sally Jordan's left lung collapsed deeming Methodist Richardson would be unable to remove said life-sustaining tubes without a high risk of killing Sally Jordan or causing her extreme pain. In response, Sally Jordan's lung was suctioned in hopes to remove said tube; however, this procedure did not succeed.

38. On May 7, 2015, Sally Jordan's left lung remained collapsed deeming removal of the life-sustaining tube problematic. Again, Methodist Richardson attempted to painfully suction Sally Jordan's left lung in order to remove her life-sustaining tube; the procedure failed to succeed a second time.

39. On May 8, 2015, Methodist Richardson attempted a third time to extubate Sally Jordan's life-sustaining tube. An additional x-ray revealed Sally Jordan's left lung remained plugged and collapsed. However, Sally Jordan's attending physician at Methodist Richardson decided to move forward with the removal of the life-sustaining tube. The painstaking removal of the tube succeeded despite the collapsed lung and Sally Jordan was immediately placed on a bi-level positive airway pressure machine (hereafter "BiPAP").

40. On May 10, 2015, Mother's Day 2015, Sally Jordan's condition deteriorated requiring she wear the BiPAP at all times. This pained her as she was claustrophobic and despised the BiPAP. On Mother's Day, Amanda Norris and James Jordan requested the BiPAP be temporarily removed from Sally Jordan so they could speak with their mother, but the attending Methodist Richardson respiratory therapist explained she could only sustain fifteen (15) seconds

without the mask. Upon removal of the mask Sally Jordan was only able to utter various words before the immediate need to return the mask.

41. On May 12, 2015, Marcum Quinn, MD, Sally Jordan's attending physician, explained he was leaving town and again pressed Amanda Norris and James Jordan to make a decision whether to remove Sally Jordan's life-sustaining machinery and allow her to die. On May 13, 2015, Amanda Norris and James Jordan, after consulting Methodist Richardson staff, decided to take Sally Jordan off of the BiPAP and replace it with a separate nasal oxygen tube. This was done in hopes of Amanda Norris and James Jordan communicating with their mother one last time.

42. As night approached, the parties were forced to decide whether to stay overnight in Methodist Richardson or return home to sleep. Amanda Norris and James Jordan then left Methodist Richardson at approximately 11:00 p.m. Thereafter, at approximately 1:00 a.m. on May 14, 2015, staff at Methodist Richardson contacted the parties to immediately return as it was assumed Sally Jordan was soon to die. The parties contacted the hospice chaplain to attend her bedside and he remained with the parties for several hours during the night. In the late morning of May 14, 2015, the hospice representative encouraged the parties to temporarily leave Sally Jordan's room to have lunch in the Methodist Richardson cafeteria. While paying at the cashier, said hospice representative ran to the parties and hastily requested they immediately return to Sally Jordan's room as she was again likely to die. Upon the parties return to Sally Jordan's room, her vital signs had stabilized. During this time, Sally Jordan's blood pressure would be automatically taken by a machine and said machine would emit a 'beep' sound; said sound was so nerve wracking to Amanda Norris and James Jordan they requested all sounding machines to be temporarily silenced due to the stress it caused.

43. Later on May 14, 2015, it was apparent to Amanda Norris and James Jordan that Sally Jordan could no longer be stimulated when they talked to her; at that time the parties realized they would never have another response from their mother. At this time, Sally Jordan's organs began to fail; Sally Jordan lost control of her bowels in the hospital bed. Hospice staff placed a catheter to collect Sally Jordan's urine and bowel movements; she had previously refused the use of catheters during multiple hospital visits as she despised them. Later, Sally Jordan's organs failed to process the substance emitted from her feeding tube, the medical staff reversed the flow of the feeding tube; the family witnessed the contents of Sally Jordan's stomach, removed through the tube in her nose, dumped into a container beside her bed.

44. Sally Jordan endured over ten (10) days of anguish, agony, and torment, all while her children witnessed this torture, due to the violations of the do-not-resuscitate provisions included in her Living Will.

45. On May 14, 2015, at 5:08 p.m. Sally Jordan was pronounced dead.

VI. CAUSES OF ACTION

46. Plaintiffs repeat, re-allege, and reassert each and every allegation set forth in forgoing paragraphs as if set forth more fully herein.

Respondeat Superior

47. Defendants SNF Operations, LP, d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care are liable for the negligence of their employees, agents, and/or representatives inclusive of Dr. Shakil Ahmed, MD and Dr. Neeraj R. Sharma, MD pursuant to the doctrine of respondeat superior because the employees, agents, and/or representatives were acting in the course and scope of their respective employment with

Defendants SNF Operations, LP, d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care.

48. In the alternative, Defendants SNF Operations, LP, d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care are liable for the negligence of their employees, agents, and/or representatives because the employees, agents, and/or representatives were acting as borrowed servants of Defendants SNF Operations, LP, d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care at all times.

Negligent Hiring, Retention and Supervision

49. Defendants SNF Operations, LP, d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care are liable for the negligence of their employees, agents, and/or representatives because they did not use ordinary care in hiring, supervising, training and retaining them and their supervisors, and the breach of the applicable standard of care by these employees, agents, and/or representatives and their supervisors, as described above, proximately caused injuries to Plaintiffs.

Ostensible Agency/Alter-Ego

50. In the alternative, if the negligent employees, agents, and/or representatives were not acting as employees, agents, and/or representatives and/or borrowed servants of Defendants SNF Operations, LP, d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care, then the employees, agents, and/or representatives were acting as the ostensible agents of Defendants SNF Operations, LP, d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care at all relevant times. Specifically (1) there was a reasonable belief that the employees, agents, and/or

representatives were the employees, agents, and/or representatives of Defendants SNF Operations, LP, d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care; (2) the belief was generated by Defendants SNF Operations, LP, d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care's affirmatively holding out of the employees, agents, and/or representatives as their employees, agents, and/or representatives and (3) there was justifiable reliance on Defendants SNF Operations, LP, d/b/a The Plaza at Richardson, and GH SNF Operations, LLC d/b/a Garnet Hill Rehabilitation and Skilled Care's representation of authority.

Claim for Medical Negligence – In-Patient Hospice (For this section only, Defendants Garnet Hill, The Plaza, and Dr. Neeraj Sharma are referred to as “In Patient Hospice”)

51. Plaintiffs repeat, re-allege, and reassert each and every allegation set forth in forgoing paragraphs as if set forth more fully herein.

52. Defendants In-Patient Hospice, were at all times under a duty of reasonable care to assess, determine, and effectuate end of life planning requirements of its patients. This duty of care included the responsibility to ensure that a patient's end of life choices, as expressed through end of life planning documents such as powers of attorney, living wills, healthcare surrogate forms, and, particularly, Sally Jordan's Texas Directive to Physicians and Family of Surrogates, are honored, respected, and complied with by its own staff and by all medical personnel who might foreseeably encounter the patient.

53. Sally Jordan was a patient admitted to In-Patient Hospice and In-Patient Hospice owed her said duty of care. In-Patient Hospice breached its duty of care to Sally Jordan by:

- a. failing to perform a proper intake assessment of Sally Jordan at the time of her admission to determine her end of life decisions and planning;

- b. failing to communicate with Methodist Richardson to determine Sally Jordan's end of life decisions and planning; failing to communicate with Plaintiffs to determine Sally Jordan's end of life decisions and planning;
- c. The Plaza failing to transfer Sally Jordan's Texas Directive to Physicians and Family of Surrogates to Garnet Hill while facilitating the transfer of Sally Jordan to the subsequent facility;
- d. failing to adhere to Texas Health and Safety Code 166.004(b) by following written policies regarding the implementation of Sally Jordan's advanced directive;
- e. Garnet Hill failing to adhere to the document labeling Sally Jordan's "CODE STATUS DNR" sent via facsimile from The Plaza;
- f. Garnet Hill failing to provide the proper nursing/hospice care Sally Jordan needed, but rather, calling the paramedics when she was found unresponsive;
- g. Garnet Hill and its staff failing to communicate with The Plaza, its sister company, to successfully receive Sally Jordan's Texas Directive to Physicians and Family of Surrogates; and
- h. failing to properly train its staff and employees to take reasonable steps to ensure that end of life planning decisions are properly assessed, determined, documented, and effectuated, so as to prevent the administration of unnecessary and unwanted medical treatment at Sally Jordan's end of life.

54. As a direct and proximate result of the negligence of In-Patient Hospice, Sally Jordan suffered undesired medical interference at the end of her life in violation of her expressed wishes to die without being subjected to such unwanted medical treatment.

55. Additionally, Sally Jordan suffered an artificially prolonged death in a manner that was repugnant to her values and wishes regarding how she desired to die. Sally Jordan was forced to endure violent and painful medical interventions, receive paralyzing drugs, have tubes inserted into her throat and her stomach, endure a feeding tube, forced catheterization, and have air forced into her lungs. Sally Jordan was claustrophobic and being intubated caused her distress and anxiety. Sally Jordan was unable to speak due to intubation, which greatly frustrated her. But for the negligence of In-Patient Hospice, Sally Jordan would have experienced a quick and natural death, as she desired. However, due to the negligence of In-Patient Hospice, Sally Jordan was robbed of her natural death and instead suffered from prolonged dying in a manner that was contrary and repugnant to her expressed wishes.

56. Sally Jordan, as a patient admitted to In-Patient Hospice's facility, was entirely dependent upon on said entities for her care and well-being. In-Patient Hospice provided medical care to Sally Jordan, housed and fed Sally Jordan, and provided all her daily needs and care. All of Sally Jordan's personal needs were under the control of In-Patient Hospice, and because she was a patient receiving medical care, this included the manner in which Sally Jordan would die. In-Patient Hospice owed a duty of medical standard of care to Sally Jordan.

57. The applicable duty of medical standard of care placed an obligation on In-Patient Hospice to honor, respect, and effectuate Sally Jordan's end of life choices, including the choice expressed in her Texas Directive to Physicians and Family of Surrogates that medical intervention and resuscitative efforts should not be inflicted upon Sally Jordan during the final moments of her life. Further, a relationship of trust and confidence existed between Sally Jordan and In-Patient Hospice, such that confidence was reposed by Sally Jordan and trust was accepted by In-Patient Hospice. In-Patient Hospice breached the applicable standard of care to Sally Jordan by failing to

honor, respect, and effectuate Sally Jordan's end of life choices, including the choice expressed in her Texas Directive to Physicians and Family of Surrogates that medical intervention and resuscitative efforts should not be inflicted upon Sally Jordan during the final moments of her life.

58. In breaching their duty to Sally Jordan, In-Patient Hospice disregarded the applicable standard of medical care and placed its own interests above that of its patient. In-Patient Hospice was more concerned with delivering healthcare to patients so as to enhance and maximize its profits, rather than respecting end of life decisions by patients such as Sally Jordan who wished to die without intrusive, invasive, and painful prolongation of life through medical intervention.

59. In-Patient Hospice further breached a fiduciary duty that was owed by them to Sally Jordan. Defendant In-Patient Hospice is knowledgeable and skillful in medical subjects of which Sally Jordan had little knowledge, but in which she had a vital interest. Defendant as a fiduciary, owed Sally Jordan the fiduciary duties of good faith, to exercise due care and skill, and obtain informed consent for any and all of medical treatment provided or withheld to Sally Jordan.

60. Garnet Hill is subject to liability for breach of fiduciary duty as it administered medical treatment to Sally Jordan, despite the DNR provision within her Texas Directive to Physicians and Family of Surrogates, and failed to obtain the informed consent necessary to administer such life-sustaining treatment. In-Patient Hospice's breach of the applicable medical standard of care and fiduciary duty were the proximate causes of damages that were subsequently inflicted upon Sally Jordan by third parties and by In-Patient Hospice, as alleged in this Complaint. Garnet Hill committed battery when providing life-sustaining treatment to Sally Jordan without her informed consent. The Plaza was in possession of Sally Jordan's Texas Directive to Physicians and Family of Surrogates containing DNR provisions and was aware of Sally Jordan's end-of-life advanced directive. However, life-sustaining medical treatment was administered to Sally Jordan.

Garnet Hill intentionally administered nonconsensual physical contact by intubating Sally Jordan and performing life-sustaining treatment despite readily available access to and possession of her DNR orders. This unwanted battery caused Sally Jordan to suffer anguish, agony, and torment over the span of more than ten (10) days.

61. Plaintiffs demand a judgment for all damages suffered by Sally Jordan, including but not limited to compensatory damages, any and all past medical bills incurred in the violation of her advanced directive, her mental anguish, for her pain and suffering, for the violation of her rights as a patient, exemplary damages, for costs of this action, for attorney's fees as allowable by law, and for all other relief as this Court deems just and equitable.

Sally Jordan's Claim for Wrongful Prolongation of Life
Against All Defendants named herein

62. Plaintiffs repeat, re-allege, and reassert each and every allegation set forth in forgoing paragraphs as if set forth more fully herein. Further, Plaintiffs allege that all the acts and/or omissions by all Defendants identified herein constituted a breach of the standard of care causing the wrongful prolongation of life to Sally Jordan and Plaintiffs damages.

63. Texas may not currently recognize a standalone wrongful prolongation of life cause of action. However, this case of first instance is necessary to provide justice for the pain and suffering endured by Sally Jordan in violation of her validly executed advanced directive. Sally Jordan possessed the constitutional right to complete an advance directive stipulating her desire to refuse life-sustaining medical treatment. On October 6, 2014 Sally Jordan duly executed her Texas Directive to Physicians and Family of Surrogates containing provisions regarding her explicit DNR orders. As such, Sally Jordan possessed a liberty interest in refusing unwanted medical treatment. Sally Jordan's liberty interest was violated when Defendants breached the standard of care by committing all the acts/omissions identified in this First Amended Petition in direct

violation of her DNR provisions. The violation of Sally Jordan's advanced directive by Defendants differs from the standard of care, skill, and prudence exercised under the same or similar circumstances in the same or similar community.

64. If not for the acts and/or omissions of all the Defendants, the life-sustaining medical treatment administered by Defendants to Sally Jordan, including the administrative breach of the standard of care, Sally Jordan would have naturally passed as per the DNR provision within her Texas Directive to Physicians and Family of Surrogates. However, Defendants acts and/or omissions caused Sally Jordan and her family to suffer over ten (10) days through pain, anguish, and agony. Sally Jordan ascertained and explicitly conveyed her desire for refusal of life-sustaining treatment, Defendants were in receipt of the document in which Sally Jordan conveyed said desires, but Defendants breached the standard of care by not abiding by the DNR and prolonged Sally Jordan's life against her desire and extended her suffering against her wishes.

65. Plaintiffs demand a judgment for all damages suffered by Sally Jordan and her family, including but not limited to compensatory damages, any and all past medical bills incurred in the violation of her advanced directive, her mental anguish, for her pain and suffering, for the violation of her rights as a patient, exemplary damages, for the mental anguish, pain and suffering of all the Plaintiffs named herein, for costs of this action, for attorney's fees as allowable by law, and for all other relief as this Court deems just and equitable.

VII. DAMAGES

66. Plaintiffs repeat, re-allege, and reassert each and every allegation set forth in forgoing paragraphs as if set forth more fully herein.

67. Plaintiffs seek to recover economic damages for medical malpractice in the form of reasonable and necessary medical expenses incurred as a result from the treatment administered to

Sally Jordan by medical negligence of Defendants. Further, Plaintiffs seek noneconomic damages for the medical malpractice of Defendants causing physical pain and suffering, mental and emotional pain and anguish to Sally Jordan pursuant to Texas Civil Practice & Remedies Code §41.001(12). In addition, Plaintiffs seek exemplary damages for the outrageous, malicious, and otherwise morally culpable conduct committed by Defendants' medical negligence and wrongful prolongation of Sally Jordan's life pursuant to Texas Civil Practice & Remedies Code §41.003(a)(3). More so, Plaintiffs seek to recover exemplary damages in order to punish Defendants' wrongful behavior and to deter Defendants from engaging in the same of similar conduct in the future. Furthermore, Plaintiffs seek prejudgment and postjudgment interest on past damages at the highest rate allowed by law from the earliest time allowed by law pursuant to Texas Finance Code §304.1045. Finally, Plaintiffs seek to recover all taxable costs of court incurred in the prosecution of this suit pursuant to Texas Rules of Civil Procedure 131.

VIII. JURY DEMAND

68. Plaintiffs respectfully request that the trial of this cause of action be by jury.

PRAYER

Plaintiffs, in their various capacities as cited in this cause of action, pray that upon final determination of these causes of action, they receive a judgment against Defendants, jointly and severally, awarding Plaintiffs as follows:

- a. Compensatory damages;
- b. Past medical bills;
- c. Past and future mental anguish;
- d. Past and future pain and suffering;
- e. Exemplary damages;

- f. Prejudgment interest at the highest rate allowed by law from the earliest time allowed by law;
- g. Interest rate on the judgment at the highest legal rate from the date of judgment until collected;
- h. Post-Judgment interest on all sums awarded herein at the highest legal rate until paid;
- i. Costs of court; and
- j. All such other and further relief at law and in equity to which Plaintiffs may show themselves to be justly entitled.

Respectfully submitted,

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