

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

VANESSA SHEROD, as ADMINISTRATOR of the
ESTATE OF ELIZABETH WILES and in her own
right

Plaintiff,

v.

COMPREHENSIVE HEALTHCARE
MANAGEMENT SERVICES, LLC d/b/a
BRIGHTON REHABILITATION AND
WELLNESS CENTER; COMPREHENSIVE
MANAGEMENT SERVICES – PROPERTY, LLC,
CHMS GROUP, LLC, SAMUEL HARPER,
EPHRAM LAHASKY, HEALTHCARE SERVICES
GROUP, INC., HCSG LABOR SUPPLY, LLC,
HCSG SUPPLY, INC., HCSG STAFF LEASING
SOLUTIONS, LLC; QUALITY BUSINESS
SOLUTIONS, INC.; BRIAN EDWARD MEJIA,

Defendants.

CIVIL DIVISION

JURY TRIAL DEMANDED

PLAINTIFF'S COMPLAINT

Submitted on behalf of:
Plaintiff Vanessa Sherod as Administrator of the
Estate of Elizabeth Wiles, and in her own right.

Counsel of Record for this Party:

Robert J. Mongeluzzi, Esquire
Pa. ID#: 36283

David L. Kwass, Esquire
Pa. ID#: 65856

Elizabeth A. Bailey, Esquire
Pa. ID#: 316689

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<p>VANESSA SHEROD as ADMINISTRATOR of the ESTATE OF ELIZABETH WILES and in her own right 1999 Marshall Road, Apt. 1206 Monaca, Pennsylvania 15061</p> <p><i>Plaintiff</i></p> <p>vs.</p> <p>COMPREHENSIVE HEALTHCARE MANAGEMENT SERVICES, LLC d/b/a BRIGHTON REHABILITATION AND WELLNESS CENTER 246 Friendship Circle Beaver, Pennsylvania, 15009</p> <p>AND</p> <p>COMPREHENSIVE MANAGEMENT SERVICES – PROPERTY, LLC 246 Friendship Circle Beaver, Pennsylvania, 15009</p> <p>AND</p> <p>CHMS GROUP, LLC, 600 Broadway Suite E, Lynbrook, New York 11563</p> <p>AND</p> <p>SAMUEL HARPER 147 Reist Street Williamsville, New York 14221</p> <p>AND</p>	<p>COURT OF COMMON PLEAS ALLEGHENY COUNTY LAW DIVISION</p> <p>NO.</p> <p><u>JURY TRIAL DEMANDED</u></p>
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EPHRAM LAHASKY,
600 Broadway Suite E,
Lynbrook, New York 11563

AND

HEALTHCARE SERVICES GROUP, INC.
3229 Tillman Drive, #300
Bensalem, PA 19020

AND

HCSG LABOR SUPPLY, LLC
3229 Tillman Drive, #300
Bensalem, Pennsylvania 19020

AND

HCSG SUPPLY, INC.,
3229 Tillman Drive, #300
Bensalem, Pennsylvania 19020

AND

**HCSG STAFF LEASING SOLUTIONS,
LLC;**
3229 Tillman Drive, #300
Bensalem, Pennsylvania 19020

AND

QUALITY BUSINESS SOLUTIONS, INC.;
18 S. 8th Street
Youngwood, Pennsylvania 15697

AND

BRIAN EDWARD MEJIA
702 Williamsburg Court,
Cranberry Township, Pennsylvania 16066

Defendants

NOTICE	AVISO
<p>"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.</p> <p>"YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.</p> <p><u>THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.</u></p> <p><u>IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.</u></p> <p>ALLEGHENY COUNTY BAR ASSOCIATION LAWYER REFERRAL SERVICE 400 Koppers Building, 436 Seventh Avenue Pittsburgh, Pennsylvania 15219 (412) 261-6161"</p>	<p>"Le han demandado en corte. Si usted quiere defenderse contra las demandas nombradas en las páginas siguientes, tiene veinte (20) días, a partir de recibir esta demanda y la notificación para entablar personalmente o por un abogado una comparecencia escrita y también para entablar con la corte en forma escrita sus defensas y objeciones a las demandas contra usted. Sea avisado que si usted no se defiende, el caso puede continuar sin usted y la corte puede incorporar un juicio contra usted sin previo aviso para conseguir el dinero demandado en el pleito o para conseguir cualquier otra demanda o alivio solicitados por el demandante. Usted puede perder dinero o propiedad u otros derechos importantes para usted.</p> <p>USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE ABOGADO (O NO TIENE DINERO SUFICIENTE PARA PAGAR A UN ABOGADO), VAYA EN PERSONA O LLAME POR TELEFONO LA OFICINA NOMBRADA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL. <u>ESTA OFICINA PUEDE PROPORCIONARLE LA INFORMACION SOBRE CONTRATAR A UN ABOGADO.</u></p> <p><u>SI USTED NO TIENE DINERO SUFICIENTE PARA PAGAR A UN ABOGADO, ESTA OFICINA PUEDE PROPORCIONARLE INFORMACION SOBRE AGENCIAS QUE OFRECEN SERVICIOS LEGALES A PERSONAS QUE CUMPLEN LOS REQUISITOS PARA UN HONORARIO REDUCIDO O NINGUN HONORARIO.</u></p> <p>ALLEGHENY COUNTY BAR ASSOCIATION LAWYER REFERRAL SERVICE 400 Koppers Building, 436 Seventh Avenue Pittsburgh, Pennsylvania 15219 (412) 261-6161</p>

COMPLAINT-CIVIL ACTION

1. Plaintiff Vanessa Sherod is the Administrator of the Estate of Elizabeth Wiles, having been duly appointed by the Beaver County Court. A Short Form Certificate for the Estate of Elizabeth Wiles is attached as **Exhibit "A"**.
2. Plaintiff's decedent, Elizabeth Wiles, died on May 10, 2020 at the age of 69.
3. Elizabeth Wiles died from COVID-19, after exposure and infection while working at the Brighton Rehabilitation and Wellness facility ("Brighton" or "facility") in Beaver County.
4. As a result of Defendants' conduct, set forth more fully in this Complaint, COVID-19 spread through the Brighton unchecked, infecting and killing numerous residents and workers at the facility, including Plaintiff's decedent Elizabeth Wiles.
5. The Brighton outbreak was so severe that it required intervention by both the Commonwealth of Pennsylvania Department of Health and specially trained members of the Pennsylvania National Guard, Task Force West.

6. At its peak, the Brighton outbreak accounted for 65% of the all COVID-19 cases and 90% of all COVID-19 deaths in Beaver County, Pennsylvania.

7. The Brighton outbreak remains one of the worst and most lethal COVID-19 nursing home outbreaks in the United States.

THE PARTIES

8. At the time of her death, and at all relevant times, Elizabeth Wiles was an adult resident of the Commonwealth of Pennsylvania.

9. No other actions were commenced during Ms. Wiles' life in connection with the events that caused her death.

10. Under 42 Pa. C.S.A. § 8301(b), her beneficiaries are as follows:

- Vanessa Sherod
- Angelo Domena
- Michael Sherod
- Lolita Denson

CHMS DEFENDANTS AND CHMS OWNERS

11. Defendant Comprehensive Healthcare Management Services, LLC d/b/a Brighton Rehabilitation and Wellness Center is a limited liability corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a registered address at 246 Friendship Circle, Beaver, Pennsylvania, 15009.

12. At all relevant times, Defendant Comprehensive Healthcare Management Services, LLC d/b/a Brighton Rehabilitation and Wellness Center was acting by and through its employees, servants and agents, acting within the course and scope of their employment, service and agency.

13. Defendant Comprehensive Healthcare Management Services - Property, LLC is a limited liability corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a registered address at 246 Friendship Circle, Beaver, Pennsylvania, 15009.

14. At all relevant times, Defendant Comprehensive Healthcare Management Services - Property, LLC was acting by and through its employees, servants and agents, acting within the course and scope of their employment, service and agency.

15. Defendant CHMS Group, LLC is a limited liability corporation organized and existing under and by virtue of the laws of the State of New York with a registered address at 600 Broadway Suite E, Lynbrook, New York 11563

16. At all relevant times, CHMS Group, LLC was acting by and through its employees, servants and agents, acting within the course and scope of their employment, service and agency.

17. Defendants Comprehensive Healthcare Management Services, LLC d/b/a Brighton Rehabilitation and Wellness Center, Comprehensive Healthcare Management Services - Property, LLC, and CHMS Group, LLC shall be collectively referred to as “CHMS Defendants.”

18. At all relevant times, CHMS Defendants owned, operated, managed, maintained, controlled, oversaw and/or were responsible for Brighton Rehabilitation and Wellness Center (“Brighton”), a long term care facility and rehabilitation center located at 246 Friendship Circle, Beaver, Pennsylvania, 15009.

19. Defendant Samuel Harper (“Harper”) is an adult individual and resident of New York State, residing at 147 Reist Street, Williamsville, New York 14221.

20. Defendant Ephram Lahasky (“Lahasky”) is an adult individual and resident of New York State, and maintains an office at 600 Broadway Suite E, Lynbrook, New York 11563.

21. At all relevant times, Defendants Harper and Lahasky (collectively “CHMS Owners”) were the owners and operating officers of CHMS Defendants and accordingly, were owned, operated, managed, maintained, controlled, oversaw and/or were responsible for Brighton.

22. At all relevant times, CHMS Owners and CHMS Defendants were responsible for developing, implementing and enforcing all sanitation and infection control procedures, policies and training at Brighton, both overall and on a day-to-day basis.

23. Upon information and belief, the CHMS Defendants had no separate existence other than as conduits for the CHMS Owners and/or other CHMS Defendants, and the CHMS Owners and/or other CHMS Defendants consistently held themselves out as individually conducting business affairs in connection with the ownership and operation of each and all of the CHMS Defendants, without the proper use of corporate names and without identifying whether their actions were taken as officers or employees of the various, respective CHMS Defendants.

24. Upon information and belief, each of the CHMS Defendants:

- a. were insufficiently capitalized and maintained insufficient assets, including liability insurance coverage, considering the ownership and operation of Brighton as alleged more fully herein;
- b. were intermingling funds between and among themselves and the personal and/or assets of other CHMS Defendants and/or CHMS Owners in the ownership and operation of Brighton;
- c. failed to have any functioning officers, directors, members and managers;
- d. failed to observe corporate formalities evidencing a distinction in fact between themselves and other CHMS Defendants and/or CHMS Owners;

- e. were mere instrumentalities of other CHMS Defendants and/or CHMS Owners in the ownership and operation of Brighton; and/or
- f. were created, maintained and utilized for the express or implied purpose of committing negligent, careless, reckless, willful, wanton and malicious acts of wrongdoing with impunity by attempting to insulate other CHMS Defendants and/or CHMS Owners from potential liability in connection with the ownership and negligent and reckless operation of Brighton.

HCSG DEFENDANTS

25. Defendant Healthcare Services Group, Inc. is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a registered address at 3229 Tillman Drive, #300, Bensalem, Pennsylvania 19020.

26. At all relevant times, Defendant Healthcare Services Group, Inc. was acting by and through its employees, servants and agents, acting within the course and scope of their employment, service and agency.

27. Defendant HCSG Labor Supply, LLC is a limited liability corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a registered address at 3229 Tillman Drive, #300, Bensalem, Pennsylvania 19020.

28. At all relevant times, Defendant HCSG Labor Supply, LLC was acting by and through its employees, servants and agents, acting within the course and scope of their employment, service and agency.

29. Defendant HCSG Supply Inc. is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a registered address at 3229 Tillman Drive, #300, Bensalem, Pennsylvania 19020.

30. At all relevant times, Defendant HCSG Supply Inc. was acting by and through its employees, servants and agents, acting within the course and scope of their employment, service and agency.

31. Defendant HCSG Staff Leasing Solutions, LLC is a limited liability corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a registered address at 3229 Tillman Drive, #300, Bensalem, Pennsylvania 19020.

32. At all relevant times, Defendant HCSG Staff Leasing Solutions, LLC was acting by and through its employees, servants and agents, acting within the course and scope of their employment, service and agency.

33. Defendant Quality Business Solutions, Inc. is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a registered address at 18 S. 8th Street, Youngwood, Pennsylvania.

34. At all relevant times, Defendant Quality Business Solutions, Inc. was acting by and through its employees, servants and agents, acting within the course and scope of their employment, service and agency.

35. Defendant Brian Edward Mejia (“Mejia”) is an adult individual and resident of Pennsylvania, residing at 702 Williamsburg Court, Cranberry Township, Pennsylvania 16066.

36. At all relevant times, Mr. Mejia was an employee of Healthcare Services Group, Inc., HCSG Labor Supply, LLC, HCSG Supply Inc., HCSG Staff Leasing Solutions, LLC, or Quality Business Solutions, Inc.

37. Defendants Healthcare Services Group, Inc., HCSG Labor Supply, LLC, HCSG Supply Inc., HCSG Staff Leasing Solutions, LLC, Quality Business Solutions, Inc. and Edward Mejia shall be collectively referred to as “HCSG Defendants.”

38. HCSG Defendants were in the business of, *inter alia*, supplying housekeeping and laundry services to senior living facilities, on a contractual basis.

39. Upon information and belief, the

40. HCSG Defendants:

- a. were insufficiently capitalized and maintained insufficient assets, including liability insurance coverage, the business and work performed at Brighton as alleged more fully herein;
- b. were intermingling funds between and among themselves and the personal and/or assets of other HCSG Defendants;
- c. failed to have any functioning officers, directors, members and managers;
- d. failed to observe corporate formalities evidencing a distinction in fact between and among all the HCSG Defendants;
- e. were each mere instrumentalities of other HCSG Defendants; and/or
- f. were created, maintained and utilized for the express or implied purpose of committing negligent, careless, reckless, willful, wanton and malicious acts of wrongdoing with impunity by attempting to insulate other HCSG Defendants from potential liability in connection with the ownership and negligent and reckless operation of their business.

41. At all relevant times, CHMS Defendants and CHMS Owners entered into a contract with one or more HCSG Defendants to supply workers to the Brighton facility to assist with housekeeping and laundry services, among other services.

42. At all relevant times, Brian Edward Mejia was placed at the Brighton facility to oversee the management, supervision, training, instruction, work and working conditions of HCSG Defendants' employees/contractors at Brighton.

43. At all relevant times, Ms. Wiles was an employee of one of the HCSG Defendants assigned to work at the Brighton facility.

44. At all relevant times, Ms. Wiles was assigned to work at the Brighton facility in connection with her employment to provide housekeeping and laundry services.

45. In 2014, Ms. Wiles was diagnosed with breast cancer.

46. In 2014, Ms. Wiles underwent radiation treatment followed by a mastectomy procedure. She returned to work in November 2015, as she continued treatment.

47. In early 2020, Ms. Wiles, at a follow-up appointment, was found to be clear of cancer.

48. She had also been diagnosed with and was treating for high blood pressure.

49. At all relevant times, the Defendants knew or should have known about Elizabeth Wiles' health conditions.

JURISDICTION AND VENUE

50. CHMS Defendants and CHMS Owners engaged in business within Allegheny County, Commonwealth of Pennsylvania, on a regular, systematic, substantial and continuous basis. Specifically, at all relevant times, CHMS Defendants and CHMS Owners owned, managed and/or operated a Cheswick Rehabilitation and Wellness Center in Cheswick, Allegheny County, Pennsylvania.

51. HCSG Defendants engaged in business within Allegheny County, Commonwealth of Pennsylvania, on a regular, systematic, substantial and continuous basis, through their contracts with nursing homes within Allegheny County, including Baldwin Health Center, Manor Care-North Hills, Manor Care – Greentree, Norbert Personal Care Facility, Southwestern Nursing Center, Manor Care – Sky Vue Terrace, and Manor Care – Heartland – Pittsburgh.

52. Based upon the foregoing, under Pa. R.C.P. 2179(a)(2), venue is proper in Allegheny County.

THE COVID-19 PANDEMIC

53. In late 2019 and early 2020, a novel coronavirus disease caused by SARS-CoV-2, later named COVID-19 by the World Health Organization (WHO) surfaced in Wuhan, China.

54. The virus quickly spread all over the world.

55. On March 11, 2020 COVID-19 was classified by WHO as a “pandemic” referring to its significant global presence and the extraordinarily high proportion of people at risk of infection.

56. The virus that causes COVID-19 spreads mainly from person to person, primarily through respiratory droplets produced when an infected person coughs, sneezes, or talks. These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs. Spread is more likely when people are in close contact with one another (within about 6 feet). It is also transmitted through surface contact with an infected surface.

57. The virus is especially dangerous because it can be spread by people who are asymptomatic or pre-symptomatic.

58. The virus is more severe and more likely to be fatal if contracted by people with certain risk factors such as advanced age, starting in the 60s, and - regardless of age - those with a host of underlying medical conditions including but not limited to hypertension or high blood pressure.

59. For these reasons, the preferred mechanism to combat the COVID-19 pandemic has been widespread “stay-at-home” orders, particularly for those with risk factors, to prevent being exposed to the novel coronavirus.

60. The spread of COVID-19 across the world was followed closely in the media and in health care industries. The timeline of COVID-19 development is set forth below:

- a. 12/31/2019 – Wuhan Municipal Health Commission, Hubei Province, China, first releases information about a cluster of health cases involving an unknown disease in Wuhan. The disease is identified as a novel coronavirus.
- b. 1/5/2020 – World Health Organization (“WHO”) first publishes news on the virus.
- c. 1/10/2020 – WHO issues a comprehensive package of technical guidance on the virus for health care providers.
- d. 1/11/2020 – First COVID-19 death reported in China.
- e. 1/14/2020 – WHO warns of the likelihood of human-to-human transmission.
- f. 1/20/2020 – United States confirms first COVID-19 cases in Washington State.
- g. 1/31/2020 – WHO declares COVID-19 a “public health emergency of international concern.”
- h. 2/1/2020 - First COVID-19 death outside of China reported in the Philippines.
- i. 2/14/2020 – First COVID-19 death in Europe announced.
- j. 2/23/2020 – Italy begins to see a surge in cases.
- k. 2/26/2020 – Brazil reports first case in South America.
- l. 2/26/2020 – Nursing Home Lifecare Center of Kirkland in Washington reports an outbreak of COVID-19 in its facility. The facility becomes the epicenter of COVID-19 cases in Washington state and a warning of the deadly nature of COVID-19 in nursing home environments.
- m. 2/29/2020- United States reports first death near Seattle, Washington.

- n. 3/3/2020 – White House approves widespread testing.
- o. 3/6/2020 – Pennsylvania Governor Tom Wolf confirms two cases of COVID-19 in Pennsylvania.
- p. 3/9/2020- With over 500 COVID-19 infections in the United States, the Centers for Disease Control and Prevention (CDC) published federal guidelines for workers, included recommendations for physical/social distancing of at least 6 feet, and the use of Personal Protective Equipment (“PPE”) for workers. OSHA released its own workplace safety guidelines, recommending that companies offer surgical masks or respirators to workers who could be infected with COVID-19, especially those that worked in close quarters.
- q. 3/11/2020 –WHO officially designates COVID-19 a pandemic.
- r. 3/13/2020 – The United States declares a National Emergency in response to the COVID-19 pandemic.
- s. 3/18/2020 – First Pennsylvania death reported.
- t. 3/19/2020 – Governor Wolf issues a statewide shutdown order for all non-life sustaining businesses.
- u. 3/28/2020 – Governor Wolf issues a stay-at-home Order for Beaver County.
- v. 3/28/2020 – Pennsylvania Department of Public Health reports 34 deaths statewide among 2,751 confirmed COVID-19 cases.
- w. 6/29/2020 – COVID-19 has infected more than 10 million individuals worldwide. There have been over 129,000 COVID-19 deaths in the United States. More than 6,600 of the fatalities have been in Pennsylvania, including 78 in Beaver County (Pennsylvania Department of Health and Johns Hopkins University)

61. In early 2020, Defendants knew or should have known about COVID-19 and the possibility of a devastating outbreak in the Brighton facility if proper precautions were not taken.

62. In early 2020, Defendants failed to take any preparatory or precautionary measures to prevent COVID-19 from entering and spreading in Brighton.

HISTORY OF THE BRIGHTON FACILITY

FACTS IN SUPPORT OF PUNITIVE DAMAGES

63. The Brighton facility was originally owned and operated by Beaver County under the name “Friendship Ridge.”

64. In March 2014, CHMS Defendants purchased the facility from Beaver County for \$37.5 million dollars, renaming it “Brighton Rehabilitation and Wellness Center.”

65. The facility consists of 589 certified beds and is intended to be a long-term care facility for the elderly and others requiring long-term care.

66. At all relevant times, the Brighton facility housed approximately 750 long and short-term-care residents.

67. After CHMS defendants took over management of the facility, Brighton was repeatedly cited by the Pennsylvania Department of Health.

68. In that time period, the facility was thoroughly underfunded and understaffed. The staff and workers that were present were undertrained.

69. As a result, the management of the facility regularly exposed residents and workers to unsanitary and unsafe conditions known to increase the risk of the spread of infectious disease.

70. Below is a list of Pennsylvania Department of Health citations, with those citations directly related to infection-contamination risk in bold:

- a. **8/1/2014 – Failure to ensure sanitary conditions in the main kitchen area.**
- b. **9/25/2014 - It was noted that the facility had failed to correct the sanitary conditions cited on August 1, 2014.**
- c. **9/25/2014 - Failure to have an Infection Control Program and failing to control the spread of an infection. In this citation, it was noted that Brighton “failed to maintain complete and accurate documentation of infections for the facility and failed to provide a sanitary environment to prevent potential**

cross contamination.” Brighton’s practices spread a *Clostridioides difficile* infection – a condition causing intestinal distress - to six residents

- d. 10/23/2015 - Failure to ensure sanitary conditions in the main kitchen area.**
- e. 2/1/2016 – Failure to “maintain a clean, comfortable and homelike environment” and required a “deep clean” in several areas of the facility.**
- f. 3/8/2016 – Failure to “maintain a clean, comfortable and homelike environment,” including improper storage of clean linen.**
- g. 7/1/2016 – Failure to ensure sanitary conditions in the kitchen. Specifically, the dishwasher was not cleaning at sufficiently high temperatures to ensure proper sanitation.**
- h. 8/3/2016 - Failure to ensure sanitary conditions in the kitchen. The violation included uncovered food during delivery and “fail[ure] to maintain sanitary conditions in the Main Kitchen which created the potential for cross contamination.”**
- i. 2/13/2017 – Failure to maintain sufficient nursing staff for the number of residents.
- j. 3/23/2017 – The Pennsylvania Department of Health cited the facility for residents’ pressure ulcers or sores, calling for more training of the staff to avoid the worsening and/or development of these ulcers.
- k. May 2017 - Several staff formed a picket line in an attempt to improve working conditions at the facility, citing “understaffing”, “compensation” and the need for “training and education” as their concerns.¹ Specifically, in an article with the Emergency Nurse Association, Brighton CNA Denise Harless explained the nurses were calling on the facility “to invest at the bedside on the caregivers and on upgrades that will help residents. We want improved benefits, including training and education and paid time off and fair compensation. Most of all, we want to be treated with respect.”
- l. 7/11/2017 - The Pennsylvania Department of Health cited the facility for residents’ pressure ulcers and broken bones when a resident was dropped. It was also cited for insufficient number of nursing staff. The Department of Health called for training for staff and called for the hiring of additional nurses.
- m. 9/22/2017 - Failure to ensure sanitary conditions for failing to complete forms demonstrating they had the proper amount of nursing staff for the residents.**

¹ <https://cqrcengage.com/ena/app/document/21340631>

- n. 9/22/2017 - Failure to “maintain a clean, comfortable and homelike environment.” Specifically, the facility was found to have dirty, soiled facilities and broken fixtures.
- o. **9/22/2017 – Failure to create and implement an infection control protocol. Specifically, the facility was cited for improper storage of biohazardous material and failing to provide sanitary environments in the community bathroom.**
- p. **11/9/2017 – Failure to ensure sanitary conditions in the kitchen. Specifically, the Department found a number of unsanitary practices in the kitchen and in food service that could cause the spread of disease, including failing to follow proper glove use protocol.**
- q. 4/2/2018 - Brighton was cited by the Pennsylvania Department of Health for an incident involving a resident. The Department called for staff education and training as a corrective measure.
- r. 6/18/2018 – Failure to maintain sufficient nursing staff for the number of residents.
- s. **8/7/2018 - Failure to ensure sanitary conditions in the kitchen. Specifically, the Department found a number of unsanitary practices in the kitchen and in food service that could cause the spread of disease, including failing to follow proper glove use protocol.**
- t. 8/7/2018 – Failure to “maintain a clean, comfortable and homelike environment.” Specifically, the facility was found to have dirty, cluttered facilities and broken fixtures.
- u. 1/28/2019 - Failure to “maintain a clean, comfortable and homelike environment.” As a result of the staff and residents having no heat in the middle of winter, the Pennsylvania Department called “Immediate Jeopardy” – the most severe designation, requiring immediate corrective action.
- v. **2/1/2019 - Failure to control medications and biologicals. Specifically Brighton “failed to secure biologicals,” with many stored near staff belongings and food, creating “the potential for cross contamination.”**
- w. **2/6/2019 – Failure to create and implement an infection control protocol. Specifically, Brighton was cited for leaving a sharps container on the floor, using a venous catheter line that was not sterile, and other practices “not consistent with the practices to be maintained in accordance with the facility Infection Prevention Program.”**

- x. 3/18/2019 - Failure to maintain sufficient nursing staff for the number of residents.
 - y. **9/13/2019 -Failure to ensure sanitary conditions in the kitchen. Specifically, the Department found a number of unsanitary practices in the kitchen and in food service that could cause the spread of disease, including failing to follow glove use protocol.**
 - z. 9/13/2019 - Failure to “maintain a safe, clean, comfortable and homelike environment.” Specifically, the facility was found to have dirty facilities and broken fixtures.
 - aa. **9/13/2019 – Failure to create and implement an infection control protocol. Specifically, Brighton was cited for “failure to transport linens to prevent the potential spread of infection,” and failure to “maintain infection control practices.” Staff was observed carrying soiled linen unbagged against their uniforms. In a medication room, there was no hand soap at the sink dispenser and items were stored on the floor. Staff were not properly equipped with protective items when working with a resident under infection control.**
 - bb. 9/13/2019 – Failure to properly train its workers.
 - cc. 9/13/2019 – Failure to maintain sufficient nursing staff for the number of residents.
 - dd. **10/30/2019 - Failure to create and implement an infection control protocol. Specifically, Brighton failed to provide a sanitary environment to prevent possible cross contamination, store soiled linens to prevent the potential spread of infection and failed to maintain adequate handwashing facilities for staff to prevent the potential for cross contamination.**
 - ee. **12/13/2019 – Failure to “maintain a clean, sanitary and homelike environment.” Specifically, the facility was found to have dirty facilities, with “visibly soiled” facilities.**
71. From March 23, 2017 to July 23, 2018, alone CHMS Defendants received over \$21,000 in sanctions from the Pennsylvania Department of Health, placing it among the most highly fined nursing homes in Pennsylvania in this time period.

72. The sheer number of these sanctions reflected Defendants' systemic failure and outright refusal to protect staff, workers and residents from the uncontrolled spread of infectious disease throughout the facility.

73. In the lead-up to the COVID-19 outbreak, Defendants recklessly and wantonly created and/or permitted to exist facility conditions and work practices that created a perfect environment for an infectious disease to run rampant through facility staff and residents.

74. In the lead-up to the COVID-19 outbreak, Defendants' knew or should have known that their pattern of wanton and reckless conduct and the conditions it created would leave workers at the facility overwhelmed, understaffed and underequipped to adequately deal with the spread of an infectious disease through the facility.

75. In the lead up to the COVID-19 outbreak Defendants' knew or should have known that their pattern of wanton and reckless conduct and the conditions it created would leave workers exposed to a dangerous contagions in the facility.

76. As the COVID-19 pandemic emerged and accelerated, Defendants knew or should have known of the grave threat it posed to the staff and residents of its facility.

77. Defendants knew or should have known their employees would require adequate PPE to protect them from infection.

78. Despite COVID-19's clear threat, particularly in nursing homes and to frontline workers, and its increasing presence in Pennsylvania, Defendants failed to take any protective measures to ensure that workers and residents at the facility were protected and to prevent the devastating virus from entering the facility.

79. Despite COVID-19's clear threat, particularly in nursing homes and to frontline workers, and its increasing presence in Pennsylvania, Defendants downplayed and/or denied the danger posed to its workers at the Brighton facility.

80. Despite Ms. Wiles advising Defendants that her age and underlying health conditions placed her at high risk to COVID-19, Defendants still required her to work.

81. At some point in March 2020, Defendants had their first COVID-19 case at the Brighton facility.

82. The unsanitary conditions, lack of PPE, and absence of infection control practices caused the virus to run rampant through the facility.

83. In March 2020, Defendants knew or should have known that staff, workers and/or residents at Brighton were infected with COVID-19.

84. Despite this knowledge, Defendants kept and withheld information about COVID-19 infections in the facility from staff, workers, residents, residents' families, government officials and the public at large.

85. Defendants did not make the public aware of the Brighton outbreak until April 1, 2020.

86. At the time of the April 1, 2020 announcement, however, Brighton already had three dead residents, thirty-six known infected residents and six known infected facility workers.

87. On the same day, a number of workers of the facility walked out of the facility, citing inadequate personal protective equipment ("PPE"). A number of nurses said that the facility refused to provide them N95 face masks for protection.

88. It was only after pressure from the nurses' union, on April 2, 2020, that CHMS Defendants agreed to provide proper PPE and COVID-19 testing to certain workers at the facility.

89. Even in the middle of the Brighton outbreak, Defendants permitted reckless conduct to continue at the facility, only ensuring the further spread of the virus to staff and residents.

90. Defendants failed to provide the facility staff and workers with sufficient PPE to protect workers from the virus.

91. By mid-April, the facility stopped keeping track of positive cases, presuming everyone at the facility to be infected.

92. On May 2, 2020, Pennsylvania cited Brighton for immediate jeopardy violations and placed a temporary manager to oversee the facility.

93. On May 7, 2020, U.S. Representative Conor Lamb, whose 17th Pennsylvania Congressional district included the Brighton's facility, sent a letter to the Centers for Medicare & Medicaid Services, calling for a federal investigation into Brighton. Representative Lamb cited concerns over "lax oversight" at the facility.

94. On May 8, 2020, with COVID-19 still raging through Brighton, the Pennsylvania National Guard was deployed to the facility, and Commonwealth officials designated an independent full-time manager for the site.

95. For the first time at the facility, workers received training – provided by the National Guard - to assist in curbing the virus.

96. The National Guard completed its mission at the facility on May 18, 2020, only after bringing in nurses from Texas to continue to assist in the fight against COVID-19.

97. Throughout, Brighton workers and residents have continued to test positive for COVID-19.

98. To date, at least 368 residents and 108 staff contracted COVID-19 from the Brighton outbreak. At least 80 died.

99. Elizabeth Wiles died of COVID-19 on May 10, 2020, contracted from her exposure during the Brighton outbreak; it was two days after the National Guard intervention.

100. Since the Brighton outbreak, several government agencies have investigated Brighton to determine the cause.

101. The Pennsylvania Department of Health investigated the rampant spread of COVID-19 at Brighton.

102. In April and May 2020, the Pennsylvania Department of Health found that the same types of serious safety and health violations it documented in the previous six years contributed to the spread of COVID-19 through the facility and to staff/workers. Specifically:

- a. 4/17/2020 – The facility was once against cited for its lack of Infection Prevention and Control measures. The Department of Health found failings in the facility’s handwashing, equipment sterilization and cleaning, glove use, housekeeping, and social distancing. The Department cited specific concerns for which the facility had been cited in the past including: improper storage of clean linen, improper storage of soiled linen, non-operative sinks and soap dispensers, dirty facilities, improper storage of biohazardous waste, soiled facility equipment, and improper glove use.
- b. 5/5/2020- The facility was once against cited for its lack of Infection Prevention and Control measures. Like the facility’s pre-COVID-19 citations, the Department of Health once again found failings in the use of personal protective equipment in an infectious disease environment, cleaning and disinfection of multi-use equipment, problems with hand washing, following glove use protocols, issues with laundry and linen collection and storage.

103. In late May 2020, the United States Department of Health and Human Services Secretary Alex Azar announced the federal government was also investigating Brighton Rehabilitation and Wellness. The results of the investigation are still pending.

104. As a direct result of the carelessness, negligence, recklessness, fraudulent and intentional misrepresentation and/or other liability producing conduct of Defendants, Plaintiff's decedent, Elizabeth Wiles suffered illness and injuries that led to her death.

105. Ms. Wiles sustained conscious pain and suffering, and fear of impending death.

106. Ms. Wiles sustained a permanent loss of earnings and loss of earning capacity.

107. Ms. Wiles sustained permanent loss of enjoyment of life, loss of life's pleasures, and loss of life's hedonic pleasures.

108. Ms. Wiles has been permanently prevented from performing all her usual duties, occupations, recreational activities, and avocations, all to her and her beneficiaries' loss and detriment.

109. Defendants permitted and condoned years of substandard and unsanitary conditions at Brighton, creating the perfect environment for COVID-19 to enter and cause infections among staff, workers and residents.

110. Defendants knew that the conditions at the facility created the risk of widespread inspection, having been repeatedly cited by the Pennsylvania Department of Health.

111. The outrageous conduct described herein warrants the imposition of punitive damages to deter Defendants and other nursing homes and associated companies that operate in Pennsylvania and across the country from placing profits over the safety of their staff, workers, residents, and their families, and the public at large.

COUNT I
Plaintiff, the Estate of Elizabeth Wiles vs. All Defendants

NEGLIGENCE

112. Plaintiff hereby incorporates all preceding paragraphs of this Complaint by reference.

113. At all relevant times, the CHMS Defendants and CHMS Owners owned, operated, maintained and otherwise controlled Brighton, and controlled and supervised the safety for all staff, workers and residents at the facility.

114. Specifically, the CHMS Defendants and CHMS Owners controlled and supervised all safety precautions and procedures at the facility, including those related to COVID-19 protection and prevention.

115. At all relevant times, HCSG Defendants oversaw the work and safety of the housekeeping and laundry workers at the Brighton facility.

116. Specifically, the HCSG Defendants controlled and supervised all safety precautions and procedures for the housekeeping and laundry workers at the Brighton facility, including those related to COVID-19 protection and prevention

117. Controls over the operations and safety decisions at the Brighton were not limited to workers at the facility level. Instead, key decisions were controlled by corporate representatives at the parent corporation level for both CHMS Defendants, CHMS Owners and HCSG Defendants.

118. The specific decisions related to whether to prepare for COVID-19 to prevent an outbreak, whether to limit visitors to the facility, whether or not to provide PPE, whether or not to quarantine and isolate infected residents, whether or not to properly distance workers, whether or not to impose an infection control protocol, and whether or not to take other measures to

prevent the spread of COVID-19 at the Brighton were controlled by the corporate leadership by CHMS Defendants, CHMS Owners and HCSG Defendants.

119. In connection with their control and supervision of the facility, Defendants developed plans, recommendations, guidance, and safety procedures and specifications for performance of work at the facility.

120. The CHMS Defendants and CHMS Owners having overall possession and control of the facility and the work being done there, owed a duty to all those working at the facility, including Elizabeth Wiles, a business invitee, to provide a reasonably safe work environment, free from unreasonable and dangerous hazards.

121. The HCSG Defendants having responsibility for the safety and policies related to the housekeeping and laundry workers at Brighton, owed a duty to those workers, including Elizabeth Wiles to provide appropriate equipment to enable Ms. Wiles to work, free from unreasonable and dangerous hazards.

122. The negligence, carelessness and recklessness of Defendants, their agents, servants, and/or employees, which were the cause of Elizabeth Wiles' death, consisted of, but was not limited to, the following:

- a. Ignoring the risk of COVID-19 infection to workers at Brighton;
- b. Allowed sick and exposed staff and workers to work at the facility;
- c. Failing to provide workers with any equipment to help prevent the spread of COVID-19 at Brighton;
- d. Intentionally ignoring the fact that staff, workers and residents at the Brighton were infected with and/or were displaying symptoms consistent with COVID-19;

- e. Failing to provide appropriate PPE at Brighton prior to April 2, 2020 and thereafter;
- f. Failing to provide workers with any equipment to help prevent the spread of COVID-19 at Brighton;
- g. Failing to close Brighton, despite the fact that Defendants knew, or should have known, that workers and residents at the facility were suffering from COVID-19;
- h. Failing to close the Brighton, despite the fact that Defendants knew, or should have known, that staff, workers and residents at the facility were suffering from symptoms consistent with COVID-19;
- i. Failing to report the Brighton outbreak before April 1, 2020, when the facility already had several deaths and numerous positive cases;
- j. Failing to initiate timely and adequate quarantine of COVID-19 infected staff, workers and residents to protect uninfected staff, workers and other residents;
- k. Failing to call for assistance from Commonwealth, Federal and/or other specialized agencies despite being aware of the magnitude of the Brighton outbreak;
- l. Failing to follow guidance from WHO, CDC and OSHA to require the use of masks and other PPE ;
- m. Continuing to schedule and require the attendance of workers that Defendants knew or should have known were positive for, likely infected by or would likely test positive for COVID-19;

- n. Continuing to schedule and require the attendance of workers that Defendants knew or should have known were at high risk for severe COVID-19 infection/death;
- o. Failing to follow federal guidance from the CDC and OSHA by not mandating and/or enforcing social distancing guidelines at Brighton;
- p. Failing to follow federal guidance from the CDC and OSHA by not mandating that workers who were feeling ill report their symptoms;
- q. Failing to follow federal guidance from the CDC and OSHA by not mandating that workers who were feeling ill stay home from work and self-quarantine;
- r. Failing to require workers to maintain physical/social distance at a minimum 6 feet apart;
- s. Failing to implement policies and procedures that mandated workers keep 6 feet apart;
- t. Failing to provide workers with gloves, masks and/or PPE;
- u. Failing to provide workers with clear guidelines for social distancing;
- v. Failing to provide training on proper techniques for handwashing;
- w. Failing to provide training on proper use of PPE;
- x. Failing to provide training on proper glove use protocol;
- y. Failing to ensure functional and stocked handwash stations as required by Pennsylvania and federal laws and regulations;
- z. Failing to ensure proper and safe storage of soiled linens and other biohazardous waste/biohazards;

- aa. Failing to ensure the facility had adequate staff and workers to ensure that all proper precautions could be taken to avoid the spread of infection;
- bb. Failing to provide adequate support to staff and workers at Brighton to make sure the workers were able to comply with all requirements to stop the spread of COVID-19;
- cc. Enforcing and/or maintaining a formal and/or informal ‘work while sick’ policy at the Brighton;
- dd. Failing to properly sanitize or otherwise disinfect Brighton, despite the fact that workers and residents at the facility were falling ill;
- ee. Failing to ensure that the kitchen facilities were properly sanitizing pots, pans and food service items to prevent the spread of COVID-19.
- ff. Failing to perform temperature checks on workers arriving at Brighton before they were allowed inside the facility;
- gg. Failing to timely close the facility to outside, non-staff/worker visitors to prevent COVID-19 from entering the facility;
- hh. Failing to meaningfully, systematically, and permanently address and correct the years of repeated sanitation violations before the Brighton outbreak despite warnings from the Pennsylvania Department of Health that the violations could spread infection at the facility;
- ii. Failing to train workers to address and correct the years of repeated sanitation violations before the Brighton outbreak, despite warnings from the Pennsylvania Department of Health that the violations could spread infections at the facility;

- jj. Failing to meaningfully, systematically, and permanently address and correct the years of repeated infection control violations the Brighton outbreak, despite warnings from the Pennsylvania Department of Health that the violations could spread infection at the facility;
- kk. Failing to train workers to address and correct the years of repeated infection control violations before the Brighton outbreak, despite warnings from the Pennsylvania Department of Health that the violations could spread infections at the facility;
- ll. Violating federal and state guidelines and requirements related to COVID-19 prevention in the workplace;
- mm. Violating OSHA regulations, including OSHA 1910.132, related to the use of PPE;
- nn. Breaching their duties under various sections of the Restatement (Second) of Torts, including, but not limited to, § 340, *et seq.*; § 341, *et seq.*; and § 500, *et seq.*;
- oo. Failing to provide Elizabeth Wiles with a safe place to work;
- pp. Allowing workers at the facility, including Elizabeth Wiles, to become infected by COVID-19 while working at Brighton;
- qq. Failing to properly train and supervise management, staff and other workers about the danger posed by COVID-19 and the necessary methods to prevent infection;

- rr. Failing to properly train and supervise management, staff and other workers about federal and state guidelines regarding COVID-19 and federal and state guidelines to prevent COVID-19 infection;
- ss. Failing to warn Elizabeth Wiles and other workers at Brighton of the danger posed by COVID-19;
- tt. Failing to adopt, enact, employ, and enforce proper and adequate safety programs, precautions, procedures, measures, and plans;
- uu. Failing to provide workers with safety equipment;
- vv. Actively denying workers N95 masks to protect themselves from the spread of COVID-19;
- ww. Failing to provide workers with adequate safety equipment;
- xx. Failing to properly supervise and inspect the work at Brighton;
- yy. Failing to prevent workers at Brighton from being infected by COVID-19;
- zz. Failing to provide proper training on how to combat an airborne virus;
- aaa. Failing to hire and/or select appropriate individuals for managerial positions;
- bbb. Failing to conduct appropriate safety surveys of the facilities before the virus to address practices that could cause contamination and spread infection;
- ccc. Failing to hire appropriate consultants for how to respond to an airborne virus;
- ddd. Failing to timely obtain appropriate PPE materials to protect workers.
- eee. Failing to properly consider the safety of members of the public that would come into contact with those who worked at the facility; and
- fff. Failure to express due care under the circumstances described herein.

123. Defendants' actions and/or inactions were substantial factors and/or factual causes and/or increased the risk of harm to Plaintiff's decedent.

124. The acts and omissions set forth herein were done in a negligent, willful, reckless, and wanton fashion with a conscious indifference to the rights of members of the public generally, and Plaintiff's decedent in particular.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and/or severally, in an amount in excess of thirty-five thousand dollars in compensatory damages, punitive damages, delay damages pursuant to Pa.R.C.P. 238, interest, and allowable costs of suit, and brings this action to recover the same.

COUNT II
Plaintiff, the Estate of Elizabeth Wiles v. All Defendants
FRAUDULENT MISREPRESENTATION

125. Plaintiff hereby incorporates all preceding paragraphs of this Complaint by reference.

126. The CHMS Defendants and CHMS Owners owed lawful business invitees at Brighton, including Elizabeth Wiles, the highest duty of care.

127. The HCSG Defendants owed all workers assigned to the Brighton facility a duty of care for a safe workplace and to advise and prevent to any hazards that could be encountered.

128. Defendants knew that staff, worker(s) and/or resident(s) at Brighton had become infected with COVID-19, and/or were displaying symptoms consistent with COVID-19, prior to April 1, 2020.

129. Defendants knew, having seen COVID-19 decimate other nursing home facilities in the United States, that staff, workers and residents at the Brighton were especially susceptible

to a systemic COVID-19 outbreak at the facility, and knew that once someone at the facility was infected, the virus was likely to spread to others.

130. In March 2020, Defendants knew or should have known that staff, workers and/or residents at Brighton were infected with COVID-19.

131. Despite this knowledge, Defendants kept and withheld information about COVID-19 infections in the facility from staff, workers, residents, residents' families, government officials and the public at large.

132. Despite this knowledge, Defendants did not warn staff, workers and/or residents that others at Brighton had become infected with COVID-19 and/or were displaying symptoms consistent with COVID-19 prior to April 1, 2020.

133. Despite this knowledge, Defendants directly misrepresented to staff, workers and residents that there was no risk of infection and/or that the workers were unlikely to become infected and/or deliberately withheld their knowledge of workers at Brighton becoming infected with COVID-19.

134. Defendants fraudulently misrepresented the risk of infection to other staff and workers at Brighton to induce those workers to continue their attendance at the facility.

135. Defendants fraudulently misrepresented the risk of severe and fatal infection posed to those with pre-existing conditions and/or other COVID-19 vulnerabilities, to staff and workers at Brighton, like Elizabeth Wiles, to induce those workers to continue their attendance at the facility.

136. Defendants fraudulently misrepresented the risk of infection to other workers at Brighton to induce those workers to attend work and downplay the severity of the Brighton outbreak to state and federal regulatory agencies.

137. Defendants fraudulently misrepresented the risk of infection to other workers at Brighton to induce those workers to continue to attend work, ensure that residents did not leave the facility, and to permit the facility to continue to make money.

138. Defendants willfully and intentionally withheld their knowledge of COVID-19 infections at Brighton.

139. Workers at Brighton, including Elizabeth Wiles, relied on Defendants' misrepresentations and continued to arrive for work each day, completely unaware that other staff, workers and residents at the facility were infected with COVID-19 and/or were displaying symptoms consistent with COVID-19.

140. As a direct and proximate result of Elizabeth Wiles' reliance on Defendants' misrepresentations, Elizabeth Wiles became infected with COVID-19 while working at Brighton, and died from the disease on May 10, 2020.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and/or severally, in an amount in excess of thirty-five thousand dollars in compensatory damages, punitive damages, delay damages pursuant to Pa.R.C.P. 238, interest, and allowable costs of suit, and brings this action to recover the same.

COUNT III

Plaintiff, the Estate of Elizabeth Wiles v. All Defendants
INTENTIONAL MISREPRESENTATION

141. Plaintiff hereby incorporates all preceding paragraphs of this Complaint here by reference.

142. The CHMS Defendants and CHMS Owners owed lawful business invitees at Brighton, including Elizabeth Wiles, the highest duty of care.

143. At all relevant times, the CHMS Defendants and CHMS Owners represented to business invitees, including Elizabeth Wiles, that it was safe for workers to arrive for their shifts at Brighton.

144. The HCSG Defendants owed all workers assigned to the Brighton facility a duty of care for a safe workplace and to advise as to any hazards that could be encountered.

145. At all relevant times, the HCSG Defendants represented to workers, including Elizabeth Wiles, that it was safe for workers to arrive for their shifts at Brighton.

146. At all relevant times, Defendants' representations were material to Elizabeth Wiles' presence at Brighton.

147. Defendants' representation that it was safe for workers to arrive for their shifts at Brighton was false.

148. This misrepresentation was made intentionally and knowingly.

149. Defendants learned they had misrepresented the risk of COVID-19 infections to workers at Brighton, learned that workers at the facility, including Elizabeth Wiles, relied upon Defendants' misrepresentations, and Defendants failed to correct their misrepresentations.

150. At all relevant times, Defendants had actual knowledge of the risk and presence of COVID-19 infections to workers at Brighton, including Elizabeth Wiles.

151. At all relevant times, Defendants had actual knowledge that Brighton was not equipped to deal with the spread of any infection, including COVID-19.

152. At all relevant times, Defendants had actual knowledge that some workers, including Elizabeth Wiles, were at a high risk for severe and potentially fatal COVID-19 infection due to her age (69) and pre-existing, underlying medical conditions including hypertension, such as age and pre-existing health conditions.

153. At all relevant times, Defendants had actual knowledge that staff, worker(s) and/or resident(s) were infected with COVID-19 and/or were experiencing symptoms consistent with COVID-19.

154. Despite their actual knowledge of COVID-19 infections at Brighton and the risk these infections posed to other workers, including Elizabeth Wiles, Defendants kept the facility open to visitors and required staff and worker attendance.

155. Defendants' motivation for intentionally misrepresenting the safety of the facility was to make money and to continue to profit and to deceive state and federal regulatory agencies about the severity of the Brighton outbreak.

156. Defendants intentionally misrepresented and deceived workers into believing that Brighton was safe to ensure that workers continued to show up each day for their shifts and to ensure that Defendants continued to profit and avoid government sanctions.

157. Staff, workers and residents at Brighton, including Elizabeth Wiles, justifiably relied upon Defendants' false representation that the facility was safe at all relevant times and capable of safely handling any COVID-19 cases.

158. Defendants' conduct, as described above, demonstrated a reckless disregard for the safety and health of staff, workers and residents at Brighton.

159. The death and injuries sustained by Plaintiff's decedent was caused by the negligence, carelessness, recklessness, outrageous conduct and intentional misrepresentations of Defendants acting by and through their agents, servants, workers and/or employees, both generally and in the following respects:

- a. Intentionally withholding information about the presence of COVID-19 infection from staff, workers, residents, residents' families, government officials and the public at large until April 1, 2020;
- b. Permitting sick and exposed staff and workers to continue to work despite being aware of their COVID-19 infection and exposure;
- c. Falsely assuring staff and workers that it was safe to continue coming to work at Brighton;
- d. Failing to close Brighton to visitors despite the known dangers caused by COVID-19 infections;
- e. Failing to warn staff and workers at Brighton of the dangers posed by COVID-19 infections at the facility;
- f. Failing to warn staff and workers at Brighton of the dangers posed by staff, residents and workers displaying symptoms of COVID-19 infections at the facility;
- g. Failing to warn staff and workers at Brighton of the dangers of severe and fatal COVID-19 infection in susceptible populations, like Elizabeth Wiles;
- h. Exposing staff, workers and residents at Brighton to unacceptable risks of harm;
- i. Violating applicable OSHA regulations, including the General Duty Cause;
- j. Failing to provide special precautions which would have protected workers from the particular and unreasonable risks of harm which Defendants fully recognized;
- k. Failing to train and supervise workers at Brighton properly;
- l. Failing to adequately warn workers at Brighton of the peculiar and/or unsafe conditions and/or special dangers existing at the facility;

- m. Violating and failing to comply with Federal and State statutes, local ordinances, and all other rules or regulations applicable or in effect, and specifically WHO, OSHA and CDC guidance regarding COVID-19 protection and prevention for workplaces and workers; and
- n. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;

160. Defendants' conduct, as described above, demonstrated a wanton disregard for the safety and health of staff and workers at Brighton.

161. By reason of the intentional misrepresentations of Defendants, as set forth above, Plaintiff's decedent suffered an agonizing and horrific death, alone.

162. By conducting itself as set forth above, Defendants' intentional misrepresentations were a substantial factor, a factual cause of and/or increased the risk of harm to Plaintiff's decedent.

163. Defendants' intentional misrepresentations qualify as an exception to the Fair Share Act, 42 Pa.C.S. § 7102, and therefore all Defendants are jointly and severally liable for the death of Elizabeth Wiles and all injuries related to her death.

WHEREFORE, Plaintiff demands that judgment be entered in favor of the wrongful death beneficiaries and against Defendants, jointly and severally, in an amount in excess of thirty-five thousand dollars in compensatory damages, punitive damages, interest, and allowable costs of suit and brings this action to recover the same.

COUNT IV
Plaintiff, the Estate of Elizabeth Wiles v. All Defendants
WRONGFUL DEATH

164. Plaintiff hereby incorporates all preceding paragraphs of this Complaint by reference.

165. Elizabeth Wiles is survived by her adult children Vanessa Sherod, Angelo Domena, Michael Sherod and Lolita Denson.

166. By reason of the death of Elizabeth Wiles, her beneficiaries have in the past and will in the future continue to suffer great pecuniary loss, including, but not limited to, loss of support, loss of aid, loss of services, loss of companionship, loss of consortium and comfort, loss of counseling, and loss of guidance.

167. As a direct and proximate result of the foregoing, decedent, Elizabeth Wiles wrongful death beneficiaries incurred or have been caused to incur and pay various expenses for medical treatment, hospital care and medicine rendered to decedent until the time of her death and to incur various funeral, burial, and estate and administration expenses for which Plaintiff is entitled to compensation.

168. Plaintiff, individually and as Administrator of the Estate of Elizabeth Wiles brings this action by virtue of the Wrongful Death Act, 42 Pa.C.S.A. § 8301, and Pa.R.C.P. 2202, and claims all benefits and recoverable damages under the Wrongful Death Act on behalf of all other persons entitled to recover under law.

169. Plaintiff brings this action by virtue of, *inter alia*, 42 Pa.C.S. § 8301 and claim all damages encompassed thereby, including any and all damages members of the Estate are entitled to under Rettger v. UPMC Shadyside, 991 A.2d 915 (Pa. Super. 2010).

WHEREFORE, Plaintiff demands that judgment be entered in favor of the wrongful death beneficiaries and against Defendants, jointly and severally, in an amount in excess of the

thirty-five thousand dollars in compensatory damages, punitive damages, interest, and allowable costs of suit and brings this action to recover the same.

COUNT V
Plaintiff, the Estate of Elizabeth Wiles v. All Defendants
SURVIVAL ACT

170. Plaintiff incorporates all preceding paragraphs of this Complaint here by reference.

171. Plaintiff claims on behalf of the Estate of Elizabeth Wiles all damages suffered by the Estate by reason of the death of Elizabeth Wiles, including, without limiting the generality of the following: the severe injuries and symptoms suffered by Elizabeth Wiles, which resulted in her death; the anxiety, horror, fear of impending death, mental disturbance, pain, suffering and other intangible losses which Elizabeth Wiles suffered prior to her death; the loss of future earning capacity suffered by Elizabeth Wiles from the date of her death until the time in the future that she would have lived had she not died as a result of the injuries she sustained by reason of Defendants' conduct.

172. Plaintiff brings this action on behalf of the Estate of Elizabeth Wiles, by virtue of the Survival Act, 42 Pa.C.S.A. § 8302, and claims all benefits of the Survival Act on behalf of Elizabeth Wiles' Estate, and other persons entitled to recover under law.

WHEREFORE, Plaintiff demands that judgment be entered in favor of the wrongful death beneficiaries and against Defendants, jointly and severally, in an amount in excess of the thirty-five thousand dollars compensatory damages, punitive damages, interest, and allowable costs of suit and brings this action to recover the same.

Respectfully submitted,

SALTZ MONGELUZZI & BENDESKY, P.C.

BY: /s/ Robert J. Mongeluzzi

ROBERT J. MONGELUZZI

DAVID L. KWASS

ELIZABETH A. BAILEY

Attorneys for Plaintiff, Vanessa Sherod, as Administrator
of the Estate of Elizabeth Wiles and in her own right

Date: July 1, 2020

VERIFICATION

I, Vanessa Sherod, as Administrator of the Estate of Estate of Elizabeth Wiles, hereby verify that the facts set forth in the within Complaint are true and correct to the best of my knowledge, information and belief. This Verification is made subject to the penalties of the 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

06/29/20
DATED: _____

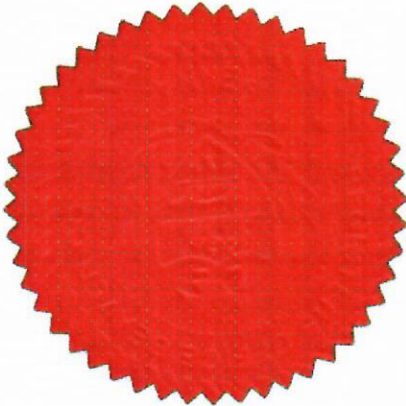
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VANESSA SHEROD

EXHIBIT A

**COMMONWEALTH OF PENNSYLVANIA - SHORT CERTIFICATE
COUNTY OF BEAVER**



I, TRACEY ANTOLINE-PATTON
Register for the Probate of Wills in and for
BEAVER County, do hereby certify that on
the 29th day of June, Two Thousand and Twenty,
Letters of *ADMINISTRATION*
in common form were granted by the Register
of said County, on the
estate of WILES ELIZABETH ANN, late of *ROCHESTER BOROUGH*
(Last, First, Middle)
in said county, deceased, to SHEROD VANESSA
(Last, First, Middle)
and that same has not since been revoked.

IN TESTIMONY WHEREOF, I have here unto set my hand and affixed the seal of
said office at BEAVER, PENNSYLVANIA, this 29th day of June
Two Thousand and Twenty.

File No. 04 - 20 - 00546
Date of Death 5/10/2020
S.S. # 192-42-6888

Tracey Antoline-Patton

Register Of Wills

TRACEY ANTOLINE-PATTON
Register of Wills & Clerk of Orphans' Court
My Commission Expires First Monday January, 2024