

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY FLORIDA CIVIL DIVISION**

RONI MURRAY, as Personal Representative
of the Estate of Bernice Tannenbaum, Deceased,

Plaintiff,

Case No.:

v.

THE ENCORE AT BOCA RATON
REHABILITATION AND NURSING
CENTER, LLC,

Defendant.

_____ /

COMPLAINT

Plaintiff, RONI MURRAY, as Personal Representative of the Estate of Bernice Tannenbaum, Deceased files this action against Defendant, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, and alleges as follows:

GENERAL ALLEGATIONS

1. This is an action for damages in excess of Fifty Thousand Dollars (\$50,000.00).
2. Plaintiff, RONI MURRAY, as Personal Representative of the Estate of Bernice Tannenbaum, Deceased, letters of administration are attached hereto as Exhibit "A."
3. Defendant, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, is a Florida Limited Liability Company.
4. Defendant, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, is a skilled nursing home facility located at 7300 S. Del Prado Circle, Boca Raton, Palm Beach County, Florida and is a licensee pursuant to Chapter 400, Florida Statutes.

5. At all times material hereto, BERNICE TANNENBAUM was a person over (60) years of age who suffered from the infirmities of aging to the extent that she was impaired in her ability to adequately provide for her own care and protection, and as such, Plaintiff is one of that class of persons which the Florida Legislature sought to protect from abuse, neglect and exploitation, by enactment of Chapter 415 of the Florida Statutes.

6. Defendant owed a duty to Plaintiff to protect her from abuse and neglect, as those terms are defined in Section 415.102 Florida Statutes.

7. Defendant's actions and omissions as described herein resulted in the non-accidental infliction of physical or psychological injury to the Plaintiff, so as to constitute abuse, neglect and exploitation of the elderly as defined in Chapter 415, Florida Statutes.

8. Alternatively, Defendant's actions and omissions as herein described could reasonably be expected to result in physical or psychological injury to Plaintiff, so as to constitute abuse, neglect and exploitation of the elderly as defined in Chapter 415, Florida Statutes.

9. On December 20, 2023, BERNICE TANNENBAUM was admitted to THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, located at 7300 S. Del Prado Circle, Boca Raton, Palm Beach County, Florida where she remained in primary residence until her discharge on February 10, 2024.

10. While a resident of THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, suffered from abuse and neglect, as defined in § 415.102 Florida Statutes, which include, the development and worsening of pressure sores, poor hygiene, falls, infections, dehydration, malnutrition, unassessed and inappropriately treated physical problems, an unsafe environment, delays in the provision of ordered medical treatment and care,

and inconsistent and inappropriate documentation, as well as the other injuries enumerated herein which caused death.

11. Plaintiff has performed all conditions precedent to commencement of this action, including completion of a pre-suit investigation to corroborate the validity of Plaintiff's claims, and the provision of appropriate advance notice to Defendant of Plaintiff's intent to initiate this action.

12. By the undersigned signature of the attorney filing this action, Plaintiff's counsel certifies that counsel has made a reasonable investigation which gives rise to a good faith belief that there has been negligence or violation of nursing home facility resident rights in the care or treatment of Plaintiff and that grounds exist for an action against the named Defendant.

13. Plaintiff has retained the undersigned counsel and agreed to pay a reasonable fee for their services.

14. Venue is appropriate in Palm Beach County as the allegations contained herein against the Defendant occurred and arose in Palm Beach County.

Count I
Deprivation or Infringement of Residents'
Rights Claim Pursuant to 400.022, Florida Statutes
(Survival Claim 46.021, Florida Statutes)
(causing death)

15. Plaintiff re-alleges Paragraphs 1 through 14 above.

16. Defendant had a statutorily mandated responsibility to provide BERNICE TANNENBAUM her nursing home residents' rights as set forth in §400.022, Florida Statutes.

17. Defendant's responsibilities to BERNICE TANNENBAUM as outlined in §400.022 are non-delegable.

18. Notwithstanding the responsibility of the Defendant to provide BERNICE TANNENBAUM her statutorily mandated nursing home residents' rights, BERNICE TANNENBAUM was deprived of such rights by the acts or omissions of the Defendant which include, but are not limited to, the following:

- a. failing to provide BERNICE TANNENBAUM with the ability to live in a safe and decent living environment, free from abuse and neglect;
- b. failing to provide BERNICE TANNENBAUM with the right to be treated with consideration and respect and with due recognition of personal dignity, individuality, and the need for privacy;
- c. Freedom to participate in and benefit from community services and activities and to achieve the highest possible level of independence, autonomy, and interaction within the community.
- d. Access to adequate and appropriate health care consistent with established and recognized standards within the community.

19. As a direct and proximate cause of the deprivation or violation(s) of rights, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, aggravation of a previously existing condition and ultimately, death.

WHEREFORE, Plaintiff, RONI MURRAY, as Personal Representative of the Estate of Bernice Tannenbaum, Deceased, demands judgment against the Defendant, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC for damages, interest and costs for the deprivation of failing to provide BERNICE TANNENBAUM's rights as stated above and further demands a trial by jury.

Count II
Deprivation or Infringement of Residents'
Rights Claim Pursuant to 400.022, Florida Statutes
(Wrongful Death Claim 768.21)
(causing death)

20. Plaintiff re-alleges Paragraphs 1 through 14 above.

21. Defendant had a statutorily mandated responsibility to provide BERNICE TANNENBAUM her nursing home residents' rights as set forth in §400.022, Florida Statutes.

22. Defendants' responsibilities to BERNICE TANNENBAUM as outlined in §400.022 are non-delegable.

23. Notwithstanding the responsibility of the Defendant to provide BERNICE TANNENBAUM her statutorily mandated nursing home residents' rights, BERNICE TANNENBAUM was deprived of such rights by the acts or omissions of the Defendant which include, but are not limited to, the following:

- a. failing to provide BERNICE TANNENBAUM with the ability to live in a safe and decent living environment, free from abuse and neglect;
- b. failing to provide BERNICE TANNENBAUM with the right to be treated with consideration and respect and with due recognition of personal dignity, individuality, and the need for privacy;
- c. Freedom to participate in and benefit from community services and activities and to achieve the highest possible level of independence, autonomy, and interaction within the community.
- d. Access to adequate and appropriate health care consistent with established and recognized standards within the community.

24. Plaintiff died as a direct and proximate cause of the aforementioned violations and deprivations of rights and seeks recovery of all allowable damages set forth in 768.21, Florida Statutes.

WHEREFORE, Plaintiff, RONI MURRAY, as Personal Representative of the Estate of Bernice Tannenbaum, Deceased, demands judgment for damages against Defendant, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC and costs and further demands a trial by jury.

**Count III-Deprivation or Infringement of Residents'
Rights Claim Pursuant to 400.022, Florida Statutes
(non-death claim for damages)**

25. Plaintiff re-alleges Paragraphs 1 through 14 above.

26. Defendant had a statutorily mandated responsibility to provide BERNICE TANNENBAUM her assisted living facility residents' rights as set forth in §400.022, Florida Statutes.

27. Defendant's responsibilities to BERNICE TANNENBAUM as outlined in §400.022 are non-delegable.

28. Notwithstanding the responsibility of the Defendant to provide BERNICE TANNENBAUM her statutorily mandated nursing home residents' rights, BERNICE TANNENBAUM was deprived of such rights by the acts or omissions of the Defendant which include the following:

- a. failing to provide BERNICE TANNENBAUM with the ability to live in a safe and decent living environment, free from abuse and neglect;

b. failing to provide BERNICE TANNENBAUM with the right to be treated with consideration and respect and with due recognition of personal dignity, individuality, and the need for privacy;

c. Freedom to participate in and benefit from community services and activities and to achieve the highest possible level of independence, autonomy, and interaction within the community.

d. Access to adequate and appropriate health care consistent with established and recognized standards within the community.

29. Plaintiff suffered injuries as a direct and proximate cause of the aforementioned violations or breach and seeks recovery of all allowable damages.

WHEREFORE, Plaintiff, RONI MURRAY, as Personal Representative of the Estate of Bernice Tannenbaum, Deceased demands judgment for damages against Defendant, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC and costs and further demands a trial by jury.

Count IV-Violation of 415.1111, Florida Statutes

30. Plaintiff re-alleges Paragraphs 1 through 14 above.

31. Defendant had a duty to keep BERNICE TANNENBAUM free from abuse and neglect as those terms are defined in Chapter 415, Florida Statutes.

32. Defendant breached said duties, including but not limited to the following; by repeatedly failing to follow physician orders relating to necessary testing, which had been physician ordered, and as a result, BERNICE TANNENBAUM suffered a significant delay in receiving medical treatment for an illness that ultimately caused a decline in her health and ultimately, her death.

33. The abuses and neglect of the Defendant was the legal and proximate cause of the Plaintiff's injuries and death.

WHEREFORE, Plaintiff, RONI MURRAY, as Personal Representative of the Estate of Bernice Tannenbaum, Deceased, demands judgment for damages, costs and prejudgment interest against Defendant, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC and demands a trial by jury on all issues so triable.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the Defendants with service of process.

/s/ R. Evan Bassett

R. Evan Bassett, Esq.

Florida Bar No: 136115

R. Evan Bassett, LLC

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Attorney for Plaintiff

REB/gr

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY,
FLORIDA

IN RE: ESTATE OF PROBATE DIVISION

File No. 502024CP001882XXXASB
BERNICE TANNENBAUM

Division IZ

Deceased.

LETTERS OF ADMINISTRATION
(single personal representative)

TO ALL WHOM IT MAY CONCERN

WHEREAS, BERNICE TANNENBAUM, a resident of Delray Beach, Florida, died on February 26, 2024, owning assets in the State of Florida, and

WHEREAS, RONI MURRAY has been appointed personal representative of the estate of the decedent and has performed all acts prerequisite to issuance of Letters of Administration in the estate,

NOW, THEREFORE, I, the undersigned circuit judge, declare RONI MURRAY duly qualified under the laws of the State of Florida to act as personal representative of the estate of BERNICE TANNENBAUM, deceased, with full power to administer the estate according to law; to ask, demand, sue for, recover and receive the property of the decedent; to pay the debts of the decedent as far as the assets of the estate will permit and the law directs; and to make distribution of the estate according to law.

DONE AND ORDERED in Chambers, Palm Beach County, Florida.

**This estate shall be closed within 12
months of this order, pursuant to Florida
Probate Rule 5.400.**

502024CP001882XXXASB 04/22/2024
Charles E. Burton Circuit Judge

502024CP001882XXXASB 04/22/2024
Charles E. Burton
Circuit Judge

Bar Form No. P-3.0700
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January 1, 2024

FILED: PALM BEACH COUNTY, FL, JOSEPH ABRUZZO, CLERK, 04/22/2024 11:54:25 AM

Exhibit "A"

