

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

CASE NO:

MARK ZICHLIN, AS EXECUTOR DE SON TORT,
FOR THE ESTATE OF MICHELLE ZICHLIN,

Plaintiff,

vs.

LOURDES-NOREEN MCKEEN RESIDENCE
FOR GERIATRIC CARE, INC.,

Defendant.

COMPLAINT

Plaintiff, MARK ZICHLIN, as EXECUTOR DE SON TORT for the ESTATE OF MICHELLE ZICHLIN (hereinafter "Plaintiff"), by and through the undersigned counsel, hereby sues Defendant, LOURDES-NOREEN MCKEEN RESIDENCE FOR GERIATRIC CARE, INC. (hereinafter "Defendant" or "LOURDES-NOREEN MCKEEN RESIDENCE.") and alleges as follows:

BACKGROUND & JURISDICTIONAL ALLEGATIONS

1. This is an action for damages in excess of the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00), exclusive of costs, interest and attorney's fees. (The estimated value of Plaintiff's claim is in excess of the minimum jurisdictional threshold required by this Court). Accordingly, Plaintiff has entered "\$50,001" in the civil cover sheet for the "estimated amount of the claim" as required in the preamble to the civil cover sheet for jurisdictional purposes only (the Florida Supreme Court has ordered that the estimated "amount of claim" be set forth in the

civil cover sheet for data collection and clerical purposes only). The actual value of Plaintiff's claim will be determined by a fair and just jury in accordance with Article 1, Section 21, Fla. Const.

2. This is an action brought for the benefit of Decedent, MICHELLE ZICHLIN's, statutory survivors and the Estate pursuant to the Florida Wrongful Death Act, including but not limited to her spouse, MARK ZICHLIN, and her daughter, ASHLEY ZICHLIN.

3. Plaintiff, MARK ZICHLIN, is the surviving spouse of MICHELLE ZICHLIN, deceased, and is in the process of opening the Estate of MICHELLE ZICHLIN in the appropriate probate court.

4. Plaintiff, MARK ZICHLIN, anticipates being appointed as the Personal Representative of the Estate and brings this action to preserve the claims arising from Decedent's death, subject to amendment and/or substitution upon issuance of Letters of Administration.

5. More specifically, prior to Decedent's death, MARK ZICHLIN, held authority to act as Decedent's attorney-in-fact pursuant to a valid Power of Attorney. Plaintiff does not allege that such authority survived Decedent's death but alleges that MARK ZICHLIN is the person presently undertaking the opening of Decedent's Estate and anticipates appointment as Personal Representative.

6. At all times material hereto, Defendant, LOURDES-NOREEN MCKEEN RESIDENCE FOR GERIATRIC CARE, INC., was and is operating a nursing home facility in Orlando, Orange County, Florida known as LOURDES-NOREEN MCKEEN RESIDENCE, located at 315 S Flagler Drive, West Palm Beach, Palm Beach County, FL 33401.

7. At all times material hereto, Defendant, LOURDES-NOREEN MCKEEN RESIDENCE FOR GERIATRIC CARE, INC., a Florida not-for-profit corporation, was and is

authorized and licensed to operate and is doing business as LOURDES-NOREEN MCKEEN RESIDENCE, a skilled nursing home facility, and is subject to the provisions of 42 C.F.R. Part 483, Chapter 400, *Fla. Stat.*, and Chapter 59 A-4, *Fla. Adm. Code*.

8. At all times material hereto, Defendant, LOURDES-NOREEN MCKEEN RESIDENCE FOR GERIATRIC CARE, INC., was authorized to manage, authorized to operate and was managing and operating a skilled nursing home facility, in Palm Beach County, Florida and was subject to the provisions of Chapter 400, *Fla. Stat.*

9. All incidents giving rise to this cause of action occurred in Palm Beach County, Florida.

10. In or around July 27, 2024, MICHELLE ZICHLIN was admitted to LOURDES-NOREEN MCKEEN RESIDENCE for the purpose of receiving skilled nursing care.

11. MICHELLE ZICHLIN remained a resident until approximately April 21, 2025.

12. During her residency, MICHELLE ZICHLIN developed and/or suffered the worsening of a stage IV sacral/coccyx/buttocks pressure wound with infection and/or the development of osteomyelitis.

13. Also, during her residency, MICHELLE ZICHLIN sustained injuries from a fall that occurred while she was being transferred with a HOYER lift.

14. MICHELLE ZICHLIN expired on or about November 28, 2025.

CHAPTER 400 NEGLIGENCE CLAIM AGAINST DEFENDANT

15. Plaintiff realleges and reiterates Paragraphs 1 through 13 above as if set fully herein.

16. PLAINTIFF has performed all statutory conditions precedent to bringing this action including compliance with Chapter 400 *Fla. Stat.* (2009), and completion of pre-suit

investigation to corroborate the validity of PLAINTIFF's claims, the mailing of a "Notice of Intent to Initiate Litigation" by certified mail and observance of the seventy-five (75) day investigatory period after mailing the Notice of Intent before filing suit.

17. DEFENDANT has waived all statutory conditions precedent to bringing this action.

18. At all times material hereto, Defendant, LOURDES-NOREEN MCKEEN RESIDENCE FOR GERIATRIC CARE, INC., had a statutory duty to provide PLAINTIFF with her nursing home resident's rights pursuant to the provisions of Chapter 400 *Fla. Stat.* (2009).

19. DEFENDANT's duties as outlined in §400.022, *Fla. Stat.* (2009) were non-delegable duties.

20. DEFENDANT breached its duty to PLAINTIFF by and through the acts and omissions of its agents, servants, and employees, both managerial and non-managerial, while acting in the course and scope of their employment and/or while acting in the scope of their agency relationship, in one or more of the following ways:

a) Failing to provide PLAINTIFF with the care, supervision and services necessary to prevent her from developing a preventable pressure wound and/or suffering the worsening of pressure wounds and/or ulcers to her sacral/buttock/coccyx area and the development of an infection and/or osteomyelitis;

b) Failing to provide PLAINTIFF with the appropriate treatment to prevent the worsening of pressure wounds and/or ulcers to her sacral/buttock/coccyx area;

c) Failing to provide adequate and appropriate healthcare;

d) Failing to provide adequate and appropriate health care and protective services, support services; therapeutic services, and rehabilitative services consistent with her care plan and accepted practice standards; and

e) Failing to provide a safe environment in which to live free from mental and physical abuse.

21. As a direct and proximate result of DEFENDANT's acts and omissions described above, MICHELLE ZICHLIN suffered from DEFENDANT's negligence, resulting in pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expenses of hospitalization and medical care, aggravation of pre-existing conditions.

WHEREFORE, the Plaintiff, MARK ZICHLIN, as the EXECUTOR DE SON TORT for the ESTATE OF MICHELLE ZICHLIN, demands judgment against Defendant, LOURDES-NOREEN MCKEEN RESIDENCE FOR GERIATRIC CARE, INC., for damages in excess of Fifty Thousand Dollars (\$50,000.00), together with interest and costs, and demands a trial by jury on all issues so triable as a right.

COUNT II

WRONGFUL DEATH CLAIM AGAINST DEFENDANT

22. Plaintiff re-alleges and incorporates by reference Paragraphs 1 – 21 above and further states as follows:

23. As a direct and proximate result of the negligent acts and omissions of the management and employees of said Defendant as outlined above, MICHELLE ZICHLIN died on November 28, 2025.

24. MICHELLE ZICHLIN is survived by her spouse, MARK ZICHLIN, and their daughter, ASHLEY ZICHLIN.

24. As a direct and proximate result of the death of MICHELLE ZICHLIN, her spouse, MARK ZICHLIN, has and will continue to suffer the loss of the decedent's companionship and protection and for mental pain and suffering.

25. As a direct and proximate result of the death of MICHELLE ZICHLIN, her daughter, ASHLEY ZICHLIN, has and continues to suffer lost parental companionship, instruction, guidance, and mental pain and suffering.

26. As a direct and proximate result of the death of MICHELLE ZICHLIN, her Estate and/or survivors have incurred medical and funeral expenses.

WHEREFORE, the Plaintiff, THE ESTATE OF MICHELLE ZICHLIN, by and through MARK ZICHLIN, Attorney-In-Fact, hereby demands judgment for damages against Defendant, LOURDES-NOREEN MCKEEN RESIDENCE FOR GERIATRIC CARE, INC., and other such relief deemed proper by the Court. Plaintiff also demands a jury trial on all issues so triable

RESPECTFULLY SUBMITTED, this 14th day of July, 2026.

For the Court,

By: /s/ Kimberly Potter Richardson, Esq.

Kimberly Potter Richardson, Esq.

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