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IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

JEWEL MOSLEY, Personal)	Case No.
Rewrepresentative for the Estate of)	
Daphane L. Mosley,)	COMPLAINT
)	(Wrongful Death, Negligence,
Plaintiff,)	Negligence Per Se, Abuse of Vulnerable
)	Person, Breach of Contract)
v.)	
)	Damages in the amount of \$750,000
ZAHRA KAMALI RAHMANI; ZR)	ORS 21.160(1)(c)
PACIFIC CARE HOME, INC, a Domestic)	
Business Corporation; CITY OF)	Jury Trial Demanded
PORTLAND; MULTNOMAH COUNTY;)	NOT Arbitration Eligible
STATE OF OREGON)	
_____)	

COMPLAINT

Plaintiff, through counsel, alleges the following, at all times material:

1.

Jewel Mosley is the daughter and duly appointed personal representative for the estate of her mother, Daphne L. Mosley, by the Multnomah County Circuit Court, Probate Department.

2.

Daphne Mosley died in Multnomah County on or about May 10, 2014, and the acts, negligence, or failures to act, which caused or contributed to her death occurred or had their impact in Multnomah County, Oregon.

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Bartley E. Herron
Attorney at Law
5285 Meadows Road, Suite 204
Lake Oswego, Oregon 97035
Telephone: 503-699-6496
Facsimile: 503-352-5195
Bart.Herron@portlandinjuryfirm.com

3.

1 Defendant Zahra Kamali Rahmani, owned and operated a residential care facility located
2 at or near to 9015 SW. 19th Ave., Portland, Oregon, in Multnomah County.
3

4.

4 Defendant ZR Pacific Care Home, Inc. ("ZR Pacific Care Home") is an Oregon domestic
5 business corporation through which Zahra Kamali Rahmani, owned and operated a residential
6 care facility in Multnomah County, and which conducts regular and sustained business activity in
7 Multnomah County, Oregon.
8

5.

9 Defendant City of Portland was provided notice of this claim on or about November,
10 2014 and by naming the City of Portland, plaintiffs intend to include all of the Portland's
11 subdivisions, departments, and entities, as appropriately relevant to this action.
12

6.

13 Defendant Multnomah County was provided notice of this claim on or about November,
14 2014 and by naming Multnomah County, plaintiffs intend to include all of Multnomah County's
15 subdivisions, departments, and entities, as appropriately relevant to this action.
16

7.

17 Defendant state of Oregon was provided notice of this claim on or about November, 2014
18 and by naming Oregon, plaintiffs intend to include all of Oregon's subdivisions, departments,
19 and entities, as appropriately relevant to this action.
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Attorney at Law
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Lake Oswego, Oregon 97035
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8.

1
2 Upon information and belief the 911 emergency system was called by a resident of ZR
3 Pacific Care Home on May 10, 2014 to report the Daphne Mosley was laying on the floor of her
4 room at ZR Pacific Care Home and not moving or responding to efforts to wake her.

5
6 9.

7 Upon information and belief the 911 emergency operator requested information from the
8 caller to determine if Daphne Mosley was breathing and if her body was warm or cold.

9
10 10.

11 Upon information and belief the 911 emergency operator relied on statements by a
12 resident of ZR Pacific Care Home that the residents had been a healthcare provider and was able
13 to determine whether or not Daphne Mosley was deceased.

14
15 11.

16 Upon information and belief the 911 emergency operator dispatched the police to the
17 residential care facility, as the first responder, instead of dispatching emergency medical
18 personnel to assist Daphne Mosley.

19
20 12.

21 Upon information and belief Daphne Mosley died over the course of numerous hours and
22 may have still been alive when the 911 emergency operator send the police rather than an
23 ambulance to save Daphne Mosley's life.
24

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Bartley E. Herron
Attorney at Law
5285 Meadows Road, Suite 204
Lake Oswego, Oregon 97035
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13.

1
2 Upon information and belief the State of Oregon placed Daphne Mosley in the residential
3 care facility without determining whether or not the facility have the ability, equipment or staff
4 to meet Daphne Mosley's specific healthcare needs; which included that Ms. Mosley was HIV-
5 positive and had heart related health problems.

14.

6
7 Upon information and belief ZR Pacific Care Home did not have any special equipment
8 to provide Daphne Mosley with emergency resuscitation for her heart.

15.

9
10 Upon information and belief ZR Pacific Care Home did not have any special equipment
11 to protect a person from being exposed to HIV, if the person wanted to provide CPR to Daphne
12 Mosley, while she was laying unconscious and dying.

16.

13
14
15 Upon information and belief staff and/or residents of the home care facility were aware of
16 the Daphne Mosley was lying on the floor of a room, motionless, for numerous hours and failed
17 to check on her or otherwise determine that she did not require emergency medical care.

17.

18
19 Upon information and belief Daphne Mosley died over the course of numerous hours
20 while lying on the floor of her bedroom and the residential care facility, without being provided
21 adequate medical care.

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Attorney at Law
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Telephone: 503-699-6496
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18.

1 According to the coroner's report is certified in the death certificate, Daphne Mosley died
2 of congestive heart failure on or about May 10, 2014.
3

19.

4 Upon information and belief Multnomah County participated in the placement of Daphne
5 Mosley in ZR Pacific Care Home and/or was responsible for licensing, supervision, or
6 authorization to allow ZR Pacific Care Home to operate as a residential care facility, in the
7 manner it operated.
8

20.

9 Upon information and belief, as a direct result of defendants above conduct and
10 violations of their duties, Daphne Mosley was left to die over numerous hours.
11

21.

12 Due to defendants' negligence, acts, and failures to act, plaintiff was caused and has
13 incurred the following damages:
14

- 15
- 16 a. Lost nurturing of decedents beneficiaries in the amount of \$250,000;
 - 17 b. Daphne Mosley suffered pain, isolation, anxiety, and fear as she lay dying without
18 help or assistance, and her death has cost her children the loss of their mother and
19 her society, companionship, consortium. Plaintiff requests compensation for
20 noneconomic losses which a jury decides is fair, but not to exceed the sum of
21 \$500,000.
22

22.

23 Plaintiff is entitled to recover prejudgment interest pursuant to ORS 82.010(1)(A).
24

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Attorney at Law
5285 Meadows Road, Suite 204
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23.

Plaintiff reserves the right to amend this Complaint as required by ORS 31.725.

FIRST CLAIM FOR RELIEF – NEGLIGENCE/WRONGFUL DEATH

24.

Plaintiff re-allege paragraphs 1-23 above as though fully set forth herein.

25.

Upon information and belief Daphne Mosley's death was caused by the negligence of defendants in one or more of the following particulars:

1. In failing to provide adequate staff to monitor and care for Daphne Mosley;
2. In failing to provide adequate emergency equipment to appropriately respond to Daphne Mosley's medical needs;
3. In failing to take Daphne Mosley to the hospital;
4. In maintaining or allowing the maintenance of a policy at the ZR Pacific Care Home requiring staff or residents to obtain the permission of Zahra Kamali Rahmani before calling the 911 emergency system;
5. In failing to timely call 911 emergency system for emergency medical assistance;
6. In failing to timely dispatch emergency medical personnel to assist Daphne Mosley;
7. In relying on information provided by a resident known to be in need of assisted-living in making a determination concerning the emergency medical needs of Daphne Mosley;

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Attorney at Law
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- 1 8. In placing or allowing placement of Daphne Mosley in a residential care facility
2 which could not reasonably meet her needs for care;
- 3 9. In placing, allowing placement, or failing to supervise placement of Daphne
4 10. Mosley in a residential care facility which did not have emergency equipment for
5 CPR of HIV-positive persons or for emergency heart resuscitation;
- 6 11. In failing to supervise the appropriate placement or continued stay of Daphne
7 Mosley in a residential care facility which was appropriate to meet her needs;
- 8 12. In failing to place Daphne Mosley in a care facility with a system to allow her to
9 call for emergency medical help if needed;
- 10 13. In failing to provide a system for Daphne Mosley to call for emergency medical
11 help;

12 **SECOND CLAIM FOR RELIEF – NEGLIGENCE PER SE/WRONGFUL DEATH**

13 26.

14 Plaintiff re-allege paragraphs 1-25 above as though fully set forth herein.

15 27.

16 Upon information and belief the negligence described violated the statutes designed to
17 protect vulnerable persons, including but not limited to ORS 124.100 to 124.140.

18 **THIRD CLAIM FOR RELIEF - ABUSE OF VULNERABLE PERSON**

19 28.

20 Plaintiff re-allege paragraphs 1-27 above as though fully set forth herein.

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22 Bartley E. Herron
23 Attorney at Law
24 5285 Meadows Road, Suite 204
Lake Oswego, Oregon 97035
Telephone: 503-699-6496
Facsimile: 503-352-5195
Bart.Herron@portlandinjuryfirm.com

29.

Upon information and belief Daphne Mosley was a vulnerable person as defined by ORS 124.100 to 124.140 and subject to the protections of those statutes.

30.

Upon information and belief, in violation of a legal duty to provide care, or having assumed permanent or temporary care, custody or responsibility for the supervision of Daphne Mosley, defendants failed to provide her with adequate physical care or medical needs.

31.

Pursuant to ORS 124.100 to 124.140 is entitled to three times actual damages and attorney fees incurred herein.

FOURTH CLAIM FOR RELIEF - BREACH OF CONTRACT

32.

Plaintiff re-allege paragraphs 1-30 above as though fully set forth herein.

33.

Upon information and belief Daphne Mosley was a party or the beneficiary of a contract for her care.

34.

Upon information and belief Defendants breached their duties to Daphne Mosley under said contracts.

DEMAND FOR JURY TRIAL

35.

Plaintiff hereby demands a jury trial on all issues.

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Attorney at Law
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PRAYER FOR RELIEF

35.

WHEREFORE, plaintiffs pray for judgment against defendants as follows:

- a) Economic damages in the amount to be determined by the jury to fairly compensate plaintiff in accordance with Oregon law, in the amount of 250,000.
- b) Non-economic damages in the amount to be determined by the jury to fairly compensate plaintiff in accordance with Oregon law, in the amount of \$500,000;
- c) Plaintiffs' reasonable attorney fees;
- d) Plaintiffs' costs and disbursements incurred herein; and
- e) Other relief as the Court deems just and equitable.

HERRON LAW, LLC



Bartley E. Herron, OSB No. 982515
Attorney for Plaintiffs
Bart.Herron@portlandinjuryfirm.com

Bartley E. Herron, OSB No. 982515
Trial Attorney for Plaintiffs
Bart.Herron@portlandinjuryfirm.com

9

Bartley E. Herron
Attorney at Law
5285 Meadows Road, Suite 204
Lake Oswego, Oregon 97035
Telephone: 503-699-6496
Facsimile: 503-352-5195
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