

IN THE IOWA DISTRICT COURT FOR JASPER COUNTY

**MARCY ANN KINGERY, as
Administrator of the ESTATE OF
DEANNA KAY MAHONEY,**

Plaintiffs,

vs.

**NEWTON HEALTH CARE CENTER,
LLC, a Foreign Limited Liability
Company f/d/b/a NEWTON HEALTH
CARE CENTER, OPCO NEWTON,
IA, LLC, d/b/a NEWTON HEALTH
CARE CENTER, a Foreign Limited
Liability Company, and MANAGERCO
PRAIRIE ROSE, LLC, a Foreign
Limited Liability Company,**

Defendants.

LAW NO. _____

PETITION AT LAW AND JURY DEMAND

COMES NOW, the Plaintiff and for her Petition states as follows:

PARTIES

1. At all times material hereto Plaintiff's decedent Deanna Kay Mahoney (hereafter Deanna) was a resident of Jasper County, Iowa.
2. At all times material hereto Defendant Newton Health Care Center, LLC, was a foreign limited liability company authorized to conduct business in the State of Iowa.
3. Based upon information and belief, Defendant Newton Health Care Center, LLC, (hereinafter "NHCC, LLC") did business as Newton Health Care Center (hereinafter "NHCC") until its limited liability company was dissolved in its state of organization on October 20, 2022.

4. Based upon information and belief, Defendant NHCC, LLC owned and operated NHCC as a skilled nursing and long-term care facility in Jasper County, Iowa.
5. At all times material hereto, Defendant OpCo Newton, IA, LLC, (Newton OpCo) was a foreign limited liability company authorized to conduct business in the State of Iowa.
6. At all times material hereto, Newton OpCo owned and operated NHCC as a skilled nursing and long-term care facility located in Jasper County, Iowa.
7. At all times material hereto, Defendant ManagerCo Prairie Rose, LLC (ManagerCo), was a Delaware Limited Liability Company authorized to conduct business in the State of Iowa.
8. At all times material hereto, Defendant ManagerCo owned and operated NHCC as a skilled nursing and long-term care facility located in Jasper County, Iowa.
9. At all times material hereto, and based upon information and belief, Defendants Newton OpCo and ManagerCo held NHCC out to the public as a skilled nursing and long-term care facility located at 200 South 8th Avenue E., Newton, Jasper County, Iowa 50208.
10. At all times material hereto, and based upon information and belief, Defendants Newton OpCo and ManagerCo operated in joint management, joint venture, or otherwise in concert, or in another manner making them jointly liable for the acts and omissions that occurred at NHCC.

FACTUAL ALLEGATIONS

11. Plaintiff re-pleads paragraphs 1-10 as if fully set forth herein.

12. At all times material hereto. Defendants held themselves out as experts in providing skilled nursing and long-term care to residents such as Deanna Mahaoney.
13. On **June 9, 2021**, Deanna was admitted to NHCC for skilled nursing services following transfer from Select Specialty Hospital.
14. On **December 13, 2021**, Deanna was transported from NHCC to MercyOne Newton Medical Center with vomiting, fever 100.4 degrees and bloody stools. The ER received no report from NHCC. Her integumentary examination was normal, and she exhibited no signs or symptoms of skin breakdown. The ER workup further found that she had copious amounts of bloody stools, mild hypoxic respiratory failure, septic shock.
15. On **January 21, 2022**, Deanna was transported by EMS from NHCC to MercyOne Newton Medical Center because she had tested positive for COVID, and her oxygen saturation rate had dropped to 70s. The integumentary examination was normal and she had exhibited no signs of skin breakdown. With respect to the management of Deanna's respiratory status in the presence of her having end-stage renal failure and requiring dialysis that day, the ED physician, Dr. Naik stated:

“I went ahead and called DaVita, **as I have little faith in this nursing home to do this for her**. Kelly is already arranging for her to have dialysis for tomorrow. Transportation will need to be arranged by Newton Health Care. I tried 2 times to call Newton health care to give report and update. They are not answering the phone. She will go back by ambulance.”

16. On **February 2, 2022, at 01:48 a.m.** at NHCC evaluation by Emily Nye, RN notes
“There are no open areas/skin issues at this time on assessment.”

17. On **February 2, 2022, at 10:58 a.m.** at NHCC evaluation by Heather Dawson, RN notes: “Resident has open areas to coccyx. Dr. notified and received OK for wound nurse consult.”
18. On **February 23, 2022**, at NHCC Deanna was noted with a “wound on her coccyx that is 9.5cm x 8.5cm x 2.1 cm. Wound is odorous and Resident has a pain rating of 8/10.”
19. On **February 25, 2022**, Deanna was evaluated by the wound doctor who ultimately ordered Deanna be transported to the ER for “possible admit for pain control until resident could have procedure done hopefully Monday.”
20. On **February 25, 2022**, Deanna presented to MercyOne Newton Medical Center (hereafter MercyOne Newton) emergency department. MercyOne Newton ER physician noted “Patient comes for evaluation of chronic, but worsening decubitus ulcer... She states her ulcer hurts 9/10. She says that the nursing home does very little with any attention to it.” After physical examination, ER physician documents “Sacral stage IV pressure ulcer w necrotic tissue and some drainage, very foul odor, tender, approx. 10cm wide, 8 cm deep...”
21. On **February 25, 2022**, while in the emergency department at MercyOne Newton, CT findings showed “deep ulceration of the midline sacral region with exposed bone. There is subtle erosive change of the posterior cortex of the coccyx suggestive of focal osteomyelitis. Soft tissue edema is seen at the site of the sacral decubitus ulceration as well as emphysema which is not unexpected. Inflammatory change is present within the presacral region anterior to the coccyx but there is no evidence of abscess.”

22. On **February 25, 2022**, Deanna was transported to MercyOne Des Moines Medical Center via ambulance.
23. On **March 7, 2022**, based upon information contained in the medical record, Deanna was re-admitted to NHCC and was noted to be on antibiotics due to an active infection and pressure ulcer to coccyx and multiple bruises.
24. On **April 18, 2022**, while a resident at NHCC, Amber Banwell, RN, documented a “[N]ew area of concern identified to right buttocks, separate from known and treated wound bed, noted. Measured at 1.6 x 1.8 cm. Tissue color black. Noted during dressing change. Area measured.”
25. On **April 18, 2022**, Deanna was transferred to MercyOne Newton Emergency Department. While at MercyOne Newton, staff evaluated her and found a large decubitus ulcer on Deanna’s buttocks and a decubitus ulcer on the left heel that is black.
26. On **April 18, 2022**, while at MercyOne Newton Emergency Department, the emergency room doctor noted that “[T]he wound is contaminated with feces. The wound is very deep to the sacrum. Muscle and bone can be seen. Wound is 5 cm deep and 16 cm in diameter.”

27. In the overnight hours of **April 18, 2022**, Deanna was transferred to Iowa Lutheran Hospital (arriving April 19, 2022) in Des Moines for a higher level of care. During their evaluation Iowa Lutheran staff memorialized their observations in the photographs below:





28. The staff at Iowa Lutheran further found Deanna to be dehydrated, hypotensive and septic.
29. On **April 19, 2022**, Deanna was admitted to Iowa Lutheran Critical Care Unit.
30. On **April 30, 2022**, Deanna was transitioned to Hospice.
31. On **May 6, 2022**, Deanna died at Iowa Lutheran.
32. On **May 19, 2022**, the Iowa Department of Public Health filed Deanna's death certificate which provides that Deanna's immediate cause of death was sepsis due to or as a consequence of sacral osteomyelitis.
33. Defendants were negligent in the following particulars:
 - a. In failing to follow Deanna's care plan;
 - b. In failing to ensure proper medical attention;

- c. In failing to provide proper nursing care;
 - d. In failing to prevent pressure ulcers;
 - e. In failing to provide complete, accurate and reliable charting;
 - f. In failing to communicate with family members regarding important health matters;
 - g. In failing to provide adequate and appropriate staffing
34. Defendants' conduct was a violation of the following federal and state laws:
- a. 42 CFR § 483.24
 - b. 42 CFR § 483.25
 - c. IAC—481—58.19
 - d. IAC—481—58.20
35. Defendants' negligence was a cause of Deanna's death.
36. Defendants' negligence was additionally the cause of the following damages:
- a. Pre-death pain and suffering;
 - b. Pre-death loss of full mind and body;
 - c. Loss of consortium to spouse Dale Mahoney; and
 - d. Loss of consortium to adult children Marcy Kingery and Randy Shadley.
37. Defendants' conduct was willful and wanton and in disregard of Deanna's rights as a resident of a skilled-nursing and long-term care facility.
38. Plaintiff is entitled to actual damages.
39. Plaintiff is entitled to punitive damages.
40. The Plaintiff demands a jury trial.

WHEREFORE, Plaintiff prays for judgment in an amount which will reasonably compensate the Estate, punitive damages as provided by law, all with interest and for costs.

SLATER LAW, LLC

/s/ Thomas P. Slater

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