

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA
CIVIL DIVISION

THE ESTATE OF ANN L. BARRETT, by
and through LINDA L. TAIT, Personal
Representative

Plaintiff

v.

CASE NO: 20-CA-006906

CSH TAMPA LESSEE, LLC; CSH TRS
HOLDING III, LLC; MADISON SERVICES
GROUP, LLC; ARBOR CP, LLC; CSH
TAMPA, LLC; CATHY MOORE; JOHN J.
SCHAUM; TERESA ANN COVELLI (as to
ARBOR TERRACE AT CITRUS PARK)

Defendants

/

COMPLAINT

Plaintiff, THE ESTATE OF ANN L. BARRETT, by and through LINDA L. TAIT, Personal Representative, and by and through undersigned counsel, hereby sues Defendants, CSH TAMPA LESSEE, LLC; CSH TRS HOLDING III, LLC; MADISON SERVICES GROUP, LLC; ARBOR CP, LLC; CSH TAMPA, LLC; CATHY MOORE; JOHN J. SCHAUM; TERESA ANN COVELLI; and alleges:

JURISDICTION, PARTIES AND VENUE ALLEGATIONS

1. This is an action for damages in excess of Thirty Thousand Dollars (\$30,000.00).
2. On July 1, 2015, ANN L. BARRETT was admitted to ARBOR TERRACE AT CITRUS PARK located at 13810 Sheldon Road, Tampa, FL 33626, in Hillsborough County, where she remained in primary residence until September 13, 2020.
3. Plaintiff, LINDA L. TAIT, is the Personal Representative of THE ESTATE OF ANN L. BARRETT. Letters of Administration, dated April 20, 2021, evidencing LINDA L.

TAIT's authority to bring this action on behalf of THE ESTATE OF ANN L. BARRETT are attached hereto as Exhibit "A".

4. ARBOR TERRACE AT CITRUS PARK is a fictitious name owned by Defendant, CSH TAMPA LESSEE, LLC.

5. Defendant, CSH TAMPA LESSEE, LLC, is a Delaware Limited Liability Company, with its principal place of business at 1275 Pennsylvania Avenue, NW, Second Floor, Washington, DC, 20004, which is doing business in Florida.

6. CSH TAMPA LESSEE, LLC conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed itself of the privileges of the State of Florida, through its ownership of, leasing of, operation of, management of, and/or consultation with assisted living facilities, including ARBOR TERRACE AT CITRUS PARK, within the State of Florida. Accordingly, pursuant to Florida Statute §48.193, CSH TAMPA LESSEE, LLC is subject to the jurisdiction of the courts of the State of Florida.

7. CSH TAMPA LESSEE, LLC committed tortious acts against ANN L. BARRETT in the State of Florida. Each tortious act is specifically alleged in the subsequent counts, which include violations of Florida Statute §429 and common law. Accordingly, pursuant to Florida Statute §48.193(1)(b), CSH TAMPA LESSEE, LLC is subject to the jurisdiction of the Courts of the State of Florida.

8. CSH TAMPA LESSEE, LLC is the licensee that operated the assisted living facility during ANN L. BARRETT' residency and as such owed a duty to ANN L. BARRETT to exercise reasonable care in its operation according to §429.29(3) and §429.26 Florida Statutes.

9. As an owner, CSH TAMPA LESSEE, LLC maintained the duty and responsibility to ensure that ANN L. BARRETT was appropriate for admission and continued residency.

10. Defendant, CSH TRS HOLDING III, LLC, is a Delaware Limited Liability Company, with its principal place of business at 1275 Pennsylvania Avenue, NW, Second Floor, Washington, DC, 20004, which is doing business in Florida.

11. CSH TRS HOLDING III, LLC is the one-hundred percent owner and member of CSH TAMPA LESSEE, LLC.

12. CSH TRS HOLDING III, LLC conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed itself of the privileges of the State of Florida, through its ownership of, leasing of, operation of, management of, and/or consultation with assisted living facilities, including ARBOR TERRACE AT CITRUS PARK, within the State of Florida. Accordingly, pursuant to Florida Statute §48.193, CSH TRS HOLDING III, LLC is subject to the jurisdiction of the courts of the State of Florida.

13. CSH TRS HOLDING III, LLC committed tortious acts against ANN L. BARRETT in the State of Florida. Each tortious act is specifically alleged in the subsequent counts, which include violations of Florida Statute §429 and common law. Accordingly, pursuant to Florida Statute §48.193(1)(b), CSH TRS HOLDING III, LLC is subject to the jurisdiction of the Courts of the State of Florida.

14. CSH TRS HOLDING III, LLC is an entity that owned, operated, managed and oversaw ARBOR TERRACE AT CITRUS PARK, and as such, owed a duty to ANN L. BARRETT to exercise reasonable care according to §429.29(3), Florida Statutes.

15. As an owner, CSH TRS HOLDING III, LLC maintained the duty and responsibility to ensure that ANN L. BARRETT was appropriate for admission and continued residency.

16. Defendant, MADISON SERVICES GROUP, LLC is a Georgia Limited Liability Company, with its principal place of business at 3715 Northside Parkway NW, Suite 110, Atlanta, GA 30327, which is doing business in Florida.

17. MADISON SERVICES GROUP, LLC managed ARBOR TERRACE AT CITRUS PARK during ANN L. BARRETT's residency.

18. MADISON SERVICES GROUP, LLC conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed itself of the privileges of the State of Florida, through its ownership of, leasing of, operation of, management of, and/or consultation with assisted living facilities, including ARBOR TERRACE AT CITRUS PARK, within the State of Florida. Accordingly, pursuant to Florida Statute §48.193, MADISON SERVICES GROUP, LLC is subject to the jurisdiction of the courts of the State of Florida.

19. MADISON SERVICES GROUP, LLC committed tortious acts against ANN L. BARRETT in the State of Florida. Each tortious act is specifically alleged in the subsequent counts, which include violations of Florida Statute §429 and common law. Accordingly, pursuant to Florida Statute §48.193(1)(b), MADISON SERVICES GROUP, LLC is subject to the jurisdiction of the Courts of the State of Florida.

20. MADISON SERVICES GROUP, LLC is an entity that owned, operated, managed and oversaw ARBOR TERRACE AT CITRUS PARK, and as such, owed a duty to ANN L. BARRETT to exercise reasonable care according to §429.29(3), Florida Statutes.

21. Defendant, ARBOR CP, LLC, is a Georgia Limited Liability Company, with its principal place of business at 3715 Northside Parkway NW, Suite 110, Atlanta, GA 30327, which is doing business in Florida.

22. ARBOR CP, LLC managed ARBOR TERRACE AT CITRUS PARK during ANN L. BARRETT's dates of residency.

23. ARBOR CP, LLC conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed itself of the privileges of the State of Florida, through its ownership of, leasing of, operation of, management of, and/or consultation with assisted living facilities, including ARBOR TERRACE AT CITRUS PARK, within the State of Florida. Accordingly, pursuant to Florida Statute §48.193, ARBOR CP, LLC is subject to the jurisdiction of the courts of the State of Florida.

24. ARBOR CP, LLC committed tortious acts against ANN L. BARRETT in the State of Florida. Each tortious act is specifically alleged in the subsequent counts, which include violations of Florida Statute §429 and common law. Accordingly, pursuant to Florida Statute §48.193(1)(b), ARBOR CP, LLC is subject to the jurisdiction of the Courts of the State of Florida.

25. ARBOR CP, LLC is an entity that owned, operated, managed and oversaw ARBOR TERRACE AT CITRUS PARK, and as such, owed a duty to ANN L. BARRETT to exercise reasonable care according to §429.29(3), Florida Statutes.

26. Defendant, CSH TAMPA, LLC is a Delaware Limited Liability Company, with its principal place of business at 1275 Pennsylvania Avenue, NE, Second Floor, Washington, DC, 20004, which is doing business in Florida.

27. CSH TAMPA, LLC managed ARBOR TERRACE AT CITRUS PARK during ANN L. BARRETT's dates of residency.

28. CSH TAMPA, LLC conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed itself of the privileges of the State of Florida, through its ownership of, leasing of, operation of, management of, and/or consultation with assisted living facilities, including ARBOR TERRACE AT CITRUS PARK, within the State of Florida. Accordingly, pursuant to Florida Statute §48.193, CSH TAMPA, LLC is subject to the jurisdiction of the courts of the State of Florida.

29. CSH TAMPA, LLC committed tortious acts against ANN L. BARRETT in the State of Florida. Each tortious act is specifically alleged in the subsequent counts, which include violations of Florida Statute §429 and common law. Accordingly, pursuant to Florida Statute §48.193(1)(b), CSH TAMPA, LLC is subject to the jurisdiction of the Courts of the State of Florida.

30. CSH TAMPA, LLC is an entity that owned, operated, managed and oversaw ARBOR TERRACE AT CITRUS PARK, and as such, owed a duty to ANN L. BARRETT to exercise reasonable care according to §429.29(3), Florida Statutes.

31. Defendant, CATHY MOORE, was at all material times hereto a resident of the State of Florida and the Administrator at ARBOR TERRACE AT CITRUS PARK.

32. Defendant, CATHY MOORE, was an administrator at the assisted living facility during ANN L. BARRETT's residency and as such owed a duty to ANN L. BARRETT to exercise reasonable care according to §429.29(3) and §429.26, Florida Statutes.

33. Every facility shall be under the supervision of an administrator who is responsible for the operation and maintenance of the facility including the management of all staff and the

provision of adequate care to all residents as required by Florida Statute §429 and Florida Administrative Code 58A.

34. Pursuant to Chapter §429.255(1)(b) & Florida Administrative Code 58A, all staff in facilities licensed under this part shall exercise their professional responsibility to observe residents, to document observations on the appropriate resident's record, and to report the observations to the resident's physician. However, the owner or administrator of the facility shall be responsible for determining that the resident receiving services is appropriate for residency in the facility and has the further responsibility for monitoring the continuing appropriateness of placement of a resident in the facility.

35. CATHY MOORE conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed herself of the privileges of the State of Florida, through her ownership of, leasing of, operation of, and/or consultation with assisted living facilities, including ARBOR TERRACE AT CITRUS PARK, within the State of Florida. Accordingly, pursuant to Florida Statute §48.193, CATHY MOORE is subject to the jurisdiction of the courts of the State of Florida.

36. CATHY MOORE committed tortious acts against ANN L. BARRETT in the State of Florida. Each tortious act is specifically alleged in the subsequent counts, which include violations of Chapter 429 and common law. Accordingly, pursuant to Florida Statute §48.193(1)(b), CATHY MOORE is subject to the jurisdiction of the courts of the State of Florida.

37. CATHY MOORE is an individual that operated, managed and oversaw ARBOR TERRACE AT CITRUS PARK, and as such, owed a duty to ANN L. BARRETT to exercise reasonable care according to §429.29(3), Florida Statutes.

38. Pursuant to Florida Statute 429.29(1), the owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility and for determining the continued appropriateness of residence of an individual in the facility.

39. Defendant, JOHN J. SCHAUM, was at all material times hereto a resident of the State of Florida and the Administrator at ARBOR TERRACE AT CITRUS PARK.

40. Defendant, JOHN J. SCHAUM, was an administrator at the assisted living facility during ANN L. BARRETT's residency and as such owed a duty to ANN L. BARRETT to exercise reasonable care according to §429.29(3) and §429.26, Florida Statutes.

41. Every facility shall be under the supervision of an administrator who is responsible for the operation and maintenance of the facility including the management of all staff and the provision of adequate care to all residents as required by Florida Statute §429 and Florida Administrative Code 58A.

42. Pursuant to Chapter §429.255(1)(b) & Florida Administrative Code 58A, all staff in facilities licensed under this part shall exercise their professional responsibility to observe residents, to document observations on the appropriate resident's record, and to report the observations to the resident's physician. However, the owner or administrator of the facility shall be responsible for determining that the resident receiving services is appropriate for residency in the facility and has the further responsibility for monitoring the continuing appropriateness of placement of a resident in the facility.

43. JOHN J. SCHAUM conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed herself of the privileges of the State of Florida, through her ownership of, leasing of, operation of, and/or consultation with assisted living facilities, including ARBOR TERRACE

AT CITRUS PARK, within the State of Florida. Accordingly, pursuant to Florida Statute §48.193, JOHN J. SCHAUM is subject to the jurisdiction of the courts of the State of Florida.

44. JOHN J. SCHAUM committed tortious acts against ANN L. BARRETT in the State of Florida. Each tortious act is specifically alleged in the subsequent counts, which include violations of Chapter 429 and common law. Accordingly, pursuant to Florida Statute §48.193(1)(b), JOHN J. SCHAUM is subject to the jurisdiction of the courts of the State of Florida.

45. JOHN J. SCHAUM is an individual that operated, managed and oversaw ARBOR TERRACE AT CITRUS PARK, and as such, owed a duty to ANN L. BARRETT to exercise reasonable care according to §429.29(3), Florida Statutes.

46. Pursuant to Florida Statute 429.29(1), the owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility and for determining the continued appropriateness of residence of an individual in the facility.

47. Defendant, TERESA ANN COVELLI, was at all material times hereto a resident of the State of Florida and the Administrator at ARBOR TERRACE AT CITRUS PARK.

48. Defendant, TERESA ANN COVELLI, was an administrator at the assisted living facility during ANN L. BARRETT's residency and as such owed a duty to ANN L. BARRETT to exercise reasonable care according to §429.29(3) and §429.26, Florida Statutes.

49. Every facility shall be under the supervision of an administrator who is responsible for the operation and maintenance of the facility including the management of all staff and the provision of adequate care to all residents as required by Florida Statute §429 and Florida Administrative Code 58A.

50. Pursuant to Chapter §429.255(1)(b) & Florida Administrative Code 58A, all staff in facilities licensed under this part shall exercise their professional responsibility to observe

residents, to document observations on the appropriate resident's record, and to report the observations to the resident's physician. However, the owner or administrator of the facility shall be responsible for determining that the resident receiving services is appropriate for residency in the facility and has the further responsibility for monitoring the continuing appropriateness of placement of a resident in the facility.

51. TERESA ANN COVELLI conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed herself of the privileges of the State of Florida, through her ownership of, leasing of, operation of, and/or consultation with assisted living facilities, including ARBOR TERRACE AT CITRUS PARK, within the State of Florida. Accordingly, pursuant to Florida Statute §48.193, TERESA ANN COVELLI is subject to the jurisdiction of the courts of the State of Florida.

52. TERESA ANN COVELLI committed tortious acts against ANN L. BARRETT in the State of Florida. Each tortious act is specifically alleged in the subsequent counts, which include violations of Chapter 429 and common law. Accordingly, pursuant to Florida Statute §48.193(1)(b), TERESA ANN COVELLI is subject to the jurisdiction of the courts of the State of Florida.

53. TERESA ANN COVELLI is an individual that operated, managed and oversaw ARBOR TERRACE AT CITRUS PARK, and as such, owed a duty to ANN L. BARRETT to exercise reasonable care according to §429.29(3), Florida Statutes.

54. Pursuant to Florida Statute 429.29(1), the owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility and for determining the continued appropriateness of residence of an individual in the facility.

CORPORATE FACTS

55. At all relevant times mentioned herein, Defendants owned, operated, managed, controlled and/or provided services for ARBOR TERRACE AT CITRUS PARK, either directly or through a joint enterprise, partnership or the agency of each other and/or other diverse subalterns, alter egos, subsidiaries, governing bodies, agents, servants or employees.

56. Acuity is a term used both in the nursing home industry and assisted living facilities to reflect how sick and what level of care any particular resident requires. For example, a resident who has multiple decubitus ulcers requires a higher level of care and is therefore a higher acuity nursing home resident.

57. Occupancy or Census are terms used at assisted living facilities and refer to the number of residents in the facility at a given time.

58. Defendants required marketing for and solicitation to maximize occupancy and census levels without regard for whether the residents are appropriate for residency.

59. Defendants also directed and caused their organization to increase the overall acuity level of the resident in the assisted living facility without providing the increased staffing necessary to meet the needs of the higher acuity assisted living facility residents.

60. Each Defendant encouraged, condoned and engaged in understaffing with reckless disregard for the health and safety of the residents and with reckless disregard for the residents' bill of rights they are required by law to protect.

61. Each Defendant knew that the assisted living facility did not meet the needs of the residents and that the assisted living facility was not providing access to adequate and appropriate healthcare to the residents.

62. Each Defendant knew or should have known that the residents in the assisted living facility were not receiving access to adequate and appropriate healthcare and were at increased risk of being injured.

63. Each Defendants' conduct was motivated primarily by unreasonable financial gain. Each Defendant knew that the assisted living facility residents were within the zone of risk created by their conduct.

64. Each Defendant also knew that the money paid by and on behalf of the assisted living facility resident was intended for the sole purpose of providing for the care and maintenance of the assisted living facility residents.

65. Each Defendant also knew that there was no excess money paid by the residents that was not necessary to provide for their care and services.

66. Each Defendant knew that diverting funds from expenditure on the residents for their care and maintenance would likely cause injury to the residents.

67. Funds were diverted to the Defendants and their partners at the Defendants' direction in the form of fund transfers, mortgage payments, rent, management fees and therapy services billed at a rate above that which is reasonable or customary in the community.

68. Defendants' conduct ultimately caused or contributed to ANN L. BARRETT's physical, emotional and monetary injuries and damages.

69. Defendants are directly or vicariously liable for any acts and omissions by any person or entity, directly or indirectly controlled, including any governing body, officer, employee, ostensible or apparent agent, partner, consultant or independent contractor, whether in-house or outside individuals, entities, agencies or pools.

70. Plaintiff has performed all conditions precedent to commencement of this action.

Count I
Non-Lethal Negligence Damages Against
CSH TAMPA LESSEE, LLC; CSH TRS HOLDING III, LLC; MADISON SERVICES
GROUP, LLC; ARBOR CP, LLC; CATHY MOORE; JOHN J. SCHAUM;
TERESA ANN COVELLI

71. Plaintiff re-alleges Paragraphs 1 through 70 above.

72. The acts and omissions of Defendants, as set forth herein, constitute violations of the residents' bill of rights of ANN L. BARRETT, including the right to live in a safe environment free from abuse and neglect, the right to be treated with respect and with due recognition of personal dignity, and the right to access to adequate and appropriate health care, pursuant to Florida Statute §429.28.

73. Defendants owed a duty to ANN L. BARRETT to properly hire, retain, and supervise employees on Defendants' staff and to ensure that any such licensed nurses, medical technicians, certified nurses aides or resident care aides exercised care consistent with the prevailing professional standard of care.

74. Notwithstanding the responsibility of the Defendants to provide ANN L. BARRETT with reasonable care and accesses to adequate care, Defendants failed to act reasonably in the care of ANN L. BARRETT by failing to ensure or monitor the appropriateness of placement in this facility; failing to provide ANN L. BARRETT a safe environment; failing to protect ANN L. BARRETT from unexplained bruising; failing to monitor significant signs and symptoms of infection of ANN L. BARRETT; failing to provide adequate and appropriate hygiene to ANN L. BARRETT; failing to provide adequate and appropriate skin care and assessments to ANN L. BARRETT; failing to prevent the development of decubitus ulcers on ANN L. BARRETT; failing to maintain appropriate records and properly documents injuries for ANN L. BARRETT; failing to monitor and adequately respond to changes in physical signs and symptoms of ANN L.

BARRETT; failing to adequately respond to changes in ANN L. BARRETT's malnutrition and dehydration status; failing to provide adequate and appropriate narcotic drug evaluation and administration for ANN L. BARRETT; failing to appropriately monitor ANN L. BARRETT's medication administration; failing to properly supervise staff; failing to properly train staff; failing to provide adequate and appropriate supervision to ensure ANN L. BARRETT's safety; and, failing to provide ANN L. BARRETT with access to adequate and appropriate health care consistent with established and recognized standards within the community.

75. Additionally, Defendants endangered residents, including ANN L. BARRETT, by failing to use reasonable care in accepting and keeping residents in order to obtain maximum census levels, which allows for increased revenues. The Defendants further endangered residents by failing to adjust staffing levels to meet the needs of the residents, including ANN L. BARRETT, which significantly contributed to the following failures: failure to provide ANN L. BARRETT a safe environment; failure to protect ANN L. BARRETT from unexplained bruising; failure to monitor significant signs and symptoms of infection of ANN L. BARRETT; failure to provide adequate and appropriate hygiene to ANN L. BARRETT; failure to provide adequate and appropriate skin care and assessments to ANN L. BARRETT; failure to prevent the development of decubitus ulcers on ANN L. BARRETT; failure to maintain appropriate records and properly document injuries for ANN L. BARRETT; failure to monitor and adequately respond to changes in physical signs and symptoms of ANN L. BARRETT; failure to adequately respond to changes in ANN L. BARRETT's malnutrition and dehydration status; failure to provide adequate and appropriate narcotic drug evaluation and administration for ANN L. BARRETT; failure to appropriately monitor ANN L. BARRETT's medication administration; failure to properly supervise staff; failure to properly train staff; failure to provide adequate and appropriate

supervision to ensure ANN L. BARRETT's safety; and, failure to provide ANN L. BARRETT with access to adequate and appropriate health care consistent with established and recognized standards within the community.

76. Defendants each knew or should have known that the above-described failures occurred or were likely to occur thus exposing ANN L. BARRETT to injury.

77. Defendants' breach of the duties owed to Plaintiff as set forth herein was the legal cause of the loss, injury, and damages suffered by ANN L. BARRETT, which included numerous arterial ulcers, rashes, bruising, deep tissue injury, development and deterioration of a pressure ulcer to her hip, multiple urinary tract infections and COVID-19.

78. As a direct and proximate result of Defendants' negligent acts and omissions, ANN L. BARRETT 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, and aggravation of a previously existing condition.

WHEREFORE, Plaintiff demands judgment against the Defendants for damages as stated above and further demands a trial by jury, together with such other and further relief as this Court deems appropriate.

Count II
Lethal Negligence Damages Against
CSH TAMPA LESSEE, LLC; CSH TRS HOLDING III, LLC; MADISON SERVICES
GROUP, LLC; ARBOR CP, LLC; CATHY MOORE; JOHN J. SCHAUM;
TERESA ANN COVELLI

79. Plaintiff re-alleges Paragraphs 1 through 70 above.

80. This is a claim for lethal negligence seeking survival damages.

81. The acts and omissions of Defendants, as set forth herein, constitute violations of the residents' bill of rights of ANN L. BARRETT, including the right to live in a safe environment

free from abuse and neglect, the right to be treated with respect and with due recognition of personal dignity, and the right to access to adequate and appropriate health care, pursuant to Florida Statute §429.28.

82. Defendants owed a duty to ANN L. BARRETT to properly hire, retain and supervise employees on Defendants' staff and to ensure that any such licensed nurses, medical technicians, certified nursing assistants or resident care aides exercised care consistent with the prevailing professional standard of care.

83. Notwithstanding the responsibility of the Defendants to provide ANN L. BARRETT with reasonable care and accesses to adequate care, Defendants failed to act reasonably in the care of ANN L. BARRETT by failing to ensure or monitor the appropriateness of placement in this facility; failing to provide ANN L. BARRETT a safe environment; failing to protect ANN L. BARRETT from unexplained bruising; failing to monitor significant signs and symptoms of infection of ANN L. BARRETT; failing to provide adequate and appropriate hygiene to ANN L. BARRETT; failing to provide adequate and appropriate skin care and assessments to ANN L. BARRETT; failing to prevent the development of decubitus ulcers on ANN L. BARRETT; failing to maintain appropriate records and properly documents injuries for ANN L. BARRETT; failing to monitor and adequately respond to changes in physical signs and symptoms of ANN L. BARRETT; failing to adequately respond to changes in ANN L. BARRETT's malnutrition and dehydration status; failing to provide adequate and appropriate narcotic drug evaluation and administration for ANN L. BARRETT; failing to appropriately monitor ANN L. BARRETT's medication administration; failing to properly supervise staff; failing to properly train staff; failing to provide adequate and appropriate supervision to ensure ANN L. BARRETT' safety; and, failing

to provide ANN L. BARRETT with access to adequate and appropriate health care consistent with established and recognized standards within the community.

84. Additionally, Defendants endangered residents, including ANN L. BARRETT, by failing to use reasonable care in accepting and keeping residents in order to obtain maximum census levels, which allows for increased revenues. The Defendants further endangered residents by failing to adjust staffing levels to meet the needs of the residents, including ANN L. BARRETT, which significantly contributed to the following failures: failure to provide ANN L. BARRETT a safe environment; failure to protect ANN L. BARRETT from unexplained bruising; failure to monitor significant signs and symptoms of infection of ANN L. BARRETT; failure to provide adequate and appropriate hygiene to ANN L. BARRETT; failure to provide adequate and appropriate skin care and assessments to ANN L. BARRETT; failure to prevent the development of decubitus ulcers on ANN L. BARRETT; failure to maintain appropriate records and properly document injuries for ANN L. BARRETT; failure to monitor and adequately respond to changes in physical signs and symptoms of ANN L. BARRETT; failure to adequately respond to changes in ANN L. BARRETT's malnutrition and dehydration status; failure to provide adequate and appropriate narcotic drug evaluation and administration for ANN L. BARRETT; failure to appropriately monitor ANN L. BARRETT's medication administration; failure to properly supervise staff; failure to properly train staff; failure to provide adequate and appropriate supervision to ensure ANN L. BARRETT's safety; and, failure to provide ANN L. BARRETT with access to adequate and appropriate health care consistent with established and recognized standards within the community.

85. Defendants each knew or should have known that the above-described failures occurred or were likely to occur thus exposing ANN L. BARRETT to injury.

86. Defendants' breach of the duties owed to Plaintiff as set forth herein was the legal cause of the loss, injury, and damages suffered by ANN L. BARRETT, which included numerous arterial ulcers, rashes, bruising, deep tissue injury, development and deterioration of a pressure ulcer to her hip, multiple urinary tract infections and COVID-19.

87. As a direct and proximate result of Defendants' negligent acts and omissions, ANN L. BARRETT 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, caused the death of ANN L. BARRETT on February 23, 2021.

WHEREFORE, Plaintiff demands judgment against the Defendants for damages as stated above and further demands a trial by jury, together with such other and further relief as this Court deems appropriate.

Count III
Wrongful Death Damages Against
CSH TAMPA LESSEE, LLC; CSH TRS HOLDING III, LLC; MADISON SERVICES
GROUP, LLC; ARBOR CP, LLC; CATHY MOORE; JOHN J. SCHAUM;
TERESA ANN COVELLI

88. Plaintiff re-alleges Paragraphs 1 through 70 above.

89. This is a claim for lethal negligence seeking wrongful death damages.

90. The acts and omissions of Defendants, as set forth herein, constitute violations of the residents' bill of rights of ANN L. BARRETT, including the right to live in a safe environment free from abuse and neglect, the right to be treated with respect and with due recognition of personal dignity, and the right to access to adequate and appropriate health care, pursuant to Florida Statute §429.28.

91. Defendants owed a duty to ANN L. BARRETT to properly hire, retain and supervise employees on Defendants' staff and to ensure that any such licensed nurses, medical technicians, certified nurse assistants or resident care aides exercised care consistent with the prevailing professional standard of care.

92. Notwithstanding the responsibility of the Defendants to provide ANN L. BARRETT with reasonable care and accesses to adequate care, Defendants failed to act reasonably in the care of ANN L. BARRETT by failing to ensure or monitor the appropriateness of placement in this facility; failing to provide ANN L. BARRETT a safe environment; failing to protect ANN L. BARRETT from unexplained bruising; failing to monitor significant signs and symptoms of infection of ANN L. BARRETT; failing to provide adequate and appropriate hygiene to ANN L. BARRETT; failing to provide adequate and appropriate skin care and assessments to ANN L. BARRETT; failing to prevent the development of decubitus ulcers on ANN L. BARRETT; failing to maintain appropriate records and properly documents injuries for ANN L. BARRETT; failing to monitor and adequately respond to changes in physical signs and symptoms of ANN L. BARRETT; failing to adequately respond to changes in ANN L. BARRETT's malnutrition and dehydration status; failing to provide adequate and appropriate narcotic drug evaluation and administration for ANN L. BARRETT; failing to appropriately monitor ANN L. BARRETT's medication administration; failing to properly supervise staff; failing to properly train staff; failing to provide adequate and appropriate supervision to ensure ANN L. BARRETT' safety; and, failing to provide ANN L. BARRETT with access to adequate and appropriate health care consistent with established and recognized standards within the community.

93. Additionally, Defendants endangered residents, including ANN L. BARRETT, by failing to use reasonable care in accepting and keeping residents in order to obtain maximum

census levels, which allows for increased revenues. The Defendants further endangered residents by failing to adjust staffing levels to meet the needs of the residents, including ANN L. BARRETT, which significantly contributed to the following failures: failure to provide ANN L. BARRETT a safe environment; failure to protect ANN L. BARRETT from unexplained bruising; failure to monitor significant signs and symptoms of infection of ANN L. BARRETT; failure to provide adequate and appropriate hygiene to ANN L. BARRETT; failure to provide adequate and appropriate skin care and assessments to ANN L. BARRETT; failure to prevent the development of decubitus ulcers on ANN L. BARRETT; failure to maintain appropriate records and properly documents injuries for ANN L. BARRETT; failure to monitor and adequately respond to changes in physical signs and symptoms of ANN L. BARRETT; failure to adequately respond to changes in ANN L. BARRETT's malnutrition and dehydration status; failure to provide adequate and appropriate narcotic drug evaluation and administration for ANN L. BARRETT; failure to appropriately monitor ANN L. BARRETT's medication administration; failure to properly supervise staff; failure to properly train staff; failure to provide adequate and appropriate supervision to ensure ANN L. BARRETT's safety; and, failure to provide ANN L. BARRETT with access to adequate and appropriate health care consistent with established and recognized standards within the community.

94. Defendants each knew or should have known that the above-described failures occurred or were likely to occur thus exposing ANN L. BARRETT to injury.

95. Defendants' breach of the duties owed to Plaintiff as set forth herein was the legal cause of the loss, injury, and damages suffered by ANN L. BARRETT, which included numerous arterial ulcers, rashes, bruising, deep tissue injury, development and deterioration of a pressure ulcer to her hip, multiple urinary tract infections and COVID-19.

96. As a direct and proximate result of Defendants' negligent acts and omissions, ANN L. BARRETT died on February 23, 2021.

97. As a direct and proximate result of the Defendants' acts and omissions, which resulted in the death of ANN L. BARRETT, THE ESTATE OF ANN L. BARRETT has incurred extensive medical, nursing, funeral, and other expenses.

98. ANN L. BARRETT died with a surviving child, LINDA L. TAIT, who is a potential beneficiary of a recovery for wrongful death.

99. As a result of the death of ANN L. BARRETT, LINDA L. TAIT suffered the loss of support and services, and will suffer such losses in the future. LINDA L. TAIT also suffered the loss of parental companionship, instruction and guidance and mental pain and suffering, and incurred funeral and burial expenses.

100. LINDA L. TAIT is the Personal Representative of THE ESTATE OF ANN L. BARRETT. On behalf of THE ESTATE OF ANN L. BARRETT, LINDA L. TAIT seeks recovery of medical and funeral expenses chargeable to The Estate.

WHEREFORE, Plaintiff demands judgment against the Defendant for damages as stated above and further demands a trial by jury, together with such other and further relief as this Court deems appropriate.

Count IV
Breach of Fiduciary Duty
CSH TAMPA LESSEE, LLC

101. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 7, 9, and 57 through 72 above.

102. This is a claim that presents a theory of recovery based upon the presence of a fiduciary duty owed by Defendant, CSH TAMPA LESSEE, LLC, exclusive of and in addition to all rights encompassed in negligence or Chapter 429, Fla. Statute.

103. At all times material, ANN L. BARRETT was incapable of independently providing for all of her necessary care and services to attain and maintain the highest practicable physical, mental, and psychosocial wellbeing.

104. ANN L. BARRETT was incapable of dealing with CSH TAMPA LESSEE, LLC on equal terms, and was incapable of engaging in any arm's length relationships with CSH TAMPA LESSEE, LLC.

105. ANN L. BARRETT placed a special confidence and trust in CSH TAMPA LESSEE, LLC to provide for all of her necessary care and services to attain and maintain the highest practicable physical, mental, and psychosocial well-being. ANN L. BARRETT also relied on CSH TAMPA LESSEE, LLC to provide such care and services.

106. CSH TAMPA LESSEE, LLC accepted the special confidence and trust placed upon them by ANN L. BARRETT by admitting him into ARBOR TERRACE AT CITRUS PARK and by reserving the right to specifically determine the level of care, protection, supplies and services that would be provided to ANN L. BARRETT.

107. CSH TAMPA LESSEE, LLC individually and collectively controlled, oversaw and orchestrated every single aspect of ANN L. BARRETT's existence, from the mundane (such as the clothing worn) to the vital (such as determining when and how healthcare would be provided, as well as how much food and water ANN L. BARRETT could consume).

108. ANN L. BARRETT was solely and particularly dependent upon the employees, officers, directors, and agents of CSH TAMPA LESSEE, LLC to provide for her daily care, protection, services, supplies and personal and intimate needs.

109. CSH TAMPA LESSEE, LLC developed a special relationship with ANN L. BARRETT by virtue of the nature of the care and services provided, the supposedly superior knowledge, skill and abilities, the enormous disparity of power and unequal bargaining position, Defendant, CSH TAMPA LESSEE, LLC, enjoyed over ANN L. BARRETT, as well as her inability to care for and provide for herself.

110. This special relationship allowed Defendant, CSH TAMPA LESSEE, LLC, to occupy a position of confidence toward ANN L. BARRETT, which required fidelity, loyalty, good faith, and fair dealing by Defendant, CSH TAMPA LESSEE, LLC. Additionally, CSH TAMPA LESSEE, LLC had a duty to refrain from engaging in self-dealing.

111. CSH TAMPA LESSEE, LLC systematically accepted monies intended for the provision of care and services to the residents, including ANN L. BARRETT, while representing that the CSH TAMPA LESSEE, LLC would provide the full value of the care and services as required.

112. At all times material to this action, the CSH TAMPA LESSEE, LLC named herein was a fiduciary of ANN L. BARRETT.

113. At all times material to this action, CSH TAMPA LESSEE, LLC owed a fiduciary duty to ANN L. BARRETT.

114. Defendant, CSH TAMPA LESSEE, LLC failed to provide the full value of care and services as promised and as required.

115. Notwithstanding its fiduciary duties to ANN L. BARRETT, Defendant, CSH

TAMPA LESSEE, LLC, acted and failed to act in material breach of the duties owed to ANN L. BARRETT and to the direct detriment of residents, including ANN L. BARRETT. Instead, CSH TAMPA LESSEE, LLC acted or failed to act in ways to promote its own interests and in ways in contravention of the interests of the residents, including ANN L. BARRETT.

116. CSH TAMPA LESSEE, LLC breached and violated its relationship of trust, special confidence, and its fiduciary obligations and duties owed to ANN L. BARRETT by:

- a) allowing the use of revenues and assets obtained from residents and their payor sources for inflated, unreasonable and improper inter-company fees and transfers designed and created for the benefit of the CSH TAMPA LESSEE, LLC's affiliates, parents, owners and corporate entities, instead of utilizing said resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, including ANN L. BARRETT as required; and,
- b) entering into contracts that were for the benefit of CSH TAMPA LESSEE, LLC, its owners and operators and worked to the detriment of residents, including ANN L. BARRETT. These contracts included, but not limited to, lease and sub-lease agreements, back office agreements, pharmacy goods and services agreements, management agreements, and therapy services agreements.

117. In violating its fiduciary obligations and duties to ANN L. BARRETT, as referenced herein, CSH TAMPA LESSEE, LLC knew, or should have known, that ANN L. BARRETT would suffer harm.

118. Defendant CSH TAMPA LESSEE, LLC's breaches of their fiduciary duties owed

to ANN L. BARRETT, as set forth herein were the legal cause of the loss, injury and damages suffered by ANN L. BARRETT.

WHEREFORE, Plaintiff demands judgment for disgorgement of profits, restitution and any consequential damages against CSH TAMPA LESSEE, LLC and further demands a trial by jury together with such other and further relief as this Court deems appropriate.

Count V
Aiding and Abetting Breach of Fiduciary Duty
CSH TRS HOLDING III, LLC; MADISON SERVICES GROUP, LLC; CSH TAMPA,
LLC; and ARBOR CP, LLC
(the “Corporate Defendants”)

119. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 3, 10 through 13, 16 through 19, 21 through 24, 26 through 29, and 70, above.

120. This is a claim that presents a theory of recovery based upon the presence and breach of a fiduciary duty owed by Defendant, CSH TAMPA LESSEE, LLC, aided and abetted by the Corporate Defendants, exclusive of and in addition to all rights encompassed in negligence or Chapter 429, Fla. Stat.

121. As set forth in Count IV above, Defendant, CSH TAMPA LESSEE, LLC, owed and breached fiduciary duties it owed to the residents of ARBOR TERRACE AT CITRUS PARK, including ANN L. BARRETT.

122. The Corporate Defendants are related entities within a single enterprise or joint venture which all share common ownership, directors, officers and managers.

123. The Corporate Defendants had knowledge of ANN L. BARRETT’s fiduciary relationship with CSH TAMPA LESSEE, LLC by virtue of the nature of the care and services required, the supposedly superior knowledge, skill and abilities, and the enormous disparity of

power and unequal bargaining position that the CSH TAMPA LESSEE, LLC enjoyed over ANN L. BARRETT.

124. By reason of their shared and/or common ownership, directors, officers and managers and contractual relationships, the Corporate Defendants, knew of the fiduciary duties CSH TAMPA LESSEE, LLC owed to ANN L. BARRETT and knew of CSH TAMPA LESSEE, LLC's breach of those duties as described in the preceding Count.

125. The Corporate Defendants knew that the residents at ARBOR TERRACE AT CITRUS PARK, including ANN L. BARRETT, were incapable of independently providing their own necessary care and were solely and specifically dependent upon the employees, officers, directors, and agents to provide for their basic daily care, protection, services, supplies, and personal and intimate needs.

126. The Corporate Defendants knowingly participated and provided substantial assistance and encouragement to CSH TAMPA LESSEE, LLC in connection with its breach of fiduciary duties to ANN L. BARRETT, as set forth in detail within Count IV, above.

127. In addition to this knowledge, the Corporate Defendants aided and abetted Defendant CSH TAMPA LESSEE, LLC in its breach of fiduciary duties and rendered substantial assistance and encouragement for the same, by, among other things:

- a) exercising dominance and control over CSH TAMPA LESSEE, LLC's revenues by regularly and repeatedly sweeping virtually all of the facility's revenues into an account controlled by the Corporate Defendants and/or their designee;
- b) knowingly and intentionally taking, creating and accepting inter-company fees and transfers, comprised of revenues obtained from the residents and designed

to improperly and unjustly enrich the Corporate Defendants, instead of allowing the facility to utilize said resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, including ANN L. BARRETT, as required;

- c) knowingly and intentionally taking, creating and accepting inter-company fees and transfers, comprised of revenues obtained from residents, for the purpose of insulating themselves from civil liability, regulatory oversight and accountability;
- d) structuring and approving contracts between the Corporate Defendants and CSH TAMPA LESSEE, LLC, which the Corporate Defendants knew or should have known would result in the diversion of facility revenues necessary to provide the care and services to its residents, including ANN L. BARRETT;
- e) overseeing and approving the CSH TAMPA LESSEE, LLC's acceptance of monies from residents, including ANN L. BARRETT, knowing the facility could not provide full value of the care and services to meet the care and safety needs of the residents;
- f) directly or indirectly misrepresenting the nature of the relationship between the Corporate Defendants and CSH TAMPA LESSEE, LLC, in which Corporate Defendants, by virtue of their common owners, officers and managers, controlled the business operations and working capital of the facility and inappropriately commingled its revenues by making intra-company transfers to related facilities;
- g) structuring the managing and operating business model for the facility in a way

that constrained its ability to provide the level of care and services to residents, including ANN L. BARRETT, while simultaneously benefitting upstream corporate entities; and,

- h) influencing, advocating, and approving CSH TAMPA LESSEE, LLC's improper payments to the Corporate Defendants, which they knew or should have known exceeded amounts a prudent and cost conscious buyer would pay, and which they also knew or should have known would cause the monies intended for the provision of care and services to the residents, including ANN L. BARRETT, to be depleted.

128. The conduct of the Corporate Defendants, as aforesaid, constitutes aiding and abetting CSH TAMPA LESSEE, LLC's breach of fiduciary duty and subjects the Corporate Defendants to liability for the harm suffered by Plaintiff.

129. In aiding and abetting CSH TAMPA LESSEE, LLC in violating fiduciary obligations and duties to ANN L. BARRETT as referenced herein, the Corporate Defendants knew, or should have known, that ANN L. BARRETT would suffer harm.

130. As a result of the Corporate Defendants aiding and abetting in the breaches of fiduciary duties by CSH TAMPA LESSEE, LLC, the Corporate Defendants were improperly and unjustly enriched, CSH TAMPA LESSEE, LLC was left without the necessary resources to function in the residents' best interests, and ANN L. BARRETT suffered both the injuries set forth herein as well as economic harm.

WHEREFORE, Plaintiff demands judgment against the Corporate Defendants for disgorgement of profits and any consequential damages against the Corporate Defendants and

further demands a trial by jury, together with such other and further relief as this Court deems appropriate.

Count VI
Violations of Florida Statutes §415.1111 as to
CSH TRS HOLDING III, LLC; MADISON SERVICES GROUP, LLC;
CSH TAMPA, LLC; and ARBOR CP, LLC

131. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 3, 10, 13, 16, 19, 21, 24, 26, 29, and 70, above.

132. For the purposes of this count and *only* this count, it is not alleged that these Defendants are a licensee or an entity that established, controlled, conducted, managed or operated ARBOR TERRACE AT CITRUS PARK.

133. ANN L. BARRETT was at all relevant times a vulnerable adult with a long-term disability. She entered the facility at eighty (80) years of age and was unable to perform the normal activities of daily living or to provide for her own care or protection due to her disability which included the pressure ulcer to her hip and dementia.

134. The Defendants' acts or omissions constitute exploitation of a vulnerable adult in violation of §415.1111, Florida Statutes.

135. Defendants knew or should have known that ANN L. BARRETT lacked the capacity to consent, but Defendants obtained or used, or endeavored to obtain or use ANN L. BARRETT's funds, assets or property, including Medicare and Medicaid benefits, with the intent to temporarily or permanently deprive ANN L. BARRETT of the use, benefit or possession of the funds, assets, or property for the benefit of someone other than ANN L. BARRETT.

136. Defendants failed or refused to effectively use ANN L. BARRETT's income or assets for the necessities required for her support and maintenance.

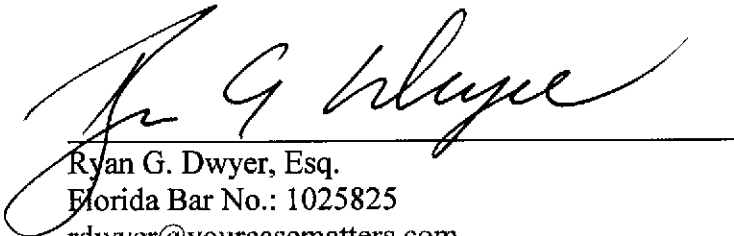
137. Defendants received compensation Defendants should have known would deprive ARBOR TERRACE AT CITRUS PARK of adequate resources to provide the necessities of ANN L. BARRETT's support and maintenance.

138. The compensation Defendants received was derived from the private funds of vulnerable adults, including ANN L. BARRETT, or from Medicaid and/or Medicare funds that were beneficiaries' assets, including ANN L. BARRETT, which were paid to Defendants for the sole purpose of providing for the support and maintenance of ANN L. BARRETT.

139. Defendants' failure or refusal to effectively use ANN L. BARRETT's income or assets as set forth herein, was the proximate cause of the losses she suffered including, but not limited to the use, benefit, or possession of the funds, assets or property for her benefit.

140. As a direct and proximate result of Defendants' acts and omissions, ANN L. BARRETT was deprived of the use, benefit or possession of the funds, assets or property.

WHEREFORE, Plaintiff demands judgment against Defendants, disgorgement of profits, consequential damages, attorneys' fees and costs, pre-judgment interest, the opportunity to amend this Complaint to add a demand for punitive damages at the appropriate time, trial by jury of all matters so triable, and such other relief this Court deems appropriate.



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EXHIBIT A

Filing # 124980698 E-Filed 04/15/2021 11:38:48 AM

FILED 05/04/2021 10:11:57 KEN BURKE, CLERK OF THE CIRCUIT COURT AND COMPTROLLER, PINELLAS COUNTY FLORIDA

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA

IN RE: ESTATE OF

ANN L. BARRETT

Deceased.

File No. 21-004036-ES

Division Probate

**LETTERS OF ADMINISTRATION
(single personal representative)**

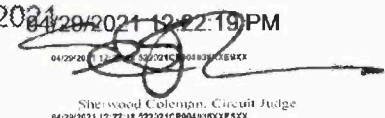
TO ALL WHOM IT MAY CONCERN

WHEREAS, Ann L. Barrett, a resident of Pinellas County, Florida, died on February 23, 2021, owning assets in the State of Florida, and

WHEREAS, Linda L. Tait 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 Linda L. Tait duly qualified under the laws of the State of Florida to act as personal representative of the estate of Ann L. Barrett, 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.

ORDERED on _____, 2021, 04/20/2021 12:22:19 PM



Sherwood Coleman, Circuit Judge

**SHERWOOD S. COLEMAN
Circuit Judge**

STATE OF FLORIDA, PINELLAS COUNTY
I hereby certify that the foregoing is a true photostatic copy as the same appears among the files and records of this court and the same is in full force and effect.



This 6 day of May, 2021
KEN BURKE
Clerk of Circuit Court

BY: Kane Pace
Deputy Clerk