

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
RENEE FERGUSON, as Administratrix of the Estate
of EMERSON HOLBERT, deceased,

Plaintiff,

-against-

EDISON HOME HEALTH CARE, LLC, and
EDISON LIQUIDATING LLC,

Defendants.

-----X

Index No.:

SUMMONS

Plaintiff designates NEW YORK
County as the place of trial

The basis of venue is Plaintiff-
decedent's residence:

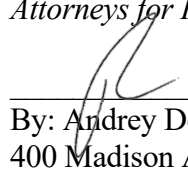
20E 81st Avenue, Apt. 2509,
New York, NY 10028

To the above- named Defendant:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
May 11, 2021

ALAN RIPKA & ASSOCIATES, LLP
Attorneys for Plaintiff


By: Andrey Demidov
400 Madison Avenue, Suite 12D
New York, New York 10017
T: (212) 557-4777

TO:

EDISON HOME HEALTH CARE, LLC
946 McDonald Avenue
Brooklyn, New York 11218

EDISON LIQUIDATING LLC
3156 Bedford Avenue
Brooklyn, New York 11210

BOTH DEFENDANTS C/O NEW YORK
SECRETARY OF STATE
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231

SUPREME COURT OF THE STATE OF NEW YORK
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of EMERSON HOLBERT, deceased,

Index No.:

Plaintiff,

-against-

EDISON HOME HEALTH CARE, LLC, and
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Defendants.

VERIFIED
COMPLAINT

-----X

Plaintiff, RENEE FERGUSON, as Administratrix of the Estate of EMERSON HOLBERT, deceased, complaining of the Defendants EDISON HOME HEALTH CARE, LLC, and EDISON LIQUIDATING LLC, by her attorneys Alan Ripka & Associates, 400 Madison Avenue, Suite 12D, New York, New York, for the Plaintiff's Complaint, alleges as follows, upon information and belief and at all times hereinafter:

STATEMENT OF CASE

1. This is an action for negligence, gross negligence, and Public Health Law violations brought by RENEE FERGUSON, as Administratrix of the Estate of EMERSON HOLBERT, deceased, ("Plaintiff-Decedent") who went under the care of Defendants'-facility, EDISON HOME HEALTH CARE s/h/a EDISON HOME HEALTH CARE, LLC. Plaintiff-Decedent was dependent upon the staff for physical and medical professionals there. The Defendants were negligent in providing care to Plaintiff-Decedent, EMERSON HOLBERT, and were negligent in preventing pressure ulcers, negligent in their wound care administration, and in their facilitation of proper healing which resulted in Plaintiff-Decedent sustaining multiple pressure-ulcers which re-

quired hospitalization, treatment and ultimately caused the untimely death of the Plaintiff-Decedent on May 11, 2019.

VENUE AND JURISDICTION

2. Venue is proper in New York County because Plaintiff-decedent resided in New York County. Plaintiff-decedent address was 20E 81st Avenue, Apt. 2509, New York, NY 10028.

PARTIES

3. That Plaintiff RENEE FERGUSON was and is a resident of the County and State of New York.

4. At all times relevant, Defendant, EDISON HOME HEALTH CARE, LLC, (hereinafter referred to as “EDISON HOME”), maintained offices at 946 McDonald Avenue, Brooklyn, New York 11218.

5. At all times relevant, Defendant EDISON HOME was and still is a domestic limited liability company organized and existing under and by virtue of the Laws of the State of New York.

6. At all times relevant, Defendant EDISON HOME was and still is a business entity doing business within the State of New York.

7. At all times relevant, Defendant EDISON HOME, itself, and through its agents, servants and/or employees, held itself out to the public, and more particularly to the plaintiff, as possessing the knowledge and skill necessary to provide home health care services with reasonable care.

8. At all times relevant, Defendant EDISON HOME, itself, and through its agents, servants and/or employees, had a duty to use reasonable care while rendering home health care services.

9. At all times relevant, Defendant EDISON HOME, conducted business as a home health care agency, licensed and defined under New York Public Health Law.

10. At all times relevant, Defendant EDISON HOME, provided home health care to Plaintiff-Decedent, EMERSON HOLBERT.

11. At all times relevant, Defendant, EDISON LIQUIDATING LLC, (hereinafter referred to as “EDISON LIQUIDATING”), maintained offices at 3156 Bedford Avenue, Brooklyn, New York, 11210.

12. At all times relevant, Defendant EDISON LIQUIDATING was and still is a domestic limited liability company organized and existing under and by virtue of the Laws of the State of New York.

13. At all times relevant, Defendant EDISON LIQUIDATING was engaged in business as a home health care agency and held itself out to the general public as such.

14. At all times relevant, Defendant EDISON LIQUIDATING was and still is a business entity doing business within the State of New York.

15. At all times relevant, Defendant EDISON LIQUIDATING, itself, and through its agents, servants and/or employees, held itself out to the public, and more particularly to the plaintiff, as possessing the knowledge and skill necessary to provide home health care services with reasonable care.

16. At all times relevant, Defendant EDISON LIQUIDATING, itself, and through its agents, servants and/or employees, had a duty to use reasonable care while rendering home health care services.

17. At all times relevant, Defendant EDISON LIQUIDATING, conducted business as a home health care agency, licensed and defined under New York Public Health Law.

18. That on a date prior to the 11th day of May 2018, the defendant, EDISON HOME, did enter into an agreement to provide home health care to Plaintiff-Decedent, EMERSON HOLBERT.

19. That on a date prior to the 11th day of May 2018, the defendant, EDISON LIQUIDATING, did enter into an agreement to provide home health care to Plaintiff-Decedent, EMERSON HOLBERT.

FIRST CAUSE OF ACTION

20. That the Plaintiff-decedent was a resident of the State and County of New York.

21. Plaintiff-decedent repeats, reiterates and re-alleges each and every allegation contained in paragraphs 1 through 19, inclusive with the same force and effect as though set forth more fully herein at length.

22. That the Defendants, its agents and employees knew that Plaintiff-decedent was at high risk of developing infection, pressure sores, and respiratory issues and failed to take reasonable and humane steps to prevent an inevitable risk from coming to fruition.

23. Defendants through themselves, their servants, agents, and/or employees, had a duty to provide for the safety and well-being of their patients while under the supervision and/or care of the defendants.

24. In or around April of 2019, Plaintiff-decedent sustained severe and permanent injuries due to the negligence of the Defendants, their servants, agents, and/or employees, while being under the supervision and/or care of the defendants.

25. At all times mentioned herein, the Defendant, EDISON HOME, held itself out as competent and duly qualified to render proper and adequate medical care and treatment to members of the general public, including Plaintiff-decedent.

26. At all times mentioned herein, the Defendant, EDISON LIQUIDATING, held itself out as competent and duly qualified to render proper and adequate medical care and treatment to members of the general public, including Plaintiff-decedent.

27. That the Defendants, their agents and employees failed to take ordinary and reasonable precautions in the delivery of services to the Plaintiff-decedent and failed to take reasonable precautions to prevent the development of the Plaintiff-decedent's injuries and untimely death.

28. That the Defendants, their agents and employees failed to use ordinary and reasonable care in the delivery of services not requiring specialized medical expertise to the Plaintiff-decedent, including failure to provide adequate preventive measures, and failing to require staff to take proper precautions when providing wound care and failed to organize and administer itself and distribute its resources effectively and efficiently so as to accomplish the care described above.

29. That as a consequence of the above the Plaintiff-decedent suffered an avoidable injury at the hands of Defendants' agents, servants, employees, and/or others resulting in serious injury to his body.

30. Plaintiff-decedent's injuries occurred through the negligence of the Defendants in that their servants, agents, and/or employees, failed to safely and properly move, assist, and/or treat Plaintiff-decedent when he was unable to stand due to his required treatment.

31. The aforementioned injuries suffered were caused solely through the negligence of the Defendants without any negligence on the part of the Plaintiff-decedent contributing thereto.

32. As a result of the foregoing, Plaintiff demands judgment against the Defendants in an amount that exceeds the jurisdictional limits of all lower Courts.

SECOND CAUSE OF ACTION

33. The Plaintiff hereby repeats and reiterates each and every allegation contained in

paragraphs 1 through 32 inclusive, with the same force and effect as though set forth more fully herein at length.

34. The Defendants, their agents and employees failed to use ordinary and reasonable care in the delivery of services to the Plaintiff-decedent, and in ensuring that the services were delivered to the Plaintiff-decedent and failed to take reasonable precautions to prevent the development of the Plaintiff-decedent injuries.

35. The Plaintiff-decedent was under a disability that limited his ability to protect himself from injury and that Defendants, their employees and agents knew of that disability and failure to use reasonable care as would be required for Plaintiff-decedent's safety, especially in light of Defendants' claimed expertise in the provision of care for individuals under disability such as the Plaintiff-decedent's disability.

36. The Defendants failed to use reasonable care in the employment, training, and supervision of its employees to find out whether they were competent to do their work without danger or harm to others by failing to conduct reasonable background inquiries and required checks regarding lack of convictions and abuse, failed to use reasonable care to correct or remove employees, and failed to use reasonable care to train employees.

37. The Defendants was grossly negligent in failing to use even slight care and conducting themselves in a manner as described supra and infra in a manner that was so careless as to show complete disregard for the rights and safety of others and acted in a manner knowing that their conduct would probably result in injury so as to indicate disregard of the consequence of the Defendants' inaction.

38. That as a consequence of the above the Plaintiff-decedent suffered an avoidable injury at the hands of Defendants' agents, servants, employees, and/or others resulting in serious

and plainly injury to his body.

39. That as a result of the negligence and carelessness of defendants and/or defendants' agents, servants, employees, and/or others acting within defendants control and without any want of care on the part Plaintiff-decedent, Plaintiff-decedent was rendered sick, sore, lame, suffered severe pressure ulcers; that plaintiff-decedent suffered injuries, conscious pain and suffering, emotional distress, anxiety and loss of enjoyment of life; that plaintiff-decedent was confined to hospitals and/or of healthcare facilities for an extended period of time; that plaintiff incurred expenses; and that plaintiff was permanently injured.

40. As a result of the foregoing, Plaintiff demands judgment against the Defendants in an amount that exceed the jurisdictional limits of all lower Courts.

THIRD CAUSE OF ACTION

41. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs 1 through 40, inclusive, with the same force and effect as though set forth more fully herein at length.

42. That at by reason of the forgoing, Plaintiff-decedent EMERSON HOLBERT, sustained severe bodily injury resulting in wrongful death.

43. That as a result of the foregoing, Plaintiff-decedent EMERSON HOLBERT, left serving next of kin and distributes.

44. That as a result of the foregoing, Plaintiff-decedent EMERSON HOLBERT's estate became liable for and expended money for funeral and other expenses.

45. That as a result of the foregoing Plaintiff-decedent EMERSON HOLBERT's estate suffered pecuniary damages.

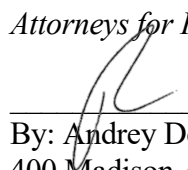
46. That as a result of the foregoing Plaintiff-decedent EMERSON HOLBERT, sustained all other damages allowed by law.

47. As a result of the foregoing, Plaintiff demands judgment against the Defendant in an amount that exceed the jurisdictional limits of all lower Courts.

WHEREFORE, Plaintiff demands judgment against Defendant on the first, second, and third causes of action for damages, in the amount to be determined by the Court, all together with interests, costs, and disbursements, and attorney's fees of their action.

Dated: New York, New York
May 11, 2021

ALAN RIPKA & ASSOCIATES, LLP
Attorneys for Plaintiff



By: Andrey Demidov
400 Madison Avenue, Suite 12D
New York, New York 10017
T: (212) 557-4777

ATTORNEY'S VERIFICATION


Andrey Demidov, an attorney at law, duly admitted to practice in the Courts of this State, affirms under penalties of perjury:

I am the attorney for the Plaintiff in the above entitled-action. I have read the foregoing **SUMMONS AND VERIFIED COMPLAINT** and know the contents thereof, and upon information and belief, affirmant believes after an inquiry reasonable under the circumstances the matters alleged herein to be true, and that contentions herein are not frivolous, as that term is defined in Part 130.

The reason this verification is made by affirmant and not by the Plaintiff is that the Plaintiff herein resides in a County other than the County in which I maintain my offices.

The source of affirmant's information and the grounds of his belief are communications, papers, reports and investigations contained in the file maintained by this office.

Dated: New York, New York
May 11, 2021



Andrey Demidov

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORKRENEE FERGUSON, as Administratrix of the Estate of
EMERSON HOLERT, deceased,

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*Plaintiff,**-against-*EDISON HOME HEALTH CARE, LLC, and
EDISON LIQUIDATING LLC,*Defendants.***SUMMONS & VERIFIED COMPLAINT**

ALAN RIPKA & ASSOCIATES, LLP

Counsel for: Plaintiff

400 Madison Avenue, Suite 12D

New York, New York 10017

T: (212) 557-4777

To
Attorney(s) forService of a copy of the within
Dated, _____

is hereby admitted.

Attorney(s) for

PLEASE TAKE NOTICE:

☐ NOTICE OF ENTRYthat the within is a (certified) true copy of an _____ duly entered in the _____ office
of the clerk of the within named court on _____ 20__.☐ NOTICE OF SETTLEMENTthat an order _____ of which the within is a true copy, will be pre-
sented for settlement to the HON. _____ one of the judges of the
within named Court, at _____ on _____ 20__ at _____ O'clock ____ .M.

Dated, _____

Yours, etc.

ALAN RIPKA & ASSOCIATES, LLP