

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

ALMA GREEN, as Independent Administrator)
of the Estate of JACQUELINE GREEN, deceased,)

Plaintiff,)

v.)

MERCY HOSPITAL AND MEDICAL CENTER)
and ST. AGNES MANOR, INC., d/b/a)
ST. AGNES HEALTH CARE AND)
REHABILITATION,)

Defendants.)

Court No. 2015L009628
CALENDAR/ROOM A
TIME 00:00
Medical Malpractice

FILED
2015 SEP 21 PM 4:14
CLERK OF COURT
LAW DIVISION

COMPLAINT AT LAW

COUNT I – WRONGFUL DEATH
(MERCY HOSPITAL AND MEDICAL CENTER)

NOW COMES the Plaintiff, ALMA GREEN, as Independent Administrator of the Estate of JACQUELINE GREEN, deceased, by and through her attorneys, KRALOVEC, JAMBOIS & SCHWARTZ, and complaining of the Defendant, MERCY HOSPITAL AND MEDICAL CENTER, states as follows:

1. That ALMA GREEN was appointed Independent Administrator of the Estate of JACQUELINE GREEN, deceased, by the Circuit Court of Cook County, Illinois, evidencing her right and standing to sue. *See Exhibit A.*

2. That on and subsequent to January 3, 2014, the Defendant, MERCY HOSPITAL AND MEDICAL CENTER, by and through its agents, servants, and/or employees, whether actual or apparent, was a medical facility located in Cook County, State of Illinois, offering medical and nursing care to the public and to the Plaintiff's decedent, JACQUELINE GREEN, and employed various physicians, nurses, and other health care professionals in the provision of such services.

3. That on and subsequent to January 3, 2014, the Plaintiff's decedent, JACQUELINE GREEN, was a patient or resident of the facility owned, operated, managed, maintained, and controlled by the Defendant, MERCY HOSPITAL AND MEDICAL CENTER, which had accepted JACQUELINE GREEN, as a patient and undertook to provide care and treatment to her.

4. That on or around January 3, 2014, the Plaintiff's decedent, JACQUELINE GREEN, was admitted to MERCY HOSPITAL AND MEDICAL CENTER from ST. AGNES MANOR, INC., d/b/a ST. AGNES HEALTH CARE AND REHABILITATION with intact skin.

5. That during her admission from January 3, 2014, through January 7, 2014, the Plaintiff's decedent, JACQUELINE GREEN, developed skin breakdown.

6. That on or around January 7, 2014, the Plaintiff, JACQUELINE GREEN, was transferred and admitted to ST. AGNES MANOR, INC., d/b/a ST. AGNES HEALTH CARE AND REHABILITATION.

7. That on or around January 7, 2014, the Defendant, ST. AGNES MANOR, INC., d/b/a ST. AGNES HEALTH CARE AND REHABILITATION, by and through its agents, servants, and/or employees, whether actual or apparent, noted that the Plaintiff's decedent, had excoriations and small openings in the sacral area.

8. That on February 25, 2014, the Defendant, ST. AGNES MANOR, INC., d/b/a ST. AGNES HEALTH CARE AND REHABILITATION, by and through its agents, servants, and/or employees, whether actual or apparent, charted that the Plaintiff's decedent's sacral pressure ulcer had increased in size to a stage 3.

9. That from March 3, 2014, through March 8, 2014, the Plaintiff's decedent, JACQUELINE GREEN, was readmitted to MERCY HOSPITAL AND MEDICAL CENTER.

10. That on or around March 8, 2014, The Plaintiff's decedent, JACQUELINE GREEN was readmitted to ST. AGNES MANOR, INC., d/b/a ST. AGNES HEALTH CARE AND REHABILITATION.

11. That on or around March 13, 2014, the Defendant, ST. AGNES MANOR, INC., d/b/a ST. AGNES HEALTH CARE AND REHABILITATION, by and through its agents, servants, and/or employees, whether actual or apparent, documented that the Plaintiff's decedent's sacral pressure ulcer was unstageable, 75% necrotic, and infected.

12. That on or around March 28, 2014, the Plaintiff's decedent, JACQUELINE GREEN, was transferred and readmitted to MERCY HOSPITAL AND MEDICAL CENTER for an infectious disease consultation.

13. That on or around March 28, 2014, the Plaintiff's decedent, was readmitted to MERCY HOSPITAL AND MEDICAL CENTER.

14. That on or around April 4, 2014, during her admission at MERCY HOSPITAL AND MEDICAL CENTER, the Plaintiff's decedent, JACQUELINE GREEN, died.

15. That on and subsequent to January 3, 2014, there existed a duty on the part of the Defendant, MERCY HOSPITAL AND MEDICAL CENTER, by and through its agents, servants, and/or employees, whether actual or apparent, to comply with the applicable standards of care for reasonably well qualified medical providers for a patient such as JACQUELINE GREEN.

16. That disregarding its duties, the Defendant, MERCY HOSPITAL AND MEDICAL CENTER, by and through its agents, servants, and/or employees, whether actual or apparent, was then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- a. Failure to initiate and sustain measures to prevent skin breakdown and pressure ulcers;
- b. Failure to prevent development and progression of skin breakdown and pressure ulcers, including the sacral skin breakdown and pressure ulcer;
- c. Failure to appropriately monitor and treat skin breakdown and pressure ulcers, including proper turning and repositioning, proper hygiene and adequate nutrition;
- d. Failure to prevent infection of the sacral pressure ulcer; and
- e. Failure to provide a safe environment.

17. That as a direct and proximate result of one or more of the aforementioned careless and negligent acts and/or omissions on the part of the Defendant, MERCY HOSPITAL AND MEDICAL CENTER, by and through its agents, servants, and/or employees, whether actual or apparent, the Plaintiff's decedent, JACQUELINE GREEN, sustained serious and permanent injuries which proximately resulted in her premature death on April 4, 2014.

18. That at her death on April 4, 2014, the Decedent, JACQUELINE GREEN, left surviving her next-of-kin, to wit, Alma Green, Darnette Green, Jacqueline Green, her daughters, and Michael Carbins, her son, who have suffered severe and permanent damages, including but not limited to loss of service, companionship, and society as a result of the premature death of JACQUELINE GREEN.

19. That the Plaintiff brings her action in Count I under 740 ILCS 180/01 *et. seq.*, commonly known as the Wrongful Death Act of Illinois.

WHEREFORE, the Plaintiff, ALMA GREEN, as Independent Administrator of the Estate of JACQUELINE GREEN, deceased, prays for judgment against the Defendant, MERCY HOSPITAL AND MEDICAL CENTER, in such amount in excess of this Court's jurisdictional requisite as will fairly and adequately compensate the Plaintiff for the injuries, losses and damages as herein above alleged.

COUNT II – SURVIVAL
(MERCY HOSPITAL AND MEDICAL CENTER)

NOW COMES the Plaintiff, ALMA GREEN, as Independent Administrator of the Estate of JACQUELINE GREEN, deceased, by and through her attorneys, KRALOVEC, JAMBOIS & SCHWARTZ, and complaining of the Defendant, MERCY HOSPITAL AND MEDICAL CENTER, states as follows:

1 – 16. That the Plaintiff hereby re-alleges and incorporates paragraphs 1 through 16 of Count I as and for paragraphs 1 through 16 of this Count II as though fully set forth herein.

17. That as a direct and proximate result of one or more of the aforementioned careless and negligent acts and/or omissions on the part of the Defendant, MERCY HOSPITAL AND MEDICAL CENTER, by and through its agents, servants, and/or employees, whether actual or apparent, the decedent, JACQUELINE GREEN, was injured and suffered damages of a personal and pecuniary nature, including pain and suffering prior to her death, damages for which had she survived she would have been entitled to maintain an action, and such an action has survived her and accrued to the benefit of her heirs at law, to wit, Alma Green, Darnette Green, Jacqueline Green, her daughters, and Michael Carbins, her son.

17. That the Plaintiff brings her action in Count II under 755 ILCS 5/27-6 *et. seq.*, commonly known as the Illinois Survival Statute.

WHEREFORE, the Plaintiff, ALMA GREEN, as Independent Administrator of the Estate of JACQUELINE GREEN, deceased, prays for judgment against the Defendant, MERCY HOSPITAL AND MEDICAL CENTER, in such amount in excess of this Court's jurisdictional requisite as will fairly and adequately compensate the Plaintiff for the injuries, losses and damages as herein above alleged.

COUNT III – WRONGFUL DEATH
(ST. AGNES MANOR, INC., d/b/a
ST. AGNES HEALTH CARE AND REHABILITATION)

NOW COMES the Plaintiff, ALMA GREEN, as Independent Administrator of the Estate of JACQUELINE GREEN, deceased, by and through her attorneys, KRALOVEC, JAMBOIS & SCHWARTZ, and complaining of the Defendant, ST. AGNES MANOR, INC., d/b/a ST. AGNES HEALTH CARE AND REHABILITATION (“ST. AGNES”), states as follows:

1. That ALMA GREEN was appointed Independent Administrator of the Estate of JACQUELINE GREEN, deceased, by the Circuit Court of Cook County, Illinois, evidencing her right and standing to sue. *See* Exhibit A.
2. That on and subsequent to January 7, 2014, the Defendant, ST. AGNES, by and through its agents, servants, and/or employees, whether actual or apparent, was a medical facility located in Cook County, State of Illinois, offering medical and nursing care to the public and to the Plaintiff's decedent, JACQUELINE GREEN, and employed various physicians, nurses, and other health care professionals in the provision of such services.

3. That on and subsequent to January 7, 2014, the Plaintiff's decedent, JACQUELINE GREEN, was a patient or resident of the facility owned, operated, managed, maintained, and controlled by the Defendant, ST. AGNES, which had accepted JACQUELINE GREEN, as a resident and undertook to provide care and treatment to her.

4. That on or around January 3, 2014, the Plaintiff's decedent, JACQUELINE GREEN, was admitted to MERCY HOSPITAL AND MEDICAL CENTER from ST. AGNES with intact skin.

5. That during her admission from January 3, 2014, through January 7, 2014, the Plaintiff's decedent, JACQUELINE GREEN, developed skin breakdown.

6. That on or around January 7, 2014, the Plaintiff, JACQUELINE GREEN, was transferred and admitted to ST. AGNES.

7. That on or around January 7, 2014, the Defendant, ST. AGNES, by and through its agents, servants, and/or employees, whether actual or apparent, noted that the Plaintiff's decedent, had excoriations and small openings in the sacral area.

8. That on February 25, 2014, the Defendant, ST. AGNES, by and through its agents, servants, and/or employees, whether actual or apparent, charted that the Plaintiff's decedent's sacral pressure ulcer had increased in size to a stage 3.

9. That from March 3, 2014, through March 8, 2014, the Plaintiff's decedent, JACQUELINE GREEN, was readmitted to MERCY HOSPITAL AND MEDICAL CENTER.

10. That on or around March 8, 2014, The Plaintiff's decedent, JACQUELINE GREEN was readmitted to ST. AGNES.

11. That on or around March 13, 2014, the Defendant, ST. AGNES, by and through its agents, servants, and/or employees, whether actual or apparent, documented that the Plaintiff's decedent's sacral pressure ulcer was unstageable, 75% necrotic, and infected.

12. That on or around March 28, 2014, the Plaintiff's decedent, JACQUELINE GREEN, was transferred and readmitted to MERCY HOSPITAL AND MEDICAL CENTER for an infectious disease consultation.

13. That on or around March 28, 2014, the Plaintiff's decedent, was readmitted to MERCY HOSPITAL AND MEDICAL CENTER.

14. That on or around April 4, 2014, during her admission at MERCY HOSPITAL AND MEDICAL CENTER, the Plaintiff's decedent, JACQUELINE GREEN, died.

15. That on and subsequent to January 3, 2014, there existed a duty on the part of the Defendant, ST. AGNES, by and through its agents, servants, and/or employees, whether actual or apparent, to comply with the applicable standards of care for reasonably well qualified medical providers for a patient such as JACQUELINE GREEN.

16. That disregarding its duties, the Defendant, ST. AGNES, by and through its agents, servants, and/or employees, whether actual or apparent, was then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- a. Failure to initiate and sustain measures to prevent skin breakdown and pressure ulcers;
- b. Failure to prevent development and progression of skin breakdown and pressure ulcers, including the sacral skin breakdown and pressure ulcer;
- c. Failure to appropriately monitor and treat skin breakdown and pressure ulcers, including proper turning and repositioning, proper hygiene and adequate nutrition;

- d. Failure to prevent infection of the sacral pressure ulcer; and
- e. Failure to provide a safe environment.

17. That as a direct and proximate result of one or more of the aforementioned careless and negligent acts and/or omissions on the part of the Defendant, ST. AGNES, by and through its agents, servants, and/or employees, whether actual or apparent, the Plaintiff's decedent, ST. AGNES, sustained serious and permanent injuries which proximately resulted in her premature death on April 4, 2014.

18. That at her death on April 4, 2014, the Decedent, JACQUELINE GREEN, left surviving her next-of-kin, to wit, Alma Green, Darnette Green, Jacqueline Green, her daughters, and Michael Carbins, her son, who have suffered severe and permanent damages, including but not limited to loss of service, companionship, and society as a result of the premature death of JACQUELINE GREEN.

19. That the Plaintiff brings her action in Count III under 740 ILCS 180/01 *et. seq.*, commonly known as the Wrongful Death Act of Illinois.

WHEREFORE, the Plaintiff, ALMA GREEN, as Independent Administrator of the Estate of JACQUELINE GREEN, deceased, prays for judgment against the Defendant, ST. AGNES, in such amount in excess of this Court's jurisdictional requisite as will fairly and adequately compensate the Plaintiff for the injuries, losses and damages as herein above alleged.

COUNT IV – SURVIVAL
(ST. AGNES MANOR, INC., d/b/a
ST. AGNES HEALTH CARE AND REHABILITATION)

NOW COMES the Plaintiff, ALMA GREEN, as Independent Administrator of the Estate of JACQUELINE GREEN, deceased, by and through her attorneys, KRALOVEC, JAMBOIS & SCHWARTZ, and complaining of the Defendant, ST. AGNES MANOR, INC., d/b/a ST. AGNES HEALTH CARE AND REHABILITATION (“ST. AGNES”), states as follows:

1 – 16. That the Plaintiff hereby re-alleges and incorporates paragraphs 1 through 16 of Count III as and for paragraphs 1 through 16 of this Count IV as though fully set forth herein.

17. That as a direct and proximate result of one or more of the aforementioned careless and negligent acts and/or omissions on the part of the Defendant, ST. AGNES, by and through its agents, servants, and/or employees, whether actual or apparent, the decedent, JACQUELINE GREEN, was injured and suffered damages of a personal and pecuniary nature, including pain and suffering prior to her death, damages for which had she survived she would have been entitled to maintain an action, and such an action has survived her and accrued to the benefit of her heirs at law, to wit, Alma Green, Darnette Green, Jacqueline Green, her daughters, and Michael Carbins, her son.

18. That the Plaintiff brings her action in Count IV under 755 ILCS 5/27-6 *et. seq.*, commonly known as the Illinois Survival Statute.

WHEREFORE, the Plaintiff, ALMA GREEN, as Independent Administrator of the Estate of JACQUELINE GREEN, deceased, prays for judgment against the Defendant, ST. AGNES, in such amount in excess of this Court’s jurisdictional requisite as will fairly and adequately compensate the Plaintiff for the injuries, losses and damages as herein above alleged.

COUNT V – SURVIVAL - NURSING HOME
(ST. AGNES MANOR, INC., d/b/a
ST. AGNES HEALTH CARE AND REHABILITATION)

NOW COMES the Plaintiff, ALMA GREEN, as Independent Administrator of the Estate of JACQUELINE GREEN, deceased, by and through her attorneys, KRALOVEC, JAMBOIS & SCHWARTZ, and complaining of the Defendant, ST. AGNES MANOR, INC., d/b/a ST. AGNES HEALTH CARE AND REHABILITATION (“ST. AGNES”), states as follows:

1-15. That the Plaintiff hereby re-alleges and incorporates paragraphs 1 through 15 of Count III as and for paragraphs 1 through 15 of this Count V as though fully set forth herein.

16. At all times relevant hereto, there was, in full force and effect, a statute known as the Nursing Home Care Act, as amended (the “ACT”), 210 ILCS 45/1-101 et seq.

17. At all times relevant hereto, the Defendant, ST. AGNES, was a “facility” as defined by 45/1-113 of the Act and was subject to the requirements of the Act and the regulations of the Illinois Department of Public Health promulgated pursuant to the Act.

18. At all times relevant hereto, the Defendant, ST. AGNES, was subject to the requirements of 42 U.S.C.A. § 1396r (1990) et seq. as amended by the Omnibus Budget Reconciliation Act of 1987 (“OBRA”).

19. At all times relevant hereto, the Defendant, ST. AGNES, was subject to the requirements of Volume 42, Code of Federal Regulations, Part 483 setting forth Medicare and Medicaid Requirements for Long Term Facilities (“OBRA REGULATION”), as effective on October 1, 1990.

20. At all times relevant hereto, the Defendant, ST. AGNES, was a “nursing facility” as defined by 42 U.S.C.A. § 1396r.

21. At all times relevant hereto, the Defendant, ST. AGNES, by and through its owners, agents, servants, and/or employees, whether actual or apparent, were under a statutory obligation not to violate the rights of any resident of the facility including the obligations not to abuse or neglect any resident as provided by the Act as follows:

An owner, licensee, administrator, employee or agent of a facility shall not abuse or neglect a resident. (210 ILCS 45/2-107)

“Abuse” means any physical or HEALTH injury or sexual assault inflicted on a resident other than that by accidental means in a facility. (210 ILCS 45/1-103)

“Neglect” means a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or HEALTH injury to a resident or in the deterioration of a resident’s physical or HEALTH condition. (210 ILCS 45/1-117)

22. At all times relevant hereto, during the course of the residency of the Plaintiff’s Decedent, JACQUELINE GREEN, at ST. AGNES, the Defendant facility, violated the provisions of the Act as follows:

- a. Failing to provide for the Plaintiff’s total nursing and personal care needs in violation of 77 Ill.Admin.Code, Ch.I, §300.1210(a);
- b. Failure to ensure the health and safety of all residents at the nursing facility in violation of the ACT, 210 ILCS 45/2-101 (from Ch. 111 1/2, par. 4152-101);
- c. Failing to ensure that the nursing facility was adequately staffed with qualified and licensed medical professionals to provide adequate care for the resident in violation of OBRA REGULATION, 42 CFR § 483.30;
- d. Failing to report the abuse or neglect to the appropriate authorities pursuant to the "The Abused and Neglected Long Term Care Facility Residents Reporting Act" (210 ILCS 30/1);

- e. Failing to ensure that all documentation of care and treatment (a) accurately reflects the nursing process and (b) reveals that residents receive care that reflects the minimum acceptable standards of practice in violation of 77 Ill.Admin.Code, Ch.I, §300.1820(c), and 42 CFR sec. 483.10;
- f. Failing to adequately monitor and treat the Plaintiff's deteriorating condition in violation of 77 Ill.Admin.Code, Ch.I, §300.1210(a), 77 Ill.Admin.Code, Ch.I, §300.1210(b), and 42 CFR sec. 483.10; and
- g. Otherwise failed to provide the Plaintiff adequate medical, personal, and nursing care.

23. That the Nursing Home Care Act, as amended, provides as follows:

The licensee shall pay three times the actual damages or \$500 whichever is greater, and costs and attorney's fees to a facility resident whose rights, as specified in part 1 of Article 2 of this Act, are violated (210 ILCS 45/3-602).

24. That the Nursing Home Care Act, as amended, provides as follows:

The owner and licensee are liable to a resident for any intentional or negligent act or omission of their agency or employees which injures the resident (210 ILCS 45/3-601).

25. That as a direct and proximate result of one or more of the aforementioned statutory violations on the part of the Defendant, ST. AGNES, by and through its agents, servants, and/or employees, whether actual or apparent, the Decedent, JACQUELINE GREEN, was injured and suffered damages of a personal and pecuniary nature, including pain and suffering prior to her death, damages for which had she survived she would have been entitled to maintain an action, and such an action has survived her and accrued to the benefit of her heirs at law, to wit, Alma Green, Darnette Green, Jacqueline Green, her daughters, and Michael Carbins, her son.

WHEREFORE, the Plaintiff, ALMA GREEN, as Independent Administrator of the Estate of JACQUELINE GREEN, deceased, prays for judgment against the Defendant, ST. AGNES, in such amount in excess of this Court's jurisdictional requisite as will fairly and adequately compensate the Plaintiff for the injuries, losses and damages as herein above alleged.

Respectfully submitted,

KRALOVEC, JAMBOIS & SCHWARTZ



Ryan E. Yagoda

KRALOVEC, JAMBOIS & SCHWARTZ
60 West Randolph Street, 4th Floor
Chicago, Illinois 60601
312.782.2525
Firm ID: 24797

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

Estate of

JACQUELINE GREEN

Deceased

No.

15 P 5467

ORDER APPOINTING REPRESENTATIVE OF DECEDENT'S ESTATE - INTESTATE

On the Petition of ALMA GREEN (printed name of the Petitioner) for issuance of Letters of

Administration; *and the nominated representative's being a nonresident of Illinois and having complied with §1-11 of the Probate Act of 1975 [755 ILCS 5/1-11] by filing with the Court a Designation of Resident Agent to accept service of process, notice or demand required or permitted by law to be served upon the representative;

IT IS ORDERED THAT:

A. Letters of Administration issue to ALMA GREEN (printed name of the proposed representative) as

- 4232 Supervised Administrator
4249 Supervised Administrator to Collect
4237 Supervised Administrator de bonis non
4227 Supervised Co-Administrators
4230 Independent Administrator
4248 Independent Administrator to Collect
4236 Independent Administrator de bonis non
4231 Independent Co-Administrators

B. The representative shall present to the Court:

- 1. an Inventory as required by §14-1 of the Probate Act of 1975 [755 ILCS 5/14-1] by, or shall appear before the Court on, 20, at m.;
2. an Account as required by §24-1 of the Probate Act of 1975 [755 ILCS 5/24-1] by, or shall appear before the Court on, 20, at m.; and
3. a Final Report as required by §28-11 of the Probate Act of 1975 [755 ILCS 5/28-11] by, or shall appear before the Court to present a written status report on, Nov 9, 2016, at 10:00 a.m.

* Strike if representative is a resident of Illinois

** Strike if independent administration

*** Strike if supervised administration

Atty. No.: 39647

Name: James F. Tozzi

Firm Name:

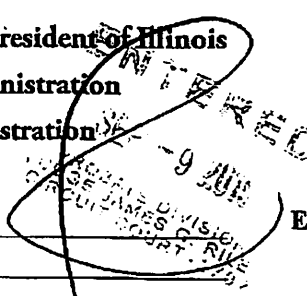
Attorney for Petitioner: Alma Green

Address: 60 W. Randolph, Suite 200

City/State/Zip Code: Chicago, IL 60601

Telephone: (312) 424-2411

Email Address:



ENTERED:

Judge

Judge's No.

PLAINTIFF'S EXHIBIT

A