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IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

CASE NO.:

KIM KING as Personal Representative of the  
Estate of MARTIN KAPLAN ,

Plaintiff,

vs.

REGENTS PARK, INC. d/b/a REGENTS  
PARK OF BOCA RATON also d/b/a  
REGENTS PARK NURSING &  
REHABILITATION CENTER, ITEX  
MANAGEMENT OF FLORIDA, INC., JACK  
RAJCHENBACH and AARON  
HOLLANDER.

Defendants.

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**COMPLAINT**

COMES NOW the Plaintiff, KIM KING, as Personal Representative of the Estate of MARTIN KAPLAN, by and through undersigned counsel, sues Defendants, REGENTS PARK, INC. d/b/a REGENTS PARK OF BOCA RATON also d/b/a REGENTS PARK NURSING & REHABILITATION CENTER (hereafter "REGENTS PARK"), ITEX MANAGEMENT OF FLORIDA, INC. (hereafter "ITEX"), JACK RAJCHENBACH and AARON HOLLANDER, and further alleges:

**GENERAL JURISDICTIONAL ALLEGATIONS**

1. This is a cause of action for damages, which exceeds Fifteen Thousand Dollars (\$15,000.00), exclusive of costs, interest, and attorney's fees.
2. All conditions precedent to the filing of this action, including compliance with the notice provisions of Chapter 400, have been met or waived.

3. This action is being brought by the Plaintiff for violations of Chapter 400 against REGENTS PARK, ITEX, JACK RAJCHENBACH and AARON HOLLANDER while MARTIN KAPLAN was a resident at the Defendants' nursing home (hereafter "the nursing home" or "the facility").

4. At all times material, KIM KING has been appointed as Personal Representative of the Estate of MARTIN KAPLAN, and is the proper party to bring this action on behalf of the estate and its survivors. See Exhibit "A"; Letters of Administration for the Estate of MARTIN KAPLAN.

5. At all times material, REGENTS PARK, was a Florida for-profit corporation doing business in Palm Beach County, with a principal place of business in Palm Beach County and an agent in Palm Beach County.

6. REGENTS PARK committed tortious acts against MARTIN KAPLAN in the State of Florida. Each tortious act is specifically alleged in the subsequent counts. Accordingly, REGENTS PARK is subject to the jurisdiction of the court of the State of Florida.

7. At all times material, ITEX was a Florida for-profit corporation that was in the business of owning, managing and controlling a chain of nursing homes, including the nursing home located in Palm Beach County.

8. ITEX committed tortious acts against MARTIN KAPLAN in the State of Florida. Each tortious act is specifically alleged in the subsequent counts. Accordingly, ITEX is subject to the jurisdiction of the court of the State of Florida.

9. At all material times, Defendant, JACK RAJCHENBACH, an Illinois resident, was an individual managing employee that had actual control, and the right to control, the operations of Defendants, ITEX and REGENTS PARK.

10. At all material times, Defendant, AARON HOLLANDER, a Florida resident, was an individual managing employee that had actual control, and the right to control, the operations of Defendants, ITEX and REGENTS PARK.

11. At all times material hereto, the Defendants were subject to the provisions of Chapter 400 of Florida Statutes, Title 42 of the Code of Federal Regulations, Titles 10 and 59 of the Florida Administrative Code, and OBRA 1987, which set the standards for operating nursing homes such as this facility.

12. Venue is appropriate in this action as the events giving rise to the cause of action occurred in Palm Beach County, Florida, the subject facility is located in Palm Beach County, Florida, one of more of the Defendants operate and do business in Palm Beach County, Florida and the Plaintiff resides in Palm Beach County, Florida.

13. This Complaint is being filed within the applicable statute of limitations period.

14. The undersigned certifies a good faith basis for bringing this action.

#### **ALLEGATIONS AGAINST REGENTS PARK**

15. At all times material hereto, the Defendant, REGENTS PARK, was the licensee of the nursing home facility, which was authorized to do business in the State of Florida and to operate a nursing home under the name of 'Regents Park Nursing and Rehabilitation Center' and is subject to the provisions of Florida Statutes Chapter 400.

16. At all times material hereto, the Defendant, REGENTS PARK, employed the nurses and caretakers at the facility, and is therefore responsible for their tortious conduct.

17. At all times material hereto, the Defendant, REGENTS PARK, was operating the facility and/or had a non-delegable duty to ensure reasonable operation of the facility and

reasonable care to residents, as the licensee of the facility, licensed as a nursing home as that term is defined in Florida Statutes Chapter 400.

18. At all times material hereto, REGENTS PARK, owed a duty to its residents, including MARTIN KAPLAN, to exercise reasonable care in its operation of the subject nursing home according to §400.023(3), Florida Statutes.

#### **ALLEGATIONS AGAINST ITEX**

19. At all times material, the Defendant, ITEX, was the management/consulting company, manager and/or owner of the subject nursing home.

20. At all times material hereto, the Defendant, ITEX, was in the business of owning, managing, and/or maintaining nursing and convalescent homes and related health care facilities, including the subject facility.

21. At all times material hereto, the Defendant, ITEX, was operating the Defendants' facility and/or had a non-delegable duty to ensure reasonable operation of the facility and reasonable care to residents, as the management company for the facility, which was licensed as a nursing home as that term is defined in Florida Statutes Chapter 400.

22. At all times material hereto, the Defendant, ITEX owned, operated, managed and controlled the nursing home's operations; including but not limited to hiring/firing the facility's administrator and/or director of nursing, employee training, staffing levels, budget and the facility's policies and procedures in accordance with §400.023(2)(b), Florida Statutes.

23. During MARTIN KAPLAN's residency, the Defendant, ITEX owned, operated, managed and controlled the nursing home and its staff. Therefore, ITEX is responsible for any actions or omissions of the nursing home's employees, agents or apparent agents.

24. ITEX owned, operated, managed, controlled and oversaw REGENTS PARK and as such, owed a duty to MARTIN KAPLAN to exercise reasonable care according to §400.023(3), Florida Statutes.

**MR. RAJCHENBACH'S INVOLVEMENT AS A MANAGING EMPLOYEE**

25. At all times material, JACK RAJCHENBACH maintained a 25.56% ownership interest in REGENTS PARK, INC., the licensee of the nursing home.

26. JACK RAJCHENBACH also maintained a 50% ownership interest in ITEX, the management company for the facility.

27. At all times material, JACK RAJCHENBACH was the President of ITEX.

28. In addition to his ownership interest in the involved corporate Defendants, JACK RAJCHENBACH, as a Managing Employee of ITEX, controlled the day to day care at the facility by creating and/or approving the budgets, staffing, policies and procedures for ITEX facilities, including the subject nursing home in Boca Raton.

29. At all times material, JACK RAJCHENBACH was also the President and Director of REGENTS PARK.

30. In addition to his ownership interest in the involved corporate Defendants, JACK RAJCHENBACH, as a Managing Employee of REGENTS PARK, controlled the day to day care at the facility by creating and/or approving the facility budget, staffing, policies and procedures.

31. At all times material hereto, the Defendant, JACK RACHENBACH, as a Managing Employee, controlled the facility employees, agents, and/or apparent agents who assisted Defendant, REGENTS PARK, in the delivery of skilled nursing home care and treatment to MARTIN KAPLAN pursuant to Florida Chapter 400, et. al.

**MR. HOLLANDER'S INVOLVEMENT AS A MANAGING EMPLOYEE**

32. At all times material, AARON HOLLANDER maintained a 5.55% ownership interest in REGENTS PARK, INC., the licensee of the nursing home.

33. At all times material, AARON HOLLANDER was also the CFO of REGENTS PARK.

34. In addition to his ownership interest in the involved corporate Defendant, AARON HOLLANDER, as a Managing Employee of REGENTS PARK, controlled the day to day care at the facility by creating and/or approving the facility budget, staffing, policies and procedures.

35. At all times material hereto, the Defendant, AARON HOLLANDER, as a Managing Employee, controlled the facility employees, agents, and/or apparent agents who assisted Defendant, REGENTS PARK, in the delivery of skilled nursing home care and treatment to MARTIN KAPLAN, pursuant to Florida Chapter 400, et. al.

#### **FACTS GIVING RISE TO THIS CAUSE OF ACTION**

36. On or about July 27, 2018, MARTIN KAPLAN, a war veteran, was admitted to REGENTS PARK for short-term rehabilitation to strengthen his legs following a hospitalization at Boca Raton Regional Hospital.

37. Upon admission, MARTIN KAPLAN required extensive supervision and/or assistance with activities of daily living, including but not limited to ambulation, bathing, dressing, toileting and medication management.

38. At all material times, MARTIN KAPLAN was a high fall risk and required appropriate fall precautions, adequate staff numbers to supervise him, appropriate fall preventative procedures in place and including extensive assistance with ambulation and transfers.

39. Despite his high fall risk classification, appropriate staff numbers were not present and proper fall preventative measures were not implemented at the Defendants' facility.

40. Consequently, on or about August 29, 2018, MARTIN KAPLAN was dropped by a Regents Park aide while measuring his body weight.

41. As a result, MARTIN KAPLAN smashed his knees on the facility's floor.

42. Multiple staff members were required to pick MARTIN KAPLAN off the floor.

43. Over the next few days, MARTIN KAPLAN's post-fall condition did not improve and he complained of agonizing pain to the REGENTS PARK staff.

44. On or around September 2, 2018, the Kaplan family removed MARTIN KAPLAN from the Defendants' facility and transferred him back to Boca Raton Regional Hospital.

45. Not surprisingly, radiology tests confirmed Mr. Kaplan suffered a traumatically induced left tibial plateau fracture and had fluid inside of his knees.

46. Due to his facility-acquired injuries, MARTIN KAPLAN remained hospitalized for 9 days until he was placed on hospice care.

47. By this time, MARTIN KAPLAN's underlying health conditions, both physical and mental, were greatly compromised.

48. MARTIN KAPLAN died shortly thereafter on or around September 13, 2018.

**WRONGFUL DEATH DAMAGES**

49. MARTIN KAPLAN wrongfully died on September 13, 2018 as a direct and proximate result of the Defendants' negligence, more fully described above and below. The death certificate says, in pertinent part:

MANNER OF DEATH:

**ACCIDENT**

CONDITIONS CONTRIBUTING TO DEATH: **FALL/KNEE INJURY**

DATE OF INJURY:

**August 29, 2018**

LOCATION OF INJURY:

**REGENTS PARK**

**DESCRIBE HOW INJURY OCCURRED: FELL WHILE BEING WEIGHED IN**

50. As a direct and proximate result of the rights violations outlined above and below, the Estate of MARTIN KAPLAN and the survivors of the Estate, including but not limited to KIM KING (daughter), Sherryl Ladmer (daughter) and Stacey Rosmarin (daughter) are entitled to all damages recoverable for the wrongful death caused by the Defendants, as alleged above and below, including but not limited to:

- a. Damages for MARTIN KAPLAN's bodily injury, pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expensive hospitalization, the value of reasonable nursing services and nursing care provided to MARTIN KAPLAN, medical and nursing care and treatment and aggravation of previous existing conditions, from the time of her injury until the time of his/her death;
- b. Medical bills and expenses;
- c. Funeral expenses;
- d. Loss of Net Accumulations;
- e. The survivors of the deceased have suffered mental pain and suffering which will continue for the rest of their life, and they have suffered the loss of services and support of their loved one, MARTIN KAPLAN, and have incurred medical and funeral expenses as a result of MARTIN KAPLAN's death, and have suffered the loss of MARTIN KAPLAN's love and companionship.

**SURVIVAL DAMAGES**

51. Alternatively, if these injuries did not cause MARTIN KAPLAN's death, the Estate of MARTIN KAPLAN claims all damages recoverable under a survival action, including but not limited to the non-economic and economic damages of the decedent for 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, from time of injury of MARTIN KAPLAN to the time of his/her death. These survival damages occurred as a direct and proximate result of the negligence of the Defendants' outlined above and below.

**COUNT I:**  
**MARTIN v. REGENTS PARK – WRONGFUL DEATH**

52. Plaintiffs re-allege paragraphs 1 through 50 and further allege:

53. At all material times, REGENTS PARK was the licensee of the nursing home.

54. At all material times REGENTS PARK owed a duty to MARTIN KAPLAN to provide reasonable nursing home care, pursuant to Fla. Stat. Sec. 400.

55. Defendant, REGENTS PARK, as the licensee of the facility was responsible and liable for the nurses and/or staff that cared for MARTIN KAPLAN because they employed the nurses and/or staff at the facility.

56. Additionally, or in the alternative, Defendant, REGENTS PARK as the licensee of the facility was responsible and liable for the nurses and/or staff at the facility that cared for MARTIN KAPLAN because they had actual control of their actions, and the right to control their actions, and thus those persons were agents of REGENTS PARK.

57. The negligent conduct of the nurses and/or staff of the facility, as described below, was performed in the course and scope of the employment and/or agency with REGENTS PARK.

58. Accordingly, REGENTS PARK is responsible for the negligent conduct of the nurses and/or staff.

59. REGENTS PARK, through its employees, agents and apparent agents, including but not limited to its R.N.s, L.P.N.s, C.N.A.s and other personnel violated MARTIN KAPLAN 's

rights protected under Chapter 400 for Nursing Home residents by providing negligent and substandard nursing home care as follows:

- a) Failure to safely transfer and weigh an at-risk resident;
- b) Dropping MARTIN KAPLAN;
- c) Failure to monitor the resident;
- d) Failure to properly and safely assess fall risk;
- e) Failure to properly and safely prevent falls;
- f) Failure to properly implement fall precautions and provide assistive devices that were reasonable and necessary under the circumstances;
- g) Failure to follow through on necessary fall precautions;
- h) Failure to use alarms on a fall risk resident;
- i) Failure to prevent MARTIN KAPLAN's falls;
- j) Failure to report the fall(s) of MARTIN KAPLAN;
- k) Failure to document the resident's injuries and complaints of pain;
- l) Failure to timely provide medical attention to MARTIN KAPLAN after he fell;
- m) Failure to timely react to the resident's injuries and complaints of pain;
- n) Failure to communicate to physicians that MARTIN KAPLAN was in pain;
- o) Failure to notify the family of MARTIN KAPLAN of falls and injuries;
- p) Failure to inform the family of MARTIN KAPLAN of his deteriorated condition;
- q) Providing false or misleading information in the resident's chart and to other medical providers;

- r) Failure to provide appropriate hydration and nutrition;
- s) Failure to prevent skin breakdown and infection;
- t) Failure to provide appropriate budgeting for the subject facility;
- u) Failure to properly staff the subject facility;
- v) Failure to provide appropriate policies and procedures to the subject facility;
- w) Failure to appropriately staff and train employees and agents;
- x) Failure to provide medication when required;
- y) Failing to provide reasonable nursing home care; and
- z) Failing to act reasonably under all the circumstances.

60. As a proximate result of the Defendant's deprivation of and infringement upon MARTIN KAPLAN's Chapter 400 rights as alleged in this Complaint, which includes the above alleged negligence, MARTIN KAPLAN wrongfully died.

61. WHEREFORE KIM KING, as Personal Representative of the Estate of MARTIN KAPLAN claims all recoverable damages against Defendant, REGENTS PARK, and demands trial by jury.

**COUNT II:**  
**MARTIN v. ITEX – WRONGFUL DEATH**

62. Plaintiff re-alleges paragraphs 1 through 50 and further alleges:

63. At all material times, ITEX was the management company of the nursing home.

64. At all material times, ITEX was the owner/operator of the nursing home.

65. At all material times, the nursing home owned and/or operated and/or managed by ITEX, was licensed pursuant to Fla. Stat. Sec. 400, and held itself to the public, including MARTIN KAPLAN as a nursing home that owed a duty to provide reasonable nursing home care services

within the applicable standards of care, including protecting the rights guaranteed under Fla. Stat. Sec. 400, and providing care that met the standard of care for nursing homes.

66. Accordingly, at all material times, ITEX owed a duty to MARTIN KAPLAN to provide reasonable nursing home care, and to not violate her rights as resident of nursing home, guaranteed by Fla. Stat. Sec. 400.

67. Defendant, ITEX as the manager of the facility was responsible and liable for the nurses and/or staff that cared for MARTIN KAPLAN because they employed the nurses and/or staff at the facility.

68. Additionally, or in the alternative, Defendant, ITEX as the manager of the facility was responsible and liable for the nurses and/or staff at the facility that cared for MARTIN KAPLAN because they had actual control of their actions, and the right to control their actions, and thus those persons were agents of ITEX.

69. The negligent conduct of the nurses and/or staff of the facility, as described below, was performed in the course and scope of the employment and/or agency with ITEX.

70. Accordingly, ITEX is responsible for the negligent conduct of the nurses and/or staff.

71. ITEX, by and through its employees, agents and apparent agents at the nursing home, as described above, were negligent and violated MARTIN KAPLAN 's Chapter 400 rights as follows:

- a) Failure to safely transfer and weigh an at-risk resident;
- b) Dropping MARTIN KAPLAN;
- c) Failure to monitor the resident;
- d) Failure to properly and safely assess fall risk;

- e) Failure to properly and safely prevent falls;
- f) Failure to properly implement fall precautions and provide assistive devices that were reasonable and necessary under the circumstances;
- g) Failure to follow through on necessary fall precautions;
- h) Failure to use alarms on a fall risk resident;
- i) Failure to prevent MARTIN KAPLAN's falls;
- j) Failure to report the fall(s) of MARTIN KAPLAN;
- k) Failure to document the resident's injuries and complaints of pain;
- l) Failure to timely provide medical attention to MARTIN KAPLAN after he fell;
- m) Failure to timely react to the resident's injuries and complaints of pain;
- n) Failure to communicate to physicians that MARTIN KAPLAN was in pain;
- o) Failure to notify the family of MARTIN KAPLAN of falls and injuries;
- p) Failure to inform the family of MARTIN KAPLAN of his deteriorated condition;
- q) Providing false or misleading information in the resident's chart and to other medical providers;
- r) Failure to provide appropriate hydration and nutrition;
- s) Failure to prevent skin breakdown and infection;
- t) Failure to provide appropriate budgeting for the subject facility;
- u) Failure to properly staff the subject facility;
- v) Failure to provide appropriate policies and procedures to the subject facility;
- w) Failure to appropriately staff and train employees and agents;

- x) Failure to provide medication when required;
- y) Failing to provide reasonable nursing home care; and
- z) Failing to act reasonably under all the circumstances.

72. As a proximate result of the Defendant's deprivation of and infringement upon MARTIN KAPLAN 's Chapter 400 rights as alleged in this Complaint, which includes the above alleged negligence, MARTIN KAPLAN wrongfully died.

73. WHEREFORE KIM KING, as Personal Representative of the Estate of MARTIN KAPLAN, claims all recoverable damages against Defendant, ITEX, and demands trial by jury.

**COUNT III:  
CLAIM AGAINST MR. RAJCHENBACH RESULTING IN DEATH**

74. Plaintiff re-alleges paragraphs 1 through 50 and further allege:

75. At all material times, JACK RAJCHENBACH personally owned the nursing home facility.

76. At all material times, JACK RAJCHENBACH personally controlled the nursing home facility in an individual capacity.

77. At all material times, JACK RAJCHENBACH, a managing employee, personally made the policy decisions at the Regents Park facility and at ITEX, had the ability to hire and fire staff, and was personally involved in micromanaging nursing home policy and resident care at the subject facility.

78. At all material times, JACK RAJCHENBACH was personally and individually negligent in his role in owning, managing and controlling the facility in the following respects:

- a) Failure to safely transfer and weigh an at-risk resident;
- b) Dropping MARTIN KAPLAN;
- c) Failure to monitor the resident;

- d) Failure to properly and safely assess fall risk;
- e) Failure to properly and safely prevent falls;
- f) Failure to properly implement fall precautions and provide assistive devices that were reasonable and necessary under the circumstances;
- g) Failure to follow through on necessary fall precautions;
- h) Failure to use alarms on a fall risk resident;
- i) Failure to prevent MARTIN KAPLAN's falls;
- j) Failure to report the fall(s) of MARTIN KAPLAN;
- k) Failure to document the resident's injuries and complaints of pain;
- l) Failure to timely provide medical attention to MARTIN KAPLAN after he fell;
- m) Failure to timely react to the resident's injuries and complaints of pain;
- n) Failure to communicate to physicians that MARTIN KAPLAN was in pain;
- o) Failure to notify the family of MARTIN KAPLAN of falls and injuries;
- p) Failure to inform the family of MARTIN KAPLAN of his deteriorated condition;
- q) Providing false or misleading information in the resident's chart and to other medical providers;
- r) Failure to provide appropriate hydration and nutrition;
- s) Failure to prevent skin breakdown and infection;
- t) Failure to provide appropriate budgeting for the subject facility;
- u) Failure to properly staff the subject facility;
- v) Failure to provide appropriate policies and procedures to the subject facility;

- w) Failure to appropriately staff and train employees and agents;
- x) Failure to provide medication when required;
- y) Failing to provide reasonable nursing home care; and
- z) Failing to act reasonably under all the circumstances.

As a proximate result of the Defendant's deprivation of and infringement upon MARTIN KAPLAN 's Chapter 400 rights as alleged in this Complaint, which includes the above alleged negligence, MARTIN KAPLAN wrongfully died.

79. WHEREFORE KIM KING, as Personal Representative of the Estate of MARTIN KAPLAN, claims all recoverable damages against Defendant, JACK RAJCHENBACH, and demands trial by jury.

**COUNT IV**  
**CLAIM AGAINST MR. HOLLANDER RESULTING IN DEATH**

80. Plaintiff re-alleges paragraphs 1 through 50 and further allege:

81. At all material times, AARON HOLLANDER personally owned the nursing home facility.

82. At all material times, AARON HOLLANDER personally controlled the nursing home facility in an individual capacity.

83. At all material times, AARON HOLLANDER, a managing employee, personally made the policy decisions at the Regents Park facility and at ITEX, had the ability to hire and fire staff, and was personally involved in micromanaging nursing home policy and resident care at the subject facility.

84. At all material times, AARON HOLLANDER was personally and individually negligent in his role in owning, managing and controlling the facility in the following respects:

- a) Failure to safely transfer and weigh an at-risk resident;



- b) Dropping MARTIN KAPLAN;
- c) Failure to monitor the resident;
- d) Failure to properly and safely assess fall risk;
- e) Failure to properly and safely prevent falls;
- f) Failure to properly implement fall precautions and provide assistive devices that were reasonable and necessary under the circumstances;
- g) Failure to follow through on necessary fall precautions;
- h) Failure to use alarms on a fall risk resident;
- i) Failure to prevent MARTIN KAPLAN's falls;
- j) Failure to report the fall(s) of MARTIN KAPLAN;
- k) Failure to document the resident's injuries and complaints of pain;
- l) Failure to timely provide medical attention to MARTIN KAPLAN after he fell;
- m) Failure to timely react to the resident's injuries and complaints of pain;
- n) Failure to communicate to physicians that MARTIN KAPLAN was in pain;
- o) Failure to notify the family of MARTIN KAPLAN of falls and injuries;
- p) Failure to inform the family of MARTIN KAPLAN of his deteriorated condition;
- q) Providing false or misleading information in the resident's chart and to other medical providers;
- r) Failure to provide appropriate hydration and nutrition;
- s) Failure to prevent skin breakdown and infection;
- t) Failure to provide appropriate budgeting for the subject facility;

- u) Failure to properly staff the subject facility;
- v) Failure to provide appropriate policies and procedures to the subject facility;
- w) Failure to appropriately staff and train employees and agents;
- x) Failure to provide medication when required;
- y) Failing to provide reasonable nursing home care; and
- z) Failing to act reasonably under all the circumstances.

85. As a proximate result of the Defendant's deprivation of and infringement upon MARTIN KAPLAN's Chapter 400 rights as alleged in this Complaint, which includes the above alleged negligence, MARTIN KAPLAN wrongfully died.

86. WHEREFORE KIM KING, as Personal Representative of the Estate of MARTIN KAPLAN, claims all recoverable damages against Defendant, AARON HOLLANDER and demands trial by jury.

**COUNT V**  
**SURVIVAL ACTION AGAINST REGENTS PARK**

87. Plaintiffs re-allege paragraphs 1 through 48 and 51 and further allege:

88. This survival action is made in the alternative to the above wrongful death claim.

89. Defendant, REGENTS PARK, through its employees, agents and apparent agents were below the standard of care and thus violated the Chapter 400 rights of MARTIN KAPLAN as follows:

- a) Failure to safely transfer and weigh an at-risk resident;
- b) Dropping MARTIN KAPLAN;
- c) Failure to monitor the resident;
- d) Failure to properly and safely assess fall risk;
- e) Failure to properly and safely prevent falls;

- f) Failure to properly implement fall precautions and provide assistive devices that were reasonable and necessary under the circumstances;
- g) Failure to follow through on necessary fall precautions;
- h) Failure to use alarms on a fall risk resident;
- i) Failure to prevent MARTIN KAPLAN's falls;
- j) Failure to report the fall(s) of MARTIN KAPLAN;
- k) Failure to document the resident's injuries and complaints of pain;
- l) Failure to timely provide medical attention to MARTIN KAPLAN after he fell;
- m) Failure to timely react to the resident's injuries and complaints of pain;
- n) Failure to communicate to physicians that MARTIN KAPLAN was in pain;
- o) Failure to notify the family of MARTIN KAPLAN of falls and injuries;
- p) Failure to inform the family of MARTIN KAPLAN of his deteriorated condition;
- q) Providing false or misleading information in the resident's chart and to other medical providers;
- r) Failure to provide appropriate hydration and nutrition;
- s) Failure to prevent skin breakdown and infection;
- t) Failure to provide appropriate budgeting for the subject facility;
- u) Failure to properly staff the subject facility;
- v) Failure to provide appropriate policies and procedures to the subject facility;
- w) Failure to appropriately staff and train employees and agents;
- x) Failure to provide medication when required;

- y) Failing to provide reasonable nursing home care; and
- z) Failing to act reasonably under all the circumstances.

90. As a direct and proximate result of the above negligence, MARTIN KAPLAN fell and seriously injured himself.

91. If this fall did not cause the death of MARTIN KAPLAN, the Plaintiff alleges all damages recoverable under a survival action, including but not limited to the non-economic damages of decedent for 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, from time of injury of MARTIN KAPLAN to the time of his/her death.

WHEREFORE KIM KING, as Personal Representative of the Estate of MARTIN KAPLAN, claims all recoverable damages against Defendant, REGENTS PARK, and demands trial by jury.

**COUNT VI**  
**SURVIVAL ACTION AGAINST ITEX**

92. Plaintiffs re-allege paragraphs 1 through 48 and 51 and further allege:

93. This survival action is made in the alternative to the above wrongful death claim.

94. Defendant, ITEX, through its employees, agents and apparent agents were below the standard of care and thus violated the Chapter 400 rights of MARTIN KAPLAN as follows:

- a) Failure to safely transfer and weigh an at-risk resident;
- b) Dropping MARTIN KAPLAN;
- c) Failure to monitor the resident;
- d) Failure to properly and safely assess fall risk;
- e) Failure to properly and safely prevent falls;

- f) Failure to properly implement fall precautions and provide assistive devices that were reasonable and necessary under the circumstances;
- g) Failure to follow through on necessary fall precautions;
- h) Failure to use alarms on a fall risk resident;
- i) Failure to prevent MARTIN KAPLAN's falls;
- j) Failure to report the fall(s) of MARTIN KAPLAN;
- k) Failure to document the resident's injuries and complaints of pain;
- l) Failure to timely provide medical attention to MARTIN KAPLAN after he fell;
- m) Failure to timely react to the resident's injuries and complaints of pain;
- n) Failure to communicate to physicians that MARTIN KAPLAN was in pain;
- o) Failure to notify the family of MARTIN KAPLAN of falls and injuries;
- p) Failure to inform the family of MARTIN KAPLAN of his deteriorated condition;
- q) Providing false or misleading information in the resident's chart and to other medical providers;
- r) Failure to provide appropriate hydration and nutrition;
- s) Failure to prevent skin breakdown and infection;
- t) Failure to provide appropriate budgeting for the subject facility;
- u) Failure to properly staff the subject facility;
- v) Failure to provide appropriate policies and procedures to the subject facility;
- w) Failure to appropriately staff and train employees and agents;
- x) Failure to provide medication when required;

- y) Failing to provide reasonable nursing home care; and
- z) Failing to act reasonably under all the circumstances.

95. As a direct and proximate result of the above negligence, MARTIN KAPLAN fell and seriously injured himself.

96. If this fall did not cause the death of MARTIN KAPLAN, the Plaintiff alleges all damages recoverable under a survival action, including but not limited to the non-economic damages of decedent for 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, from time of injury of MARTIN KAPLAN to the time of his/her death.

WHEREFORE KIM KING, as Personal Representative of the Estate of MARTIN KAPLAN, claims all recoverable damages against Defendant, ITEX, and demands trial by jury.

**COUNT VII**  
**SURVIVAL ACTION AGAINST JACK RAJCHENBACH**

97. Plaintiff re-alleges paragraphs 1 through 48 and 51 and further allege:

98. This survival action is made in the alternative to the above wrongful death claim.

99. Defendant, JACK RAJCHENBACH, by and through his employees, agents and apparent agents were below the standard of care and thus violated the Chapter 400 rights of MARTIN KAPLAN as follows:

- a) Failure to safely transfer and weigh an at-risk resident;
- b) Dropping MARTIN KAPLAN;
- c) Failure to monitor the resident;
- d) Failure to properly and safely assess fall risk;
- e) Failure to properly and safely prevent falls;

- f) Failure to properly implement fall precautions and provide assistive devices that were reasonable and necessary under the circumstances;
- g) Failure to follow through on necessary fall precautions;
- h) Failure to use alarms on a fall risk resident;
- i) Failure to prevent MARTIN KAPLAN's falls;
- j) Failure to report the fall(s) of MARTIN KAPLAN;
- k) Failure to document the resident's injuries and complaints of pain;
- l) Failure to timely provide medical attention to MARTIN KAPLAN after he fell;
- m) Failure to timely react to the resident's injuries and complaints of pain;
- n) Failure to communicate to physicians that MARTIN KAPLAN was in pain;
- o) Failure to notify the family of MARTIN KAPLAN of falls and injuries;
- p) Failure to inform the family of MARTIN KAPLAN of his deteriorated condition;
- q) Providing false or misleading information in the resident's chart and to other medical providers;
- r) Failure to provide appropriate hydration and nutrition;
- s) Failure to prevent skin breakdown and infection;
- t) Failure to provide appropriate budgeting for the subject facility;
- u) Failure to properly staff the subject facility;
- v) Failure to provide appropriate policies and procedures to the subject facility;
- w) Failure to appropriately staff and train employees and agents;
- x) Failure to provide medication when required;

- y) Failing to provide reasonable nursing home care; and
- z) Failing to act reasonably under all the circumstances.

100. As a direct and proximate result of the above negligence, MARTIN KAPLAN fell and seriously injured himself.

101. If this fall did not cause the death of MARTIN KAPLAN, the Plaintiff alleges all damages recoverable under a survival action, including but not limited to the non-economic damages of decedent for 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, from time of injury of MARTIN KAPLAN to the time of his/her death.

WHEREFORE KIM KING, as Personal Representative of the Estate of MARTIN KAPLAN, claims all recoverable damages against Defendant, JACK RAJCHENBACH, and demands trial by jury.

**COUNT VIII**  
**SURVIVAL ACTION AGAINST AARON HOLLANDER**

102. Plaintiff re-alleges paragraphs 1 through 48 and 51 and further allege:

103. This survival action is made in the alternative to the above wrongful death claim.

104. Defendant, AARON HOLLANDER, by and through his employees, agents and apparent agents were below the standard of care and thus violated the Chapter 400 rights of CATHERINE CORY as follows:

- a) Failure to safely transfer and weigh an at-risk resident;
- b) Dropping MARTIN KAPLAN;
- c) Failure to monitor the resident;



- d) Failure to properly and safely assess fall risk;
- e) Failure to properly and safely prevent falls;
- f) Failure to properly implement fall precautions and provide assistive devices that were reasonable and necessary under the circumstances;
- g) Failure to follow through on necessary fall precautions;
- h) Failure to use alarms on a fall risk resident;
- i) Failure to prevent MARTIN KAPLAN's falls;
- j) Failure to report the fall(s) of MARTIN KAPLAN;
- k) Failure to document the resident's injuries and complaints of pain;
- l) Failure to timely provide medical attention to MARTIN KAPLAN after he fell;
- m) Failure to timely react to the resident's injuries and complaints of pain;
- n) Failure to communicate to physicians that MARTIN KAPLAN was in pain;
- o) Failure to notify the family of MARTIN KAPLAN of falls and injuries;
- p) Failure to inform the family of MARTIN KAPLAN of his deteriorated condition;
- q) Providing false or misleading information in the resident's chart and to other medical providers;
- r) Failure to provide appropriate hydration and nutrition;
- s) Failure to prevent skin breakdown and infection;
- t) Failure to provide appropriate budgeting for the subject facility;
- u) Failure to properly staff the subject facility;
- v) Failure to provide appropriate policies and procedures to the subject facility;

- w) Failure to appropriately staff and train employees and agents;
- x) Failure to provide medication when required;
- y) Failing to provide reasonable nursing home care; and
- z) Failing to act reasonably under all the circumstances.

105. As a direct and proximate result of the above negligence, MARTIN KAPLAN fell and seriously injured himself.

106. If this fall did not cause the death of MARTIN KAPLAN, the Plaintiff alleges all damages recoverable under a survival action, including but not limited to the non-economic damages of decedent for 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, from time of injury of MARTIN KAPLAN to the time of his/her death.

WHEREFORE KIM KING, as Personal Representative of the Estate of MARTIN KAPLAN, claims all recoverable damages against Defendant, AARON HOLLANDER, and demands trial by jury.

DATED this 11<sup>th</sup> day of April, 2019.

/s/ William J. Sarubbi, II, Esq.

WILLIAM J. SARUBBI, II, ESQ.

Florida Bar No.: 113401

Senior Justice Law Firm

1903 S. Congress Ave., Suite 380

Boynton Beach, Florida 33426

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Email: [eservice@SeniorJustice.com](mailto:eservice@SeniorJustice.com)

Attorney for Plaintiff

IN THE CIRCUIT COURT FOR THE 15<sup>TH</sup> JUDICIAL CIRCUIT,  
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF PROBATE DIVISION

MARTIN B. KAPLAN File No.  
Deceased: 502018CP005295XXXXSB


**EXHIBIT**  
"A"

**ORDER APPOINTING PERSONAL REPRESENTATIVE**  
(Intestate - Single)

On the petition of KIM KING for administration of the Estate of MARTIN B. KAPLAN, Deceased, the court finding that the decedent died on September 13, 2018, and that KIM KING is entitled to appointment as Personal Representative by reason of: She is the daughter of the deceased, IT IS:

**ADJUDGED** that KIM KING is appointed personal representative of the Estate of the Decedent, and that upon taking the prescribed oath, filing designation of resident agent and acceptance, and entering into bond in the sum of \$ 0, letters of administration shall be issued.

ORDERED on Nov. 20, 2018

  
CIRCUIT JUDGE  
**CHARLES E. BURTON**

Copy to:  
Scott R. Bugay, PA.  
290 NW 165 Street, P-600  
Miami, Florida 33169

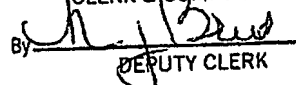


STATE OF FLORIDA - PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office with redactions, if any as required by law.

THIS 20 DAY OF Nov, 2018

SHARON R. BOCK  
CLERK & COMPTROLLER

By   
DEPUTY CLERK

All assets must be placed in a Restricted Depository, pursuant to Fla. Stat. s 69.931(1).  
No distribution without Court Order

Estate must be closed 12 months from the date of order

No copies received by the ~~court~~ <sup>ATTY.</sup>  
No envelopes received by the ~~court~~ <sup>ATTY.</sup>

IN THE CIRCUIT COURT FOR THE 15<sup>TH</sup> JUDICIAL CIRCUIT,  
IN AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF                      PROBATE DIVISION

MARTIN B. KAPLAN                      File No.  
Deceased.                                      502018CP005295XXXXSB

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6) LETTERS OF ADMINISTRATION  
(Single personal representative)

TO ALL WHOM IT MAY CONCERN

WHEREAS, MARTIN B. KAPLAN, a resident of Palm Beach County, died on September 13, 2018, owning assets in the State of Florida, and

WHEREAS, KIM KING has been appointed personal representative of the estate of the decedent and have performed all acts prerequisite to issuance of Letters of Administration in the estate.

NOW, THEREFORE, I, the undersigned circuit judge, declare KIM KING duly qualified under the laws of the State of Florida to act as personal representatives of the estate of MARTIN B. KAPLAN, 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 Nov. 16, 2018.

  
CIRCUIT JUDGE

CHARLES E. BURTON

Copy to:  
Scott R. Bugay, PA  
290 NW 165 Street, P-600  
Miami, Florida 33169

All assets must be placed in a Restricted  
Depository, pursuant to Fla. Stat. § 69.031(1).  
No distribution without Court Order

Estate must be closed 12 months from the date of order.

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No envelopes received by the court  
BY: 