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

CASE NO.:

CHARLES COLLIER, as Personal  
Representative of the Estate of MAMIE  
MYERS,

Plaintiff

vs.

THE ENCORE AT BOCA RATON  
REHABILITATION AND NURSING  
CENTER, LLC

Defendant.

COMPLAINT

Plaintiff, CHARLES COLLIER, as Prospective Personal Representative of the Estate of MAMIE MYERS, by and through the undersigned counsel, hereby files this Complaint against Defendant, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, and alleges as follows:

JURISDICTION AND VENUE

1. This is an action for damages in excess of Thirty Thousand Dollars (\$30,000.00), exclusive of attorneys' fees and costs.
2. This cause of action accrued in Palm Beach County, Florida and therefore, under Section 47.011, *Florida Statutes*, venue is proper in Palm Beach County, Florida.

3. This action is being brought by Plaintiff for violations of Chapter 400, *Florida Statutes*, against Defendant.

4. Pursuant to Chapter 400, *Florida Statutes*, all pre-requisites to bringing this action have been satisfied or waived prior to service of this Complaint.

5. This action is being brought within the applicable statute of limitations.

**THE PARTIES**

6. At all times material hereto, MAMIE MYERS was a resident of Palm Beach County, Florida.

7. CHARLES COLLIER is prospective Personal Representative of the Estate of MAMIE MYERS.

8. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC is authorized, licensed, and conducting business in Palm Beach County, Florida.

9. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owned, operated, and managed the nursing home doing business as The Encore at Boca Raton Rehabilitation and Nursing Center.

**FACTS GIVING RISE TO CLAIMS**

10. At all times material hereto, MAMIE MYERS was a resident of The Encore at Boca Raton Rehabilitation and Nursing Center.

11. At all times material hereto, MAMIE MYERS was completely dependent upon THE ENCORE AT BOCA RATON, its employees, agents, and apparent agents for all aspects of her care and activities of daily living.

12. On or about August 7, 2020, while under the care of The Encore at Boca Raton Rehabilitation and Nursing Center, MAMIE MYERS tested positive for COVID-19.

13. On August 15, 2020, MAMIE MYERS succumbed to the injuries she sustained while at The Encore at Boca Raton Rehabilitation and Nursing Center and died.

**COUNT I – NEGLIGENCE**  
**THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC**

14. Plaintiff re-alleges and incorporates paragraphs 1 through 13 and further alleges:

15. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owned, operated, and/or managed a nursing home known or doing business as The Encore at Boca Raton Rehabilitation and Nursing Center that accepted Medicaid and Medicare payments for services rendered to patients such as MAMIE MYERS.

16. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owned, operated, and/or managed said nursing home, which was licensed as a nursing home pursuant to Chapter 400, *Florida Statutes*.

17. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC held itself out to the public, including MAMIE MYERS, as a nursing home that owed a duty to provide reasonable nursing home care

and services within the applicable standard of care, including protecting the rights guaranteed under Chapter 400, *Florida Statutes*, and provide care within the applicable standard of care.

18. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC employed, retained, held out, or contracted with individuals, employees, agents, apparent agents, and/or contractors, who owed a duty to provide reasonable nursing home care services within the applicable standard of care, including protecting the rights guaranteed under Chapter 400, *Florida Statutes*, and provide care that met the applicable standard of care.

19. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owed a non-delegable duty to provide nursing home care and services to MAMIE MYERS, which met or exceeded the minimum acceptable standards expected of nursing homes operating in Palm Beach County, Florida, and in similar communities, and to comply with Chapter 400, *Florida Statutes*, Title 59 of the Florida Annotated Code, and 42 CFR 483.

20. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owed a duty pursuant to Section 400.022, *Florida Statutes*, to implement, respect, and provide MAMIE MYERS with the enumerated rights contained within that section.

21. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owed a duty to provide care and services

to MAMIE MYERS in a manner which would attain or maintain the highest practicable physical, mental, and psychosocial well-being.

22. THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC provided negligent nursing home care and violated MAMIE MYERS's rights under Chapter 400, *Florida Statutes*, by:

- a. Failing to implement proper infection protocol(s) within the facility;
- b. Failing to provide a healthy, disease-free environment for MAMIE MYERS;
- c. Failing to perform regular testing on staff to ensure COVID-19 did not spread within the facility from staff member to staff member or resident;
- d. Failing to take all necessary precautions to prevent residents from contracting COVID-19;
- e. Failing to enforce staff's correct and continued use of PPE equipment;
- f. Failing to prevent outsiders from coming into the facility despite "lockdown";
- g. Failing to protect MAMIE MYERS from foreseeable harm causing death;
- h. Failing to provide care and treatment to MAMIE MYERS within the standard of care;
- i. Failing to act reasonably in light of the circumstances; and
- j. Under all circumstances, providing nursing home care below the standard of care.

23. The above rights' violations were committed by the employees, agents, and/or apparent agents of THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, in the course and scope of their employment, agency, and/or apparent agency.

24. As a direct and proximate result of the tortious actions alleged above, MAMIE MYERS suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, and expense of hospitalization, medical and nursing care and treatment. These losses are from the time of the Defendant's negligence until the time of MAMIE MYERS' death on August 15, 2020.

WHEREFORE, Plaintiff, CHARLES COLLIER, as Personal Representative of the Estate of MAMIE MYERS, demands judgement against Defendant, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, for all damages allowed by law, including interest and costs where appropriate, and demands trial by jury as a matter of right.

**COUNT II – WRONGFUL DEATH**  
**THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC**

25. Plaintiff re-alleges and incorporates paragraphs 1 through 13 and further alleges:

26. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owned, operated, and/or managed a nursing home known or doing business as The Encore at Boca Raton Rehabilitation and Nursing Center that accepted Medicaid and Medicare payments for services rendered to patients such as MAMIE MYERS.

27. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owned, operated, and/or managed said nursing home, which was licensed as a nursing home pursuant to Chapter 400, *Florida Statutes*.

28. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC held itself out to the public, including MAMIE MYERS, as a nursing home that owed a duty to provide reasonable nursing home care and services within the applicable standard of care, including protecting the rights guaranteed under Chapter 400, *Florida Statutes*, and provide care within the applicable standard of care.

29. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC employed, retained, held out, or contracted with individuals, employees, agents, apparent agents, and/or contractors, who owed a duty to provide reasonable nursing home care services within the applicable standard of care, including protecting the rights guaranteed under Chapter 400, *Florida Statutes*, and provide care that met the applicable standard of care.

30. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owed a non-delegable duty to provide nursing home care and services to MAMIE MYERS, which met or exceeded the minimum acceptable standards expected of nursing homes operating in Palm Beach County, Florida, and in similar communities, and to comply with Chapter 400, *Florida Statutes*, Title 59 of the Florida Annotated Code, and 42 CFR 483.

31. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owed a duty pursuant to Section 400.022, *Florida Statutes*, to implement, respect, and provide MAMIE MYERS with the enumerated rights contained within that section.

32. At all times material hereto, THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC owed a duty to provide care and services MAMIE MYERS in a manner which would attain or maintain the highest practicable physical, mental, and psychosocial well-being.

33. THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC provided negligent nursing home care and violated MAMIE MYERS's rights under Chapter 400, *Florida Statutes*, by:

- a. Failing to implement proper infection protocol(s) within the facility;
- b. Failing to provide a healthy, disease-free environment for MAMIE MYERS;
- c. Failing to perform regular testing on staff to ensure COVID-19 did not spread within the facility from staff member to staff member or resident;
- d. Failing to take all necessary precautions to prevent residents from contracting COVID-19;
- e. Failing to enforce staff's correct and continued use of PPE equipment;
- f. Failing to prevent outsiders from coming into the facility despite "lockdown";



- g. Failing to protect MAMIE MYERS from foreseeable harm causing death;
- h. Failing to provide care and treatment to MAMIE MYERS within the standard of care;
- i. Failing to act reasonably in light of the circumstances; and
- j. Under all circumstances, providing nursing home care below the standard of care.

34. The above rights' violations were committed by the employees, agents, and/or apparent agents of THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, in the course and scope of their employment, agency, and/or apparent agency.

35. As a direct and proximate result of the negligent acts or omissions of THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, MAMIE MYERS wrongfully died.

36. As a direct and proximate result of MAMIE MYERS's wrongful death, her survivors have suffered mental pain and suffering, which they will continue to suffer for the rest of their lives. Her survivors have lost the services and support of MAMIE MYERS. They have incurred medical and funeral expenses as a result of MAMIE MYERS' death and have suffered the loss of MAMIE MYERS' love and companionship.

37. As a direct and proximate result of the negligent acts or omissions of THE ENCORE AT BOCA RATON REHABILITATION AND NURSING CENTER, LLC, the Estate of MAMIE MYERS makes a claim for the following damages as a result of the wrongful death of MAMIE MYERS:

- a. Funeral expenses;
- b. Medical and hospital expenses;
- c. Loss of net accumulations;
- d. Loss of earnings;
- e. The mental pain and suffering of MAMIE MYERS' survivors as a result of her death, as well as the loss of support and services they would have ordinarily had but for the foregoing described untimely death of MAMIE MYERS, as well as the loss of companionship, protection, instruction, and guidance of MAMIE MYERS; and
- f. All damages recoverable under the *Florida Wrongful Death Act*.

WHEREFORE, Plaintiff, CHARLES COLLIER, as Personal Representative of the Estate of MAMIE MYERS, demands judgement against Defendant, THE ENCORE AT BOCA RATON, for all damages allowed by law, including interest and costs where appropriate, and demands trial by jury as a matter of right.

DATED this 18th day of May, 2021.

/s/ Lindsey E. Gale  
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