

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, STATE OF FLORIDA  
CIVIL DIVISION

THE ESTATE OF BARBARA ANN POITIER,  
by and through DELSHAWN SMITH-PARKER,  
Personal Representative,

Plaintiff,

v.

HEARTLAND BOCA OPCO LLC;  
HEARTLAND BOCA INTERMEDIATE OPCO  
HOLDCO LLC; EXCELSIOR CARE GROUP  
LLC; PALM BEACH HEALTH CONSULTING  
LLC; KATHERINE ELLEN HILGAR; and  
ELLIE SCHUTT (as to BOCA CIRCLE  
REHABILITATION CENTER),

Defendants.

CASE NO:

---

**COMPLAINT**

Plaintiff, THE ESTATE OF BARBARA ANN POITIER, by and through DELSHAWN SMITH-PARKER, Personal Representative, and by and through undersigned counsel, hereby sues Defendants, HEARTLAND BOCA OPCO LLC; HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC; EXCELSIOR CARE GROUP LLC; PALM BEACH HEALTH CONSULTING LLC; KATHERINE ELLEN HILGAR; and ELLIE SCHUTT, and alleges:

**JURISDICTION, PARTIES AND VENUE ALLEGATIONS**

1. This is an action for damages in excess of Fifty Thousand Dollars (\$50,000.00).
2. On June 21, 2024, BARBARA ANN POITIER was admitted to BOCA CIRCLE REHABILITATION CENTER, located at 7225 Boca Del Mar Drive, Boca Raton, FL 33433, in Palm Beach County, where BARBARA ANN POITIER remained in primary residence until she was discharged on January 15, 2025.

3. Plaintiff, DELSHAWN SMITH-PARKER, is the Personal Representative of The Estate of BARBARA ANN POITIER. Letters of Administration, dated November 3, 2025, evidencing DELSHAWN SMITH-PARKER's authority to bring this action on behalf of THE ESTATE OF BARBARA ANN POITIER are attached hereto as "Exhibit A."

4. BOCA CIRCLE REHABILITATION CENTER is a fictitious name owned by Defendant HEARTLAND BOCA OPCO LLC.

5. HEARTLAND BOCA OPCO LLC held the license to operate the nursing home during BARBARA ANN POITIER's residency.

6. Defendant HEARTLAND BOCA OPCO LLC is a Delaware limited liability company, with its principal place of business at 7225 Boca Del Mar Drive, Boca Raton, FL 33433, which is authorized to and is doing business in Florida.

7. HEARTLAND BOCA OPCO LLC conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed itself of the privileges of the State of Florida. Accordingly, pursuant to Florida Statute §48.193, HEARTLAND BOCA OPCO LLC is subject to the jurisdiction of the courts of the State of Florida.

8. HEARTLAND BOCA OPCO LLC committed tortious acts against BARBARA ANN POITIER in the State of Florida. Each tortious act is specifically alleged in the subsequent counts. Accordingly, pursuant to Florida Statute §48.193(a)2, HEARTLAND BOCA OPCO LLC is subject to the jurisdiction of the courts of the State of Florida.

9. Defendant HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC is a Delaware limited liability company, with its registered agent located at Cogency Global Inc, 850 New Burton Road, Suite 201, Dover, DE 19904, which is doing business in Florida.

10. HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed itself of the privileges of the State of Florida. Accordingly, pursuant to Florida Statute §48.193, HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC is subject to the jurisdiction of the courts of the State of Florida.

11. HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC committed tortious acts against BARBARA ANN POITIER in the State of Florida. Each tortious act is specifically alleged in the subsequent counts. Accordingly, pursuant to Florida Statute §48.193(1)(a)2, HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC is subject to the jurisdiction of the courts of the State of Florida.

12. HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC contracted with, or received a fee from, HEARTLAND BOCA OPCO LLC to provide the following services for BOCA CIRCLE REHABILITATION CENTER: hiring or firing of the administrator or director of nursing; controlling or having control over the staffing levels at BOCA CIRCLE REHABILITATION CENTER; having control over the budget of BOCA CIRCLE REHABILITATION CENTER; and/or implementing and enforcing the policies and procedures of BOCA CIRCLE REHABILITATION CENTER.

13. HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC is HEARTLAND BOCA OPCO LLC's management or consulting company as defined by Florida Statutes §400.023.

14. HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC is an entity that operated, managed and oversaw BOCA CIRCLE REHABILITATION CENTER and as such,

owed a duty to BARBARA ANN POITIER to exercise reasonable care according to §400.023(5), Florida Statutes.

15. Defendant EXCELSIOR CARE GROUP LLC is a New York limited liability company, with its registered agent located at Excelsior Care Group LLC, 1463 66<sup>th</sup> St., Brooklyn, NY 11219, which is doing business in Florida.

16. EXCELSIOR CARE GROUP LLC conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed itself of the privileges of the State of Florida. Accordingly, pursuant to Florida Statute §48.193, EXCELSIOR CARE GROUP LLC is subject to the jurisdiction of the courts of the State of Florida.

17. EXCELSIOR CARE GROUP LLC committed tortious acts against BARBARA ANN POITIER in the State of Florida. Each tortious act is specifically alleged in the subsequent counts. Accordingly, pursuant to Florida Statute §48.193(1)(a)2, EXCELSIOR CARE GROUP LLC is subject to the jurisdiction of the courts of the State of Florida.

18. EXCELSIOR CARE GROUP LLC contracted with, or received a fee from, HEARTLAND BOCA OPCO LLC to provide the following services for BOCA CIRCLE REHABILITATION CENTER: hiring or firing of the administrator or director of nursing; controlling or having control over the staffing levels at BOCA CIRCLE REHABILITATION CENTER; having control over the budget of BOCA CIRCLE REHABILITATION CENTER; and/or implementing and enforcing the policies and procedures of BOCA CIRCLE REHABILITATION CENTER.

19. EXCELSIOR CARE GROUP LLC is HEARTLAND BOCA OPCO LLC's management or consulting company as defined by Florida Statutes §400.023.

20. EXCELSIOR CARE GROUP LLC is an entity that operated, managed and oversaw BOCA CIRCLE REHABILITATION CENTER and as such, owed a duty to BARBARA ANN POITIER to exercise reasonable care according to §400.023(5), Florida Statutes.

21. Defendant PALM BEACH HEALTH CONSULTING LLC is a Delaware limited liability company, with its principal place of business at 300 Provider Court, Richmond, KY 40475, which is authorized to and is doing business in Florida.

22. PALM BEACH HEALTH CONSULTING LLC conducted and engaged in business activities within the State of Florida; engaged in substantial and not isolated activities within the State of Florida; and purposely availed itself of the privileges of the State of Florida. Accordingly, pursuant to Florida Statute §48.193, PALM BEACH HEALTH CONSULTING LLC is subject to the jurisdiction of the courts of the State of Florida.

23. PALM BEACH HEALTH CONSULTING LLC committed tortious acts against BARBARA ANN POITIER in the State of Florida. Each tortious act is specifically alleged in the subsequent counts. Accordingly, pursuant to Florida Statute §48.193(1)(a)2, PALM BEACH HEALTH CONSULTING LLC is subject to the jurisdiction of the courts of the State of Florida.

24. PALM BEACH HEALTH CONSULTING LLC contracted with, or received a fee from, HEARTLAND BOCA OPCO LLC to provide the following services for BOCA CIRCLE REHABILITATION CENTER: hiring or firing of the administrator or director of nursing; controlling or having control over the staffing levels at BOCA CIRCLE REHABILITATION CENTER; having control over the budget of BOCA CIRCLE REHABILITATION CENTER; and/or implementing and enforcing the policies and procedures of BOCA CIRCLE REHABILITATION CENTER.

25. PALM BEACH HEALTH CONSULTING LLC is HEARTLAND BOCA OPCO LLC's management or consulting company as defined by Florida Statutes §400.023.

26. PALM BEACH HEALTH CONSULTING LLC is an entity that operated, managed and oversaw BOCA CIRCLE REHABILITATION CENTER and as such, owed a duty to BARBARA ANN POITIER to exercise reasonable care according to §400.023(5), Florida Statutes.

27. Defendant KATHERINE ELLEN HILGAR was at times material hereto a resident of the State of Florida and the Administrator at BOCA CIRCLE REHABILITATION CENTER.

28. Florida Administrative Code Rule 59A-4.103 requires the licensee to designate an Administrator, "who oversees the day to day administration and operation of the facility."

29. As the Administrator, KATHERINE ELLEN HILGAR had the overall duty and responsibility pursuant to §§ 400.141 and 400.20, Fla. Stat. for making sure the nursing home complied with all Federal, State, Local laws and professional standards.

30. As the Administrator, KATHERINE ELLEN HILGAR was a managing employee of HEARTLAND BOCA OPCO LLC pursuant to Florida Statutes §400.023.

31. Defendant ELLIE SCHUTT was at times material hereto a resident of the State of Florida and the Administrator at BOCA CIRCLE REHABILITATION CENTER.

32. Florida Administrative Code Rule 59A-4.103 requires the licensee to designate an Administrator, "who oversees the day to day administration and operation of the facility."

33. As the Administrator, ELLIE SCHUTT had the overall duty and responsibility pursuant to §§ 400.141 and 400.20, Fla. Stat. for making sure the nursing home complied with all Federal, State, Local laws and professional standards.

34. As the Administrator, ELLIE SCHUTT was a managing employee of HEARTLAND BOCA OPCO LLC pursuant to Florida Statutes §400.023.

35. Plaintiff is not pursuing any COVID-19-related claims as defined by sections 768.38 and 768.381, Florida Statutes, including any claim for damages, injury, or death arising from: the diagnosis or treatment of, or failure to diagnose or treat, a person for COVID-19; the provision of a novel or experimental COVID-19 treatment; the transmission of COVID-19; the delay or cancellation of a surgery or a delay or cancellation of a medical procedure, a test, or an appointment based on a health care provider's interpretation or application of government-issued health standards or authoritative guidance specifically relating to the COVID-19 emergency; an act or omission with respect to an emergency medical condition as defined in s. 395.002, and which act or omission was the result of a lack of resources directly caused by the COVID-19 pandemic; or the provision of treatment to a patient diagnosed with COVID-19 whose injuries were directly related to an exacerbation of the patient's preexisting conditions by COVID-19.

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

#### **Corporate Conduct**

37. HEARTLAND BOCA OPCO LLC, HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC, EXCELSIOR CARE GROUP LLC, and PALM BEACH HEALTH CONSULTING LLC created an enterprise or venture for the purpose of owning, operating and managing BOCA CIRCLE REHABILITATION CENTER.

38. At all material times, Defendants controlled the nursing home's operations and care delivery system and as such, Defendants are all directly liable for BARBARA ANN POITIER's injuries and untimely death.

39. Furthermore, at all material times, Defendants were each the agent, partner, joint venture, and/or representative of each other and were acting within the scope of such agency, partnership, joint venture and/or employment.

40. At all material times, Defendants had a community of interest in the objects and purposes to be accomplished as each of the Defendants received either remuneration, compensation, insurance, indemnification, or protection from insurance, tax and other financial liabilities.

41. At all material times, Defendants jointly controlled or had the right to control the operation and management of BOCA CIRCLE REHABILITATION CENTER.

42. Defendants, as well as their agents, associates, principals and owners, each had the right and authority to bind the other in the business at hand.

43. While engaged in the conduct alleged herein, Defendants each acted with the express or implied knowledge, consent, authorization, approval, and/or ratification of each other.

44. Defendants, and the principals and the agents of each, also ratified, condoned and/or authorized the acts or omissions of BOCA CIRCLE REHABILITATION CENTER, KATHERINE ELLEN HILGAR and ELLIE SCHUTT.

45. Defendants, as well as their agents, associates, principals and owners, each had the right to share in the profits and the duty to share in any losses sustained in this venture or enterprise.

46. Defendants controlled the monies flowing to and from BOCA CIRCLE REHABILITATION CENTER and controlled the operations of the facility.

47. Each Defendant knew that BOCA CIRCLE REHABILITATION CENTER did not meet the needs of the residents and that the facility was not providing adequate and appropriate

healthcare to the residents. Defendants monitored the condition of the residents and were aware of any survey results, written and verbal grievances, and quality indicator reports reflecting repeated failures and deficiencies in the care provided.

48. Each Defendant's conduct ultimately caused or contributed to BARBARA ANN POITIER's physical, emotional and monetary injuries and damages.

**Count I**  
**Non-Lethal Negligence Damages Against**  
HEARTLAND BOCA OPCO LLC; HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO  
LLC; EXCELSIOR CARE GROUP LLC; PALM BEACH HEALTH CONSULTING LLC;  
KATHERINE ELLEN HILGAR; and ELLIE SCHUTT

49. Plaintiff re-alleges paragraphs 1 through 48 above.

50. The acts and omissions of Defendants, as set forth herein, constitute violations of the residents' rights of BARBARA ANN POITIER, pursuant to Florida Statute 400.022.

51. Defendants breached their duty to BARBARA ANN POITIER to properly train and supervise staff and to ensure that any such staff exercised care consistent with the prevailing professional standards of care.

52. Defendants also breached their duty to ensure there was sufficient staff to meet the needs of BARBARA ANN POITIER.

53. Additionally, Defendants endangered residents, including BARBARA ANN POITIER, by failing to use reasonable care in accepting and keeping residents in order to obtain maximum census levels, which allows for increased revenues.

54. Defendants further endangered residents by failing to adjust staffing levels to meet the needs of the residents, including BARBARA ANN POITIER.

55. Defendants each failed to act reasonably in the provision of care for BARBARA ANN POITIER by failing to ensure that BARBARA ANN POITIER was provided a safe

environment; failing to ensure that BARBARA ANN POITIER was treated with dignity; failing to monitor significant signs and symptoms of change in BARBARA ANN POITIER's condition; failing to adequately respond to changes in physical signs and symptoms of BARBARA ANN POITIER; failing to provide adequate and appropriate health care; failing to develop and implement an adequate care plan; and failing to get BARBARA ANN POITIER the medical care and attention she required.

56. Defendants each knew or should have known that the above-described failures occurred or were likely to occur thus exposing BARBARA ANN POITIER to injury.

57. Each Defendant's breaches of the duties owed to Plaintiff as set forth herein was the legal cause of the loss, injury and damages suffered by BARBARA ANN POITIER.

58. As a direct and proximate result of Defendants' negligent acts and omissions, BARBARA ANN POITIER suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and aggravation of a previously existing condition.

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

**Count II**  
**Lethal Negligence Damages Against**  
HEARTLAND BOCA OPCO LLC; HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO  
LLC; EXCELSIOR CARE GROUP LLC; PALM BEACH HEALTH CONSULTING LLC;  
KATHERINE ELLEN HILGAR; and ELLIE SCHUTT

59. Plaintiff re-alleges paragraphs 1 through 48 above.

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

61. The acts and omissions of Defendants, as set forth herein, constitute violations of the residents' rights of BARBARA ANN POITIER, pursuant to Florida Statute 400.022.

62. Defendants breached their duty to BARBARA ANN POITIER to properly train and supervise staff and to ensure that any such staff exercised care consistent with the prevailing professional standard of care.

63. Defendants also breached their duty to ensure there was sufficient staff to meet the needs of BARBARA ANN POITIER.

64. Additionally, Defendants endangered residents, including BARBARA ANN POITIER, by failing to use reasonable care in accepting and keeping residents in order to obtain maximum census levels, which allows for increased revenues.

65. Defendants further endangered residents by failing to adjust staffing levels to meet the needs of the residents, including BARBARA ANN POITIER.

66. Defendants each failed to act reasonably in the provision of care for BARBARA ANN POITIER by failing to ensure that BARBARA ANN POITIER was provided a safe environment; failing to ensure that BARBARA ANN POITIER was treated with dignity; failing to monitor significant signs and symptoms of change in BARBARA ANN POITIER's condition; failing to adequately respond to changes in physical signs and symptoms of BARBARA ANN POITIER; failing to provide adequate and appropriate health care; failing to develop and implement an adequate care plan; and failing to get BARBARA ANN POITIER the medical care and attention she required.

67. Defendants each knew or should have known that the above-described failures occurred or were likely to occur thus exposing BARBARA ANN POITIER to injury.

68. Each Defendant's breaches of the duties owed to Plaintiff as set forth herein was the legal cause of the loss, injury and damages suffered by BARBARA ANN POITIER which included injury and death.

69. As a direct and proximate result of Defendants' negligent acts and omissions, BARBARA ANN POITIER suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, aggravation of a previously existing condition and ultimately, BARBARA ANN POITIER died on January 25, 2025.

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

### **Count III**

#### **Wrongful Death Damages Against**

**HEARTLAND BOCA OPCO LLC; HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC; EXCELSIOR CARE GROUP LLC; PALM BEACH HEALTH CONSULTING LLC; KATHERINE ELLEN HILGAR; AND ELLIE SCHUTT**

70. Plaintiff re-alleges paragraphs 1 through 48 above.

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

72. The acts and omissions of Defendants, as set forth herein, constitute violations of the residents' rights of BARBARA ANN POITIER, pursuant to Florida Statute 400.022.

73. Defendants breached their duty to BARBARA ANN POITIER to properly train and supervise staff and to ensure that any such staff exercised care consistent with the prevailing professional standard of care.

74. Defendants also breached their duty to ensure there was sufficient staff to meet the needs of BARBARA ANN POITIER.

75. Additionally, Defendants endangered residents, including BARBARA ANN POITIER, by failing to use reasonable care in accepting and keeping residents in order to obtain maximum census levels, which allows for increased revenues.

76. Defendants further endangered residents by failing to adjust staffing levels to meet the needs of the residents, including BARBARA ANN POITIER.

77. Defendants each failed to act reasonably in the provision of care for BARBARA ANN POITIER by failing to ensure that BARBARA ANN POITIER was provided a safe environment; failing to ensure that BARBARA ANN POITIER was treated with dignity; failing to monitor significant signs and symptoms of change in BARBARA ANN POITIER's condition; failing to adequately respond to changes in physical signs and symptoms of BARBARA ANN POITIER; failing to provide adequate and appropriate health care; failing to develop and implement an adequate care plan; and failing to get BARBARA ANN POITIER the medical care and attention she required.

78. Defendants each knew or should have known that the above-described failures occurred or were likely to occur thus exposing BARBARA ANN POITIER to injury.

79. Each Defendant's breach of the duties owed to Plaintiff as set forth herein was the legal cause of the loss, injury and damages suffered by BARBARA ANN POITIER which included injury and death.

80. As a direct and proximate result of Defendants' negligent acts and omissions, BARBARA ANN POITIER died on January 25, 2025.

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

82. BARBARA ANN POITIER died with surviving children, Delshawn Smith-Parker, Derrick E. Poitier, Cyril M. Poitier, and Shelton M. Poitier, all of whom are potential beneficiaries of a recovery for wrongful death.

83. As a result of the death of BARBARA ANN POITIER, Delshawn Smith-Parker, Derrick E. Poitier, Cyril M. Poitier, and Shelton M. Poitier suffered loss of support and services and will suffer such losses in the future, loss of parental companionship, instruction and guidance, and mental pain and suffering.

84. DELSHAWN SMITH-PARKER is the Personal Representative of THE ESTATE OF BARBARA ANN POITIER. On behalf of THE ESTATE OF BARBARA ANN POITIER, DELSHAWN SMITH-PARKER seeks recovery of medical and funeral expenses chargeable to the Estate.

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

**Count IV**  
**Breach of Fiduciary Duty**  
**HEARTLAND BOCA OPCO LLC**

85. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 48 above.

86. This is a claim that presents a theory of recovery based upon the presence of a fiduciary duty owed by Defendant HEARTLAND BOCA OPCO LLC, exclusive of and in addition to all rights encompassed in negligence or Chapter 400, Fla. Stat.

87. This claim does not seek to recover for the physical injuries BARBARA ANN POITIER suffered as a result of the Defendants' negligence.

88. This claim seeks only to recover for the economic injury BARBARA ANN POITIER suffered as a result of the HEARTLAND BOCA OPCO LLC's failure to effectively use her funds to provide BARBARA ANN POITIER with her highest practical physical, mental and psychosocial well-being.

89. At all times material, BARBARA ANN POITIER was incapable of independently providing for all of her necessary care and services to attain and maintain the highest practicable physical, mental, and psychosocial well-being.

90. BARBARA ANN POITIER was incapable of dealing with HEARTLAND BOCA OPCO LLC on equal terms, and was incapable of engaging in any arm's length relationships with HEARTLAND BOCA OPCO LLC.

91. BARBARA ANN POITIER placed a special confidence and trust in HEARTLAND BOCA OPCO LLC to provide for all of her necessary care and services to attain and maintain the highest practicable physical, mental, and psychosocial well-being. BARBARA ANN POITIER also relied on HEARTLAND BOCA OPCO LLC to provide such care and services.

92. HEARTLAND BOCA OPCO LLC accepted the special confidence and trust placed upon them by BARBARA ANN POITIER by admitting her into BOCA CIRCLE REHABILITATION CENTER and by reserving the right to specifically determine the level of care, protection, and services that would be provided to BARBARA ANN POITIER.

93. HEARTLAND BOCA OPCO LLC individually and collectively controlled, oversaw and orchestrated every single aspect of BARBARA ANN POITIER's existence, from the mundane (such as the clothing worn) to the vital (such as determining when and how healthcare would be provided, as well as how much food and water BARBARA ANN POITIER could

consume).

94. BARBARA ANN POITIER was solely and particularly dependent upon the employees, officers, directors, and agents of HEARTLAND BOCA OPCO LLC to provide for her daily care, protection, services, and personal and intimate needs.

95. HEARTLAND BOCA OPCO LLC developed a special relationship with BARBARA ANN POITIER by virtue of the nature of the care and services provided, the supposedly superior knowledge, skill and abilities, the enormous disparity of power and unequal bargaining position, Defendant HEARTLAND BOCA OPCO LLC, enjoyed over BARBARA ANN POITIER, as well as her inability to care for and provide for herself.

96. This special relationship allowed Defendant HEARTLAND BOCA OPCO LLC, to occupy a position of confidence toward BARBARA ANN POITIER, which required fidelity, loyalty, good faith, and fair dealing by Defendant HEARTLAND BOCA OPCO LLC. Additionally, HEARTLAND BOCA OPCO LLC had a duty to refrain from engaging in self-dealing.

97. HEARTLAND BOCA OPCO LLC systematically accepted monies intended for the provision of care and services to the residents, including BARBARA ANN POITIER, while representing that HEARTLAND BOCA OPCO LLC would use the money received on BARBARA ANN POITIER's behalf to provide the full value of the care and services as she required.

98. At all times material to this action, HEARTLAND BOCA OPCO LLC was a fiduciary of BARBARA ANN POITIER.

99. At all times material to this action, HEARTLAND BOCA OPCO LLC owed a fiduciary duty to BARBARA ANN POITIER.

100. Defendant HEARTLAND BOCA OPCO LLC diverted the money away from BARBARA ANN POITIER's care and as a result, failed to provide the full value of care and services to BARBARA ANN POITIER as promised and as required.

101. Defendant HEARTLAND BOCA OPCO LLC, acted and failed to act in material breach of the duties owed to BARBARA ANN POITIER and to the direct detriment of residents, including BARBARA ANN POITIER. Instead, HEARTLAND BOCA OPCO LLC acted or failed to act in ways to promote its own interests and in ways in contravention of the interests of the residents, including BARBARA ANN POITIER.

102. HEARTLAND BOCA OPCO LLC breached and violated its relationship of trust, special confidence, and its fiduciary obligations and duties owed to BARBARA ANN POITIER by:

a) allowing the use of revenues and assets obtained from residents and their payor sources for inflated, unreasonable and improper inter-company fees and transfers designed and created for the benefit of HEARTLAND BOCA OPCO LLC's affiliates, parents, owners and corporate entities, instead of utilizing said resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, including BARBARA ANN POITIER as required; and,

b) entering into numerous contracts that were for the benefit of HEARTLAND BOCA OPCO LLC, its owners and operators and worked to the detriment of residents, including, but not limited to, lease and sub-lease agreements, back office agreements, pharmacy goods and services agreements, management agreements, and therapy services agreements.

103. In violating its fiduciary obligations and duties to BARBARA ANN POITIER, as referenced herein, HEARTLAND BOCA OPCO LLC knew, or should have known, that

BARBARA ANN POITIER would suffer harm.

104. Defendant HEARTLAND BOCA OPCO LLC's breaches of the duties owed to BARBARA ANN POITIER, as set forth herein were the legal cause of the loss, injury and damages suffered by BARBARA ANN POITIER.

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

**Count V**  
**Aiding and Abetting Breach of Fiduciary Duty**  
HEARTLAND BOCA INTERMEDIATE OPCO HOLDCO LLC; EXCELSIOR CARE  
GROUP LLC; and PALM BEACH HEALTH CONSULTING LLC  
("Corporate Defendants")

105. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 48 and 86 through 104 above.

106. This is a claim that presents a theory of recovery based upon the presence and breach of a fiduciary duty owed by Defendant HEARTLAND BOCA OPCO LLC, aided and abetted by Corporate Defendants, exclusive of and in addition to all rights encompassed in negligence or Chapter 400, Fla. Stat.

107. As set forth in Count IV above, Defendant HEARTLAND BOCA OPCO LLC, owed and breached fiduciary duties it owed to the residents of BOCA CIRCLE REHABILITATION CENTER, including BARBARA ANN POITIER.

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

109. At all material times, Corporate Defendants were each the agent, partner, joint venture, and/or representative of each other and were acting within the scope of such agency, partnership, joint venture and/or employment.

110. Corporate Defendants had knowledge of BARBARA ANN POITIER's fiduciary relationship with HEARTLAND BOCA OPCO LLC by virtue of the nature of the care and services required, the supposedly superior knowledge, skill and abilities, and the enormous disparity of power and unequal bargaining position that HEARTLAND BOCA OPCO LLC enjoyed over BARBARA ANN POITIER.

111. By reason of their shared and/or common ownership, directors, officers and managers and contractual relationships, Corporate Defendants knew of the fiduciary duties HEARTLAND BOCA OPCO LLC owed to BARBARA ANN POITIER and knew of HEARTLAND BOCA OPCO LLC's breach of those duties as described in the preceding Count.

112. Corporate Defendants knew that the residents at BOCA CIRCLE REHABILITATION CENTER, including BARBARA ANN POITIER, were incapable of independently providing their own necessary care and were solely and specifically dependent upon the employees, officers, directors, and agents to provide for their basic daily care, protection, services, and personal and intimate needs.

113. Corporate Defendants knowingly participated and provided substantial assistance and encouragement to HEARTLAND BOCA OPCO LLC in connection with its breach of fiduciary duties to BARBARA ANN POITIER, as set forth in detail within Count IV, above.

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

- a) engaging in the conduct set forth in detail within the previous count(s), above;
- b) exercising dominance and control over HEARTLAND BOCA OPCO LLC's revenues by regularly and repeatedly sweeping virtually all of the facility's revenues into an account controlled by Corporate Defendants, and/or their designee;
- c) knowingly and intentionally taking, creating and accepting inter-company fees and transfers, comprised of revenues obtained from the residents and designed to improperly and unjustly enrich Corporate Defendants, instead of allowing the facility to utilize said resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, including BARBARA ANN POITIER, as required;
- d) knowingly and intentionally taking, creating and accepting inter-company fees and transfers, comprised of revenues obtained from residents, for the purpose of insulating themselves from civil liability, regulatory oversight and accountability;
- e) structuring and approving contracts between Corporate Defendants and HEARTLAND BOCA OPCO LLC, which Corporate Defendants knew or should have known would result in the diversion of facility revenues necessary to provide the care and services to its residents, including BARBARA ANN POITIER;
- f) overseeing and approving HEARTLAND BOCA OPCO LLC's acceptance of monies from residents, including BARBARA ANN POITIER, knowing the facility could not provide full value of the care and services to meet the care and safety needs of the residents;
- g) directly or indirectly misrepresenting the nature of the relationship between Corporate Defendants and HEARTLAND BOCA OPCO LLC, in which the aforementioned Defendants, by virtue of their common owners, officers and managers, controlled the business operations and working capital of the facility and inappropriately commingled its revenues by

making intra-company transfers to related facilities;

h) structuring the managing and operating business model for the facility in a way that constrained its ability to provide the level of care and services to residents, including BARBARA ANN POITIER, while simultaneously benefitting upstream corporate entities; and,

i) influencing, advocating, and approving HEARTLAND BOCA OPCO LLC's improper payments to Corporate Defendants, which they knew or should have known exceeded amounts a prudent and cost conscious buyer would pay, and which they also knew or should have known would cause the monies intended for the provision of care and services to the residents, including BARBARA ANN POITIER, to be depleted.

115. The conduct of Corporate Defendants, as aforesaid, constitutes aiding and abetting HEARTLAND BOCA OPCO LLC's breach of fiduciary duty and subjects the aforementioned Defendants to liability for the harm suffered by Plaintiff.

116. In aiding and abetting HEARTLAND BOCA OPCO LLC in violating its fiduciary obligations and duties to BARBARA ANN POITIER as referenced herein, Corporate Defendants knew, or should have known, that BARBARA ANN POITIER would suffer harm.

117. As a result of Corporate Defendants aiding and abetting in the breaches of fiduciary duties by HEARTLAND BOCA OPCO LLC, Corporate Defendants were improperly and unjustly enriched, BOCA CIRCLE REHABILITATION CENTER was left without the necessary resources to function in the residents' best interests, and BARBARA ANN POITIER suffered both the injuries set forth herein as well as economic harm.

WHEREFORE, Plaintiff demands judgment against Corporate Defendants for disgorgement of profits and any consequential damages against the aforementioned Defendants and further demands a trial by jury, together with such other and further relief as this Court deems

appropriate.

**Count VI**  
**Violations of Florida Statutes §415.1111**  
**KATHERINE ELLEN HILGAR; and ELLIE SCHUTT**

118. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 36 above.

119. For the purposes of this count and only this count, it is not alleged that each Defendant was a licensee or entity that established, controlled, conducted, managed or operated BOCA CIRCLE REHABILITATION CENTER.

120. BARBARA ANN POITIER was at all relevant times a vulnerable adult with a long-term disability. She was over eighteen (18) years of age and was unable to perform the normal activities of daily living or to provide for her own care or protection due to her disability.

121. Each Defendant's acts or omissions constitute exploitation of a vulnerable adult in violation of §415.1111, Florida Statutes.

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

123. Each Defendant failed or refused to effectively use BARBARA ANN POITIER's income or assets for the necessities required for her support and maintenance.

124. Each Defendant received money Defendants should have known would deprive BOCA CIRCLE REHABILITATION CENTER of adequate resources to provide the necessities of BARBARA ANN POITIER's support and maintenance.

125. The monies Defendants received was derived from BARBARA ANN POITIER's assets or funds, including disability benefits and Medicaid and/or Medicare funds, which were paid to Defendants for the sole purpose of providing for the support and maintenance of BARBARA ANN POITIER.

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

WHEREFORE, Plaintiff demands judgment against Defendants, disgorgement of profits, consequential damages, attorneys' fees and costs, pre-judgment interest, trial by jury of all matters so triable, and such other relief this Court deems appropriate.

*/s/ Kyle D. Ross*

\_\_\_\_\_  
Kyle D. Ross, Esq.  
Florida Bar No. 124501  
MENDES, REINS & WILANDER, PLLC  
4401 W. Kennedy Blvd, Ste. 250  
Tampa, FL 33609  
Telephone: 813-535-5053  
[Kyle@mrwlawgroup.com](mailto:Kyle@mrwlawgroup.com)  
[kdrteam@mrwlawgroup.com](mailto:kdrteam@mrwlawgroup.com)  
*Counsel for Plaintiff*

# **Exhibit A**

*NOT A CERTIFIED COPY*

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2025-003572-CP-02

SECTION: PMH07

JUDGE: Nushin Sayfie

**IN RE: Poitier, Barbara Ann**

Decedent

\_\_\_\_\_ /

**LETTERS OF ADMINISTRATION**

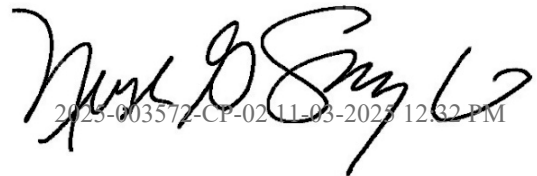
TO ALL WHOM IT MAY CONCERN:

WHEREAS, BARBARA ANN POITIER, a resident of Miami-Dade County, Florida, died on January 25, 2025, owning assets in the State of Florida, and

WHEREAS, DELSHAWN SMITH-PARKER has been appointed Personal Representative of the estate of the decedent and has performed all acts prerequisite to issuance of Letters of Administration in the estate,

NOW, THEREFORE, I, the undersigned Circuit Judge, declare DELSHAWN SMITH-PARKER duly qualified under the laws of the State of Florida to act as Personal Representative of the estate of BARBARA ANN POITIER, 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.

**DONE** and **ORDERED** in Chambers at Miami-Dade County, Florida on this 3<sup>rd</sup> day of November, 2025.



2025-003572-CP-02 11-03-2025 12:32 PM

2025-003572-CP-02 11-03-2025 12:32 PM

Hon. Nushin Sayfie

**CIRCUIT COURT JUDGE**

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

**Electronically Served:**

- Derek B Alvarez: [efilingacceptances@gendersalvarez.com](mailto:efilingacceptances@gendersalvarez.com)
- Anthony F. Diecidue: [afd@gendersalvarez.com](mailto:afd@gendersalvarez.com)
- Derek B. Alvarez: [dba@gendersalvarez.com](mailto:dba@gendersalvarez.com)

NOT A CERTIFIED COPY