

**ENDORSED
FILED**

JAN 18 2018

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA

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2 KELLY KNAPP (SB #252013)
3 KARMAN GUADAGNI (SB #267631)
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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16
17 IN AND FOR THE COUNTY OF SONOMA

18 SHERRY MINSON, Individually and as
19 Successor-in-Interest to the Estate of
20 ELIZABETH BUDOW; ALICE EUROTAS;
21 ELIZABETH EUROTAS; HELEN ALLEN;
22 MARK ALLEN; RUTH CALLEN;
23 LEONARD KULWIEC; NOELLA
24 MAGNUSON; JOHN MAGNUSON; and
25 CECILIA SANCHEZ, MELISSA LANGHALS,
26 PAUL LANGHALS, and KARL LANGHALS,
27 Individually and as Successors-in-Interest to the
Estate of VIRGINIA GUNN,

Plaintiffs,

vs.

OAKMONT SENIOR LIVING, LLC;
OAKMONT MANAGEMENT GROUP, LLC;
OAKMONT OF VARENNA, LLC D/B/A
VILLA CAPRI, and Does 1-50, Inclusive,

Defendants.

CASE NO. SCV-261552

**FIRST AMENDED COMPLAINT FOR
DAMAGES AND INJUNCTIVE RELIEF**

- (1) Elder Abuse;
- (2) Negligence;
- (3) False Imprisonment;
- (4) Intentional Infliction of Emotional Distress;
- (5) Negligent Infliction of Emotional Distress;
- (6) Negligent Misrepresentation;
- (7) Intentional Misrepresentation;
- (8) Concealment;
- (9) False Promise;
- (10) Unruh Civil Rights Act (Cal. Civ. Code §§ 51 *et seq.*);
- (11) Wrongful Death; and
- (12) Survivorship

JURY TRIAL DEMANDED

BY FAX

1 Plaintiffs SHERRY MINSON, Individually and as Successor-in-Interest to the Estate of
2 ELIZABETH BUDOW, ALICE EUROTAS, ELIZABETH EUROTAS, HELEN ALLEN, MARK
3 ALLEN, RUTH CALLEN, LEONARD KULWIEC, NOELLA MAGNUSON, JOHN
4 MAGNUSON, and CECILIA SANCHEZ, MELISSA LANGHALS, PAUL LANGHALS, and
5 KARL LANGHALS, Individually and as Successors-in-Interest to the Estate of VIRGINIA GUNN,
6 (collectively "Plaintiffs"), allege against defendants OAKMONT SENIOR LIVING, LLC;
7 OAKMONT MANAGEMENT GROUP, LLC; OAKMONT OF VARENNA dba Villa Capri; and
8 Does 1-50 (collectively "Defendants") as follows:

9 INTRODUCTION

10 1. Plaintiffs SHERRY MINSON, as Successor-in-Interest to the Estate of ELIZABETH
11 BUDOW; ALICE EUROTAS; HELEN ALLEN; RUTH CALLEN; LEONARD KULWIEC;
12 NOELLA MAGNUSON; JOHN MAGNUSON; and CECILIA SANCHEZ, MELISSA
13 LANGHALS, PAUL LANGHALS and KARL LANGHALS, as Successors-in-Interest to the Estate
14 of VIRGINIA GUNN, (collectively "Elder Plaintiffs"), bring claims for elder abuse, negligence,
15 false imprisonment, negligent infliction of emotional distress, and intentional infliction of emotional
16 distress against Defendants, the owners and operators of assisted living facility OAKMONT OF
17 VARENNA, LLC dba Villa Capri ("VILLA CAPRI" or "Facility"), who subjected them to a
18 foreseeable risk of harm, and did in fact cause them to be seriously injured, by their policy and
19 practice of failing to adequately staff its facilities, including VILLA CAPRI, and by failing to
20 develop and implement an adequate emergency evacuation plan before and during the Tubbs Fire on
21 October 9, 2017. The Elder Plaintiffs, with the exception of NOELLA MAGNUSON, (collectively
22 "Disabled Plaintiffs") also bring disability discrimination claims because Defendants' emergency
23 evacuation plan did not consider the needs of people with disabilities. Plaintiff MARK ALLEN, son
24 of HELEN ALLEN, brings claims for negligent infliction of emotional distress and intentional
25 infliction of emotional distress for Defendants' same failures related to its emergency evacuation
26 plans.

27 2. The Elder Plaintiffs and ELIZABETH EUROTAS bring claims for negligence,

1 negligent infliction of emotional distress, and intentional infliction of emotional distress against
2 Defendants for razing VILLA CAPRI after the Tubbs Fire and dumping the entirety of the remains
3 in a landfill without first searching for, or giving said plaintiffs the opportunity to search for, any of
4 their surviving personal property. ELIZABETH EUROTAS, daughter of ALICE EUROTAS,
5 additionally brings claims for negligent misrepresentation, intentional misrepresentation,
6 concealment, and false promise against Defendants for falsely representing to her that they would
7 search for any surviving personal property after the Tubbs Fire and before razing the Facility and
8 dumping the entirety of the remains in a landfill.

9 3. Plaintiff SHERRY MINSON, individually and as Successor-in-Interest to the Estate
10 of ELIZABETH BUDOW, brings a wrongful death claim against Defendants for the death of
11 ELIZABETH BUDOW hastened by the trauma and injuries she experienced due to Defendants'
12 failure to develop and implement adequate emergency planning and evacuation procedures. She
13 additionally brings a survivorship claim to recover damages for Elizabeth Budow's pre-death pain
14 and suffering related to the injuries she sustained as a result of Defendants' neglect and
15 abandonment.

16 4. Plaintiffs CECILIA SANCHEZ, MELISSA LANGHALS, PAUL LANGHALS, and
17 KARL LANGHALS, Individually and as Successors-in-Interest to the Estate of VIRGINIA GUNN,
18 bring claims for wrongful death against Defendants for the death of VIRGINIA GUNN hastened by
19 the trauma she experienced due to Defendants' failure to develop and implement adequate
20 emergency planning and evacuation procedures. They additionally bring survivorship claims to
21 recover damages for VIRGINIA GUNN's pre-death pain and suffering related to the injuries she
22 sustained as a result of Defendants' neglect and abandonment.

23 5. ELIZABETH BUDOW was a bedridden 92-year-old woman with blindness,
24 dementia, and hearing impairments who lived at VILLA CAPRI and suffered from serious and
25 painful injuries, as well as emotional distress, due to a haphazard and perilous evacuation from
26 VILLA CAPRI during the Tubbs Fire that swept through Sonoma County beginning on October 8,
27 2017, as well as injuries related to Defendants' understaffing of the Facility before that date. She

1 died on December 11, 2017 from complications related to the injuries she suffered during the fire
2 evacuation. SHERRY MINSON is her surviving daughter.

3 6. VIRGINIA GUNN was a bedridden 82-year-old woman with colon cancer who lived
4 at VILLA CAPRI and who suffered from emotional distress due to the same evacuation from
5 VILLA CAPRI. The trauma she experienced during the evacuation was a substantial factor
6 contributing to her death on December 18, 2017. CECILIA SANCHEZ, MELISSA LANGHALS,
7 PAUL LANGHALS, and KARL LANGHALS are her surviving children.

8 7. ALICE EUROTAS is an 84-year-old woman who uses a walker, HELEN ALLEN is
9 a 89-year-old woman with dementia who uses a wheelchair, RUTH CALLEN is a 92-year-old
10 woman who uses a walker, LEONARD KULWIEC is a 92-year-old man who uses a cane and
11 walker, NOELLA MAGNUSON is a 93-year old woman, and JOHN MAGNUSON is a 95-year old
12 man with vision and hearing impairments who uses a walker, all of whom lived at VILLA CAPRI
13 and suffered from severe emotional distress due to the same haphazard and perilous evacuation from
14 VILLA CAPRI during the Tubbs Fire as described herein.

15 8. In the early morning hours of October 9, 2017, fires engulfed Santa Rosa, burning
16 VILLA CAPRI to the ground. On information and belief, only three caregivers were working at
17 VILLA CAPRI during the overnight shift on this date to care for approximately 70 elderly and
18 disabled residents of the Facility, including a few dozen residents with dementia in a locked unit.
19 As the fire approached the Facility, the building lost power and the caregivers did not evacuate any
20 of the residents from VILLA CAPRI. The caregivers instead waited for the Executive Director of
21 the Facility, who never arrived. On information and belief, VILLA CAPRI had no back-up
22 generators that were necessary to operate an elevator for dozens of residents who used walkers and
23 wheelchairs, or were bedridden, and lived on the second floor. At least two hours later, as the
24 building was filling with smoke and the Facility landscaping was on fire, Defendants, with the help
25 of a few residents' family members, haphazardly evacuated some of the VILLA CAPRI residents
26 who could exit the facility without staff assistance, including LEONARD KULWIEC. But
27 Defendants completely abandoned at least a third of the residents, including ALICE EUROTAS,

1 VIRGINIA GUNN, HELEN ALLEN, RUTH CALLEN, ELIZABETH BUDOW, NOELLA
2 MAGNUSON, and JOHN MAGNUSON, other residents in wheelchairs, and other residents with
3 dementia who were physically and cognitively incapable of escaping a burning building without
4 staff assistance. These residents survived only because the families of VIRGINIA GUNN and
5 HELEN ALLEN made herculean efforts to ensure that all of the residents they could find got out of
6 the building.

7 9. As a result of Defendants' reckless and negligent conduct during the fire,
8 ELIZABETH BUDOW was taken to the hospital with a broken hip, broken tooth, open wound on
9 her heel, and abrasions and contusions all over her body. Defendants have never explained how
10 ELIZABETH BUDOW was injured or how she ended up in the hospital, and instead made repeated
11 false claims to the media and other residents that all VILLA CAPRI residents were safely evacuated.
12 ELIZABETH BUDOW suffered from a tremendous amount of pain and died two months after the
13 fire as a result of the trauma and injuries she experienced. Prior to the fire, ELIZABETH BUDOW
14 also suffered from physical injuries caused by Defendants' reckless understaffing of the Facility, as
15 described in detail below.

16 10. Also as a result of Defendants' reckless and negligent conduct during the fire,
17 ELIZABETH BUDOW and VIRGINIA GUNN suffered, and ALICE EUROTAS, HELEN ALLEN,
18 RUTH CALLEN, LEONARD KULWIEC, NOELLA MAGNUSON, and JOHN MAGNUSON
19 suffered and continue to suffer from emotional distress due to the trauma they experienced.
20 LEONARD KULWIEC additionally suffered and continues to suffer from injuries to his arm and
21 knee because he was forced to use stairs unassisted to escape the second floor despite his mobility
22 disability.

23 11. In the days after the fire, Defendants promised ELIZABETH EUROTAS that they
24 would search VILLA CAPRI for any surviving personal property, including property ALICE
25 EUROTAS intended to pass down to ELIZABETH EUROTAS and other family members. But less
26 than two weeks after the fire, on information and belief, Defendants razed VILLA CAPRI without
27 the proper permits, without warning to ELIZABETH EUROTAS or any other VILLA CAPRI

1 residents, and before any VILLA CAPRI residents had the opportunity to determine if any of their
2 personal belongings had survived the fire. Instead, Defendants carelessly dumped Plaintiffs' and
3 other VILLA CAPRI residents' personal property, including irreplaceable family heirlooms,
4 photographs, and jewelry, in the landfill.

5 12. Defendants knew or should have known that failing to properly hire and train
6 sufficient numbers of caregivers and failing to develop and implement adequate evacuation
7 procedures at VILLA CAPRI would subject residents and their family members, including
8 Plaintiffs, to the foreseeable risk of injuries, including during an emergency evacuation.
9 Nonetheless, despite receiving up to \$11,000 a month in fees for services per person, Defendants
10 breached their duty to provide custodial care to the Elder Plaintiffs and to ensure they were safely
11 evacuated from the Facility during the Tubbs Fire. As a direct result of Defendants' negligence and
12 reckless conduct as stated herein, the Elder Plaintiffs suffered fear, anxiety, humiliation, and/or
13 physical pain and discomfort, and emotional distress, as well as economic damages for which
14 Defendants are liable. Further, Defendants discriminated against the Disabled Plaintiffs by
15 abandoning them during the fire and by failing to develop and implement an emergency evacuation
16 plan that is designed for and reasonably calculated to ensure the prompt and effective evacuation of
17 persons with disabilities in the event of an emergency.

18 13. On information and belief, Defendants continue to subject elderly and disabled
19 residents of their facilities to the ongoing risk of disability discrimination and injury or death by
20 failing to develop adequate emergency planning and evacuation procedures.

21 **PARTIES**

22 14. Plaintiff SHERRY MINSON is the surviving child of Decedent ELIZABETH
23 BUDOW, and is a successor-in-interest to the Estate of ELIZABETH BUDOW pursuant to Code of
24 Civil Procedure §§ 377.11 and 377.32. She is a resident of the County of San Mateo, State of
25 California. Plaintiff will file the appropriate declaration pursuant to Code of Civil Procedure
26 §377.32. Decedent ELIZABETH BUDOW was a former resident of VILLA CAPRI from
27 approximately April 2013 until October 9, 2017. At all times mentioned, Decedent ELIZABETH

1 BUDOW was an elder within the meaning of Welfare & Institutions Code § 15610, et seq.
2 Decedent ELIZABETH BUDOW had mobility, hearing, cognitive, and vision impairments
3 sufficient to qualify her as a person with a “disability” under the Americans with Disabilities Act
4 and the Unruh Civil Rights Act. She was at all times relevant a senior citizen who was substantially
5 more vulnerable than other members of the public to the conduct of Defendants because of her age
6 of 92 years, disability, and dementia. Decedent ELIZABETH BUDOW actually suffered substantial
7 physical, emotional, and economic damage resulting from the conduct of Defendants, as described
8 herein.

9 15. Plaintiff ALICE EUROTAS is and was at all times herein mentioned a resident of the
10 County of Sonoma, State of California. At all times mentioned, said plaintiff was and is an elder
11 within the meaning of Welfare & Institutions Code § 15610, et seq. Said plaintiff was a resident at
12 VILLA CAPRI from approximately April 2017 until October 9, 2017. Said plaintiff has mobility
13 impairments sufficient to qualify her as a person with a “disability” under the Americans with
14 Disabilities Act and the Unruh Civil Rights Act. Said plaintiff was at all times relevant a senior
15 citizen who is substantially more vulnerable than other members of the public to the conduct of
16 Defendants because of her disability and age of 84 years. Said plaintiff actually suffered substantial
17 emotional and economic damage resulting from the conduct of Defendants, as described herein.

18 16. Plaintiff ELIZABETH EUROTAS is and was at all times herein mentioned a resident
19 of the County of Sonoma, State of California. Said plaintiff is the daughter of ALICE EUROTAS.
20 Said plaintiff actually suffered substantial emotional and economic damage resulting from the
21 conduct of Defendants, as described herein.

22 17. Plaintiffs CECILIA SANCHEZ, MELISSA LANGHALS, PAUL LANGHALS,
23 and KARL LANGHALS are the surviving children of Decedent VIRGINIA GUNN, and are the
24 sole successors-in-interest to the Estate of VIRGINIA GUNN pursuant to Code of Civil Procedure
25 §§ 377.11 and 377.32. Plaintiffs will file the appropriate declarations pursuant to Code of Civil
26 Procedure §377.32. Decedent VIRGINIA GUNN was at all times herein mentioned a resident of
27 the County of Sonoma, State of California. At all times mentioned, Decedent VIRGINIA GUNN

1 was an elder within the meaning of Welfare & Institutions Code §15610, et seq. She was a resident
2 at VILLA CAPRI from approximately November 2016 until October 9, 2017. She had mobility
3 impairments sufficient to qualify her as a person with a “disability” under the Americans with
4 Disabilities Act and the Unruh Civil Rights Act. She was at all times relevant a senior citizen who
5 was substantially more vulnerable than other members of the public to the conduct of Defendants
6 because of her disability and age of 82 years. She actually suffered substantial emotional and
7 economic damage resulting from the conduct of Defendants, as described herein.

8 18. Plaintiff HELEN ALLEN is and was at all times herein mentioned a resident of the
9 County of Sonoma, State of California. At all times mentioned, said plaintiff was and is an elder
10 within the meaning of Welfare & Institutions Code §15610, et seq. Said plaintiff was a resident at
11 VILLA CAPRI from approximately March 2012 until October 9, 2017. Said plaintiff has mobility
12 and cognitive impairments sufficient to qualify her as a person with a “disability” under the
13 Americans with Disabilities Act and the Unruh Civil Rights Act. Said plaintiff was at all times
14 relevant a senior citizen who is substantially more vulnerable than other members of the public to
15 the conduct of Defendants because of her disability and age of 89 years. Said plaintiff actually
16 suffered substantial emotional and economic damage resulting from the conduct of Defendants, as
17 described herein.

18 19. Plaintiff MARK ALLEN is and was at all times herein mentioned a resident of the
19 County of Sonoma, State of California. Said plaintiff is the son of HELEN ALLEN. Said plaintiff
20 actually suffered substantial emotional and economic damage resulting from the conduct of
21 Defendants, as described herein.

22 20. Plaintiff RUTH CALLEN is and was at all times herein mentioned a resident of the
23 County of Sonoma, State of California. At all times mentioned, said plaintiff was and is an elder
24 within the meaning of Welfare & Institutions Code §15610, et seq. Said plaintiff was a resident at
25 VILLA CAPRI from approximately June 2016 until October 9, 2017. Said plaintiff has mobility
26 impairments sufficient to qualify her as a person with a “disability” under the Americans with
27 Disabilities Act and the Unruh Civil Rights Act. Said plaintiff was at all times relevant a senior

1 citizen who is substantially more vulnerable than other members of the public to the conduct of
2 Defendants because of her disability and age of 92 years. Said plaintiff actually suffered substantial
3 physical, emotional, and economic damage resulting from the conduct of Defendants, as described
4 herein.

5 21. Plaintiff LEONARD KULWIEC was a resident of the County of Sonoma until
6 October 9, 2017, and since that time has been a resident of the County of Placer, State of California.
7 At all times mentioned, said plaintiff was and is an elder within the meaning of Welfare &
8 Institutions Code §15610, et seq. Said plaintiff was a resident at VILLA CAPRI from
9 approximately March 2014 until October 9, 2017, and he currently lives at another Oakmont
10 assisted living facility in Roseville, California. Said plaintiff has mobility impairments sufficient to
11 qualify him as a person with a “disability” under the Americans with Disabilities Act and the Unruh
12 Civil Rights Act. Said plaintiff was at all times relevant a senior citizen who is substantially more
13 vulnerable than other members of the public to the conduct of Defendants because of his disability
14 and age of 92 years. Said plaintiff actually suffered substantial physical, emotional, and economic
15 damage, and continues to be subjected to a risk of harm, resulting from the conduct of Defendants,
16 as described herein.

17 22. Plaintiff NOELLA MAGNUSON is and was at all times herein mentioned a resident
18 of the County of Sonoma, State of California. At all times mentioned, said plaintiff was and is an
19 elder within the meaning of Welfare & Institutions Code §15610, et seq. Said plaintiff was a
20 resident at VILLA CAPRI from approximately July 2014 until October 9, 2017. Said plaintiff was
21 at all times relevant a senior citizen who is substantially more vulnerable than other members of the
22 public to the conduct of Defendants because of her age of 93 years. Said plaintiff actually suffered
23 substantial emotional and economic damage resulting from the conduct of Defendants, as described
24 herein.

25 23. Plaintiff JOHN MAGNUSON is and was at all times herein mentioned a resident of
26 the County of Sonoma, State of California. At all times mentioned, said plaintiff was and is an elder
27 within the meaning of Welfare & Institutions Code §15610, et seq. Said plaintiff was a resident at

1 VILLA CAPRI from approximately July 2014 until October 9, 2017. Said plaintiff has mobility,
2 vision, and hearing impairments sufficient to qualify him as a person with a “disability” under the
3 Americans with Disabilities Act and the Unruh Civil Rights Act. Said plaintiff was at all times
4 relevant a senior citizen who is substantially more vulnerable than other members of the public to
5 the conduct of Defendants because of his disability and age of 95 years. Said plaintiff actually
6 suffered substantial emotional and economic damage, resulting from the conduct of Defendants, as
7 described herein.

8 24. Defendants OAKMONT SENIOR LIVING LLC, OAKMONT MANAGEMENT
9 GROUP LLC, and Does 1-25 own and operate several licensed Residential Care Facilities for the
10 Elderly (“RCFEs”) as defined in Health and Safety Code §1564, et seq., including VILLA CAPRI,
11 an RCFE located at 1397 Fountaingrove Parkway, Santa Rosa, California. At all times herein
12 mentioned, Defendants were providing for the care and custody of Plaintiffs and were “care
13 custodians” within the meaning of Welfare & Institutions Code §15610.17.

14 25. Plaintiffs are informed and believe, and thereupon allege, that OAKMONT SENIOR
15 LIVING LLC, OAKMONT MANAGEMENT GROUP LLC, OAKMONT OF VARENNA LLC
16 and Does 25-50 are the licensees of VILLA CAPRI. Plaintiffs are further informed and believe, and
17 accordingly allege, that at all relevant times Defendants, and each of them, were participating in a
18 joint venture, acting under an express or implied agreement for a common purpose with a
19 community of pecuniary purpose wherein each Defendant has an equal right to a voice in the
20 direction of the joint venture. Plaintiffs allege that each of these Defendants was responsible in
21 some capacity for the events alleged herein, or is a necessary party for obtaining relief.

22 **JURISDICTION AND VENUE**

23 26. This Court has jurisdiction under Code of Civil Procedure §410.10. Plaintiffs’
24 damages exceed the jurisdictional minimum of this Court.

25 27. Venue is proper in Sonoma County under Code of Civil Procedure §395(a) and Civil
26 Code Civil Code §1780(c), because Defendants are doing business in this County, and VILLA
27 CAPRI is situated in Santa Rosa, California, in Sonoma County.

1 **FACTUAL ALLEGATIONS RELEVANT TO ALL CAUSES OF ACTION**

2 28. VILLA CAPRI is a licensed residential care facility for the elderly ("RCFE") as
3 defined in Health and Safety Code §1564, et seq. Pursuant to Section 1569.2(1) of the California
4 Health and Safety Code, "[r]esidential care facility for the elderly means a housing arrangement
5 chosen voluntarily by persons 60 years of age or over, or their authorized representative, where
6 varying levels and intensities of care and supervision, protective supervision, personal care, or
7 health-related services are provided, based upon their varying needs, as determined in order to be
8 admitted and to remain in the facility." The law governing RCFEs is in large part set forth in
9 sections 1569 through 1569.87 of the California Health and Safety Code, and sections 87100
10 through 87730 of Title 22 of the California Code of Regulations.

11 29. Each adult resident of VILLA CAPRI is a dependent adult and/or an elder as defined
12 by Welfare and Institutions Code §§ 15610.27 and 15610.23, respectively. Defendants knew or
13 should have known that their conduct, as described herein, was directed to one or more senior
14 citizens or dependent adults.

15 30. Defendants represent to the public that VILLA CAPRI is "dedicated to hearing,
16 understanding and responding to the needs of aging seniors" with "services tailored to each
17 resident's needs" and "professional and caring staff [who] provide assistance 24-hours a day." They
18 further represent "each member of [their] staff is compassionate, well trained, and expert in their
19 field." Defendants also represent that their staff receive "specialized training in dementia care to
20 age sensitivity."

21 31. ELIZABETH BUDOW and VIRGINIA GUNN lived on the second floor of VILLA
22 CAPRI, and were bedridden and non-ambulatory. They both required assistance from the Facility's
23 staff to perform all of their activities of daily living. 22 C.C.R. § 87615(a)(5) provides that
24 "[r]esidents who depend on others to perform all activities of daily living for them..." shall not be
25 admitted or retained in a residential care facility for the elderly. RCFEs can lawfully retain residents
26 who require complete and total assistance only upon approval by the state through waivers and
27 exceptions.

1 **Defendants' Failures Related to the Tubbs Fire**

2 32. As operators of a licensed assisted living facility, Defendants are required by law to
3 follow various regulations intended to prevent injuries and death to residents from fires.
4 Specifically, pursuant to 22 C.C.R. § 87202, Defendants must obtain "fire clearance" from the city,
5 county, or state for "nonambulatory persons" and "bedridden persons" such as ELIZABETH
6 BUDOW and VIRGINIA GUNN. VILLA CAPRI must also "be maintained in conformity with the
7 regulations adopted by the State Fire Marshal for the protection of life and property against fire and
8 panic." (22 C.C.R. § 87203.) Pursuant to 22 C.C.R. § 87212 subsection (a), Defendants must also
9 have a "disaster and mass casualty plan of action. The plan shall be in writing and shall be readily
10 available." 22 C.C.R. § 87212 subsection (b) requires:

11 The plan shall be subject to review by the Department and shall include:

12 (1) Designation of administrative authority and staff assignments.

13 (2) Plan for evacuation including:

14 (A) Fire safety plan.

15 (B) Means of exiting.

16 (C) The assembly of residents to a predetermined evacuation site.

17 (D) Transportation arrangements.

18 (E) Relocation sites which are equipped to provide safe temporary accommodations for residents.

19 (F) Supervision of residents during evacuation or relocation and contact after relocation to assure that relocation has been completed as planned.

20 (G) Means of contacting local agencies such as fire department, law enforcement agencies, civil defense and other disaster authorities.

21 (3) Provision for notifying a resident's hospice agency, if any, in the event of evacuation and/or relocation.

22 22 C.C.R. § 87212 (c) further requires, "Emergency exiting plans and telephone numbers shall be
23 posted." Pursuant to 22 C.C.R. § 87415, "persons providing night supervision from 10:00 p.m. to
24 6:00 a.m. shall be familiar with the facility's planned emergency procedures."

25 33. For facilities that accept or retain residents with dementia, including VILLA CAPRI,
26 the Emergency Disaster Plan must address the safety of residents with dementia. (22 C.C.R. §
27 87705(c)(2).) If the facility uses delayed egress devices on and/or locks exterior doors or perimeter
gates, which are common safety measures in dementia care units, "Fire and earthquake drills shall
be conducted at least once every three months on each shift and shall include, at a minimum, all
direct care staff." (22 C.C.R. § 87705(k)(3) and (l)(8.))

1 34. In the months before the fire, on information and belief, VILLA CAPRI residents did
2 not participate in any fire drills. In the event of a fire or other emergency, Defendants simply
3 instructed residents to wait in their rooms until someone came to get them. On information and
4 belief, VILLA CAPRI had no back-up generators.

5 35. Defendants have scant emergency and evacuation policies and procedures in place,
6 but these policies and procedures do not take into account the needs of persons with disabilities, or
7 if they do, Defendants have not informed the residents and did not follow those procedures during
8 the Tubbs Fire evacuation. On information and belief, before the fire, Defendants never
9 demonstrated to residents with disabilities what will happen or how they will be evacuated in the
10 event of an actual emergency. Defendants did not train staff on how to safely transport residents
11 with mobility impairments down the stairs in the event the elevators were not available. Defendants
12 had no procedures to ensure accessible vehicles were available for residents with wheelchairs and
13 walkers, or to ensure their assistive devices were evacuated with the residents and/or available at an
14 evacuation site. Defendants had no procedures to safely transport bedridden residents, and did not
15 identify an evacuation site appropriate for residents who were bedridden due to disabilities or
16 medical conditions. Plaintiffs are informed and believe, and on that basis allege, that these practices
17 have been and are an official policy and practice by which Defendants operate their businesses or
18 services.

19 36. On October 9, 2017, at approximately 12:30 a.m., the Tubbs Fire began approaching
20 VILLA CAPRI and filling the building with smoke. On information and belief, at that time there
21 were only three staff members in the entire building to evacuate approximately 70 elderly residents,
22 including about 20 residents with dementia in a locked unit, many of whom were unable to follow
23 simple instructions, many of whom had vision and hearing impairments such as JOHN
24 MAGNUSON, dozens who used walkers, canes, and wheelchairs such as HELEN ALLEN, ALICE
25 EUROTAS, RUTH CALLEN, JOHN MAGNSUON, and LEONARD KULWIEC, and others who
26 required complete assistance from staff to ambulate such as ELIZABETH BUDOW and VIRGINIA
27 GUNN who were bedridden and had not sat in a chair for an extended period of time prior to that

1 night. Yet staff did not begin to evacuate any residents from the Facility at that time. Staff also did
2 not wake residents to allow them enough time to gather their belongings to take with them,
3 including heirlooms, jewelry, and photographs that could not be replaced. Moreover, on
4 information and belief, VILLA CAPRI staff members, at the instruction of Defendants' managing
5 agents, turned off the fire alarms at VILLA CAPRI after they initially went off sometime between
6 9:00 p.m. and 12:30 a.m.

7 37. At approximately 2:00 a.m., MARK ALLEN and his wife Kathy Allen arrived to
8 check on HELEN ALLEN. Upon arrival, MARK ALLEN found that none of Defendants'
9 managing agents, including the Executive Director, were at the Facility and most, if not all, of the
10 residents were still in their beds, including HELEN ALLEN, at this time. Moreover, MARK
11 ALLEN found that the Facility had no power, nobody had access keys to the Oakmont vans parked
12 at the Facility which could have been used to evacuate the residents, and nobody was in contact with
13 the Executive Director of the Facility during this emergency. The staff members at VILLA CAPRI
14 did not share any evacuation plan with MARK ALLEN other than to contact and wait for
15 instructions from the Executive Director and to meet at a local tire shop if they left the Facility.
16 Using their cell phone flashlights, MARK ALLEN and his wife began waking residents and
17 bringing them to the lobby of the building.

18 38. At approximately 2:10 a.m., MELISSA LANGHALS, arrived at the Facility to check
19 on her mother, VIRGINIA GUNN. She also encountered the three of Defendants' staff members.
20 One of the staff members gave MELISSA LANGHALS a master key, a flashlight, and a radio. The
21 staff members did not share any evacuation plan with MELISSA LANGHALS, although one of
22 them told MELISSA LANGHALS that they should leave the residents locked in the dementia unit
23 to be evacuated after everyone else. MELISSA LANGHALS found her mother asleep in her bed
24 on the second floor. She also began bringing residents to the lobby, including those who use
25 wheelchairs stuck on the second floor. On information and belief, at approximately 2:30 a.m.,
26 Defendants' maintenance director and a maintenance staff member arrived, but they did not share
27 any evacuation procedures with MARK ALLEN, Kathy Allen, or MELISSA LANGHALS, and they

1 did not know where to locate the keys to the Facility's transport van.

2 39. At some point during the early morning hours, LEONARD KULWIEC was shaken
3 awake by a man he did not recognize. The man was not wearing a uniform and was using a small
4 flashlight. The man told LEONARD KULWIEC that he must immediately leave his room and that
5 there was no time to gather any belongings. LEONARD KULWIEC put on his robe and slippers,
6 and took his walker and cane. LEONARD KULWIEC asked to use the elevators, but the man led
7 him to the stairs and said the elevator was unavailable. The stairwell was dark, and LEONARD
8 KULWIEC told the man he could not walk down the stairs due to his mobility impairment.
9 LEONARD KULWIEC had no choice but to roll down the stairs, which he did unassisted, causing
10 him to injure his arm and knee. Once LEONARD KULWIEC was on the first floor, he was
11 instructed to wait in a common area with approximately 25 other residents of the Facility who had
12 already gathered there. He sat in a chair and waited for at least 30 minutes.

13 40. At approximately 3:00 a.m., one Oakmont bus and one Oakmont van arrived to
14 evacuate some of the VILLA CAPRI residents. LEONARD KULWIEC, on his own initiative,
15 boarded one of these vehicles with approximately a dozen other residents who were ambulatory and
16 did not use wheelchairs. His walker was left behind. These vehicles pulled away from the
17 FACILITY when full, leaving at least a few dozen residents behind, the majority if not all with
18 disabilities, while the fire continued to surround the Facility. On information and belief, the bus that
19 transported LEONARD KULWIEC first went to a juvenile detention facility. At this facility,
20 LEONARD KULWEIC and the other residents got off the bus and the bus drove away. LEONARD
21 KULWIEC sat on a concrete step outside the building, unsure what to do. It was cold and dark, and
22 he and the other residents had only their nightclothes to keep warm. He and the other residents were
23 abandoned outside of this facility for approximately 30 minutes or longer, before the bus arrived
24 again to pick them up and eventually transport them to an evacuation site at a church.

25 41. After the two Oakmont vehicles left VILLA CAPRI, one of the three staff members
26 ("Marie") at the Facility used her vehicle to evacuate a few residents. But neither she nor the other
27 staff members returned to the Facility after leaving.

1 42. RUTH CALLEN was also abruptly shaken by a man she did not recognize who
2 entered her room in the dark, although she had not been sleeping due to the sirens she heard outside.
3 The man who entered her room told her that she must leave immediately. She put her shoes on, got
4 her walker, and managed to put one arm into her robe before leaving her room. The man led her to
5 a common area on the second floor of the Facility where she sat with five other residents, including
6 ALICE EUROTAS and HELEN ALLEN, and then he left. They sat there alone, in the dark, afraid,
7 and coughing from the smoke, for what seemed to RUTH CALLEN to be at least an hour.
8 Eventually someone RUTH CALLEN did not recognize returned and instructed them to go down
9 the stairs. RUTH CALLEN, ALICE EUROTAS, HELEN ALLEN, and another resident could not
10 safely go down the stairs unassisted due to their mobility impairments, but Defendants failed to
11 provide them with any alternative. They managed to get down the stairs without injuries, although
12 RUTH CALLEN lost her robe in the process. Once on the first floor, RUTH CALLEN did not see
13 any staff members.

14 43. MARK ALLEN used his Suburban to evacuate HELEN ALLEN, ALICE
15 EUROTAS, RUTH CALLEN, and three other residents, but he did not return because one of
16 Defendants' managing agents told him school buses were on the way to VILLA CAPRI. Yet no
17 school buses ever arrived at VILLA CAPRI.

18 44. After helping to load residents outside, and after MARK ALLEN and staff member
19 "Marie" left the Facility, the front door closed behind Kathy Allen and MELISSA LANGHALS,
20 locking them out of the Facility. They could not get inside to evacuate the remaining residents,
21 including VIRGINIA GUNN and those with dementia and in wheelchairs who were unable to open
22 the door to let them back in. They also could not find any VILLA CAPRI staff or a key to the front
23 door of the Facility. By this time, the hillside immediately next to the Facility was on fire.
24 MELISSA LANGHALS used the car hitch attached to the back of her vehicle to break into the front
25 door of VILLA CAPRI and prop it open to rescue more residents of the Facility

26 45. At around 3:30 a.m., only Kathy Allen and MELISSA LANGHALS were left alone
27 at the Facility to evacuate approximately 24 residents of VILLA CAPRI, including at least 14

1 residents from the dementia care unit. The building was filled with smoke, yet they worked to carry
2 approximately ten residents who used walkers and/or wheelchairs from the second floor to the foyer
3 of the Facility. Kathy Allen then flagged down a police officer who was driving by; he continued
4 on but said he would return. During all of this time, Kathy Allen and MELISSA LANGHALS used
5 VILLA CAPRI'S radio to repeatedly to call for help, but received no response.

6 46. Also at around 3:30 a.m., JOHN MAGNUSON and NOELLA MAGNUSON awoke
7 to the smell of smoke in their room. They saw flames shooting up the side of the building outside of
8 their kitchen window. They quickly left their apartment in their nightclothes and with only
9 NOELLA MAGNUSON's purse. JOHN MAGNUSON used a walker and was unable to walk
10 down the stairs unassisted, so Kathy Allen and MELISSA LANGHALS carried him and his walker
11 down the stairs. They evacuated with another resident in a vehicle driven by a woman they did not
12 recognize. They did not see any VILLA CAPRI staff members before they left the building.

13 47. At approximately 4:00 a.m., four police cars arrived to transport three VILLA
14 CAPRI residents in each car. VIRGINIA GUNN was transported by the police officers to a
15 Veteran's Center where there were no hospital bed or care providers available to provide the
16 assistance she required. She was then moved to another evacuation site at a church where there was
17 also no hospital bed or care providers available to provide the assistance she required. After the
18 church, Defendants moved VIRGINIA GUNN to another assisted living facility that also did not
19 have a hospital bed appropriate for her disability and medical condition. Instead, on information
20 and belief, she was forced to use an air mattress. VIRGINIA GUNN almost immediately fell off the
21 air mattress and was taken to the emergency room where she received a blood transfusion.

22 48. MELISSA LANGHALS transported five additional VILLA CAPRI residents in her
23 car. At 4:30 a.m., a city bus arrived and Kathy Allen and the seven residents, all wheelchair users,
24 boarded the vehicle. There was nothing in the bus to secure the wheelchair users to ensure they did
25 not fall out of their seats. Until the abandoned residents were finally able to leave VILLA CAPRI,
26 they were terrified by the wall of fire they observed approaching the FACILITY and the smoke that
27 had consumed the Facility.

1 49. At some point between when her private caregiver left at 6:00 p.m. on October 8,
2 2017, and the morning of October 9, 2017, ELIZABETH BUDOW suffered from a broken hip, a
3 broken tooth, an open wound on her heel, and contusions and abrasions all over her body. At
4 approximately 10:30 a.m. on October 9, 2017, she arrived by ambulance to Santa Rosa Memorial
5 Hospital. Her hospital records state that she was observed sitting in a chair in an evacuation center,
6 and was next observed lying on the ground screaming in pain. ELIZABETH BUDOW had not sat
7 in a chair in over two years – she required a hospital bed to accommodate her disabilities and
8 medical conditions, yet this need was not considered as part of Defendants' evacuation plan, and
9 none was made available to her.

10 50. No one from VILLA CAPRI contacted ELIZABETH BUDOW'S family to notify
11 them of her evacuation, injuries, or where she was located. Instead, ELIZABETH BUDOW'S
12 family had to frantically search for her until they found her at Santa Rosa Memorial Hospital later in
13 the day on October 9, 2017. Defendants never contacted ELIZABETH BUDOW'S family to ensure
14 she had been safely evacuated from VILLA CAPRI. Although they had no contact with
15 ELIZABETH BUDOW or her family and no way of knowing about her well-being, Defendants
16 falsely represented to the media and other residents that all VILLA CAPRI residents had been safely
17 evacuated and were settling into new living arrangements. Two days after the fire, Defendants
18 contacted RUTH CALLEN'S daughter and informed her that RUTH CALLEN was at another
19 Oakmont facility when in fact she never went to another Oakmont facility.

20 51. In the few days after the fire, ELIZABETH BUDOW was in so much pain due to her
21 injuries that she screamed and cried when anyone attempted to examine her or even lift her blanket.
22 In this state, she had to be transported from Santa Rosa Memorial Hospital to Petaluma Valley
23 Hospital to receive surgery for her broken hip. She was then transported to a facility where she was
24 on hospice and died due to complications related to her injuries as described herein on December
25 11, 2017.

26 52. After the fire, Defendants refused to let VILLA CAPRI residents or their families
27 search the remains of VILLA CAPRI for any surviving personal property. Defendants used security

1 guards to prevent residents and their family members from entering the property, including the son
2 of JOHN MAGNUSON and NOELLA MAGNUSON who came to VILLA CAPRI three of four
3 times to look for any of his parents' surviving property. Before the fire, ELIZABETH EUROTAS
4 and ALICE EUROTAS decided to move their family heirlooms, photographs, and jewelry to
5 ALICE EUROTAS'S room at VILLA CAPRI. A few days after the fire, ELIZABETH EUROTAS
6 asked Defendants' managing agents in three different conversations if she could search, or if VILLA
7 CAPRI staff would search the remains of VILLA CAPRI for any personal property. ELIZABETH
8 EUROTAS informed Defendants' managing agents that important and irreplaceable property was in
9 ALICE EUROTAS's room and may have been salvageable. In all three of those conversations,
10 Defendants' managing agents promised to ELIZABETH EUROTAS that they would search the
11 remains of VILLA CAPRI for any personal property and store anything they found. In an email
12 sent to all VILLA CAPRI residents on October 18, 2017, Defendants represented that they had
13 started the process to retrieve priority and urgent personal items. On October 26, 2017, Defendants
14 sent another email to all VILLA CAPRI residents stating that the site was "hazardous and toxic" and
15 that "Oakmont has started the process to clean up the site and has hired a professional company to
16 begin sifting through the debris." ELIZABETH EUROTAS relied on all of Defendants'
17 representations.

18 53. Defendants purposely did not inform residents, however, that on October 17, 2017,
19 only eight days after the fire, they had already started bulldozing the remains of VILLA CAPRI,
20 transporting it, and, on information and belief, dumping it in a landfill without the proper permits.
21 On information and belief, Defendants did not search for human remains or residents' property
22 before razing VILLA CAPRI.

23 54. Defendants knew or should have known that ELIZABETH EUROTAS had an
24 interest in receiving family heirlooms, jewelry, and other personal property that belonged to her
25 mother. If ELIZABETH EUROTAS had known that Defendants were not going to search the
26 remains of VILLA CAPRI before razing it, she would have attempted to hire a restoration company
27 to search the remains, and she also would have contacted appropriate government officials for

1 assistance and guidance on how to ensure such a search was conducted.

2 55. As a result of Defendants' conduct, including but not limited to failing to wake
3 Plaintiffs up so they could gather any belongings before there was too much smoke in the Facility,
4 Plaintiffs lost photographs, heirlooms, jewelry, and other irreplaceable and valuable personal
5 property at VILLA CAPRI that may have been salvaged if Defendants had not razed VILLA CAPRI
6 before searching and retrieving any property that had survived.

7 56. Approximately two weeks after the fire, LEONARD KULWIEC moved to Oakmont
8 of Roseville, another RCFE facility owned and operated by Defendants, where he remains a current
9 resident. On information and belief, Defendants have not changed their evacuation policies and
10 procedures since the fire, and current residents of facilities owned, operated and/or licensed by
11 Defendants OAKMONT SENIOR LIVING LLC, OAKMONT MANAGEMENT GROUP LLC,
12 and Does 1-50, including LEONARD KULWIEC and other residents with disabilities, continue to
13 suffer discrimination and face an inherent and substantial risk of harm due to Defendants' failure to
14 develop adequate emergency procedures and evacuation plans.

15 57. On or around November 27, 2017, MARK ALLEN and Kathy Allen returned to the
16 site of VILLA CAPRI for the first time since the fire. They wanted to see what remained of the
17 Facility, and thought it would be helpful to process the trauma they were experiencing after the
18 evacuation. They drove onto the grounds shared by VILLA CAPRI and another Oakmont facility,
19 which had recently re-opened, but did not get out of the car. They did not speak to or see any of
20 Defendants' employees. They were on the grounds for approximately five minutes before they left.
21 The next day, Defendants sent notice to the Allens, through their counsel, that they were observed
22 on the property, that they were "trespassing," and that they are forbidden from returning without
23 Defendants' permission. The Allens do not know how Defendants identified them through the
24 tinted windows of their car.

25 58. On information and belief, Defendants have attempted to silence former VILLA
26 CAPRI employees by offering them \$750 to \$1,500 in exchange for their signature on a document
27 that states the employee has no knowledge of any violations of state, federal, or local laws by

1 Defendants the employee has not already previously disclosed. The document also requires
2 employees to waive any employment claims they may have against Defendants in exchange for the
3 same meager sum.

4 59. Defendants represent to the public that they intend to rebuild VILLA CAPRI within
5 twelve to eighteen months.

6 **Defendants' Pattern and Practice of Inadequate Emergency Planning and Evacuation**
7 **Procedures**

8 60. Defendants' failure to develop and implement adequate emergency planning and
9 evacuation procedures was not isolated to VILLA CAPRI. Defendants also operate Varenna at
10 Fountaingrove ("Varenna"), a licensed continuing care retirement community on the same grounds
11 as VILLA CAPRI. Over 200 elderly and disabled residents reside at Varenna.

12 61. Defendants abandoned at least 80 residents at Varenna during the Tubbs Fire. On
13 information and belief, before the fire, Varenna residents were given no instructions other than to
14 "shelter-in-place" until someone came to evacuate them. Defendants never demonstrated to
15 residents with disabilities what will happen or how they will be evacuated in the event of an actual
16 emergency. Defendants did not train Varenna staff on how to safely transport residents with
17 mobility disabilities down the stairs in the event the elevators were not working. Defendants had no
18 procedures to ensure accessible vehicles were available for residents with wheelchairs and walkers,
19 or to ensure their assistive devices were evacuated with the residents and/or available at the
20 evacuation site. Defendants had no procedures to safely transport bedridden residents, and did not
21 identify an evacuation site appropriate for residents who were bedridden due to disabilities or
22 medical conditions.

23 62. At approximately 11:00 p.m. on October 8, 2017, the power went out at Varenna.
24 Varenna's fire alarms started going off intermittently at 11:45 a.m., but, on information and belief,
25 staff turned them off shortly thereafter. Staff did not begin evacuating residents at this time.

26 63. At approximately 3:45 a.m. on October 9, 2017, R.J. Kisling drove to Varenna to
27 check on his grandfather. When he parked near the entrance, there were no lights, and there was no

1 one in the front parking lot. The trees and shrubs were on fire. He was surprised to find ten to
2 fourteen residents in the lobby who assumed he was a first responder and peppered him with
3 questions about any evacuation plans. There was no power in the building. He did not believe that
4 he could safely escort any residents to his vehicle because of the fire and embers flying through the
5 air outside. He called his wife and asked her to call 911.

6 64. R.J. Kisling saw two female Varena staff members briefly after he arrived, but he
7 never saw them again after that brief encounter. He checked his grandfather's room, and he was not
8 there. The halls in the facility were dark and smoky. He found some flashlights next to fire
9 extinguishers, but they did not work. Instead, he wore a head lamp that he kept in his vehicle. He
10 began running up and down the hallways banging on residents' doors. He escorted residents he
11 found in their rooms to the lobby and tried to keep them calm. Many residents seemed to assume he
12 was a Varena employee. He noticed that many residents did not seem to have working smoke
13 alarms in their rooms.

14 65. Approximately 45 minutes later, firefighters arrived. By this time, there were
15 approximately 35 residents in the lobby, and an unknown number remained in their rooms. Mr.
16 Kisling and the fire fighters continued going door-to-door and found many more residents. The
17 residents were gasping and choking from the smoke in the building. Mr. Kisling helped firefighters
18 carry residents with disabilities down the stairs. On the first floor, he found one resident who used a
19 walker immobilized in her bed with soiled briefs. He could not find any staff members to change
20 her, so he convinced another resident's private caregiver to help. After she was changed, Mr.
21 Kisling seated her on her four-wheeled walker and raced her down the hall to the lobby.

22 66. At approximately 4:45 a.m., R.J. Kisling's sister, Steffany Kisling, arrived at the
23 facility. She also went door-to-door looking for residents. One resident notified her that there
24 might be a couple sleeping in their room on a lower level. She went into this couple's room and
25 found a woman who used a motorized wheelchair and a man who used a cane asleep in their beds.
26 She helped the woman use a side door without stairs to evacuate the building, and a firefighter
27 helped the man evacuate.

1 67. At approximately 6:00 a.m., two city buses arrived at Varena. Steffany Kisling
2 helped residents, including many with walkers and wheelchairs, board the buses. Many residents
3 seemed to assume that Steffany Kisling was an Oakmont employee. When the buses were full and
4 pulled away at around 6:30 a.m., on information and belief, there were at least 80 residents in the
5 buses. Steffany Kisling followed the buses away from the facility to an evacuation site. She saw
6 that VILLA CAPRI was on fire as she drove past.

7 68. From the time Steffany Kisling arrived at the facility at 4:45 and left at 6:30 a.m., she
8 never saw any Varena staff members or Oakmont employees. Other than the two caregivers R.J.
9 Kisling saw briefly after his arrival at 3:45 a.m. until he left at around 7:00 a.m., he saw no Varena
10 staff members or Oakmont employees.

11 69. On information and belief, at least three residents were left in Varena overnight
12 because they were unaware of the chaotic evacuation efforts. They woke up to a deserted building
13 surrounded by burned hillsides and landscaping, and the ruins of next-door VILLA CAPRI. They
14 did not leave the facility until they were discovered by maintenance workers at 10:00 or 11:00 a.m.
15 on October 9, 2017.

16 70. Defendants' failure and refusal to develop and implement adequate emergency
17 planning and evacuation procedures creates a serious and ongoing safety risk to more than a
18 thousand current residents in approximately 23 Oakmont facilities throughout California, including
19 LEONARD KULWIEC at Oakmont of Roseville, and future residents of VILLA CAPRI.
20 Defendants' failure to consider the needs of people with disabilities in these procedures is not only
21 dangerous, it is humiliating and degrading.

22 71. Defendants are responsible for their illegal operations and discriminatory policies
23 and practices described herein. Residents of Defendants' facilities, their family members, and staff
24 members have raised these issues with Defendants to no avail. Despite their knowledge of the
25 substantial risk of harm and civil rights violations described herein, Defendants have refused to
26 provide necessary reasonable modifications to their emergency planning and evacuation procedures
27 to ensure all residents are safe, to provide residents with disabilities full and equal enjoyment of its

1 goods, services, facilities, activities, benefits, and accommodations, and to comply with the
2 requirements of the Americans with Disabilities Act and the Unruh Civil Rights Act.

3 **Defendants' Failure to Meet ELIZABETH BUDOW'S Care Needs Before the Fire**

4 72. Defendants recklessly failed to hire enough staff, and to train the staff they did hire,
5 to meet ELIZABETH BUDOW'S care needs while a resident at VILLA CAPRI. At the time of
6 ELIZABETH BUDOW'S admission to VILLA CAPRI in April 2013, she was blind, hard-of-
7 hearing, required a cane, and had mild dementia.

8 73. Based on their purported specialized knowledge in elder and dementia care,
9 Defendants' managing agents and staff knew or should have known that residents with physical
10 disabilities and dementia were at higher risk for falls, and required appropriate heightened care to
11 prevent injury and harm. When ELIZABETH BUDOW was ambulatory, Defendants' managing
12 agents and staff specifically knew that she was at high risk for falling and injuries, and required a
13 fall management program, including assistance with ambulation at all times and a cane. In October
14 2013, she suffered from a laceration to her forehead after she tried to stand up unassisted and hit her
15 head on her dresser. This injury served as further notice to Defendants that ELIZABETH BUDOW
16 required appropriate heightened care to prevent future injuries and harm. Nonetheless, in May
17 2014, she fell on her face and broke her nose. ELIZABETH BUDOW suffered from at least one
18 more known fall due to Defendants' failure to take appropriate care.

19 74. In the Spring of 2015, ELIZABETH BUDOW'S condition deteriorated until she
20 became non-ambulatory and required complete and total assistance from the Facility's staff to
21 perform all of her activities of daily living. Defendants were responsible for meeting the basic
22 needs of ELIZABETH BUDOW, but Defendants knowingly did not have enough staff at VILLA
23 CAPRI to ensure that she was monitored and provided with the treatment she needed. Defendants
24 knew that the staff was also not adequately trained to meet ELIZABETH BUDOW'S needs at
25 VILLA CAPRI.

26 75. For example, ELIZABETH BUDOW could not use a toilet independently, and relied
27 on staff at VILLA CAPRI to change her adult diapers. Yet staff did not consistently change her and

1 left her to sit in her own feces and urine for hours. Concerned that staff was neglecting her mother,
2 ELIZABETH BUDOW's daughter, SHERRY MINSON, hired a private caregiver to provide
3 services to ELIZABETH BUDOW at VILLA CAPRI during all waking hours at ELIZABETH
4 BUDOW'S expense. Until approximately December 2016, during all waking hours, the private
5 caregiver assisted ELIZABETH BUDOW with her daily activities (e.g., eating, grooming, hygiene,
6 etc.) at VILLA CAPRI and, although Defendants knew their own staff was not providing these
7 necessary services to ELIZABETH BUDOW, they did not reduce her care fees. Thus,
8 ELIZABETH BUDOW continued to pay Defendants up to \$11,000 a month, and additionally paid
9 the private caregiver approximately \$8,000 a month, while at VILLA CAPRI.

10 76. In December 2016, Defendants informed ELIZABETH BUDOW'S private caregiver
11 that they would provide all of ELIZABETH BUDOW'S services for which she was paying them to
12 provide, and that the private caregiver should only be providing assistance with feeding and
13 companionship. Nonetheless, Defendants continued to charge ELIZABETH BUDOW for feeding
14 and did not consistently provide the services they promised to provide and told the private caregiver
15 not to do. Defendants did not, for example, provide skin checks up to three times a day or change
16 her adult diapers as often as was required during the night time. Defendants charged ELIZABETH
17 BUDOW for assistance going to and from the bathroom and fall management even though she did
18 not leave her bed to use the bathroom, or for any other reason, and could not roll over unassisted or
19 present any other opportunity to fall. Staff also regularly took 15 minutes to respond to
20 ELIZABETH BUDOW'S calls for help even though they did not know if she was suffering from an
21 emergency and required immediate assistance.

22 77. On or around August 4, 2016, due to Defendants' failure to provide status checks and
23 services during the night, ELIZABETH BUDOW caught her leg in her bed rail and suffered from a
24 broken leg that staff did not discover until the next morning. As a result of this injury,
25 ELIZABETH BUDOW suffered severe pain and her mobility and independence further declined.

26 78. Before ELIZABETH BUDOW became non-ambulatory, while a resident of VILLA
27 CAPRI, Defendants' managing agents and staff knew or should have known that ELIZABETH

1 BUDOW had dementia, a history of falls, and an unsteady gate, and that she required assistance and
2 supervision with ambulation. Yet Defendants' managing agents and staff failed to implement
3 interventions necessary to protect ELIZABETH BUDOW from health and safety hazards at VILLA
4 CAPRI, including providing her with an escort, ensuring that she had her cane when ambulating,
5 and frequent checks and other interventions to prevent her from ambulating without assistance.
6 Defendants' managing agents and staff failed to provide necessary care and protection to
7 ELIZABETH BUDOW, failed to properly assess her need for assistance with activities of daily
8 living, failed to create or adequately follow a care plan with interventions to address her risk for falls
9 and other needs, and failed to accurately report changes in her condition to her physicians and her
10 family.

11 79. Defendants, and each of them, had responsibility for meeting the basic needs of
12 ELIZABETH BUDOW, including her nutrition, hydration, hygiene, safety and medical care,
13 providing her with adequate assistance and supervision, and performing adequate assessments of her
14 need for assistance with her activities of daily living and providing her with the level of care that she
15 required. Defendants' managing agents and staff were on notice that ELIZABETH BUDOW had
16 increasing dementia and that she was at risk of injuries, including from falls.

17 80. Although Defendants' managing agents and staff knew of conditions that made
18 ELIZABETH BUDOW unable to provide for her own basic needs, including her medical
19 conditions, physical disabilities, and dementia, and need for supervision and assistance, as described
20 herein, Defendants, and each of them, denied and withheld goods or services necessary to meet
21 ELIZABETH BUDOW'S basic needs, including the failure to put into place interventions they
22 identified as necessary in their own assessments. Despite this knowledge, Defendants' managing
23 agents did not employ an adequate number of sufficiently trained staff to provide her with the
24 needed assistance. Defendants, and each of them, denied and withheld this basic care to
25 ELIZABETH BUDOW despite the knowledge that by doing so, injuries were substantially certain
26 to befall ELIZABETH BUDOW, or with conscious disregard of the high probability of such injury.
27 Defendants also left ELIZABETH BUDOW alone overnight without adequate assistance or

1 supervision and, as a result, on or around August 4, 2016, ELIZABETH BUDOW broke her leg in
2 her bedrails. Defendants' reckless denial and withholding of basic care to ELIZABETH BUDOW
3 caused her injuries as described herein.

4 81. When ELIZABETH BUDOW became non-ambulatory, Defendants knew or should
5 have known that she required more care than they could provide her, yet they recklessly continued
6 to retain her as a resident to continue collecting payment. Defendants recklessly failed to transfer
7 ELIZABETH BUDOW to a higher level of care, which caused her injuries. Defendants recklessly
8 failed to provide ELIZABETH BUDOW with adequate custodial care, which caused her injuries.
9 Defendants recklessly failed to employ sufficient numbers of adequately trained staff to protect
10 ELIZABETH BUDOW and to keep her safe at VILLA CAPRI, which caused her injuries.

11 **FIRST CAUSE OF ACTION**

12 **(Elder Abuse – by the Elder Plaintiffs against all Defendants)**

13 82. Plaintiffs refer to, and incorporate herein by this reference, all preceding paragraphs
14 to this cause of action as though fully set forth herein.

15 83. Defendants negligently and recklessly failed to use ordinary care, and such other care
16 as is prescribed by law, regarding the care and protection of the Elder Plaintiffs while they were
17 residents of VILLA CAPRI.

18 84. The acts and omissions by Defendants, as described herein, were not only to the
19 Elder Plaintiffs, but, instead, were part of a continual pattern in failing to provide adequate care and
20 supervision, failing to provide adequate custodial care, failing to develop and implement an
21 adequate evacuation plan, and other inadequacies. This pattern of substandard care was well known
22 to Defendants' managing agents, including VILLA CAPRI'S owners, licensees and Administrators.
23 The Facility also had insufficient staffing and untrained staff, which was known to the
24 Administrators, owners, and operators of VILLA CAPRI and other managing agents of Defendants,
25 who did nothing, despite this knowledge. Defendants had a significant and known pattern and
26 practice of understaffing and undertraining its staff at VILLA CAPRI to cut costs, in direct violation
27 of state staffing regulations, which foreseeably resulted in the abuse, neglect, and abandonment of

1 its residents, including the Elder Plaintiffs. This significant pattern and practice of understaffing
2 and undertraining and the resulting substandard care provided by Defendants were well known to
3 Defendants and their managing agents. Despite Defendants' conscious knowledge of these
4 conditions, they did not take appropriate steps to prevent or remedy them, nor did they inform the
5 Elder Plaintiffs or their families of what they knew about these dangerous conditions. Defendants
6 acted with reckless disregard for the health and safety of the Elder Plaintiffs and other residents. In
7 addition, no changes were made by Defendants, thereby ratifying this egregious behavior.

8 85. The above-mentioned acts of Defendants, and each of them, constituted "abuse,"
9 "neglect" and/or "abandonment" of an elder or dependent adult within the meaning of Welfare &
10 Institutions Code §15610 *et seq.* and caused physical pain and/or mental suffering and/or deprived
11 the Elder Plaintiffs of the services that were necessary to avoid physical harm or mental suffering.

12 86. Defendants committed elder neglect as defined under the Elder Abuse Act by failing
13 to provide the Elder Plaintiffs with adequate supervision and assistance to keep them safe and
14 protect them from injuries, failing to provide them with adequate custodial care, failing to develop
15 and implement adequate evacuation procedures, and failing to protect the Elder Plaintiffs from
16 health and safety hazards while they were in their care and custody. (Welf. Inst. Code §15610.57.)
17 Pursuant to Welfare & Institutions Code §15610.57(a)(1), Defendants negligently failed to exercise
18 that degree of care that a reasonable person in a like position would exercise.

19 87. Defendants committed "abandonment" of an elder or dependent adult as defined
20 under the Elder Abuse Act by deserting or willfully forsaking the Elder Plaintiffs during the Tubbs
21 Fire while the Elder Plaintiffs were in Defendants' care and custody in circumstances in which a
22 reasonable person would continue to provide care and custody. (Welf. Inst. Code § 15610.05.)

23 88. As a direct result of the abuse, neglect and/or abandonment of the Elder Plaintiffs by
24 Defendants, and each of them, ELIZABETH BUDOW, VIRGINIA GUNN, ALICE EUROTAS,
25 and LEONARD KULWIEC were caused to incur the expense of acute hospitalization, paramedics,
26 and/or other medical care, all to their special damage in a sum to be established according to proof.

27 89. By the conduct, acts and omissions of Defendants, and each of them, as alleged

1 above, Defendants are guilty of recklessness, oppression, and/or malice. The specific facts set forth
2 above show Defendants' disregard of the high probability that the Elder Plaintiffs would be injured.
3 In addition to special damages, the Elder Plaintiffs are therefore entitled to an award against
4 Defendants of the reasonable attorney's fees and costs incurred in prosecuting this case as well as
5 Plaintiffs' pain and suffering pursuant to Welfare & Institutions Code §15657. As a direct result of
6 the abuse, neglect and/or abandonment of the Elder Plaintiffs by Defendants, and each of them, the
7 Elder Plaintiffs suffered fear, anxiety, humiliation, physical pain and discomfort, and emotional
8 distress, all to their general damage in a sum to be established according to proof.

9 WHEREFORE, said plaintiffs pray for judgment as hereinafter set forth.

10 **SECOND CAUSE OF ACTION**

11 **(Negligence – by the Elder Plaintiffs and ELIZABETH EUROTAS against all Defendants)**

12 90. Plaintiffs refer to, and incorporate herein by this reference, all preceding paragraphs
13 to this cause of action as though fully set forth herein.

14 91. At all times herein mentioned, Defendants failed to exercise the degree of skill and
15 care commonly required of residential care facilities for the elderly pursuant to Title 22 of the
16 California Code of Regulations, as discussed in detail above.

17 92. As a legal result of the negligence and carelessness of Defendants, and each of them,
18 as stated in detail above, including but not limited to failing to provide adequate assistance and
19 supervision to said Plaintiffs, failing to develop and implement safe and adequate evacuation plans,
20 and/or razing VILLA CAPRI without first searching for said Plaintiffs' personal property, said
21 Plaintiffs were severely injured.

22 WHEREFORE, said plaintiffs pray for judgment as hereinafter set forth.

23 **THIRD CAUSE OF ACTION**

24 **(False Imprisonment – by the Elder Plaintiffs against all Defendants)**

25 93. Plaintiffs refer to, and incorporate herein by this reference, all preceding paragraphs
26 to this cause of action as though fully set forth herein.

27 94. The Elder Plaintiffs were wrongfully confined in VILLA CAPRI by Defendants

1 during the Tubbs Fire. As set forth herein, Defendants intentionally deprived said plaintiffs of their
2 freedom of movement by use of physical barriers, fraud and/or deceit. Defendants represented to
3 said plaintiffs that they would be provided with adequate numbers of trained staff to assist them,
4 when in fact, Defendants did not have enough trained staff to safely evacuate them from the Facility.

5 95. Defendant's failure to adequately staff VILLA CAPRI and to develop and implement
6 safe and adequate evacuation plans compelled said plaintiffs to be confined in the Facility for hours
7 as the Tubbs Fire bore down on VILLA CAPRI and made the Facility uninhabitable and unsafe.

8 96. Said plaintiffs did not knowingly or voluntarily consent to be confined and unable to
9 evacuate from the Facility during the Tubbs Fire.

10 97. As set forth herein, said plaintiffs were actually harmed by Defendants' confinement
11 of them, and Defendants' conduct was a substantial factor in causing said plaintiffs' harm.

12 WHEREFORE, said plaintiffs pray for judgment as hereinafter set forth.

13 **FOURTH CAUSE OF ACTION**

14 **(Negligent Infliction of Emotional Distress – by the Elder Plaintiffs, ELIZABETH EUROTAS,**
15 **and MARK ALLEN against all Defendants)**

16 98. Plaintiffs refer to, and incorporate herein by this reference, all preceding paragraphs
17 to this cause of action as though fully set forth herein.

18 99. Defendants' conduct as set forth herein, including but not limited to Defendants'
19 failure to adequately staff VILLA CAPRI, develop and implement a safe and adequate evacuation
20 plan for the Facility, and/or to search for personal property before razing VILLA CAPRI, was
21 negligent, as set forth herein.

22 100. Defendants' negligent conduct caused said plaintiffs to suffer serious emotional
23 distress, including but not limited to suffering, anguish, fright, horror, nervousness, grief, anxiety,
24 worry, shock, humiliation, and/or shame, that an ordinary, reasonable person would be unable to
25 cope with.

26 101. Defendants' negligence was a substantial factor in causing said plaintiffs' serious
27 emotional distress.

1 WHEREFORE, said plaintiffs pray for judgment as hereinafter set forth.

2 **FIFTH CAUSE OF ACTION**

3 **(Intentional Infliction of Emotional Distress – by the Elder Plaintiffs, ELIZABETH**
4 **EUROTAS, and MARK ALLEN against all Defendants)**

5 102. Plaintiffs refer to, and incorporate herein by this reference, all preceding paragraphs
6 to this cause of action as though fully set forth herein.

7 103. Defendants' conduct as set forth herein, including but not limited to Defendants'
8 failure to adequately staff VILLA CAPRI, develop and implement a safe and effective evacuation
9 plan for the Facility, and/or to search for personal property before razing VILLA CAPRI, was
10 outrageous.

11 104. Defendant acted intentionally and/or with a reckless disregard of the probability that
12 Plaintiffs would suffer emotional distress, knowing that said plaintiffs would be affected by
13 Defendants' conduct.

14 105. Defendants' outrageous conduct caused said plaintiffs to suffer serious emotional
15 distress, including but not limited to suffering, anguish, fright, horror, nervousness, grief, anxiety,
16 worry, shock, humiliation, and/or shame.

17 106. Defendants' conduct was a substantial factor in causing said plaintiffs' serious
18 emotional distress.

19 WHEREFORE, said plaintiffs pray for judgment as hereinafter set forth.

20 **SIXTH CAUSE OF ACTION**

21 **(Negligent Misrepresentation – by Plaintiff ELIZABETH EUROTAS against all Defendants)**

22 107. Plaintiff ELIZABETH EUROTAS refers to, and incorporates herein by this
23 reference, all preceding paragraphs to this cause of action as though fully set forth herein.

24 108. Plaintiff ELIZABETH EUROTAS was harmed because Defendants negligently
25 misrepresented important facts to her.

26 109. Defendants represented to ELIZABETH EUROTAS that VILLA CAPRI staff would
27 search the Facility to find any of her mother's personal property before clearing the fire debris.

1 Defendants represented this fact was true.

2 110. However, Defendants' representation was not true.

3 111. Defendants made this representation without any reasonable ground for believing it
4 to be true when they made it.

5 112. Defendants intended for ELIZABETH EUROTAS to rely on these representations.

6 113. ELIZABETH EUROTAS reasonably relied on Defendants' representations. As a
7 result, ELIZABETH EUROTAS was harmed, and her reliance on Defendants' representations was a
8 substantial factor in causing her harm.

9 WHEREFORE, said plaintiff prays for judgment as hereinafter set forth.

10 **SEVENTH CAUSE OF ACTION**

11 **(Intentional Misrepresentation – by Plaintiff ELIZABETH EUROTAS against all Defendants)**

12 114. Plaintiff refers to, and incorporates herein by this reference, all preceding paragraphs
13 to this cause of action as though fully set forth herein.

14 115. ELIZABETH EUROTAS was harmed because Defendants falsely represented
15 important facts to her.

16 116. Defendants represented to ELIZABETH EUROTAS that VILLA CAPRI staff would
17 search the Facility to find any of her mother's personal property before clearing the fire debris.
18 Defendants represented this fact was true.

19 117. However, Defendants' representation was not true.

20 118. Defendants knew that this representation was not true when they made it, or made the
21 representation recklessly without regard for its truth.

22 119. Defendants intended that ELIZABETH EUROTAS rely on this representation.

23 120. ELIZABETH EUROTAS reasonably relied on Defendants' representations. As a
24 result, ELIZABETH EUROTAS was harmed, and her reliance on Defendants' representations was a
25 substantial factor in causing her harm.

26 WHEREFORE, said plaintiff prays for judgment as hereinafter set forth.
27

1 **EIGHTH CAUSE OF ACTION**

2 **(Concealment – by Plaintiff ELIZABETH EUROTAS against all Defendants)**

3 121. Plaintiff refers to, and incorporates herein by this reference, all preceding paragraphs
4 to this cause of action as though fully set forth herein.

5 122. ELIZABETH EUROTAS was harmed because Defendants concealed important facts
6 from her.

7 123. Defendants disclosed to ELIZABETH EUROTAS that VILLA CAPRI staff would
8 search the Facility to find any of her mother's personal property before clearing the fire debris, but
9 intentionally failed to disclose that it would and did raze the remains of VILLA CAPRI before
10 searching for ELIZABETH EUROTAS'S personal property, making the disclosure deceptive and/or
11 misleading.

12 124. These facts were accessible to Defendants, and ELIZABETH EUROTAS did not
13 know and had no way of knowing the concealed facts.

14 125. Defendants actively concealed discovery from and intended to deceive ELIZABETH
15 EUROTAS by concealing the facts.

16 126. If Defendants had disclosed these facts, ELIZABETH EUROTAS reasonably would
17 have behaved differently.

18 127. As a result, ELIZABETH EUROTAS was harmed, and Defendants' concealment
19 was a substantial fact in causing ELIZABETH EUROTAS'S harm.

20 WHEREFORE, said plaintiff prays for judgment as hereinafter set forth.

21 **NINTH CAUSE OF ACTION**

22 **(False Promise – by Plaintiff ELIZABETH EUROTAS against all Defendants)**

23 128. Plaintiff refers to, and incorporates herein by this reference, all preceding paragraphs
24 to this cause of action as though fully set forth herein.

25 129. Defendants made a promise to ELIZABETH EUROTAS that VILLA CAPRI staff
26 would search the Facility to find any of her mother's personal property before clearing the fire
27 debris

1 130. Defendants did not intend to perform this promise when they made it.

2 131. Defendants intended that ELIZABETH EUROTAS rely on this promise.

3 132. ELIZABETH EUROTAS reasonably relied on Defendants' promise.

4 133. Defendants did not perform the promised act.

5 134. As a result, ELIZABETH EUROTAS was harmed, and her reliance on Defendants'
6 promise was a substantial factor in causing her harm.

7 WHEREFORE, said plaintiff prays for judgment as hereinafter set forth.

8 **TENTH CAUSE OF ACTION**

9 **(Unruh Civil Rights Act – by the Disabled Plaintiffs against all Defendants)**

10 135. Plaintiffs refer to, and incorporates herein by this reference, all preceding paragraphs
11 to this cause of action as though fully set forth herein.

12 136. Cal. Civ. Code § 51(b) provides in pertinent part that "All persons within the
13 jurisdiction of this state are free and equal, and no matter what their...disability or medical
14 condition are entitled to full and equal accommodations, advantages, facilities, privileges, or
15 services in all business establishments of every kind whatsoever."

16 137. Pursuant to Cal Civ. Code § 51(f), a violation of the ADA also constitutes a violation
17 of the Unruh Civil Rights Act.

18 138. Defendants own, operate and/or manage business establishments within the
19 jurisdiction of the State of California and, as such, are obligated to comply with the provisions of the
20 Unruh Civil Rights Act, Cal. Civ. Code § 51, *et. seq.* Defendants are each a public accommodation
21 whose services and facilities are open to the general public.

22 139. Defendants provide services, privileges, advantages, and accommodations to the
23 general public. Defendants have failed and refused to provide said plaintiffs with full and equal
24 access to and enjoyment of the benefits of their goods, services, facilities, benefits, advantages, and
25 accommodations, and have done so by reason of said plaintiffs' disabilities.

26 140. Defendants, by their actions and inactions alleged in the Complaint, have directly
27 discriminated against persons with disabilities. The actions by Defendants were and are in violation

1 of the Unruh Civil Rights Act, Cal, Civ. Code §§ 51 *et. seq.*, and therefore said plaintiffs are also
2 entitled to injunctive relief and reasonable attorneys fees, costs, and expenses.

3 WHEREFORE, said plaintiffs pray for judgment as hereinafter set forth.

4 **ELEVENTH CAUSE OF ACTION**

5 **(Wrongful Death – by PLAINTIFFS SHERRY MINSON, CECILIA SANCHEZ, MELISSA**
6 **LANGHALS, PAUL LANGHALS, and KARL LANGHALS, against all Defendants)**

7 141. Plaintiffs refer to, and incorporates herein by this reference, all preceding paragraphs
8 to this cause of action as though fully set forth herein.

9 142. Plaintiff SHERRY MINSON is decedent ELIZABETH BUDOW's surviving issue.
10 At all times herein mentioned, Plaintiff SHERRY MINSON was and is the successor-in-interest to
11 the Estate of ELIZABETH BUDOW pursuant to Code of Civil Procedure §§377.11, 377.20, 377.30,
12 377.32, and 377.60. She is the only heir at law to her Estate. As a result of Defendants' acts and
13 omissions as alleged above, ELIZABETH BUDOW died.

14 143. Plaintiffs CECILIA SANCHEZ, MELISSA LANGHAS, PAUL LANGHALS, and
15 KARL LANGHALS are decedent VIRGINIA GUNN's surviving issue. At all times herein
16 mentioned, CECILIA SANCHEZ, MELISSA LANGHALS, PAUL LANGHALS, and KARL
17 LANGHALS were and are the successors-in-interest to the Estate of VIRGINIA GUNN pursuant to
18 Code of Civil Procedure §§377.11, 377.20, 377.30, 377.32, and 377.60. They are the only heirs at
19 law to her Estate. As a result of Defendants' acts and omissions as alleged above, VIRGINIA
20 GUNN died.

21 144. As a direct and legal result of the acts and omissions of Defendants alleged
22 hereinabove, said plaintiffs were deprived of a kind and loving mother and of her love, comfort,
23 companionship, society, and emotional support.

24 145. As a further proximate result of the acts and omissions of Defendants, and each of
25 them, the Estates of ELIZABETH BUDOW and VIRGINIA GUNN and/or said plaintiffs incurred
26 burial and funeral expenses for the proper disposition of the remains of decedents ELIZABETH
27 BUDOW and VIRGINIA GUNN, the exact cost of said services is unknown at this time, and leave

1 of Court will be sought to amend this Complaint to specify these damages when fully ascertained.

2 WHEREFORE, said plaintiffs pray for judgment as hereinafter set forth.

3 **TWELTH CAUSE OF ACTION**

4 **(Survivorship – by PLAINTIFFS SHERRY MINSON, CECILIA SANCHEZ, MELISSA**
5 **LANGHALS, PAUL LANGHALS, and KARL LANGHALS, against all Defendants)**

6 146. Plaintiffs refer to, and incorporates herein by this reference, all preceding paragraphs
7 to this cause of action as though fully set forth herein.

8 147. At all times herein mentioned, plaintiff SHERRY MINSON was and is the
9 Successor-in-Interest to the Estate of ELIZABETH BUDOW, deceased, pursuant to Code of Civil
10 Procedure §§ 377.20 and 377.30. She is the only heir at law to her Estate.

11 148. At all times herein mentioned, plaintiffs CECILIA SANCHEZ, MELISSA
12 LANGHALS, PAUL LANGHALS, and KARL LANGHALS were and are the Successors-in-
13 Interest to the Estate of VIRGINIA GUNN, deceased, pursuant to Code of Civil Procedure §§
14 377.20 and 377.30. They are the only heirs at law to her Estate.

15 149. As a direct and proximate result of the above-described conduct of Defendants, and
16 each of them, ELIZABETH BUDOW and VIRGINIA GUNN were compelled to and did employ
17 the services of paramedics, hospitals, surgeons, physicians, nurses and other health care providers,
18 for medical treatment and care, and did incur medical expenses in a sum not yet ascertained, prior to
19 their deaths. Plaintiff SHERRY MINSON, as the Successor-in-Interest to the Estate of
20 ELIZABETH BUDOW, deceased, and Plaintiffs CECILIA SANCHEZ and MELISSA
21 LANGHALS, as the Successors-in-Interest to the Estate of VIRGINIA GUNN, deceased, seek to
22 recover such losses or damages as decedents ELIZABETH BUDOW and VIRGINIA GUNN
23 incurred prior to their deaths.

24 150. As a further result of the above-described conduct of Defendants, and each of them,
25 decedents ELIZABETH BUDOW and VIRGINIA GUNN suffered pain and emotional distress prior
26 to their deaths.

27 WHEREFORE, said plaintiffs pray for judgment as hereinafter set forth.

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- f) adequate procedures, planning, equipment, and transportation for people with disabilities,
 - g) procedures for use of and access to vehicles and other transportation,
 - h) assembly areas and a method to account for all residents,
 - i) back-up generators,
 - j) audible and visual fire alarms and procedures for their use, and
 - k) procedures for prompt notification of residents' responsible persons;
11. Any other preliminary and permanent injunctions the Court deems sufficient to rectify the acts and omissions alleged herein; and
12. For such other and further relief as the Court may deem proper

DATED: January 17, 2018

STEBNER AND ASSOCIATES

By:

Kathryn Stebner
Kelly Knapp
Karman Guadagni
Kirsten Fish

Attorneys for Plaintiff