

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

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**RACHEL GOLDSTEIN, as Administratrix of the Estate
of JAY GOLDSTEIN, Deceased,**

Plaintiff,

-against-

HEBREW HOME FOR THE AGED AT RIVERDALE,

Defendant.
-----X

Index No.:

Filed:

SUMMONS

Plaintiff designates
Bronx County as the place of
trial based on Defendant's
address

To the above-named Defendant:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorney(s) within twenty days after the services of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

*The relief sought is **monetary damages***

Upon your failure to appear judgment will be taken against you by default in such a sum as a jury would find fair, adequate and just.

Dated: Uniondale, New York
May 1, 2023

DUFFY & DUFFY, PLLC

Attorneys for Plaintiff

1370 RXR Plaza

Uniondale, New York 11556

BY: 

MICHAEL E. DUFFY, ESQ.

TO:

HEBREW HOME FOR THE AGED AT RIVERDALE

5901 Palisade Avenue

Bronx, NY 10471

And at

c/o Secretary of State

41 State Street

Albany, NY 12231

THE CORPORATION

ATTN: PRESIDENT

5901 Palisade Avenue

Bronx, NY 10471

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VERIFIED COMPLAINT

Index No.:

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Plaintiffs, by their attorneys, **DUFFY & DUFFY, PLLC**, complaining of Defendant, allege as follows:

NATURE OF THE ACTION

1. Plaintiff, **RACHEL GOLDSTEIN as Administratrix of the Estate of JAY GOLDSTEIN Deceased**, brings this action against **HEBREW HOME FOR THE AGED AT RIVERDALE** ("Defendant"), a nursing home located at 5901 Palisade Avenue, Riverdale, NY 10471, (the "Facility"), on behalf of plaintiff-decedent, **JAY GOLDSTEIN**, who was victimized by unsafe and inadequate care in the Facility. Defendant's unlawful conduct violated Sections 2801- d and 2803 of New York's Public Health Law ("PHL"), as well as various state and federal regulations and statutes that set minimum practice standards for nursing homes in New York. Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) is known and documented to cause a debilitating and deadly disease, the Coronavirus Disease 2019 ("COVID-19").

2. Defendant was entrusted to provide care to the elderly and infirm nursing home residents in its custody. Unfortunately, Defendant betrayed and continues to betray that trust. Defendant willfully and recklessly failed to take proper precautions to prevent the spread of infections prior to and during the COVID-19 pandemic. As a direct and foreseeable consequence

of Defendant's failures, as of April 14, 2022, there were a minimum of sixty-one (61) confirmed or suspected and forty (40) presumed COVID-related deaths at **HEBREW HOME FOR THE AGED AT RIVERDALE**¹, as well as twenty-seven (27) resident deaths outside of the facility caused by COVID-19 contracted within **HEBREW HOME FOR THE AGED AT RIVERDALE**.

3. Moreover, upon information and belief, Defendant, **HEBREW HOME FOR THE AGED AT RIVERDALE**, intentionally misrepresented the number of infected residents and number of deaths cause by COVID-19.

4. **HEBREW HOME FOR THE AGED AT RIVERDALE** deprived its residents, including Plaintiff-decedent, of their rights in violation of the following statutes:

42 CFR §483.80 Infection Control: The facility must establish and maintain an infection prevention and control program designed to provide a safe, sanitary and comfortable environment and to help prevent the development and transmission of communicable diseases and infections.

§483.80(a) Infection prevention and control program. The facility must establish an infection prevention and control program (IPCP) that must include, at a minimum, the following elements:

§483.80(a)(1) A system for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, visitors, and other individuals providing services under a contractual arrangement based upon the facility assessment conducted according to §483.70(e) and following accepted national standards;

§483.80(a)(2) Written standards, policies, and procedures for the program, which must include, but are not limited to:

- (i) A system of surveillance designed to identify possible communicable diseases or infections before they can spread to other persons in the facility;
- (ii) When and to whom possible incidents of communicable disease or infections should be reported;
- (iii) Standard and transmission-based precautions to be followed to prevent spread of infections;
- (iv) When and how isolation should be used for a resident; including

¹ https://www.health.ny.gov/statistics/diseases/covid-19/fatalities_nursing_home_acf.pdf

but not limited to:

- (A) The type and duration of the isolation, depending upon the infectious agent or organism involved, and
 - (B) A requirement that the isolation should be the least restrictive possible for the resident under the circumstances.
- (v) The circumstances under which the facility must prohibit employees with a communicable disease or infected skin lesions from direct contact with residents or their food, if direct contact will transmit the disease; and
- (vi) The hand hygiene procedures to be followed by staff involved in direct resident contact.

§483.80(a)(4) A system for recording incidents identified under the facility's IPCP and the corrective actions taken by the facility.

§483.80(e) Linens. Personnel must handle, store, process, and transport linens so as to prevent the spread of infection.

§483.80(f) Annual review. The facility will conduct an annual review of its IPCP and update their program, as necessary.

5. Accordingly, Plaintiffs, assert a cause of action against Defendant for violation of PHL § 2801-d and seek monetary damages in an amount to be determined at trial, statutory damages in accordance with PHL § 2801-d(2), wrongful death damages, as well as any other available relief at law or in equity.

PARTIES

6. Plaintiff, **RACHEL GOLDSTEIN**, sues on behalf of her father, **JAY GOLDSTEIN**, who was a resident of the Facility from on or about April 22, 2019, to the date of his death, May 12, 2020.

7. On May 12, 2020, Plaintiff-decedent, **JAY GOLDSTEIN**, died.

8. On October 13, 2022, **RACHEL GOLDSTEIN** was appointed as Administrator of the Estate of **JAY GOLDSTEIN** by the Surrogate's Court of Bronx County.

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