

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF RICHMOND

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PATRICIA MILLER, as Administratrix of the Estate  
of JOSEPH BROGNA, Deceased,

AMENDED VERIFIED  
COMPLAINT

Plaintiff(s),

-against-

Index No.: 151955/2023

CLOVE LAKES HEALTHCARE and  
REHABILITATION CENTER, INC.,

Defendant(s).

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Plaintiff(s), by their attorneys, KRENTSEL GUZMAN HERBERT, LLP., complaining of the Defendants, CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC., upon information and belief respectfully alleges as follows:

**INTRODUCTION**

1. This action is being commenced due to Defendants’ abject and longstanding failure to maintain a system for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, visitors, and other individuals, and Defendants’ failure to adequately care for and protect its elderly and vulnerable residents, which led to the death of the decedent, JOSEPH BROGNA, from COVID-19 (known colloquially as the “coronavirus”) infection on January 28, 2021.

2. On January 23, 2020, and again on February 24, 2021, CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. was cited by government inspectors and regulators for violation of federal and state regulations for failing to 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.

3. According to the Center for Medicare Services, CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC., had a below average staffing rating

4. In addition, prior to the coronavirus emergency in New York, on February 6, 2020, CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. was placed on notice by Centers for Medicare and Medicaid Services that coronavirus infections can rapidly appear and spread, and that it was critical that the nursing home be prepared by planning for infectious and diseases response, including having sufficient personal protective equipment (PPE) available.

5. However, CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. failed to take proper precautions to help prevent the development of infections prior to and leading up to the COVID-19 pandemic. As a direct and foreseeable consequence of the Defendants' failure, as of January 4, 2022, there was a confirmed COVID-related death count of 17 residents who died inside CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. due to COVID-19 and 26 resident deaths outside of the facility.

6. The claims against Defendants asserted herein are premised on violation of resident's rights laws pursuant to Public Health Law sec.2801-d, negligence and gross negligence, and wrongful death. Plaintiff also seeks recovery for punitive damages from the Defendants based upon its longstanding grossly negligent and reckless actions in failing to protect residents from harm.

**PARTIES TO THIS ACTION:**

7. That at all times hereinafter mentioned, the Plaintiff, PATRICIA MILLER, is the sister of the decedent, JOSEPH BROGNA, and is resident of the County of Richmond, State of New York.

8. Plaintiff, PATRICIA MILLER, is the Administrator of the Estate JOSEPH BROGNA representing the interest of the decedent, JOSEPH BROGNA, and his Estate, in this action.

9. At all times hereinafter mentioned, the decedent, JOSEPH BROGNA, was a resident of the County of Richmond, State of New York

10. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. was and still is a domestic corporation duly existing under and by virtue of the laws of the State of New York, having its principal place of business at 25 Fanning Street, Staten Island, New York.

11. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. was and still is a domestic corporation duly existing under and by virtue of the laws of the State of New York, having its principal place of business at 25 Fanning Street, Staten Island, New York.

12. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. was and still is a domestic corporation duly existing under and by virtue of the laws of the State of New York, having its principal place of business at 25 Fanning Street, Staten Island, New York.

13. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. was authorized to do business as a nursing home at 25 Fanning Street, Staten Island, New York.

14. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. owned a nursing home facility at 25 Fanning Street, Staten Island, New York.

15. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. owned a nursing home facility at 25 Fanning Street, Staten Island, New York.

16. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. operated a nursing home facility at 25 Fanning Street, Staten Island, New York.

17. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. was the lessor of a nursing home facility located at 25 Fanning Street, Staten Island, New York.

18. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. was the lessee of a nursing home facility located at 25 Fanning Street, Staten Island, New York.

19. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. maintained a nursing home facility located at 25 Fanning Street, Staten Island, New York.

20. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC.

managed a nursing home facility located at 25 Fanning Street, Staten Island, New York.

21. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC.

managed a nursing home facility located at 25 Fanning Street, Staten Island, New York.

22. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC.

supervised a nursing home facility located at 25 Fanning Street, Staten Island, New York.

23. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC.

inspected a nursing home facility located at 25 Fanning Street, Staten Island, New York.

24. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC.

controlled a nursing home facility located at 25 Fanning Street, Staten Island, New York.

25. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC.

Conducted business as an adult care facility at 25 Fanning Street, Staten Island, New York licensed and defined under New York Public Health Law §2801(2).

That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC. controlled a nursing home facility located at 25 Fanning Street, Staten Island, New York.

26. That at all times hereinafter mentioned, Defendant CLOVE LAKES HEALTHCARE AND REHABILITATION CENTER, INC.

had possession and control of the building located at 25 Fanning Street, Staten Island, New York.

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