

IN THE CIRCUIT COURT OF THE THIRD
JUDICIAL CIRCUIT IN AND FOR
SUWANNEE COUNTY, FLORIDA

CASE NO.: 61 2010 CA 0001020001xx

**BETTY DIANE RUSS, as Personal
Representative of the Estate of
BETTY HATCHER,**

Plaintiff,

v.

**NF SUWANNEE, LLC, d/b/a SUWANNEE
HEALTH CARE CENTER, a foreign limited
Liability company, DELTA HEALTH GROUP,
INC., a foreign corporation, GULF COAST
FACILITIES, LLC, a foreign limited liability
company, and GULF COAST HEALTH CARE
OF DELAWARE, LLC, a foreign limited
liability company,**

Defendants

_____ /

SECOND AMENDED COMPLAINT

COMES NOW, the Plaintiff, **BETTY DIANE RUSS, as Personal Representative of the Estate of BETTY HATCHER**, by and through her undersigned counsel and sues Defendant, **NF SUWANNEE, LLC, d/b/a SUWANNEE HEALTH CARE CENTER, a foreign limited liability company, DELTA HEALTH GROUP, INC., a foreign corporation, GULF COAST FACILITIES, LLC, a foreign limited liability company, and GULF COAST HEALTH CARE OF DELAWARE, LLC, a foreign limited liability company**, and alleges as follows:

1. This is an action for damages in excess of the sum of Fifteen Thousand and 00/100 (\$15,000.00) Dollars exclusive of costs and interest and an action for negligence and violation,

deprivation, or infringement of the rights of a nursing home resident pursuant to §400.422, *Fla. Stat.*

2. Betty Diane Russ is the daughter of Betty Hatcher, and is or will be appointed personal representative of the Estate of Betty Hatcher.

3. At all times material hereto, **NF SUWANNEE, LLC.** was a foreign limited liability company authorized to conduct business and conducting business in the State of Florida.

4. At all times material hereto, **DELTA HEALTH GROUP, INC.** was a foreign corporation authorized to conduct business and conducting business in the State of Florida.

5. At all times material hereto, **GULF COAST FACILITIES, LLC,** was a foreign limited liability company authorized to conduct business and conducting business in the State of Florida.

6. At all times material hereto, **GULF COAST HEALTH CARE OF DELAWARE, LLC** was a foreign limited liability company authorized to conduct business and conducting business in the State of Florida.

7. At all times material hereto, Defendants were in the business of owning, controlling, operating, and/or managing a nursing home facility located in Suwannee County, Florida, and was and is the licensee of said nursing home facility.

8. At all times material hereto, said facility was a nursing home facility subject to the provisions of Chapter 400, Part I, *Fla. Stat.*, and was a nursing home facility as defined by §400.021, *Fla. Stat.*

9. On or about May 5, 2008, Betty Hatcher was admitted to Suwannee Health Care Center which was her primary residence intermittently until on or August 17, 2009.

10. While a resident of Suwannee Health Care Center, Betty Hatcher suffered from neglect, an unsafe environment, and the failure to prevent and/or delays in the provision of or access to appropriate medical care, and/or inadequate treatment leading to preventable falls, injuries and bedsores.

11. As a direct and proximate result of the acts and omissions of the management and employees of Suwannee Health Care, as operated by Defendants, Betty Hatcher suffered from bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expenses of hospitalization and medical care, and aggravation of pre-existing conditions.

12. Plaintiff has performed all statutory conditions precedent to the commencement of this action pursuant to Chapter 400.0233, *Fla. Stat.*, including the completion of pre-suit investigation to corroborate the validity of Plaintiff's claims, the mailing of a "Notice of Intent to Initiate Litigation" by certified mail return receipt requested, and observance of the seventy-five (75) day investigatory period after mailing of the Notice of Intent before filing suit. Plaintiff has also demanded a pre-suit mediation conference as required by law, and the Defendants waived this requirement.

COUNT I
STATUTORY SURVIVAL ACTION PURSUANT TO CHAPTER 400,
FLA. STAT. (2001) AGAINST NF SUWANNEE, LLC

Plaintiff realleges and incorporates by reference paragraphs 1-12 above and further states as follows:

13. Defendant had a statutory duty to provide Betty Hatcher with her nursing home resident's rights pursuant to §400.022, *Fla. Stat.* (2001).

14. Defendant's duties as outlined in §400.022, *Fla. Stat.* (2001) were non-delegable duties.

15. Notwithstanding the Defendant's statutory duty to provide Betty Hatcher her statutorily mandated nursing home resident's rights, Defendant was negligent, and/or violated those rights, and/or deprived Betty Hatcher of such rights, and/or infringed upon such rights by acts and omissions including the following:

- a. Failing to provide adequate and appropriate health care and protective services to protect her from falls and injuries;
- b. Failing to provide nursing intervention and protective and support services to prevent falls and injuries or bedsores;
- c. Failing to utilize safety interventions to decrease her risk from anticipated falls and injuries or bedsores;
- d. Failing to provide adequate and appropriate supervision and monitoring so as to unexplained injuries or bedsores;
- e. Failing to adequately and appropriately assess a care plan so as to prevent injuries or bedsores;
- f. Failing to properly supervise and train staff and provide staff in sufficient numbers to provide the needs of the resident in accordance with her care plan or in accordance with an adequate care plan so as to make available appropriate protective and support services and nursing services to prevent falls and injuries or bedsores;
- g. Failing to seek timely medical care to prevent complications of injuries and bedsores and;
- h. Failing to provide the necessary services and treatment to prevent pressure sores.

16. As a direct and proximate result of the acts and omissions above, Betty Hatcher suffered violations and/or deprivation and/or infringements of her rights pursuant to §400.022, *Fla. Stat.*, to receive adequate and appropriate health care and protective and support services and further suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expenses of hospitalization and medical care, and aggravation of pre-existing conditions.

WHEREFORE, Plaintiff, **BETTY DIANE RUSS, as Personal Representative of the Estate of BETTY HATCHER,** demands judgment against Defendant, **NF SUWANNEE, LLC, d/b/a SUWANNEE HEALTH CARE CENTER, a foreign limited liability company,** for damages in excess of the sum of fifteen thousand and 00/100 (\$15,000.00) dollars, together with costs and demands a trial by jury on all issues so triable as a right.

COUNT II
STATUTORY SURVIVAL ACTION PURSUANT TO CHAPTER 400,
FLA. STAT. (2001) AGAINST DELTA HEALTH GROUP, INC.

Plaintiff realleges and incorporates by reference paragraphs 1-12 above and further states as follows:

17. Defendant had a statutory duty to provide Betty Hatcher with her nursing home resident's rights pursuant to §400.022, *Fla. Stat.* (2001).

18. Defendant's duties as outlined in §400.022, *Fla. Stat.* (2001) were non-delegable duties.

19. Notwithstanding the Defendant's statutory duty to provide Betty Hatcher her statutorily mandated nursing home resident's rights, Defendant was negligent, and/or violated those rights, and/or deprived Betty Hatcher of such rights, and/or infringed upon such rights by acts and omissions including the following:

- a. Failing to provide adequate and appropriate health care and protective services to protect her from falls and injuries;
- b. Failing to provide nursing intervention and protective and support services to prevent falls and injuries or bedsores;
- c. Failing to utilize safety interventions to decrease her risk from anticipated falls and injuries or bedsores;
- d. Failing to provide adequate and appropriate supervision and monitoring so as to unexplained injuries or bedsores;
- e. Failing to adequately and appropriately assess a care plan so as to prevent injuries or bedsores;
- f. Failing to properly supervise and train staff and provide staff in sufficient numbers to provide the needs of the resident in accordance with her care plan

or in accordance with an adequate care plan so as to make available appropriate protective and support services and nursing services to prevent falls and injuries or bedsores;

- g. Failing to seek timely medical care to prevent complications of injuries and bedsores and;
- h. Failing to provide the necessary services and treatment to prevent pressure sores.

20. As a direct and proximate result of the acts and omissions above, Betty Hatcher suffered violations and/or deprivation and/or infringements of her rights pursuant to §400.022, *Fla. Stat.*, to receive adequate and appropriate health care and protective and support services and further suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expenses of hospitalization and medical care, and aggravation of pre-existing conditions.

WHEREFORE, Plaintiff, **BETTY DIANE RUSS, as Personal Representative of the Estate of BETTY HATCHER**, demands judgment against Defendant, **DELTA HEALTH GROUP, INC., a foreign corporation**, for damages in excess of the sum of fifteen thousand and 00/100 (\$15,000.00) dollars, together with costs and demands a trial by jury on all issues so triable as a right.

COUNT III
STATUTORY SURVIVAL ACTION PURSUANT TO CHAPTER 400,
FLA. STAT. (2001) AGAINST GULF COAST FACILITIES, LLC

Plaintiff realleges and incorporates by reference paragraphs 1-12 above and further states as follows:

21. Defendant had a statutory duty to provide Betty Hatcher with her nursing home resident's rights pursuant to §400.022, *Fla. Stat.* (2001).

22. Defendant's duties as outlined in §400.022, *Fla. Stat.* (2001) were non-delegable duties.

23. Notwithstanding the Defendant's statutory duty to provide Betty Hatcher her statutorily mandated nursing home resident's rights, Defendant was negligent, and/or violated those rights, and/or deprived Betty Hatcher of such rights, and/or infringed upon such rights by acts and omissions including the following:

- a. Failing to provide adequate and appropriate health care and protective services to protect her from falls and injuries;
- b. Failing to provide nursing intervention and protective and support services to prevent falls and injuries or bedsores;
- c. Failing to utilize safety interventions to decrease her risk from anticipated falls and injuries or bedsores;
- d. Failing to provide adequate and appropriate supervision and monitoring so as to unexplained injuries or bedsores;
- e. Failing to adequately and appropriately assess a care plan so as to prevent injuries or bedsores;
- f. Failing to properly supervise and train staff and provide staff in sufficient numbers to provide the needs of the resident in accordance with her care plan or in accordance with an adequate care plan so as to make available appropriate protective and support services and nursing services to prevent falls and injuries or bedsores;
- g. Failing to seek timely medical care to prevent complications of injuries and bedsores and;
- h. Failing to provide the necessary services and treatment to prevent pressure sores.

24. As a direct and proximate result of the acts and omissions above, Betty Hatcher suffered violations and/or deprivation and/or infringements of her rights pursuant to §400.022, *Fla. Stat.*, to receive adequate and appropriate health care and protective and support services and further suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expenses of hospitalization and medical care, and aggravation of pre-existing conditions.

WHEREFORE, Plaintiff, **BETTY DIANE RUSS, as Personal Representative of the Estate of BETTY HATCHER**, demands judgment against Defendant, **GULF COAST FACILITIES, LLC, a foreign limited liability company**, for damages in excess of the sum of

fifteen thousand and 00/100 (\$15,000.00) dollars, together with costs and demands a trial by jury on all issues so triable as a right.

COUNT IV
STATUTORY SURVIVAL ACTION PURSUANT TO CHAPTER 400,
FLA. STAT. (2001) AGAINST GULF COAST HEALTH CARE OF DELAWARE, LLC

Plaintiff realleges and incorporates by reference paragraphs 1-12 above and further states as follows:

25. Defendant had a statutory duty to provide Betty Hatcher with her nursing home resident's rights pursuant to §400.022, *Fla. Stat.* (2001).

26. Defendant's duties as outlined in §400.022, *Fla. Stat.* (2001) were non-delegable duties.

27. Notwithstanding the Defendant's statutory duty to provide Betty Hatcher her statutorily mandated nursing home resident's rights, Defendant was negligent, and/or violated those rights, and/or deprived Betty Hatcher of such rights, and/or infringed upon such rights by acts and omissions including the following:

- a. Failing to provide adequate and appropriate health care and protective services to protect her from falls and injuries;
- b. Failing to provide nursing intervention and protective and support services to prevent falls and injuries or bedsores;
- c. Failing to utilize safety interventions to decrease her risk from anticipated falls and injuries or bedsores;
- d. Failing to provide adequate and appropriate supervision and monitoring so as to unexplained injuries or bedsores;
- e. Failing to adequately and appropriately assess a care plan so as to prevent injuries or bedsores;
- f. Failing to properly supervise and train staff and provide staff in sufficient numbers to provide the needs of the resident in accordance with her care plan or in accordance with an adequate care plan so as to make available appropriate protective and support services and nursing services to prevent falls and injuries or bedsores;
- g. Failing to seek timely medical care to prevent complications of injuries and bedsores and;

h. Failing to provide the necessary services and treatment to prevent pressure sores.

28. As a direct and proximate result of the acts and omissions above, Betty Hatcher suffered violations and/or deprivation and/or infringements of her rights pursuant to §400.022, *Fla. Stat.*, to receive adequate and appropriate health care and protective and support services and further suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expenses of hospitalization and medical care, and aggravation of pre-existing conditions.

WHEREFORE, Plaintiff, **BETTY DIANE RUSS, as Personal Representative of the Estate of BETTY HATCHER**, demands judgment against Defendant, **GULF COAST HEALTH CARE OF DELAWARE, LLC, a foreign limited liability company**, for damages in excess of the sum of fifteen thousand and 00/100 (\$15,000.00) dollars, together with costs and demands a trial by jury on all issues so triable as a right.

COUNT V
STATUTORY WRONGFUL DEATH ACTION PURSUANT TO
CHAPTER 400, FLA. STAT. (2001) AGAINST NF SUWANNEE, LLC

In the alternative to Count I above, Plaintiff realleges and incorporates by reference paragraphs 1-12 above and further states as follows:

29. This is an action for wrongful death pursuant to §768.16-§768.26, *Fla. Stat.*

30. At all times material hereto, Betty Diane Russ was and is the natural child of Betty Hatcher, deceased, and a “survivor” under the Florida Wrongful Death Act.

31. At all times material hereto, Linda Crews was and is the natural child of Betty Hatcher, deceased.

32. At all times material hereto, Carolyn Hosford was and is the natural child of Betty Hatcher, deceased.

33. As a direct and proximate result of the acts and omissions above, Defendant was negligent and deprived or infringed her rights pursuant to §400.022, *Fla. Stat.*, to receive adequate and appropriate health care and protective and support services and BETTY HATCHER suffered bodily injury, expenses of hospitalization and medical care, aggravation of pre-existing conditions and death.

34. As a direct and proximate result of Defendant's acts and omissions and the death of BETTY HATCHER, Plaintiff claims the following damages:

- A. Damages claimed on behalf of the estate:
 - 1. Medical expenses due to the decedent's injuries and death.
 - 2. Funeral and burial expenses.
- B. Damages claimed on behalf of the survivors:
 - 1. Mental pain and suffering from the date of injury.
 - 2. Loss of companionship and protection from the date of injury.

WHEREFORE, Plaintiff, **BETTY DIANE RUSS, as Personal Representatives of the Estate of BETTY HATCHER**, demands judgment against Defendant, **NF SUWANNEE, LLC, d/b/a SUWANNEE HEALTH CARE CENTER, a foreign limited liability company**, for damages in excess of the sum of fifteen thousand and 00/100 (\$15,000.00) dollars, together with costs and demands a trial by jury on all issues so triable as a right.

COUNT VI
STATUTORY WRONGFUL DEATH ACTION PURSUANT TO
CHAPTER 400, FLA. STAT. (2001) AGAINST DELTA HEALTH GROUP, INC.

In the alternative to Count I above, Plaintiff realleges and incorporates by reference paragraphs 1-12 above and further states as follows:

35. This is an action for wrongful death pursuant to §768.16-§768.26, *Fla. Stat.*

36. At all times material hereto, Betty Diane Russ was and is the natural child of Betty Hatcher, deceased, and a “survivor” under the Florida Wrongful Death Act.

37. At all times material hereto, Linda Crews was and is the natural child of Betty Hatcher, deceased.

38. At all times material hereto, Carolyn Hosford was and is the natural child of Betty Hatcher, deceased.

39. As a direct and proximate result of the acts and omissions above, Defendant was negligent and deprived or infringed her rights pursuant to §400.022, *Fla. Stat.*, to receive adequate and appropriate health care and protective and support services and BETTY HATCHER suffered bodily injury, expenses of hospitalization and medical care, aggravation of pre-existing conditions and death.

40. As a direct and proximate result of Defendant’s acts and omissions and the death of BETTY HATCHER, Plaintiff claims the following damages:

- A. Damages claimed on behalf of the estate:
 - 1. Medical expenses due to the decedent’s injuries and death.
 - 2. Funeral and burial expenses.
- B. Damages claimed on behalf of the survivors:
 - 1. Mental pain and suffering from the date of injury.
 - 2. Loss of companionship and protection from the date of injury.

WHEREFORE, Plaintiff, **BETTY DIANE RUSS, as Personal Representatives of the Estate of BETTY HATCHER**, demands judgment against Defendant, **DELTA HEALTH GROUP, INC., a foreign corporation**, for damages in excess of the sum of fifteen thousand and

00/100 (\$15,000.00) dollars, together with costs and demands a trial by jury on all issues so triable as a right.

COUNT VII
STATUTORY WRONGFUL DEATH ACTION PURSUANT TO
CHAPTER 400, FLA. STAT. (2001) AGAINST GULF COAST FACILITIES, LLC

In the alternative to Count I above, Plaintiff realleges and incorporates by reference paragraphs 1-12 above and further states as follows:

41. This is an action for wrongful death pursuant to §768.16-§768.26, *Fla. Stat.*

42. At all times material hereto, Betty Diane Russ was and is the natural child of Betty Hatcher, deceased, and a “survivor” under the Florida Wrongful Death Act.

43. At all times material hereto, Linda Crews was and is the natural child of Betty Hatcher, deceased.

44. At all times material hereto, Carolyn Hosford was and is the natural child of Betty Hatcher, deceased.

45. As a direct and proximate result of the acts and omissions above, Defendant was negligent and deprived or infringed her rights pursuant to §400.022, *Fla. Stat.*, to receive adequate and appropriate health care and protective and support services and BETTY HATCHER suffered bodily injury, expenses of hospitalization and medical care, aggravation of pre-existing conditions and death.

46. As a direct and proximate result of Defendant’s acts and omissions and the death of BETTY HATCHER, Plaintiff claims the following damages:

- A. Damages claimed on behalf of the estate:
 - 1. Medical expenses due to the decedent’s injuries and death.
 - 2. Funeral and burial expenses.

- B. Damages claimed on behalf of the survivors:
1. Mental pain and suffering from the date of injury.
 2. Loss of companionship and protection from the date of injury.

WHEREFORE, Plaintiff, **BETTY DIANE RUSS, as Personal Representatives of the Estate of BETTY HATCHER**, demands judgment against Defendant, **GULF COAST FACILITIES, LLC, a foreign limited liability company**, for damages in excess of the sum of fifteen thousand and 00/100 (\$15,000.00) dollars, together with costs and demands a trial by jury on all issues so triable as a right.

COUNT V
STATUTORY WRONGFUL DEATH ACTION PURSUANT TO
CHAPTER 400, FLA. STAT. (2001) AGAINST GULF COAST HEALTH CARE OF
DELAWARE, LLC

In the alternative to Count I above, Plaintiff realleges and incorporates by reference paragraphs 1-12 above and further states as follows:

47. This is an action for wrongful death pursuant to §768.16-§768.26, *Fla. Stat.*
48. At all times material hereto, Betty Diane Russ was and is the natural child of Betty Hatcher, deceased, and a “survivor” under the Florida Wrongful Death Act.
49. At all times material hereto, Linda Crews was and is the natural child of Betty Hatcher, deceased.
50. At all times material hereto, Carolyn Hosford was and is the natural child of Betty Hatcher, deceased.
51. As a direct and proximate result of the acts and omissions above, Defendant was negligent and deprived or infringed her rights pursuant to §400.022, *Fla. Stat.*, to receive adequate and appropriate health care and protective and support services and BETTY

HATCHER suffered bodily injury, expenses of hospitalization and medical care, aggravation of pre-existing conditions and death.

52. As a direct and proximate result of Defendant's acts and omissions and the death of BETTY HATCHER, Plaintiff claims the following damages:

- A. Damages claimed on behalf of the estate:
 - 1. Medical expenses due to the decedent's injuries and death.
 - 2. Funeral and burial expenses.
- B. Damages claimed on behalf of the survivors:
 - 1. Mental pain and suffering from the date of injury.
 - 2. Loss of companionship and protection from the date of injury.

WHEREFORE, Plaintiff, **BETTY DIANE RUSS, as Personal Representatives of the Estate of BETTY HATCHER**, demands judgment against Defendant, **GULF COAST HEALTH CARE OF DELAWARE, LLC, a foreign limited liability company**, for damages in excess of the sum of fifteen thousand and 00/100 (\$15,000.00) dollars, together with costs and demands a trial by jury on all issues so triable as a right.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, by U.S. Mail – postage paid, this _____ day of October, 2010, to: Dante Skourellos, Esq., 5102 West Laurel Street, Suite 700, Tampa, FL 33607.

MELVIN B. WRIGHT, ESQUIRE
Florida Bar No. 559857

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