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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ROYCE IVERSON , Personal Representative of the Estate of CHARLOTTE IVERSON , Deceased)	Case No.
)	
)	COMPLAINT
Plaintiff,)	Wrongful Death; Negligence; Breach of Contract;
)	Breach of Warranty of Habitability; Abuse of a
v.)	Vulnerable Person
)	
INDEPENDENT LIVING VENTURES, LLC , dba THE HEIGHTS AT COLUMBIA KNOLL; and SIR COLUMBIA KNOLL ASSOCIATES LIMITED PARTNERSHIP dba THE HEIGHTS AT COLUMBIA KNOLL;)	Not Subject to Mandatory Arbitration
)	Demand for Jury Trial
)	Amount in Controversy: \$13,000,000.00
)	Fee Authority: ORS 21.160(1)(e)
Defendants.)	

Plaintiff alleges:

1.

At all material times:

- a) Royce Iverson is the biological son of Charlotte Iverson, plaintiff’s decedent, and the duly appointed Personal Representative of the Estate of Charlotte Iverson;

- 1 b) Defendants and each of them were doing business as “The Heights at Columbia
2 Knoll” (“The Heights”) by operating a senior living community providing
3 services to residents in apartment-style community at 8320 NE Sandy Blvd.,
4 city of Portland, county of Multnomah, state of Oregon;
- 5 c) Plaintiff’s decedent was a resident at the senior living community owned and
6 operated by The Heights;
- 7 d) Various personnel, employed by The Heights, provided services to plaintiff, as
8 described herein, while acting within the course and scope of their employment
9 relationship with The Heights.

10 2.

11 Plaintiff’s decedent, Charlotte Iverson (“Mrs. Iverson”), resided at The Heights at
12 Columbia Knoll (“The Heights”). The Heights is a “Senior Living” apartment community in
13 Portland, Oregon providing “Independent Living” apartments, marketed specifically to low-
14 income seniors, with services including “Life Enrichment Programs” and special attention by
15 staff to provide support and attention to the needs of its older adult residents. The Heights
16 advertised to the public, promising to attend to the wellbeing of its residents to: “*Settle into a
17 community that understands your needs and supports your lifestyle at The Heights at Columbia
18 Knoll. Our Portland, OR, senior living community offers living options to suit you or your loved
19 one, including Independent Living. At The Heights at Columbia Knoll, we offer more than superb
20 senior living services. **We have a team dedicated to your care and wellbeing.** Let us take small
21 daily tasks off your hands, so you have time to do the things you love most, whether that’s
22 gathering with friends and neighbors or spending reflective time in quiet comfort. Welcome to
23 life at The Heights at Columbia Knoll.*”

24 3.

25 Google advertises that The Heights at Columbia Knoll is known as an “Assisted Living
26 Facility” even though it is not licensed with the State of Oregon as such.

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4.

On October 15, 2018, Mrs. Iverson moved into The Heights, apartment No. 434, west-facing, on the fourth floor which is the top floor of the apartment building. She resided there until her death as described herein. Mrs. Iverson moved into The Heights because she needed extra help to be able to continue living independently. Mrs. Iverson was well-known in the community as “the piano lady.” She would play often, and the music would echo through the hallways, delighting everyone. She was bright and happy and generally well-liked. Mrs. Iverson was developing dementia including memory impairment. Like many people with dementia, she had poor awareness and confusion, and was unaware of her then-current impairments or limitations. When she moved in, The Heights was very aware that Mrs. Iverson was capable of living independently but needed some assistance making decisions regarding her health and safety. Further, The Heights was also aware that Ms. Iverson’s dementia was worsening over time, and that she relied heavily on others for her health and safety.

5.

The Heights provided services to Mrs. Iverson during her tenancy, including but not limited to housekeeping, security, assistance and encouragement to connect with healthcare and caregiving, regular maintenance, daily meal service, exercise facilities, transportation for errands like banking and shopping and organized field trips. Housekeeping staff for The Heights regularly walked up and down the hallways, especially and including the fourth floor, and had keys for access to each individual apartment.

6.

The Heights knew Mrs. Iverson’s son, Royce Iverson (“Mr. Iverson”), was her only family and the only person watching out for her. As such, the Heights contacted Mr. Iverson often and knew him to be very responsive and attentive to his mother’s needs. The Heights knew that Mr. Iverson lived in Texas and came to visit his mother at The Heights every month, to spend time together, travel, and to check in to ensure that her care needs were met. Mr. Iverson

1 was friendly with staff and Mrs. Iverson's neighbors. The Heights knew that if Mrs. Iverson ever
2 needed any help, or they noticed any thing was off or unusual about Mrs. Iverson's health or
3 wellbeing, that Mr. Iverson was only a phone call or e-mail away. The Heights called Mr. Iverson
4 regularly about things such as (1) correcting the rent amount when Mrs. Iverson would write the
5 check wrong due to her impaired functioning; (2) arranging for in-home cleaning services, (3)
6 COVID safety protocols, and (4) meal delivery and food safety.

7
8 7.

9 A few years after Mrs. Iverson moved into The Heights, The Heights noticed Mrs.
10 Iverson dementia to be worsening. The Heights made it a condition of her continued lease that
11 she get a caregiver through Providence Elder Place which provided some caregiving. Mr. Iverson
12 helped arrange for this, and a caregiver started coming twice a week, on Tuesdays and Thursdays,
13 on approximately September 1, 2020, to help Mrs. Iverson tend to her activities of daily living,
14 including bathing, personal hygiene, and dressing. At this point, it was clear that Mrs. Iverson
15 lacked the ability to make decisions to meet her basic health and safety needs. The Heights knew
16 that Mrs. Iverson received in-home care regularly, twice a week. The Heights knew that Mrs.
17 Iverson was not living independently, but rather relied on family and an in-home caregiver to
18 meet her needs related to health and safety.

19
20 8.

21 From time to time, The Heights would notice issues arising with Mrs. Iverson. For
22 example, several months before Mrs. Iverson died, and at the time when the cafeteria was
23 delivering all meals due to COVID protocol, The Heights manager called Mr. Iverson about
24 meals piling up in Mrs. Iverson's refrigerator. The Heights sent in housekeepers to empty out
25 Mrs. Iverson's refrigerator of piled-up food in her refrigerator, because, as the manager explained
26 to Mr. Iverson, The Heights was concerned about food poisoning related to food that might be
rotting or expired. At least twice, housekeeping for The Heights entered Mrs. Iverson's

1 apartment without notice or permission, while Mrs. Iverson was out of the apartment with her
2 caregiver and emptied her refrigerator of the piled-up meals.

3 9.

4 The Heights also helped Mrs. Iverson adapt when her cognition appeared to be impacting
5 her decision making around health. About two weeks before Mrs. Iverson died, roughly around
6 June 13, 2021, Mr. Iverson noticed that Mrs. Iverson had been forgetting to go eat dinner as she
7 normally had been doing in the common cafeteria. Mr. Iverson told “Chris,” the assistant
8 manager for The Heights, about the issue. Chris offered for The Heights to have the meals
9 delivered to Mrs. Iverson’s doorstep three times a day. At that time, Mr. Iverson also told Chris
10 that Mrs. Iverson’s in-home caregiver “Tina,” had quit the company, so Mrs. Iverson would not
11 have a caregiver coming until July 6th, which was when the replacement caregiver was scheduled
12 to start. The Heights then arranged to have meals delivered to her room, knowing that her
13 dementia and memory impairment was causing her to forget to go down and eat.

14 10.

15 Around June 23, 2021, weather forecasters predicted an unprecedented heat wave would
16 hit Portland the following weekend, specifically that outside temperatures would reach over 100
17 degrees on June 26 – 28, 2021. This heat wave warning was covered extensively by local news
18 outlets.

19 11.

20 The Heights supplied air conditioning for common areas, including hallways. The air
21 conditioning system, which provided cooling to the air in all hallways, elevators, and all common
22 spaces was in disrepair, did not function properly, and was in need of being completely replaced
23 in order to actually cause a cooling effect to the air it is intended to treat.

24 12.

25 The Heights knew that the majority of the senior living apartments did not have
26 individual air cooling or air conditioning units. Apparently, The Heights also knew that if

1 residents kept their windows open, to get ventilation from the outside, that the individual
2 apartments would likely not stay cool, and that the indoor temperatures would likely rise to that
3 of the outdoor temperature. The Heights knew that seniors, the population it served, were the
4 most vulnerable to injury and death by overheating. The Heights also knew that heat was
5 predicted and warned to be the worst at the top floor of apartments buildings, the fourth floor at
6 The Heights, and that west-facing apartments would likely get the hottest.

7
8 13.

9 At some point, The Heights created a one-page typed memorandum titled “EXTREME
10 HEAT WARNING.” It included instructions for residents to find alternative housing during the
11 heat wave; use the air-conditioned common areas during business hours; keep windows closed
12 during the day; drink water and limit exercise, and to crack apartment doors to allow for cool air
13 from the hallways to enter apartments. This memorandum was provided to some residents, and
14 not others. Many residents on the fourth floor did not get the memorandum. It was not provided
15 to Mrs. Iverson.

16
17 14.

18 Between June 26 – 28, 2021, the temperatures in Portland rose, as predicted. The central
19 air conditioning at The Heights failed such that the temperature in the hallways and other
20 common areas rose to be intolerably hot, sometimes at 98 – 100 degrees fahrenheit indoors.

21
22 15.

23 The Heights knew that some of its residents on the fourth floor, including Mrs. Iverson,
24 did not have alternative housing, and were not leaving the building or their apartments. The
25 Heights was delivering meals to Mrs. Iverson three times a day. The Heights also knew that the
26 residents on the fourth floor were not opening their doors to the hallway. The Heights knew that
generally, residents were not keeping their apartment windows closed, because open windows
provided necessary ventilation in the apartments.

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16.

On Monday, June 28, 2021, at approximately 8:30pm, Portland Police responded to a call from a neighbor to the fourth floor of The Heights because that neighbor had found Mrs. Iverson's neighbor across the hall, Ronald Dunham, deceased on the floor of his apartment, apparently having died due to hyperthermia. The temperature inside Mr. Dunham's apartment had reached 100 degrees. Police noticed that the temperature in the fourth-floor hallway was "extremely hot, and the building did not seem to have a functioning air conditioner to keep it adequately cool." While there, police officers noticed that Mrs. Iverson's dinner tray was still sitting, untouched, on her doorstep. A police officer asked the manager for The Heights, Annie Trullinger, if she had checked in on the resident in that apartment. The manager said "No. Why? Should I?"

17.

Upon entering Mrs. Iverson's apartment, they discovered Mrs. Iverson, deceased, kneeling near her bed as if in prayer. She died of hyperthermia – her body temperature was dramatically elevated. When they found her, outside temperatures in Portland had cooled slightly, such that the outside temperature at the time of the scene investigation was approximately 90 degrees fahrenheit, and Mrs. Iverson's apartment was also approximately 90 degrees fahrenheit. Her body temperature was recorded on scene at 95 degrees fahrenheit. Over that previous weekend, on Friday, June 26, 2021, the high temperature was recorded at 108 degrees, and the low was 70 degrees; on Saturday, June 27, 2021, the high temperature was recorded at 111 degrees, and the low was 73 degrees; on Sunday, June 28, 2021, the high temperature was recorded at 115 degrees. The windows in her apartment were open and she had a fan running.

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1 **COUNT ONE**
2 **Negligence**

3 18.

4 Defendant by and through its employees, was negligent in one or more of the following
5 particulars:

- 6 a) In failing to check on plaintiff's decedent to ensure she was reasonably safe from
7 overheating when defendant's air conditioning failed, ventilation became insufficient,
8 and the heat on the fourth floor became unbearable, on or before June 26, 2021;
- 9 b) In failing to warn plaintiff's decedent of the dangerous threat to her safety caused by
10 the lack of air conditioning and ventilation on the fourth floor, when the outside
11 temperature was forecasted to rise as high as 116 degrees fahrenheit, and for multiple
12 days;
- 13 c) In failing to contact plaintiff's decedent's son, Mr. Iverson, to notify him that his
14 mother was in grave physical danger due to the predicted heat wave in Portland and
15 insufficient cooling in her apartment and apartment building, at a time when defendants
16 knew that Mrs. Iverson was not capable of appreciating and did not appreciate the threat
17 to her own safety;
- 18 d) In failing to assist, encourage, provide, or otherwise ensure plaintiff's decedent was
19 effectively offered and able to reach cool areas in the days leading up to her untimely
20 death;
- 21 e) In failing to adequately maintain a reasonably functioning ventilation and air
22 conditioning in the common areas of the apartment building;
- 23 f) In recommending that residents open their apartment doors to the common areas,
24 thereby overworking the HVAC system so that it would not be able to properly function
25 to cool the common areas it was designed to cool;
- 26 g) In failing to respond to and plan for the failure and insufficiency of the ventilation and
air conditioning system at any time, in the previous two years and especially in the
week prior to the heat wave, when it was predicted.

22 **COUNT TWO**
23 **Breach of Contract**

24 19.

25 Plaintiff re-alleges paragraphs 1 through 17.

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20.

The aforescribed actions or omissions of defendant constitute a violation of the following provisions of Mrs. Iverson’s lease agreement with the facility:

- (a) “We agree to do the following...maintain the apartment building and community areas in decent, safe, sanitary condition...Our failure to do so grants you all legal remedies applicable in local and federal law.”

COUNT THREE
Breach of Warranty of Habitability

21.

Plaintiff re-alleges paragraphs 1 through 17.

22.

The aforescribed actions or omissions of defendant constitute a violation of ORS 90.320(1)(i) which provides:

- (1) A landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition. For purposes of this section, a dwelling unit shall be considered uninhabitable if it substantially lacks:

...

- (a) Effective ... weather protection of roof and exterior walls, including windows and doors;

...

- (i) Ventilating, air conditioning ... maintained in good repair if supplied or required to be supplied by the landlord.

COUNT FOUR
Abuse of a Vulnerable Person (ORS 124.105)

23.

Plaintiff re-alleges paragraphs 1 through 17.

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24.

At all relevant times, plaintiff's decedent was a vulnerable person above age 65.

25.

The acts and omissions of The Heights, by and through its employees, constitute elder abuse as defined under ORS Chapter 124 by recklessly engaging in conduct which creates a substantial risk of serious physical injury to plaintiff's decedent.

26.

As a result of defendant's violation of ORS 124.2015, plaintiff is entitled to triple non-economic damages as required by ORS 124.100(2)(a) and (b).

27.

Plaintiff is entitled to his reasonable attorney fees pursuant to ORS 124.200(2)(c).

DAMAGES

28.

The aforementioned conduct by defendant was a substantial factor in causing plaintiff's decedent to suffer hyperthermia causing her untimely death.

29.

As a direct result of the negligence of defendant, plaintiff's decedent suffered for several days through a period of intolerable heat which caused dehydration, increased confusion, increased heartrate, and finally death. Plaintiff's decedent experienced substantial pain and suffering and emotional distress before her death, substantiating a claim for non-economic damages in an amount not to exceed the sum of \$4,000,000.00.

30.

In Count 4, Abuse of a Vulnerable Person, plaintiff prays for triple non-economic damages, in the total amount not to exceed \$12,000,000.00, reasonable attorney fees, and costs and disbursements incurred herein.

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31.

As a direct and proximate result of the negligent acts of defendant the beneficiary of the estate, Royce Iverson (son), has been deprived of the society and companionship of his mother, in an amount not to exceed the sum of \$1,000,000.00.

32.

Plaintiff hereby reserves the rights to amend his complaint at the time of trial to more completely allege plaintiff's decedent's economic losses and to conform to the proof at trial.

33.

Plaintiff hereby demands a jury trial.

WHEREFORE plaintiff prays for judgment against defendant in the sum of \$13,000,000.00 and for his costs and disbursements incurred herein.

DATED this 13th day of October, 2021.

/s/ Kristen West McCall
Kristen West McCall, OSB #061380
PICKETT DUMMIGAN MCCALL LLP
of Attorneys for Plaintiff