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2
3 IN THE CIRCUIT COURT OF THE STATE OF OREGON
4 FOR THE COUNTY OF MULTNOMAH

5	TIM NAY, the duly-appointed)	Case No.:
	personal representative of the)	
6	Estate of DANIEL LEE EVANS, an)	COMPLAINT FOR WRONGFUL
	individual,)	DEATH AND PERSONAL INJURY;
7)	NOT SUBJECT TO MANDATORY
	Plaintiffs,)	ARBITRATION
8)	
	v.)	JURY TRIAL DEMANDED
9)	
	PROVIDENCE HEALTH &)	PRAYER: \$2,000,000
10	SERVICES – OREGON, an Oregon)	
	domestic non-profit,)	ORS 21.160(1)(d)
11)	
	Defendant.)	
12)	
13)	

14 Plaintiff alleges:

15 1.

16 Tim Nay (herein “Nay”) is the duly-appointed personal representative of
17 the Estate of Daniel Lee Evans, Washington County Probate Case Number
18 16PB05730. Nay brings this action on behalf of the Estate, and on behalf of its
19 beneficiaries, including Gabriel Evans and Elena Evans.

20 2.

21 Defendant Providence Health & Services-Oregon (hereinafter,
22 “Providence”) is and at all times mentioned herein has been an Oregon
23 domestic non-profit corporation, and has owned and operated Providence St.

1 Vincent Medical Center in Portland, Oregon.

2 3.

3 On or about November 22, 2015, Daniel Lee Evans was admitted to
4 Providence St. Vincent hospital. Because of his neurological deficits, including
5 dementia, he was placed on an involuntary hold (“NMI”). He was found to be
6 unable to care for himself.

7 5.

8 A “bed alarm” protocol was put in place while Mr. Evans was a patient at
9 Providence St. Vincent, to prevent him from leaving while on the NMI hold.

10 6.

11 The NMI hold was eventually extended through 5:00pm on December 4,
12 2015.

13 7.

14 While the NMI hold was still in place, the bed alarm was turned off.

15 8.

16 On the morning of December 4, 2015, Mr. Evans left the hospital without
17 his medications and without any checkout procedure.

18 9.

19 When Mr. Evans was discovered to have left the hospital, Defendant did
20 not notify any of his family members, who had been involved in his care during
21 his stay at Providence, that he was gone. Only when Mr. Evans’ sister called
22 the hospital to discuss arrangements for picking him up from the hospital was
23 she informed that he had already left.

10.

On December 5, 2015, Mr. Evans was discovered alone at a bus stop in Hillsboro by emergency personnel, unable to care for himself and exposed to the elements, shaking and wet. The low temperature in Hillsboro that day was 38 degrees Fahrenheit. It rained nearly half an inch.

11.

He was admitted to Tuality Hospital, but his health further deteriorated. On December 15, 2015, Mr. Evans died. The immediate cause of death was determined to be pneumonia.

FOR A FIRST CLAIM FOR RELIEF FOR WRONGFUL DEATH against defendant, plaintiffs allege:

12.

Plaintiffs reallege paragraphs 1 – 11, above.

13.

Decedent's death was caused by the negligence of Defendant in one or more of the following particulars:

- a. By turning off the bed alarm prior to the expiration of the NMI hold;
- b. By failing to prevent Mr. Evans from leaving the hospital while the NMI hold was still in place;
- c. By failing to notify Mr. Evans' family that he had left at the time defendant discovered that he had left;
- d. By failing to notify police that Mr. Evans had left and could not be

1 found; and

2 e. By failing to conduct an adequate search for Mr. Evans on and
3 around defendant's property when he was found missing.

4
5 14.

6 As a result of the death, beneficiaries Gabriel Evans and Elena Evans
7 suffered the loss of the society, companionship, and services in the amount of
8 \$1,000,000.

9 15.

10 As a further result of the above-described negligence of Defendant, Mr.
11 Evans' estate incurred medical expenses in an amount to be determined at
12 trial.

13 16.

14 As a further result of the above-described negligence of Defendant, Mr.
15 Evans suffered pain, disability, fear, hunger and discomfort between the time
16 he was allowed to leave Defendant's hospital and his death eleven days later,
17 for which a claim for damages in the amount of \$1,000,000 is hereby made.

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19 FOR A SECOND CLAIM FOR RELIEF FOR PERSONAL INJURY, plaintiff
20 alleges:

21 17.

22 Plaintiffs reallege paragraphs 1 – 11 and 13, above.

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18.

As a result of the above-described negligence of Defendant, Mr. Evans suffered pain, disability, fear, hunger, discomfort, and a worsening of his underlying dementia, all to his non-economic damages in the amount of \$1,000,000. A claim is hereby made by his estate pursuant to ORS 30.075.

19.

As a further result of the above-described negligence of Defendant, Mr. Evans' incurred medical expenses in an amount to be determined at trial. A claim is hereby made by his estate pursuant to ORS 30.075.

20.

The Estate of Daniel Lee Evans is entitled to its reasonable attorney fees in prosecuting this claim relative to the results of the negligence pled above that did not cause the death of Daniel Lee Evans, pursuant to ORS 30.075(2), and makes a claim for the same.

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1 WHEREFORE, plaintiffs pray for judgment against all defendants in the
2 amount of \$2,000,000 in noneconomic damages, economic damages in an
3 amount to be determined at trial, and for attorney fees, costs and
4 disbursements necessarily incurred herein.

5 DATED: November 16, 2018.

6
7 /s/ Gregory Kafoury
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12
13 Plaintiffs hereby provide notice of his intent to amend to include a claim
14 for punitive damages against defendants.