

EXHIBIT 6

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF [REDACTED]

-----X
[REDACTED] as Administrator of the Estate of [REDACTED]
[REDACTED] and [REDACTED] Individually,

Index No.: [REDACTED]

Plaintiff,

- against -

AMENDED
VERIFIED BILL OF
PARTICULARS

[REDACTED]
[REDACTED]

Defendant.

-----X
Plaintiff [REDACTED] as Administrator of the Estate of [REDACTED] and
[REDACTED] individually, by her attorneys, THE JACOB D. FUCHSBERG LAW FIRM,
LLP, as and for her Amended Verified Bill of Particulars in response to the demand of defendant

[REDACTED]

[REDACTED] alleges upon information and belief as follows:

1.

- (a) Plaintiff [REDACTED] date of birth is [REDACTED]
- (b) Plaintiff [REDACTED] was born in [REDACTED]
- (c) Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material beyond the scope of CPLR § 3043(a) and on privacy grounds (see Seelig v. Sielaff, 201 AD2d 298 [1st Dept. 1994]). Notwithstanding such objection, and reserving all rights thereto, plaintiff's social security number will be provided at the time of her deposition.
- (d) Plaintiff [REDACTED] current address is [REDACTED]
[REDACTED]

2.

(a) Plaintiff's decedent [REDACTED] date of birth is [REDACTED]

(b) Plaintiff's decedent [REDACTED] place of birth was [REDACTED]

(c) Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material beyond the scope of CPLR § 3043(a) and on privacy grounds (see Seelig v. Sielaff, 201 AD2d 298 [1st Dept. 1994]). Notwithstanding such objection, and reserving all rights thereto, Plaintiff's decedent [REDACTED] social security number is XXX-XX [REDACTED]. Plaintiff's decedent's complete social security number will be provided at the time of plaintiff [REDACTED] deposition. Furthermore, plaintiff's decedent's social security number is contained within the medical authorizations previously provided to defendant's counsel.

(d) Plaintiff's decedent resided at [REDACTED]
[REDACTED] prior to the time of death.

3. It will be claimed that the negligent and careless acts and omissions, medical malpractice, and departures from good and accepted standards of medical treatment, diagnosis, advice, and management of defendant [REDACTED], and their agents, servants, contractors, and/or employees, took place from on or about March 3, 2016 to on or about March 24, 2016 .

4. It will be claimed that the negligent and careless acts and omissions, medical malpractice, and departures from good and accepted standards of medical treatment, diagnosis, advice, and management of defendant [REDACTED] and their agents, servants, contractors, and/or employees, took place daily and continuously at all times defendant was rendering care to plaintiff's decedent [REDACTED] while he was a resident at defendant's facility from on or about March 3, 2016 to on or about March 24, 2016.

5. The negligent acts and/or omissions of defendant took place at [REDACTED] located at [REDACTED] and in any other rooms and locations where defendant, by and through its agents, servants, employees, rendered and/or endeavored to render medical and other professional care, treatment, diagnosis, advice, assessment, monitoring, testing, physical and occupational therapy, and related services to or for plaintiff's decedent.

6.

(a) The answering defendant rendered medical and nursing care to plaintiff's decedent from on or about March 3, 2016 to on or about March 24, 2016.

(b) The answering defendant rendered medical and nursing care to plaintiff's decedent from on or about March 3, 2016 to on or about March 24, 2016.

(c) The answering defendant rendered medical and nursing care to plaintiff's decedent at its facility located at [REDACTED]

7. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights thereto, defendant undertook to treat plaintiff for the conditions described in the medical records.

8. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). See Patterson v. Jewish Hosp. and Med. Ctr. of Brooklyn, 94 Misc.2d 680, 405 N.Y.S.2d 194 (Sup. Ct. Kings County 1978), aff'd, 65 A.D. 2d 553, 409 N.Y.S.2d 124 (2d Dep't 1978); Harris v. Ariel Transportation Corp., 37 AD3d 308 [1st Dept. 2007]; Hawkes v. Mount Sinai Hosp., 75 A.D.2d 509, 510-11 (1st Dep't 1980); Dellaglio v. Paul, 250 A.D.2d 806, 673 N.Y.S.2d

212 (2d Dep't. 1998); Szaday v. Fleiss, 2002 WL 34363825 (Bronx County 2002); McKenzie v. St. Elizabeth Hosp., 81 A.D.2d 1003, 1004 (4th Dep't 1981). Notwithstanding this objection, and reserving all rights hereto, defendant, its agents, servants, employees, physicians, nurses and/or other health care providers violated Public Health Law §2801-d throughout plaintiff [REDACTED] admission to defendant's facility. Furthermore, defendant violated the following statutes, codes and/or regulations: 42 CFR §483.15; 42 CFR §483.25; CFR §483.25(a); CFR §483.25(c); CFR §483.25(e); CFR §483.25(h); Public Health Law §2803-c; 10 NYCRR §415.3 (a); 10 NYCRR §415.3(h)(i); 10 NYCRR §415.5(a); 10 NYCRR §415.11; 10 NYCRR §415.11(c)(3); 10 NYCRR §415.12; 10 NYCRR §415.12(a); 10 NYCRR §415.12(c)(1); 10 NYCRR §415.12(c)(2); 10 NYCRR §415.12(e); 10 NYCRR §415.12(h); and all other applicable laws, rules, statutes, ordinances, and regulations that the Court will take judicial notice of at the time of trial. See also *infra* 12.

9. Plaintiff is not presently aware of whether any equipment or other medical instruments used by defendant during the treatment of plaintiff's decedent were defective or otherwise improper. Should Plaintiff become aware during the course of discovery that equipment or other medical instruments used by [REDACTED] during its treatment of plaintiff's decedent were defective or otherwise improper, plaintiff will supplement this response.

10. (a) - (h) Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). See Patterson v. Jewish Hosp. and Med. Ctr. of Brooklyn, 94 Misc.2d 680, 405 N.Y.S.2d 194 (Sup. Ct. Kings County 1978), *aff'd*, 65 A.D. 2d 553, 409 N.Y.S.2d 124 (2d Dep't 1978); Harris v. Ariel Transportation Corp., 37 AD3d 308 [1st Dept. 2007]; Hawkes v. Mount Sinai Hosp., 75 A.D.2d 509, 510-11 (1st Dep't 1980); Dellaglio v. Paul, 250 A.D.2d 806, 673 N.Y.S.2d

212 (2d Dept. 1998); Szaday v. Fleiss, 2002 WL 34363825 (Bronx County 2002); McKenzie v. St. Elizabeth Hosp., 81 A.D.2d 1003, 1004 (4th Dep't 1981). Notwithstanding this objection, and reserving all rights hereto, see *infra* 12.

11. (a)-(c) Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). See Patterson v. Jewish Hosp. and Med. Ctr. of Brooklyn, 94 Misc.2d 680, 405 N.Y.S.2d 194 (Sup. Ct. Kings County 1978), *aff'd*, 65 A.D. 2d 553, 409 N.Y.S.2d 124 (2d Dep't 1978); Harris v. Ariel Transportation Corp., 37 AD3d 308 [1st Dept. 2007]; Hawkes v. Mount Sinai Hosp., 75 A.D.2d 509, 510-11 (1st Dep't 1980); Dellaglio v. Paul, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998); Szaday v. Fleiss, 2002 WL 34363825 (Bronx County 2002); McKenzie v. St. Elizabeth Hosp., 81 A.D.2d 1003, 1004 (4th Dep't 1981). Notwithstanding this objection, and reserving all rights hereto, see *infra* 12.

12. Defendant [REDACTED] through its agents, servants, and/or employees, was negligent and careless in: failing to use due, reasonable and proper skill in the care and treatment of plaintiff's decedent [REDACTED] ("the resident"); failing to take a proper history of the resident; failing to adequately and properly examine the resident; rendering improper and inadequate medical treatment which was contrary to the standard and accepted medical and diagnostic practices and procedures; failing to appreciate the significance of the resident's signs, symptoms and complaints; failing to form a differential diagnosis; failing to timely order the necessary diagnostic tests and studies, including Doppler and arterial blood flow studies; failing to perform a proper risk assessment of the resident for development of decubitus ulcers; failing to perform an adequate skin assessment of the resident; failing to employ the required vigilance and diligence necessary to prevent skin breakdown in a patient whose age, mobility level, and

general state of health demanded higher scrutiny; failing to heed, detect and diagnose the resident's symptoms and complaints as they relate to the resident's pain and development of decubitus ulcers, including but not limited to his sacrum, heel, hips, neck, and ears; failing to institute an appropriate plan of care for the resident; failing to adhere to the plan of care instituted for the resident; failing to adequately modify the plan of care instituted for the resident as his medical condition changed and deteriorated; failing to be more vigilant of the progression of the resident's decubitus ulcers; failing to properly assess the resident's wounds and modify the plan of care accordingly; failing to conduct wound rounds; failing to evaluate the effectiveness of treatment, and track the improvement, healing, deterioration, or if the pressure ulcers sites remain the same; failing to properly evaluate and treat the resident's pain; failing to properly keep the resident clean and dry; failing to re-assess the resident's clinical condition upon the continuous deterioration of the resident's pressure ulcers; failing to change the treatment upon becoming aware of the deterioration and development of the resident's pressure ulcers; causing and allowing the resident to develop decubitus ulcers; failing to prevent the progression and deterioration of the resident's decubitus ulcers; failing to adequately treat the resident's decubitus ulcers; failing to implement more aggressive treatment throughout his stay as the ulcers progressed; failing to properly implement pressure reducing devices and/or surfaces; failing to use skin protective devices; failing to timely and properly debride the resident's decubitus ulcers; causing and allowing the resident to develop infections, including sepsis and bacteremia; failing to properly document the progression and development of the resident's decubitus ulcers; failing to properly complete pressure ulcer tracking sheets; failing to perform weekly skin assessments of the resident's pressure ulcers; failing to document weekly skin assessments; failing to check the resident's skin condition daily for any signs or symptoms of skin irritation or breakdown;

failing to document the stage, site and type of ulcer, size, characteristic of the wound, odor and/or drainage of the wound, and response to treatment; failing to properly document the care and treatment rendered to the resident's decubitus ulcers; failing to avoid friction on the resident's skin; failing to timely order and follow up on the implementation of an adequate turning and position regime; negligently and carelessly failing to turn and position the resident every two hours or as needed; failing to regularly take the patient out of bed and/or moved in bed; failing to timely order and follow up on the implementation of decubitus relieve devices and equipment, including but not limited to special mattresses and heel boots; failing to properly evaluate the resident's nutrition, develop a nutritional plan and ensure that the resident received appropriate nutrients, including appropriate protein and fluid intake; failing to provide the patient with life necessities, such as adequate amounts of food, water, personal hygiene, medicine, comfort, personal safety, and other essentials that defendant was purported to provide and/or undertake; causing and creating serious and irreversible complications from decubitus ulcers, including infections, sepsis and bacteremia; causing and creating serious and irreversible complications in increasing the likelihood of a negative prognosis for the resident; failing to guard against and prevent such irreversible complications; failing to timely order and follow-up on consultations with surgeons, wound care specialists, infectious disease specialists and/or vascular doctors; failing to timely order debridement procedures for decubitus ulcers; failing to promptly report the resident's signs and symptoms of pressure ulcers; failing to adhere to the policies and procedures instituted for the prevention and treatment of decubitus ulcers, nutrition and dietary.

Furthermore, defendant [REDACTED] through its agents, servants, and/or employees was negligent and careless in failing to make the resident and/or his representatives aware of the

resident's condition, including the presence of decubitus ulcers, which would have allowed him and/or his representatives consider any alternate or further forms of treatment that were available; in failing to make an adequate disclosure in that the patient and/or his representatives were not made aware of all those known perils or dangers which would have allowed them to make an informed decision as to any alternate forms of treatment that were available; in failing to provide the resident with information and advice pertaining to the medical significance and risks of developing decubitus ulcers; in that the care, treatment, diagnoses, advice, consultation, monitoring, evaluation, testing, management and related services that should have been but negligently and carelessly were not rendered to or for the resident, all of which proximately caused his injuries and damages, of which the resident makes claim herein, including causing his wounds to deteriorate and become infected; in negligently failing to have sufficient nursing staff to provide nursing and related services to attain and maintain the highest physical, mental and psycho-social well-being of the resident; in failing to exercise the requisite care in hiring physicians, nurses, and other health care personnel who failed to have the adequate training, ability, education, knowledge, and skill to treat the resident; in failing to have available adequate personnel who were properly and adequately trained in order to properly treat the resident; in failing to exercise the requisite care in hiring physicians, nurses and medical professionals, who were unqualified, poorly qualified and lacked the requisite qualifications and skills to perform the care and treatment on the resident in a safe manner; in failing to research the backgrounds and histories of the physicians, nurses and medical professionals it did hire; in failing to investigate the qualifications, competence, capacity, abilities and capabilities of the physicians, nurses and other health care professionals it did hire; and failing to require continuing education for its physicians, nurses and other medical professionals.

13. Plaintiff objects to this question as it is overbroad and improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights hereto, defendant is vicariously liable for the acts and/or omissions of all the aides, nurses, doctors and other personnel and/or staff under defendant's supervision, including but not limited to [REDACTED] and those other individuals it supervised, directed and issued orders to in the care, treatment, management, advice, and services rendered to or for the patient the patient, and the other nurses, physicians, physician's assistants, technicians, and other providers listed in the patient's medical records. Plaintiff is not presently able to identify the aforesaid persons by physical appearance or occupation, but plaintiff believes them to be doctors, nurses, physician's assistants, and other agents, servants and/or employees of defendant, whose conduct this defendant would be liable for pursuant to *Mduba v. Benedictine Hospital* and/or *respondeat superior* doctrine. Plaintiff reserves the right to amplify and supplement this response upon further discovery prior to the trial of this action.

14. Plaintiff objects to this question as it is overbroad and improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights hereto, the negligent acts and/or omissions of defendant took place at [REDACTED] and in any other rooms and locations where defendant, by and through its agents, servants, employees, rendered and/or endeavored to render medical and other professional care, treatment, diagnosis, advice, assessment, monitoring, testing, physical and occupational therapy, and related services to or for plaintiff's decedent.

15. (a)-(c) Plaintiff is not alleging that plaintiff's decedent sustained a fall at defendants' facility.

16. See *supra* 12.

17. See *supra* 12.

18.

(a) As a result of defendant's negligence, plaintiff's decedent sustained the following injuries:

- MULTIPLE DECUBITUS ULCERS
- STAGE IV SACRAL DECUBITUS ULCER
- STAGE III SACRAL DECUBITUS ULCER
- LEFT HIP DECUBITUS ULCER
- STAGE III LEFT HIP DECUBITUS ULCER
- RIGHT HIP DECUBITUS ULCER
- STAGE III RIGHT HIP DECUBITUS ULCER
- BILATERAL HEEL DECUBITUS ULCERS
- EAR WOUNDS/ULCERS
- LEFT EAR STAGE III DECUBITUS ULCER
- RIGHT EAR STAGE III DECUBITUS ULCER
- NECK WOUNDS/ULCERS
- MULTIPLE SKIN LESIONS/ESCORIATIONS
- INFECTIONS
- SEPSIS
- SEVERE SEPSIS

- BACTERIMIA
- FEVERS
- DEHYDRATION
- MALNUTRITION
- EMOTIONAL AND PSYCHOLOGICAL TRAUMA
- CONSCIOUS PAIN AND SUFFERING
- DECREASED OF QUALITY OF LIFE
- FEAR OF DEATH
- DEATH

Furthermore, the injuries occurring to plaintiff's decedent as a result of defendant's negligence herein caused him to suffer pain, soreness, swelling, discomfort and injuries to the nerves, blood vessels, ligaments, tendons, muscles, bones, soft cartilage parts thereof and other soft tissues in and around the areas of the decubiti ulcers. In addition to the personal injuries previously alleged, the patient was prevented from participating in the recommended and necessary physical therapy as a result of the negligence of defendant herein. The foregoing have had a significant contributory and deleterious effect on plaintiff's decedent's physical and mental well-being and a permanent loss of chance to ever improve and/or regain his mobility and independence. All of the injuries and conditions caused and/or contributed to the patient living a lesser quality of life, including loss of enjoyment of life than the patient would otherwise have experienced, but for the injuries and conditions alleged herein.

19. (a) All of the above injuries (see *supra* 18) are permanent in nature and continued until the time of his death on September 11, 2017.

20. (a)-(b) Plaintiff's decedent [REDACTED] was confined to the following hospital(s) and/or rehabilitation facilities:

- [REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]

Plaintiff has provided duly executed medical authorizations to enable defendant to obtain the medical records, including dates of admission and/or treatment, for the aforementioned facilities.

21.

- (a) Plaintiff's decedent was confined to bed from on or about March 3, 2016 until the time of his death on September 11, 2017.
- (b) Plaintiff's decedent was not able to return home.

22. (a)-(e) Upon information and belief, plaintiff's decedent's medical expenses were covered by Medicaid [REDACTED]

(f) Not applicable.

(g) *Other Expenses*: Plaintiff incurred funeral expenses in the amount of [REDACTED]

Plaintiff reserves the right to amend or supplement this response up to and including at the time of trial.

23. (a)-(c) Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary materials beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights thereto, upon information and belief, plaintiff's decedent was a recipient of Medicaid [REDACTED] Plaintiff will provide information/correspondence regarding any lien asserted by the same, if any, under a separate cover upon receipt of the same.

24. (a)-(d) Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary materials beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights hereto, plaintiff's decedent was a recipient of Medicaid [REDACTED] A duly executed authorization has been provided to enable defense counsel to obtain Medicaid's information and/or records.

25. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights hereto, defendant, its agents, servants, employees, physicians, nurses and/or other health care providers violated Public Health Law §2801-d; 42 CFR §483.15; 42 CFR §483.25; CFR §483.25(a); CFR §483.25(c); CFR §483.25(e); CFR §483.25(h); Public Health Law §2803-c; 10 NYCRR §415.3 (a); 10 NYCRR §415.3(h)(i); 10 NYCRR §415.5(a); 10 NYCRR §415.11; 10 NYCRR §415.11(c)(3); 10 NYCRR §415.12; 10 NYCRR §415.12(a); 10 NYCRR §415.12(c)(1); 10 NYCRR §415.12(c)(2); 10 NYCRR §415.12(e); 10 NYCRR §415.12(h); and all other applicable laws, rules, statutes, ordinances, and regulations that the Court will take judicial notice of at the time of trial.

26. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary materials beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights hereto, this action falls within one or more of the exceptions set forth in CPLR 1602, and as such defendant pursuant to CPLR Section 1602 (2) (iv), is jointly and severally liable for all of the plaintiffs' damages, including but not limited to, their non-economic loss, irrespective of the provisions of CPLR Section 1601, by reason of the fact that defendant owed the patient a non-delegable duty of care. Pursuant to CPLR Section 1602(2)(iv), defendant is jointly and severally liable for all of the patients damages, including but not limited to, their non-economic loss, irrespective of the provisions of CPLR Section 1601, by reason of the fact that said defendant is vicariously liable for the negligent acts and omissions of its servants, agents, affiliated physicians, surgeons and/or employees. Finally, pursuant to CPLR Section 1602(7), defendant is jointly and severally liable for all of plaintiffs' damages, including but not limited to their non-economic loss, irrespective of the provisions of CPLR Section 1601, by reason of the fact that said defendant acted with reckless disregard for the safety of others.

27. (a)-(c) Plaintiff objects to this demand as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights thereto, plaintiff claims that defendant [REDACTED] failed to properly hire, retain, physicians, nurses, physician assistants, nurse practitioners, and other healthcare providers who were not competent or fully competent to practice in their area of specialization and whom [REDACTED] knew or reasonably should have known that they were not competent or fully competent to practice in their area of specialization. Plaintiff is currently not aware of the job capacities or work titles of the persons who were

negligently hired by the answering defendant, as this information is better known to defendant. Plaintiff reserves the right to supplement and/or amend this response.

28. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). See Patterson v. Jewish Hosp. and Med. Ctr. of Brooklyn, 94 Misc.2d 680, 405 N.Y.S.2d 194 (Sup. Ct. Kings County 1978), *aff'd*, 65 A.D. 2d 553, 409 N.Y.S.2d 124 (2d Dep't 1978); Harris v. Ariel Transportation Corp., 37 AD3d 308 [1st Dept. 2007]; Hawkes v. Mount Sinai Hosp., 75 A.D.2d 509, 510-11 (1st Dep't 1980); Dellaglio v. Paul, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998); Szaday v. Fleiss, 2002 WL 34363825 (Bronx County 2002); McKenzie v. St. Elizabeth Hosp., 81 A.D.2d 1003, 1004 (4th Dep't 1981). Notwithstanding this objection, and reserving all rights hereto, defendant [REDACTED] through its agents, servants, and/or employees, negligently and carelessly failed to make plaintiff and/or his representatives aware of the plaintiff's decedent's condition, including the presence of decubitus ulcers, which would have allowed him and/or his representatives to consider any alternate or further forms of treatment that were available; failed to make an adequate disclosure in that plaintiff's decedent and/or his representatives were not made aware of all those known perils or dangers which would have allowed them to make an informed decision as to any alternate forms of treatment that were available; and failed to provide plaintiff's decedent and/or his representatives with information and advice pertaining to the medical significance and risks of developing decubitus ulcers.

29. *See supra* 28.

30. *See supra* 28.

31. *See supra* 28.

32. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). See Patterson v. Jewish Hosp. and Med. Ctr. of Brooklyn, 94 Misc.2d 680, 405 N.Y.S.2d 194 (Sup. Ct. Kings County 1978), *aff'd*, 65 A.D. 2d 553, 409 N.Y.S.2d 124 (2d Dep't 1978); Harris v. Ariel Transportation Corp., 37 AD3d 308 [1st Dept. 2007]; Hawkes v. Mount Sinai Hosp., 75 A.D.2d 509, 510-11 (1st Dep't 1980); Dellaglio v. Paul, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998); Szaday v. Fleiss, 2002 WL 34363825 (Bronx County 2002); McKenzie v. St. Elizabeth Hosp., 81 A.D.2d 1003, 1004 (4th Dep't 1981). Notwithstanding this objection, and reserving all rights hereto, see *supra* 28.

33. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). See Patterson v. Jewish Hosp. and Med. Ctr. of Brooklyn, 94 Misc.2d 680, 405 N.Y.S.2d 194 (Sup. Ct. Kings County 1978), *aff'd*, 65 A.D. 2d 553, 409 N.Y.S.2d 124 (2d Dep't 1978); Harris v. Ariel Transportation Corp., 37 AD3d 308 [1st Dept. 2007]; Hawkes v. Mount Sinai Hosp., 75 A.D.2d 509, 510-11 (1st Dep't 1980); Dellaglio v. Paul, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998); Szaday v. Fleiss, 2002 WL 34363825 (Bronx County 2002); McKenzie v. St. Elizabeth Hosp., 81 A.D.2d 1003, 1004 (4th Dep't 1981). Notwithstanding this objection, and reserving all rights hereto, see *supra* 28.

34. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). See Patterson v. Jewish Hosp. and Med. Ctr. of Brooklyn, 94 Misc.2d 680, 405 N.Y.S.2d 194 (Sup. Ct. Kings County 1978), *aff'd*, 65 A.D. 2d 553, 409 N.Y.S.2d 124 (2d Dep't 1978); Harris v. Ariel Transportation Corp., 37 AD3d 308 [1st Dept. 2007]; Hawkes v. Mount Sinai

Hosp., 75 A.D.2d 509, 510-11 (1st Dep't 1980); Dellauglio v. Paul, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998); Szaday v. Fleiss, 2002 WL 34363825 (Bronx County 2002); McKenzie v. St. Elizabeth Hosp., 81 A.D.2d 1003, 1004 (4th Dep't 1981). Notwithstanding this objection, and reserving all rights hereto, see *supra* 28.

35. See *supra* 12 and 28.

36. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection and reserving all rights hereto, plaintiff's decedent died at [REDACTED] located at [REDACTED]

37. Plaintiff incurred funeral expenses in the amount of [REDACTED]

38. [REDACTED] Funeral [REDACTED] located at [REDACTED]
[REDACTED]

39. [REDACTED] Crematory, [REDACTED]

40. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection and reserving all rights hereto, a duly executed authorization has been provided to enable defendant to obtain a copy of the autopsy report.

41.

(1) [REDACTED] (Plaintiff's decedent's daughter), [REDACTED]

[REDACTED]

(2) [REDACTED] (Plaintiff's decedent's son), [REDACTED]

[REDACTED]

42. Plaintiff's decedent died on September 11, 2017 at [REDACTED] located at [REDACTED]

43. An autopsy was performed upon decedent's body by the Office of Chief Medical Examiner. A duly executed authorization has been provided to enable defendant to obtain a copy of the autopsy report.

44. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material beyond the scope of CPLR § 3043(a), and is not aimed to obtain relevant or necessary material to the case at hand. Notwithstanding this objection and reserving all rights hereto, plaintiff's decedent [REDACTED]

45. (a)-(d) Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection and reserving all rights hereto, see *supra* 41.

46. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material beyond the scope of CPLR § 3043(a) and on privacy grounds (see *Seelig v. Sielaff*, 201 AD2d 298 [1st Dept. 1994]). Notwithstanding such objection, and reserving all rights thereto, Plaintiff's decedent [REDACTED] social security number is XXX-XX-[REDACTED]. Plaintiff's decedent's complete social security number will be provided at the time of plaintiff [REDACTED] deposition. Furthermore, plaintiff's decedent's social security number is contained within the medical authorizations previously provided to defendant's counsel.

47. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR §

3043(a). See Patterson v. Jewish Hosp. and Med. Ctr. of Brooklyn, 94 Misc.2d 680, 405 N.Y.S.2d 194 (Sup. Ct. Kings County 1978), aff'd, 65 A.D. 2d 553, 409 N.Y.S.2d 124 (2d Dep't 1978); Harris v. Ariel Transportation Corp., 37 AD3d 308 [1st Dept. 2007]; Hawkes v. Mount Sinai Hosp., 75 A.D.2d 509, 510-11 (1st Dep't 1980); Dellaquila v. Paul, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998); Szaday v. Fleiss, 2002 WL 34363825 (Bronx County 2002); McKenzie v. St. Elizabeth Hosp., 81 A.D.2d 1003, 1004 (4th Dep't 1981). Notwithstanding this objection, and reserving all rights hereto, see *supra* 12.

48. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection and reserving all rights hereto, see *supra* 13.

49. *decesupra* 18, 19, and 20.

50. See *supra* 22.

Plaintiff reserves the right to amend or supplement the foregoing up to and including at the time of trial.

Dated: New York, New York
[REDACTED]

Yours, etc.

BY: 

WALTER OSUNA, ESQ.
THE JACOB D. FUCHSBERG LAW FIRM
Attorneys for Plaintiff
500 Fifth Avenue - 45th Floor
New York, NY 10110
(212) 869-3500
[REDACTED]

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF [REDACTED]

-----X
[REDACTED], Attorney-in-fact of [REDACTED]
[REDACTED]

Plaintiff,

-against-

Index No. [REDACTED]

**VERIFIED BILL OF
PARTICULARS**

[REDACTED] "JOHN/JANE DOE,
R.N." (said name being fictitious but intended to represent the
Registered Nurse who examined and provided medical care
to Plaintiff [REDACTED] on January 11, 2015 at
[REDACTED]), "JOHN/JANE DOE, NP" (said name being
fictitious but intended to represent the Nurse Practitioner who
examined, provided medical care and/or order x-rays to
Plaintiff [REDACTED] on January 11, 2015 at
[REDACTED], and [REDACTED],
[REDACTED],

Defendants.

-----X
Plaintiff, [REDACTED], Attorney-in-fact of [REDACTED], by her attorneys,
THE JACOB D. FUCHSBERG LAW FIRM, LLP, as and for their Verified Bill of Particulars in
response to the demand of defendant [REDACTED]
[REDACTED]
[REDACTED] alleges
upon information and belief as follows:

1. (a) Plaintiff [REDACTED] is not deceased. Plaintiff was a resident of
defendant's facility from on or about January 9, 2014 to on or about January 13, 2015.

(b) Defendant rendered medical, nursing or nursing home care to plaintiff [REDACTED]
[REDACTED] during her entire stay at defendant's facility from on or about January 9, 2014 to on
or about January 13, 2015.

(c) The negligent acts and/or omissions of this answering defendant took place within defendant [REDACTED] facility located [REDACTED] [REDACTED] and in any rooms and/or locations where defendant, by and through its agents rendered and/or endeavored to render medical, nursing and other professional care, treatment, diagnosis, advice, assessment, monitoring, testing, physical and occupational therapy, and related services to or for plaintiff.

(d) The negligent and careless acts and omissions, medical malpractice, and departures from good and accepted standards of medical and nursing care and treatment, diagnosis, advice, and management of defendant [REDACTED] and those under its supervision, took place from on or about January 9, 2014 to on or about January 13, 2015 including but not limited to on or about April 8, 2014, June 1, 2014, December 3, 2014 and prior to January 11, 2015.

2. (a) Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights thereto, plaintiff was admitted to defendant's facility for long-term care.

(b) Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights thereto, defendant undertook to treat plaintiff for the conditions contained in its medical records.

(c) Defendant [REDACTED], through its agents, servants, and/or employees, including but not limited to co-defendants [REDACTED], "JOHN/JANE DOE, R.N.", and "JOHN/JANE DOE, NP", that rendered and/or endeavored to render medical, nursing and other professional care to [REDACTED] hereinafter "the resident"), was negligent in that

it rendered medical and/or nursing care and treatment in deviation from accepted standards of care and in that the medical and nursing care and treatment it rendered was rendered carelessly; in negligently failing to adequately and frequently observe the resident; in negligently failing to take a proper medical history of the resident; in negligently failing to heed the significance of the resident's past medical history, including, but not limited to her dementia, Alzheimer's disease, confusion, history of falls, and need for assistance to ambulate; in negligently and carelessly failing to investigate, consider, and properly assess the resident's physical condition; in negligently failing to properly assess the resident as a safety risk; in negligently failing to adequately assess the resident as a high fall risk; in negligently failing to provide nursing and related services to attain and maintain the highest practicable physical, mental and psychosocial well-being of the resident; in negligently failing to ensure that the resident's environment remained free of accident hazards; in failing to provide an appropriate assessment of the resident upon her admission to [REDACTED], in failing to closely and regularly monitor the resident; in negligently failing to ensure that the resident received adequate supervision and assistance to prevent her multiple falls, on or about April 8, 2014, June 1, 2014, December 3, 2014 and prior to January 11, 2015; in negligently failing to protect the resident from falling on or about April 8, 2014, June 1, 2014, December 3, 2014, and prior to January 11, 2015; in failing to adequately secure resident in her bed; in allowing the resident to fall multiple times during her residency at defendant's facility from on or about January 9, 2014 to on or about January 13, 2015, including but not limited to on or about April 8, 2014, June 1, 2014, December 3, 2014, and prior to January 11, 2015, and be severely injured; in failing to order adequate and functioning accident and fall prevention mechanisms, including but not limited to chair and bed alarms, call bells, side rails, geri chair recliners, and/or floor mats; in failing to ensure that the appropriate safety devices, including chair and bed alarms,

call bells, and side rails, were properly functioning and/or in place; in negligently failing to maintain bed rails up; in failing to maintain the resident's nursing home bed in a lowered position; in negligently failing to implement the appropriate care plan for the resident so as to allow her to attain and maintain the highest practicable mental, physical and psychosocial well-being; in failing to timely and adequately attend to the resident's needs; in failing to promptly answer the resident's calls and/or call bells and requests for help; in failing to document her falls; in failing to properly document the course of treatment and progression of the resident's condition; in failing to properly document any assessment performed on the resident post-falls; in failing to adequately and timely inform her primary care physician of her falls and general condition; in negligently failing to timely report the resident's fall to the attending physician, nursing supervisor, charge nurse practitioner, and/or to the responsible medical provider; in negligently failing to investigate the cause of the resident's falls; in negligently failing to develop and/or advise as to a plan to protect the resident from future falls; in failing to place the resident closer to the nursing station despite her multiple falls; in failing to perform adequate clinical assessments of the resident; in failing to perform a complete fall prevention plan and amend the same accordingly post-falls; in negligently failing to adequately and timely report the resident's falls and/or file a written report and investigation of resident's falls; in failing to prepare accident reports; in failing to adequately evaluate and examine the resident subsequent to her falls; in failing to perform a thorough assessment of the resident post-falls; in failing to monitor the resident's complications from the falls; in negligently failing to provide frequent safety checks; in failing to provide adequate and frequent follow ups from an attending physician and/or nurse practitioner; in failing to properly assess and/or re-assess the administration of the resident's medication(s), including Risperdal and/or Ativan; overmedicating the resident with sedatives, such as Risperdal and/or Ativan; in allowing the resident to ambulate

without assistance; in negligently allowing resident to leave her bed on her own and walk and/or ambulate about without adequate safety mechanisms and/or supervision; in failing to report deficiencies in the safety mechanisms and/or equipment used; in placing the resident back to bed post-falls without examining the resident and reporting the same to the attending physician, nursing supervisor and/or charge nurse practitioner; in failing to render care to the resident pursuant to Public Health Law Section 2801-d; in negligently failing to comply with State and Federal regulations or rules governing nursing homes and the standard of care to be applied to nursing home residents, namely the resident; in improperly restraining the resident following her fall of June 1, 2014; in failing to appreciate that seatbelt restraints do not diminish falls; in failing to perform a wheelchair assessment and/or evaluation despite knowledge of the resident sliding of the chair; in failing to ensure that the resident was able to fit in the wheelchair provided and was adjusted accordingly; in failing to care for the resident in a manner which promoted and/or enhanced her quality of life; in failing to provide resident with necessary care and services to maintain her physical well-being, as evidenced by the fact that she sustained a left hip fracture as a result of her fall prior to January 11, 2015; in failing to ensure that resident's daily activities did not diminished, including her ability to ambulate; in failing to ensure resident received appropriate treatment and services to increase her range of motion and prevent a further decrease in her range of motion; in failing to ensure the resident received adequate supervision and assistive devices to prevent accidents; in delaying to provide adequate care and treatment to the resident; in failing to perform adequate and timely diagnostic tests, including x-rays, CT Scans, MRIs, bone density scans, and/or further test or evaluations; in failing to perform x-rays/repeated x-rays after her falls; failing to order an MRI after her fall of prior to January 11, 2015; in failing to timely transfer the resident to a hospital for medical treatment/evaluation; in failing to provide the highest practicable

physical, mental and psycho-social well-being for the resident; in negligently failing to protect resident from foreseeable harm; in negligently failing to order appropriate consultations; in negligently failing to order timely consultations; in negligently failing to heed and take into account information from resident's family; in failing to maintain the resident's family and/or representatives appraised of her condition; in failing to obtain proper informed consent from the resident and/or her representatives; in failing to make the resident and/or her representatives aware of all those perils and dangers which would have allowed her and/or her representatives to make an informed consent regarding the medical course rendered for her injuries, and would have allowed her and/or her representatives to consider any alternative forms of treatment and/or medication then available; in failing to adequately assist the resident in her activities of daily living; in negligently failing to follow defendant's [REDACTED] safety/fall protocols; in proximately causing the resident to sustain a left hip fracture after her fall of prior to January 11, 2015; and causing and creating serious and irreversible complications associated with the injuries suffered by the resident.

3. Plaintiff alleges that defendant failed to request and/or order adequate fall prevention mechanisms/equipment, including chair and bed alarms, call bells, side rails, geri chair recliners, and/or floor mats. Plaintiff is not presently aware of whether any equipment used by defendant during her treatment of Plaintiff were defective or otherwise improper. Should Plaintiff become aware during the course of discovery that the equipment used by defendant during the treatment of plaintiff [REDACTED] was defective or otherwise improper, plaintiff will supplement this response.

4. Plaintiff objects to this demand as it is palpably improper, overboard, duplicative, and calls for information that is evidentiary in nature, seeks expert testimony, and is beyond the

scope of the bill of particulars pursuant to CPLR § 3043(a). See *Patterson v. Jewish Hospital and Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194 (Sup. Ct. Kings County 1978), *aff'd*, 65 A.D. 2d 553, 409 N.Y.S.2d 124 (2d Dep't 1978); *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dep't 1998); *Harris v. Ariel Transportation Corp.*, 37 AD3d 308 (1st Dep't 2007); *Szaday v. Fleiss*, 2002 WL 34363825 (Bronx County 2002); *McKenzie v. St. Elizabeth Hosp.*, 81 A.D.2d 1003, 1004 (4th Dep't 1981). Notwithstanding this objection, and reserving all rights thereto, see *supra* 2(c).

5. The negligent and careless acts and omissions, medical malpractice, and departures from good and accepted standards of medical and nursing care and treatment, diagnosis, advice, and management of defendant [REDACTED] and those under their supervision, as stated in *supra* 2(c), took place from on or about January 9, 2014 to on or about January 13, 2015 including but not limited to on or about April 8, 2014, June 1, 2014, December 3, 2014 and prior to January 11, 2015. Defendant had actual and constructive notice of plaintiff [REDACTED] history of falls.

6. Plaintiff objects to this demand as it is palpably improper in that it calls for information that is evidentiary in nature, seeks information in the possession of the defendants, and is beyond the scope of CPLR § 3043(a). Notwithstanding this objections and reserving all rights hereto, it will be claimed that [REDACTED] is vicariously liable for the negligent acts and/or omissions of any agents, servants, contractors, and/or employees of defendant [REDACTED] under their supervision, direction and issued orders to in the care, treatment, management, advice, and services rendered to or for plaintiff [REDACTED] including but not limited to co-defendants [REDACTED] "JOHN/JANE DOE, R.N.", and "JOHN/JANE DOE, NP". Plaintiff reserves the right to amplify and supplement this response upon further discovery prior to the trial of this action.

7. (a) The injuries proximately sustained by [REDACTED] as a proximate result of the negligence, carelessness, medical, hospital, and professional malpractice, and departures from good and accepted standards of care [REDACTED] and/or their agents, servants, employees, and independent contractors, are:

- LEFT FEMORAL NECK FRACTURE
- NEED FOR SURGERY
- INTRAMEDULLARY RODDING OF THE LEFT HIP
- INSERTION OF HARDWARE
- IMPAIRED MOBILITY
- NEED FOR PHYSICAL THERAPY
- DECREASE IN ACTIVITIES OF DAILY LIVING
- LEFT HIP PAIN
- PAIN AND SUFFERING
- BUTTOCKS PRESSURE ULCER
- DEHYDRATION
- MALNUTRITION
- NECESSITY TO INGEST PAIN MEDICATION
- SWELLING
- BRUISING
- BLEEDING
- SKIN DISCOLORATION
- EMBARRASSMENT
- EMOTIONAL DISTRESS

- FEAR, ANXIETY, DEPRESSION
- MENTAL ANGUISH
- LOSS OF ENJOYMENT OF LIFE

In addition to the personal injuries previously alleged, plaintiff [REDACTED] hereby suffered an inability to participate in the recommended and necessary physical therapy as a result of the negligence of the answering defendant. The foregoing had a significant and further deleterious effect on the plaintiff's physical and mental well-being. All of the injuries and conditions caused and/or contributed to plaintiff's living a lesser quality of life, including loss of enjoyment of life than the plaintiff would otherwise have experienced, but for the injuries and conditions alleged herein.

Plaintiff reserves the right to supplement this Bill of Particulars when further medical information becomes available, and relies also on any and all injuries that are mentioned in the medical reports and/or hospital records for which duly executed authorizations have been provided, or that will be provided in the future or if and when counsel for Plaintiff is provided with further medical records indicating further injuries not included in this bill of particulars.

(b) All of the above injuries are permanent in nature and/or are expected to continue in the future.

8. Plaintiff was confined to:

(a) *Bed*: From on or about January 11, 2015 to the present time.

(b) *House*: [REDACTED] did not return home and is currently a resident of [REDACTED] located at [REDACTED]

(c) *Hospitals*: [REDACTED] hospital from on or about January 13, 2015 to on or about January 19, 2015.

(d) Nursing home: [REDACTED] located at [REDACTED]
[REDACTED] until the present time.

9. Medicare has incurred medical expenses on behalf of plaintiff [REDACTED] related to alleged negligence in the amount of [REDACTED]. Nonetheless, special damages are continuous and ongoing. The total amount of special damages will be provided under a separate cover.

10. (a) –(g) Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights thereto, plaintiff is not making a claim for loss earnings as she was retired at the time of the incident.

11. Plaintiff [REDACTED]s date of birth is [REDACTED]

12. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material beyond the scope of CPLR §3043(a) and on privacy grounds (*see Seelig v. Sielaff*, 201 AD2d 298 [1st Dept. 1994]). Notwithstanding this objection, and reserving all rights hereto, plaintiff [REDACTED] Social Security Number is XXX-XX-[REDACTED] [REDACTED] complete Social Security Number will be provided at the time of plaintiff [REDACTED] deposition. Furthermore, such number is also contained within the resident's medical records and within the duly executed HIPAA authorizations already provided.

13. Plaintiff [REDACTED] is currently residing at [REDACTED]
[REDACTED]

14. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material beyond the scope of CPLR §3043(a). Notwithstanding this objection, and reserving all rights hereto, plaintiff [REDACTED] is a recipient of Medicare and Medicaid.

Medicare has incurred medical expenses on behalf of plaintiff [REDACTED] related to alleged negligence in the amount of [REDACTED]. Plaintiff will provide [REDACTED] Medicare and Medicare's numbers under a separate cover.

15. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights hereto, defendant failed to obtain proper informed consent from plaintiff and/or her representatives by failing to make them aware of all those perils and dangers which would have allowed her and/or her representatives to make an informed consent regarding the medical course rendered for her injuries, and would have allowed her and/or her representatives to consider any alternative forms of treatment and/or medication then available.

16. See supra 15.

17. See supra 15.

18. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights thereto, it will be alleged that defendant violated the following statutes, codes and/or regulations: Public Health Law §2803-c; Public Health Law §2801-d; 10 NYCRR §415.3 (a); 10 NYCRR §415.3(e)(i); 10 NYCRR §415.5(a); 10 NYCRR §415.11; 10 NYCRR §415.11(c)(3); 10 NYCRR §415.12; 10 NYCRR §415.12(h); 10 NYCRR §415.12(h)(1); 10 NYCRR §415.12(h)(2); 10 NYCRR §415.13; and all other applicable laws, rules, statutes, ordinances, and regulations that the Court will take judicial notice of at the time of trial.

19. Not applicable as plaintiff [REDACTED] is not deceased.

20. Not applicable as plaintiff [REDACTED] is not deceased.

21. Not applicable as plaintiff [REDACTED] is not deceased.

22. Not applicable as plaintiff [REDACTED] is not deceased.

23. Not applicable as plaintiff [REDACTED] is not deceased.

24. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights thereto, plaintiff [REDACTED] was born in [REDACTED]

25. Not applicable as plaintiff [REDACTED] is not deceased.

26. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material beyond the scope of CPLR §3043(a) and on privacy grounds (*see Seelig v. Sielaff*, 201 AD2d 298 [1st Dept. 1994]). Notwithstanding this objection, and reserving all rights hereto, plaintiff [REDACTED] Social Security number will be provided at the time of her deposition. Plaintiff [REDACTED] date of birth is [REDACTED]

27. This action falls within one or more of the exceptions set forth in CPLR 1602, and as such the defendants are jointly and severally liable pursuant to the exceptions set forth in Article 16 of the CPLR. Pursuant to CPLR Section 1602 (2) (iv), defendants are jointly and severally liable for all of residents damages, including but not limited to, their non-economic loss, irrespective of the provisions of CPLR Section 1601, by reason of the fact that defendants owed residents a non-delegable duty of care. Pursuant to CPLR Section 1602(2)(iv), defendants are jointly and severally liable for all of residents damages, including but not limited to, their non-economic loss, irrespective of the provisions of CPLR Section 1601, by reason of the fact that said defendants are vicariously liable for the negligent acts and omissions of its servants, agents,

affiliated physicians, surgeons and/or employees. Finally, pursuant to CPLR Section 1602(7), defendants are jointly and severally liable for all of resident's damages, including but not limited to her non-economic loss, irrespective of the provisions of CPLR Section 1601, by reason of the fact that said defendants acted with reckless disregard for the safety of others.

28. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights thereto, it will be claimed that [REDACTED] negligent hired all those individuals, agents, servants, contractors, and/or employees of defendant [REDACTED] under its supervision, direction and issued orders to in the care, treatment, management, advice, and services rendered to or for plaintiff [REDACTED], including but not limited to co-defendants [REDACTED] JOHN/JANE DOE, R.N.", and "JOHN/JANE DOE, NP" that rendered negligent and careless care and treatment to [REDACTED] from on or about January 9, 2014 to on or about January 13, 2015 including but not limited to on or about April 8, 2014, June 1, 2014, December 3, 2014 and prior to January 11, 2015. Plaintiff reserves the right to amplify and supplement this response upon further discovery prior to the trial of this action.

Dated: New York, New York
[REDACTED]

Yours, etc.

BY: 

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THE JACOB D. FUCHSBERG LAW FIRM
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affiliated physicians, surgeons and/or employees. Finally, pursuant to CPLR Section 1602(7), defendants are jointly and severally liable for all of resident's damages, including but not limited to her non-economic loss, irrespective of the provisions of CPLR Section 1601, by reason of the fact that said defendants acted with reckless disregard for the safety of others.

28. Plaintiff objects to this question as it is improper for a bill of particulars, as question seeks evidentiary material and/or expert testimony beyond the scope of CPLR § 3043(a). Notwithstanding this objection, and reserving all rights thereto, it will be claimed that [REDACTED] negligent hired all those individuals, agents, servants, contractors, and/or employees of defendant [REDACTED] under its supervision, direction and issued orders to in the care, treatment, management, advice, and services rendered to or for plaintiff [REDACTED], including but not limited to co-defendants [REDACTED] JOHN/JANE DOE, R.N.", and "JOHN/JANE DOE, NP" that rendered negligent and careless care and treatment to [REDACTED] from on or about January 9, 2014 to on or about January 13, 2015 including but not limited to on or about April 8, 2014, June 1, 2014, December 3, 2014 and prior to January 11, 2015. Plaintiff reserves the right to amplify and supplement this response upon further discovery prior to the trial of this action.

Dated: New York, New York
[REDACTED]

Yours, etc.

BY: 

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