

MICHELLE TYLER SIMMS, Individually
And as Personal Representative of the
Estate of ERNEST TYLER
804 Blake Drive
Forest Hill, MD 21050

and

THERESE McFAUL
1803 Alpine Drive
Forest Hill, MD 21050

REGINA TYLER
1806 Alpine Drive
Forest Hill, MD 21050

PHILLIP TYLER, SR.
1802 Belvue Drive
Forest Hill, MD 21050

JAMES TYLER
11501 Notch Cliff Rd.
Glen arm, MD 21057

ERNEST TYLER, JR.
1804 Belvue Drive
Forest Hill, MD 21050

MARY EDWARDS
3228 Sharon Road
Jarrettsville, MD 21084

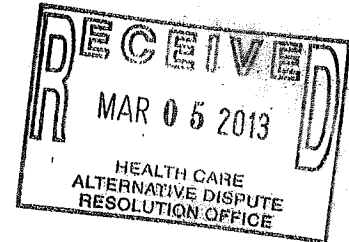
FREDERICK TYLER
1258 Tamarack Trial
Arnold, MD 21012

JULIANE HAASS
300 T3 Lord Byron Way
Cockeysville, MD 21030

CHRISTINE TYLER-KREGEL
1326 Salonica Place
Bel Air, MD 21014

* BEFORE THE
* HEALTH CARE
* ALTERNATIVE DISPUTE
* RESOLUTION OFFICE

HCA CLAIM NO.: _____



MICHAEL TYLER
1804 Belvue Drive
Forest Hill, MD 21050

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JULIANE TYLER
Stella Maris
2300 Dulaney Valley Road #2
Timonium, MD 21093

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Claimants

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v.

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KENNETH LINDYBURG, M.D.
1 Barrington Place, Suite 106
Bel Air, MD 21014

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and

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GENESIS HEALTHCARE CORPORATION,
d/b/a GENESIS ELDERCARE LONG GREEN
115 E Melrose Ave
Baltimore, MD 21212

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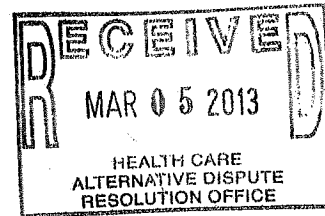
Serve On: CSC-Lawyers Incorporating
Service Company
7 St. Paul Street, Suite 1660
Baltimore, MD 21202

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Health Care Providers

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STATEMENT OF CLAIM

Claimants, Michelle Tyler-Simms, Individually and as the Personal Representative/Executor of the Estate of Ernest Tyler, and Therese McFaul, Regina Tyler, Phillip Tyler, Sr., James Tyler, Ernest Tyler, Jr., Mary Edwards, Frederick Tyler, Juliane Haass, Christine Tyler-Kregel, Michael Tyler, and Juliane Tyler, by and through her personal representative, Michael Tyler (collectively "Claimants"), by and through their undersigned counsel, pursuant to the Health Care Malpractice Claims Act, Md. Cts. & Jud. Proc. Code Ann.

§§ 3-2A-01, *et seq.* (1976, Westlaw current through 2010 Reg. Sess. of Gen. Assembly, eff. July 1, 2010) (the “Act”), submit this Statement of Claim against Health Care Providers, Kenneth Lindyberg, M.D., (hereinafter “Lindyberg”) and Genesis Healthcare Corporation, d/b/a Genesis Eldercare Long Green Center or Genesis HeathCare, (hereinafter “Long Green”) and state as follows:

JURISDICTION & VENUE

1. The Health Care Alternative Dispute Resolution Office (“HCADRO”) has jurisdiction over this matter pursuant to Section 3-2A-02 of the Act.
2. The amount in controversy exceeds Thirty Thousand Dollars (\$30,000.00), exclusive of prejudgment or post judgment interest and/or costs.
3. The proper venue for this action is Baltimore City, Maryland. The wrongful conduct of these Health Care Providers took place in Baltimore City Maryland. Both named health care providers do business in Baltimore City.

PARTIES

4. At all relevant times, Decedent, Ernest Tyler (hereinafter “Decedent”), was resident of Harford County, Maryland.
5. Claimant, Michelle Tyler-Simms, is the personal representative of the Estate of Ernest Tyler. Claimant, Michelle Tyler-Simms, is a resident of Harford County, Maryland. She is Decedent’s daughter.
6. Claimant, Therese McFaul, is a resident of Harford County, Maryland. She is Decedent’s daughter.
7. Claimant, Regina Tyler, is a resident of Harford County, Maryland. She is Decedent’s daughter.

8. Claimant, Phillip Tyler, Sr., is a resident of Harford County, Maryland. He is Decedent's son.

9. Claimant, James Tyler, is a resident of Harford County, Maryland. He is Decedent's son.

10. Claimant, Ernest Tyler, Jr., is a resident of Harford County, Maryland. He is Decedent's son.

11. Claimant, Mary Edwards, is a resident of Harford County, Maryland. She is Decedent's daughter.

12. Claimant, Frederick Tyler, is a resident of Harford County, Maryland. He is Decedent's son.

13. Claimant, Juliane Haass, is a resident of Baltimore County, Maryland. She is Decedent's daughter.

14. Claimant, Christine Tyler-Kregel, is a resident of Harford County, Maryland. She is Decedent's daughter.

15. Claimant, Michael Tyler, is a resident of Harford County, Maryland. He is Decedent's son.

16. Claimant, Juliane Tyler, is a resident of Baltimore County, Maryland. She was/is Decedent's wife. Claimant, Juliane Tyler, is legally incompetent. She is acting by and through her lawful representative, Michael Tyler, Claimant herein.

17. Genesis Healthcare Corporation, d/b/a Genesis Eldercare Long Green Center or Genesis HealthCare, is a business entity organized to render health care services in Baltimore City, Maryland. Long Green is located at 115 East Melrose Avenue in Baltimore, City Maryland. Its resident agent is located at 7 St. Paul St. Suite 1660 in Baltimore City, Maryland.

18. Kenneth Lindyberg is a board-certified surgeon doing business at 115 East Melrose Avenue in Baltimore City, Maryland. At all relevant times herein, Health Care Provider Lindyberg was an actual and/or apparent agent or employee of Health Care Provider Long Green.

19. Health Care Provider Long Green is directly and vicariously liable for the actions and/or inactions of Health Care Provider Lindyberg as alleged in this Statement of Claim.

FACTS COMMON TO ALL COUNTS

20. In February of 2011, Decedent was an 86-year old. Decedent looked forward to living and enjoying his life.

21. On or about January 30, 2011, Decedent was admitted to Sinai Hospital of Baltimore ("Sinai"). At the time of admission, his chief complaint was noted as worsening shortness of breath. During his admission, Decedent improved and stabilized. By February 3, 2011, Decedent was ready for discharge to a skilled nursing facility for acute rehabilitation; not hospice care.

22. A nursing assessment performed on February 2, 2011 revealed that Decedent was alert and keenly responsive, calm, and following commands. Decedent had a documented Glasgow Coma Score of 13. He had equal pupils, which were round and appropriately reactive to light. Decedent appeared to be neurologically stable.

23. On February 3, 2011, Decedent had generally normal and otherwise acceptable vital signs for a man his age, including an oxygen saturation of 100% and a respiratory rate of 16 breaths per minute. His respiratory status was clearly improved from the time of his initial presentation to Sinai. He was not in any acute distress. The tracheostomy tube was clean and properly placed. His chest was clear to auscultation bilaterally. His abdominal examination was

normal. While the patient was non-verbal due to his tracheostomy tube, he was able to follow commands at the time of discharge on February 3, 2011.

24. There was no indication that Decedent desired to die or that he desired to have medical care withdrawn. No health care provider at Sinai even considered palliative care, comfort care, or hospice care for Decedent. Instead, Decedent was discharged to Health Care Provider Long Green - a skilled nursing home facility for rehabilitation.

25. The preadmission screening indicates that Decedent was not likely to require less than 30 days in the nursing home. The same document indicates that Decedent did not have any mental illness that resulted in serious functional limitations in major life activities within the past three to six months.

26. The Sinai discharge summary did not indicate that the patient was obtunded, comatose, in a coma, in a vegetative state, in terminal condition, or in a medical condition that rendered medical care futile. The discharge summary indicated that his respiratory problems resolved. While Decedent was still being treated for a *Clostridium difficile* infection, he was not septic, and there was no evidence of multi-organ system failure.

27. On February 3, 2011, Decedent was discharged to Health Care Provider Long Green, a skilled nursing home facility, for rehabilitation. Health Care Provider Long Green also certified that Decedent will likely remain at the nursing facility for more than 30 days.

28. Decedent did not have an advanced directive. Decedent did not have a lawful agent, guardian, or proxy charged with making health care decisions on behalf of Decedent. At all relevant times herein, Health Care Providers were well-aware of this. Health Care Providers knew or should have known that Decedent had multiple children who were solely and collectively authorized to make health care decisions for Decedent in the event Decedent was

found incompetent to make health care decisions for himself. Health Care Providers knew or should have known that Decedent's children were solely authorized to make health care decision for their father consistent with Md. Code, Health Gen. §5-605.

29. Health Care Providers had an obligation to refer the case to Long Green's patient care advisory committee or similar committee pursuant to Md. Code, Health Gen §5-605 if a decision regarding medical treatment could not be made or if a decision regarding medical treatment was not made by Decedent or his lawful representatives.

30. Health Care Providers knew or should have known that, if they intended to provide care inconsistent with the wishes of Decedent's authorized health care agents or surrogates, Health Care Providers had an obligation to make every reasonable effort to transfer the patient to another health care provider, assist in the transfer, and comply with the instructions of authorized health care decision makers to prevent Decedent's death while the transfer was pending pursuant to Md. Code, Health Gen. §5-605. Health Care Providers utterly failed to comply with the Statute.

31. Health Care Providers knew or should have known how to certify incapacity pursuant to Md. Code, Health Gen. §5-606. Upon information and belief, Health Care Providers failed to comply with the statutory requirements.

32. When the Decedent was admitted to Long Green and for days following his admission, Decedent was not in an end-stage condition as same is defined by Md. Code, Health Gen. §5-601.

33. When the Decedent was admitted to Long Green and for days following his admission, Decedent was a competent individual as same is defined by Md. Code, Health Gen §5-601.

34. When the patient was admitted to Long Green and for days following his admission, Decedent was not incapable of making informed decisions regarding his health care as same is defined by Md. Code, Health Gen §5-601. At all relevant times herein, Decedent was a competent individual who was able to communicate verbally or by means other than speech.

35. When the patient was admitted to Long Green and for days following his admission, none of the proposed medical treatments and interventions (i.e., acute rehabilitation services) were medically ineffective as same are defined by Md. Code, Health Gen. §5-601.

36. At all relevant times herein, Decedent was not in a persistent vegetative state as same is defined by Md. Code, Health Gen. §5-601.

37. At all relevant times herein, Decedent was not in a terminal condition as same is defined by Md. Code, Health Gen. §5-601.

38. At the time of admission, Decedent had relatively normal vital signs for a man his age. The physician's order sheet and interim plan of care reflects that Decedent's prognosis was fair; not poor. Decedent's rehabilitation potential was noted as fair; not poor. The plan of care was indicated as restorative nursing care; not hospice care. The objective of the proposed treatment was to improve Decedent's physical condition. Decedent was encouraged to participate in recreational activities.

39. At the time of admission, Health Care Provider Lindyberg was assigned as Decedent's attending physician. Health Care Provider Lindyberg was an attending physician as same is defined by Md. Code, Health Gen. §5-601. Health Care Provider Lindyberg and all other health care providers described herein were health care practitioners and/or health care providers as defined by Md. Code, Health Gen. §5-601.

40. On February 3, 2011, Health Care Provider Lindyberg certified that Decedent required skilled nursing care. On February 4, 2011, Health Care Provider Lindyberg certified that Decedent required skilled rehabilitation services, including physical therapy and occupational therapy. According to Health Care Provider Lindyberg's own assessment, and given his recommendations, Decedent was hardly a patient that needed to be on comfort care.

41. Interestingly, Health Care Provider Lindyberg and the Long Green Medical Director certified Decedent as incapable of making health care decisions. This determination contradicts Decedent's assessment at the time of discharge from Sinai. The initial nursing assessment at Long Green indicates that the patient was able to provide information. It further indicates that Decedent was not comatose or in a persistent vegetative state. It indicates that the Decedent was oriented to persons and places, that he could hear with minimal difficulty and that his vision was adequate. The initial occupational therapy evaluation reveals that the occupational therapy goals were stated by Decedent, and Decedent participated in the evaluation. The same document shows that Decedent was cooperative, attentive, and had appropriate behaviors. It also documents that Decedent was oriented to self, place, temporal contexts, and others. Contrary to Health Care Provider Lindyberg's assessments, numerous other records indicate that Decedent was capable of making his own health care decisions.

42. On February 4, 2011, Health Care Provider Lindyberg certified that, based on his evaluation, Decedent was not in an end-stage condition, which was defined as an advanced, progressive, irreversible condition caused by injury, disease, or illness that has resulted in severe and permanent deterioration indicated by incompetence and complete physical dependency, and that, to a reasonable degree of medical certainty, treatment of the irreversible condition would be medically ineffective.

43. Health Care Provider Lindyberg also certified that, based on his evaluation, Decedent was not in a persistent vegetative state caused by injury, disease, or illness resulting in a loss of consciousness with no evidence of self-awareness or awareness of surroundings, from which, to a reasonable degree of medical certainty, there can be no recovery.

44. Moreover, Health Care Provider Lindyberg certified based on his evaluation that, to a reasonable degree of medical certainty, Decedent was not in a terminal condition, which is a condition caused by injury disease or illness and which makes death imminent, and from which, despite the application of life-sustaining treatment, there can be no recovery. Otherwise, Health Care Provider Lindyberg certified that Decedent did not have a terminal illness. In fact, the short-term goals and the long-term goals as stated in the initial occupational therapy evaluation do not portray a patient on the brink of dying. The occupational therapist indicated that Decedent's potential for achieving occupational therapy goals was good.

45. At the time of admission, Health Care Provider Lindyberg did not certify that, to a reasonable degree of medical certainty, the administration of antibiotics, blood products, medical tests, IV fluids and artificial nutrition were going to be medically ineffective for Decedent.

46. Decedent was not certified as having a severe medical illness, which resulted in a level of impairment so severe that Decedent could not be expected to benefit from specialized services.

47. On February 4, 2011, Health Care Provider Long Green's medical director also certified to a reasonable degree of medical certainty that Decedent was not in an end-stage condition, in a persistent vegetative state, or in a terminal condition. The Long Green Medical Director did not certify that the administration of antibiotics, blood products, medical tests, IV fluids, and artificial nutrition were medically futile or ineffective.

48. On February 4, 2011, Health Care Provider Lindyberg entered a note indicating that he will consider palliation *once the entire family has discussed* their father's wishes. Instead, Health Care Provider Lindyberg made the decision for the family and for the Decedent without informing each and every member of the family about his intention to withdraw care. Otherwise, he did not obtain their consent.

49. Shockingly, Health Care Provider Lindyberg certified that CPR, mechanical respiration, and hospitalization were going to be medically ineffective for Decedent. Health Care Provider Lindyberg made this decision on his own, without any authority, and without discussing same with the family or Decedent before making his determination. Health Care Provider Lindyberg's decision regarding ineffective medical care was unlawful and without lawful permission, authority or direction.

50. On February 4, 2011, the Medical Director at Long Green made an identical determination regarding ineffective medical treatment, which was equally unlawful and misguided. Equally shocking is the fact that the Medical Director made this decision without performing a single evaluation or assessment of the Decedent.

51. The aforementioned certifications by Health Care Provider Lindyberg and the Medical Director do not indicate that the decision to not resuscitate ("DNR"), intubate ("DNI"), or transfer Decedent to a hospital was communicated to Decedent or his agents, guardians, or surrogates.

52. On February 4, 2011, Health Care Provider Lindyberg entered a separate order indicating "do not resuscitate, do not intubate, do not hospitalize." This order was entered without any lawful authority.

53. On February 5, 2011, Health Care Provider Lindyberg entered another order indicating “do not resuscitate, do not intubate, no transfer to hospital.” This order was also entered without any authority and it was otherwise unlawful.

54. On February 7, 2011, Health Care Provider Lindyberg entered a separate “do not resuscitate” order unlawfully and otherwise without lawful permission, direction, or authorization.

55. On February 7, 2011 a progress note indicates that Decedent was DNR/DNI with no hospital transfers, no antibiotics, no blood products, no medical tests and no IV. An order reflecting same was entered by Health Care Provider Lindyberg the same day. No official certification regarding substitute decision making and treatment limitations was made by any physician on February 7, 2011.

56. A social worker progress note dated February 7, 2011 indicates that Dr. Lindyberg met two of Decedent’s sons to communicate his decision regarding comfort care and limitations on medical care. Dr. Lindyberg did not provide a full disclosure. During this meeting, Health Care Provider Lindyberg discussed Decedent’s medical condition without suggesting that Decedent was on comfort care only and otherwise not receiving appropriate care. He was also told not to withdraw any care.

57. A separate order was entered on February 8, 2011 by Health Care Provider Lindyberg to discontinue all medical tests, vancomycin, folic acid, vitamin D, potassium chloride, calcium carbonate, and warfarin. Health Care Provider Lindyberg also reduced the amount of nutritional intake. Health Care Provider Lindyberg did not have authorization to make these changes.

58. Upon information and belief Health Care Providers stopped providing respiratory care to Decedent including Duoneb and nebulized bronchodilator treatments. He was no longer receiving anticoagulation medication and antibiotics. Upon information and belief, his glucose level was not regularly checked or controlled.

59. On or about February 6, 2011, Health Care Provider Lindyberg inappropriately changed Decedent's feedings from diabetic feedings to non-diabetic feedings, which contained high concentrations of carbohydrates, fats and proteins. Decedent was diabetic with preexisting liver and kidney problems, and he could not appropriately metabolize non-diabetic feedings.

60. As care was inappropriately withdrawn and changed, Decedent's mental status, respiratory status and glycemic status began to deteriorate, and he was becoming critically ill. Because of improper feedings, Decedent became dehydrated with worsening renal clearance and toxic build-up.

61. The family learned about Health Care Providers' decision to withdraw care for the first time on or about February 8, 2011. A social worker progress note indicates that the Unit Manager met with ten of Decedent's children to discuss directives and comfort care measures.

62. The family was outraged when they learned that Decedent had been given only comfort care without their knowledge or permission. The Unit Manger indicated that the decision to withdraw care was made by Health Care Provider Lindyberg, and that it was subsequently communicated to one of Decedent's sons to discuss with the remaining family members.

63. None of the Decedent's children were told about the withdrawal of care until February 8, 2011. Alternatively, the note clearly indicates that a decision to withdraw care was made and care was withdrawn before the alleged communication with one of Decedent's sons

and before all of the children had a chance to consider the withdrawal of care. Health Care Providers knew or should have known that, in the absence of an advanced directive and in the absence of a single lawfully appointed proxy, all of the children had to be informed about changes in medical care and that all of the children had to approve any changes in medical care. In reality, Claimants were not timely informed about the withdrawal of care, and they were not given the chance to consider the matter and make a decision for their father. By the time they were told about the decision to withdraw care, care had been withdrawn for days.

64. As soon as the family discovered that care had been withdrawn without any authorization or permission, they sought to transfer their father to another nursing home as soon as possible so that he could receive the medical care he required.

65. Shockingly, even when the family expressed their concern about the withdrawal of care, which occurred without their permission or knowledge, and even when the family was making plans to transfer the Decedent to another nursing home, Health Care Providers continued to render comfort care only to Decedent.

66. A social worker progress note dated February 9, 2011, indicates that Health Care Provider Lindyberg revised his certification form regarding limitations on medical care to indicate that Decedent was in an end-stage condition, that he was DNR/DNI, and that he was not to be transferred to a hospital. The certification further provided that the Decedent's weight and vital signs are not to be examined and that he should not receive blood products, intravenous fluids, and medical tests. An actual order in this regard was entered by Health Care Provider Lindyberg.

67. On February 9, 2011, a social worker indicated that the family was not yet made aware of Health Care Provider Lindyberg's new certifications and that one of the sons *will* be

informed. Health Care Providers continued to provide limited care without any lawful authorization or permission knowing that comfort care only was contrary to Claimants' wishes.

68. By February 9, 2011, Health Care Provider Lindyberg knew that the family was upset with the care he rendered to their father. So, instead of meeting with all Claimants, he elected to meet with only one of the sons in an attempt to secure consent and approval for his unlawful conduct. Upon information and belief, Health Care Provider Lindyberg was told that the family does not wish to have Decedent on comfort care only. In light of this discussion, Health Care Provider Lindyberg realized what he should have realized all along – that he did not have the authority to withdraw care without Claimants' consent and approval. This is plainly evident from Health Care Provider Lindyberg's progress note of February 9, 2011, which reads:

The case was again discussed with his son Phil, Dr. Levenson, the Long Green Director of Nursing and Social Service. *As a result of discussions with the above, this case is going to be brought to the Ethics Committee of LGC for further evaluation and disposition since the patient does not have a legally appointed surrogate.*

Having realized his error, Health Care Provider Lindyberg ordered that Decedent be continued on tube feedings, that he receive finger sticks to test the blood sugar, and that he continue to receive medications, including insulin.

69. Unfortunately, these changes came too late. As medical care was withdrawn from Decedent, he began to gradually deteriorate. By February 9, 2011, Decedent was obtunded and non-responsive to verbal commands. On February 11, 2011, before the family could transfer Decedent to another nursing facility, Decedent died.

70. At all relevant times herein, Health Care Providers knew or should have known that their withdrawal of care was inappropriate and unlawful. Health Care Provider Long Green's own documentation indicates that:

It is the right of all residents/patients to participate in their own healthcare decision making, including the right to decide whether they wish to accept or refuse life prolonging measures or other treatments.... The resident/patient's lack of an advanced directive at admission will not hamper his/her care within [Long Green].... Within the boundaries of all applicable laws, regulations, and Company policies, [Long Green] staff will make every effort to honor the wishes of residents/patients regarding the use of life sustaining procedures and other health care treatments.

These Health Care Providers did not give Decedent and/or Claimants an opportunity to make their own decisions regarding Decedent's medical treatment.

COUNT I – MEDICAL NEGLIGENCE
(SURVIVAL ACTION BY MICHELLE TYLER-SIMMS, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ERNEST W. TYLER)

Claimant adopts by reference and incorporates herein the allegations in all preceding paragraphs and in all other counts as if fully set forth herein:

71. At all relevant times herein, Health Care Provider Long Green and Health Care Provider Lindyberg, individually and/or jointly, including any and all of their duly-authorized actual and/or apparent agents (i.e., Health Care Provider Lindyberg), servants and employees, represented to Decedent, Claimants, and the public that they possessed the degree of skill, knowledge and ability possessed by reasonably competent medical practitioners, practicing under the same or similar circumstances as those involving Decedent.

72. Claimant alleges that these Health Care Providers, individually and/or jointly, including any and all of their duly-authorized actual and/or apparent agents, servants and employees, owed to Decedent and Claimants the duty to exercise that degree of care, skill and judgment expected of competent medical practitioners acting in the same or similar

circumstances, which duty included: 1) the performance of adequate and proper diagnostic evaluations and assessments to determine the nature and severity of Decedent's conditions, 2) the performance of accurate and proper assessments to determine Decedent's competency to make his own health care decisions, 3) the proper and lawful disclosure of accurate, complete and medically sound information regarding Decedent's condition(s) and changes in treatment plans, 4) lawfully and ethically implementing plans to withdraw care from Decedent, 5) lawfully and ethically permitting Decedent and/or his authorized/lawful representatives to make health care decisions for Decedent, 6) insuring that decisions regarding withdrawal of medical care were lawfully made by authorized and lawful health care decision makers, 7) giving Decedent and/or his authorized/lawful health care decision makers time to transfer Decedent from Long Green when they disagreed with Health Care Providers' plans to withdraw medical care, 8) properly treating and administering medications, while plans were made to transfer Decedent to another health care facility, and 9) failing to timely transfer Decedent's case to the ethics committee.

73. Claimant alleges that the Health Care Providers, acting for themselves and/or by and through their joint or individual actual and/or apparent agents, servants, and employees (i.e., Health Care Provider Lindyberg) breached the applicable standards of care by, *inter alia*:

a. Failing to perform adequate and proper diagnostic evaluations and assessments to determine the nature and severity of Decedent's condition;

b. Failing to perform accurate and proper assessments to determine Decedent's competency to make his own health care decisions;

c. Failing to properly and lawfully disclose information regarding Decedent's conditions and regarding changes in treatment plans;

- d. Failing to lawfully and ethically implement plans to withdraw care from Decedent;
- e. Failing to lawfully and ethically permit Decedent and/or his authorized/lawful representatives to make health care decisions for Decedent.
- f. Failing to give Decedent and/or his authorized/lawful representatives time to transfer Decedent to another health care facility.
- g. Failing to treat and administer medications to Decedent, while Decedent's authorized/lawful representatives made plans to transfer Decedent to another health care facility.
- h. Failing to timely refer Decedent's case to the ethics committee.

74. As a direct, foreseeable, and proximate result of the negligent conduct of these Health Care Providers, individually and/or jointly, including any and all of their duly-authorized actual and/or apparent agents, servants and/or employees, Decedent suffered serious and permanent disabling bodily injuries, including but not limited to, loss of quality of life, loss of medical treatment, loss of dignity, loss of autonomy to make his own health care decisions or to have decisions made by his family according to his wishes, and death.

75. As a further direct, foreseeable and proximate cause of the aforementioned conduct of and by the Health Care Providers, individually and/or jointly, Claimant's Decedent died a tragic and miserable death without dignity and personal autonomy.

WHEREFORE, Claimant, Michelle Tyler-Simms, as the Personal Representative/Executor of the Estate of Ernest Tyler, demands judgment against Health Care Providers, Genesis Healthcare Corporation and Kenneth Lindyberg, individually and/or jointly, for actual, general, special, and compensatory damages in an amount exceeding the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00), exclusive of interests and costs, and any other legal or equitable relief as justice requires.

COUNT II – CONCEALMENT
**(SURVIVAL ACTION BY MICHELLE TYLER-SIMMS, AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF ERNEST W. TYLER)**

Claimant adopts by reference and incorporates herein the allegations in all preceding paragraphs and in all other counts as if fully set forth herein.

76. At all relevant times herein, Health Care Provider Lindyberg was Decedent's treating/attending physician. A physician-patient relationship existed between Health Care Provider Lindyberg and Decedent. As such, a confidential relationship, fiduciary relationship and/or a relationship of trust existed between Health Care Provider Lindyberg and Decedent. Decedent relied on Health Care Provider Lyndyberg to properly treat him and to properly, accurately and completely communicate health care information regarding Decedent's medical condition and proposed course of treatment.

77. Decedent did not have an advanced directive to govern health care decision-making in the event of incapacity. Health Care Providers Lindyberg and Long Green declared Decedent incompetent to make his own health care decisions.

78. As soon as Decedent was declared incompetent to make health care decisions, Claimants (i.e., Decedent's children) collectively became Decedent's sole representatives or agents authorized to make health care decisions for their father. At such time, a confidential relationship, fiduciary relationship or a relationship of trust arose between Health Care Provider Lindyberg and Claimants.

79. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or employees, had a duty to properly, accurately, and completely communicate health care information regarding Decedent's medical condition to Claimants. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or

employees, had a duty to render care to Decedent only with Claimants' consent. Health Care Provider Lindyberg had a duty to obtain Claimants' consent before withdrawing necessary medical care from Decedent. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or employees, had a duty to insure that Claimants consented before limiting Decedent's care to only palliative or comfort care or otherwise withdrawing care.

80. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or employees, failed to disclose material information to Claimants about Decedent's course of medical treatment and related limitations. Health Care Provider Lindyberg failed to disclose that essential and necessary medical care was withdrawn from Decedent. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or employees, failed to disclose to Claimants/Decedent 1) that Decedent was not going to be given antibiotics, 2) that Decedent's vital signs will not be checked, 3) that Decedent was not going to be intubated, resuscitated, or transferred to a hospital if needed, 4) that Decedent was not going to receive any blood products, 5) that Decedent was not going to receive proper respiratory care, 6) that Decedent was not going to be administered any medical tests, 7) that Decedent was not going to receive IVs, 8) that Decedent was not going to receive folic acid, vitamin D, potassium chloride, calcium carbonate, and warfarin, among other things, and 9) that other necessary medical care was or will be withdrawn.

81. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or employees, acted intentionally in failing to disclose relevant medical information and information about withdrawal of medical care. Health Care Provider Lindyberg knew that Claimants would not have agreed to limit Decedent's medical care to palliative care or comfort care had they known that this is exactly what Health Care Provider Lindyberg did or

planned to do. Health Care Providers' acted intentionally, with malice, and/or with reckless disregard for Decedent's autonomy and for Decedent's right to make his own health care decisions or to have these decisions made by his family in accordance with his wishes.

82. Claimants relied on the belief that Decedent was receiving proper medical care and rehabilitative care. Claimants relied on the belief that Health Care Provider Lindyberg was rendering care to rehabilitate and keep Decedent alive. Claimants relied on the belief that their father was accepted to Long Green for acute rehabilitation; not hospice care. At all relevant times, Claimants were justified in their reliance.

83. As a direct result of Health Care Providers, Lindyberg and Long Green's concealment, by and through their actual or apparent agents, or employees, Decedent suffered damages. Decedent was deprived of the right to make his own health care decisions or to have health care decisions made by his family in accordance with his wishes. Decedent was deprived of necessary medical care, and he died because medical care was withdrawn.

WHEREFORE, Claimant, Michelle Tyler-Simms, as the Personal Representative of the Estate of Ernest Tyler, demands judgment against Health Care Providers, Genesis Long Green and Kenneth Lindyberg, individually and/or jointly, for actual, general, special, punitive, and compensatory damages in an amount exceeding the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00), exclusive of interests and costs, and any other legal or equitable relief as justice requires.

COUNT III – CONSTRUCTIVE FRAUD
**(SURVIVAL ACTION BY MICHELLE TYLER-SIMMS, AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF ERNEST W. TYLER)**

Claimant adopts by reference and incorporates herein the allegations in all preceding paragraphs and in all other counts as if fully set forth herein.

84. At all relevant times herein, Health Care Provider Lindyberg was Decedent's treating/attending physician. A physician-patient relationship existed between Health Care Provider Lindyberg and Decedent. As such, a confidential relationship, fiduciary relationship and/or a relationship of trust existed between Health Care Provider Lindyberg and Decedent. Decedent relied on Health Care Provider Lindyberg to properly treat him and to properly, accurately and completely communicate health care information regarding his medical condition and proposed course of treatment.

85. Decedent did not have an advanced directive to govern health care decision-making in the event of incapacity. Health Care Providers, Lindyberg and Long Green, declared Decedent incompetent to make his own health care decisions.

86. As soon as Decedent was declared incompetent to make health care decisions, Claimants (i.e., Decedent's children) collectively became Decedent's sole representatives or agents authorized to make health care decisions for their father. At such time, a confidential relationship, fiduciary relationship or a relationship of trust arose between Health Care Provider Lindyberg and Claimants.

87. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or employees, had a fiduciary or equitable duty to properly, accurately, and completely communicate health care information regarding Decedent's medical condition to Claimants. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or employees, had a fiduciary or equitable duty to render care to Decedent only with Decedent/Claimants' consent. Health Care Providers, Lindyberg and Long Green, had a

fiduciary or equitable duty to obtain Decedent/Claimants' consent before withdrawing necessary medical care from the Decedent. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or employees, had a fiduciary or equitable duty to insure that Decedent/Claimants consented before limiting Decedent's care to only palliative or comfort care.

88. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or employees, failed to disclose material information to Claimants about Decedent's course of medical treatment and limitations on same. Health Care Providers failed to disclose that essential and necessary medical care was withdrawn from Decedent. Health Care Providers, Lindyberg and Long Green, by and through their actual or apparent agents, or employees, failed to disclose to Claimant 1) that Decedent was not going to be given antibiotics, 2) that Decedent's vital signs will not be checked, 3) that Decedent was not going to be intubated, resuscitated, or transferred to a hospital if needed, 4) that Decedent was not going to receive any blood products, 5) that Decedent was not going to receive proper respiratory care, 6) that Decedent was not going to be administered any medical tests, 7) that Decedent was not going to receive IVs, 8) that Decedent was not going to receive folic acid, vitamin D, potassium chloride, calcium carbonate, and warfarin, among other things, and 9) that otherwise care was or will be withdrawn.

89. Claimants were deceived by the Health Care Providers' conduct as described in this Complaint into thinking that their father was receiving care related to acute rehabilitation. Acute rehabilitation was the reason Decedent was transferred to Long Green.

90. By failing to disclose information and obtain proper consent for medical treatment as described in this Complaint, Health Care Providers, Lindyberg and Long Green, by and

through their actual or apparent agents, or employees, breached their fiduciary or equitable duty to disclose information and to obtain consent for Decedent's medical treatment from Decedent/Claimants. Health Care Providers' acted intentionally, with malice, and/or with reckless disregard for Decedent's autonomy and for Decedent's right to make his own health care decisions or to have these decisions made by his family in accordance with his wishes.

91. As a direct result of Health Care Providers, Lindyberg and Long Green's breach of their equitable of fiduciary duties to Claimants and Decedent, by and through their actual or apparent agents, or employees, Decedent suffered injuries and other damages. Decedent was deprived of the right to make health care decisions for himself or to have such decision made by his family in accordance with his wishes. Decedent was deprived of the opportunity to receive medical care consistent with his wishes and/or pursuant to his family's instructions. Decedent was deprived of necessary medical care, and he died because medical care was withdrawn.

WHEREFORE, Claimant, Michelle Tyler-Simms, as the Personal Representative of the Estate of Ernest Tyler, demands judgment against Health Care Providers, Genesis Long Green and Kenneth Lindyberg, individually and/or jointly, for actual, general, special, punitive, and compensatory damages in an amount exceeding the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00), exclusive of interests and costs, and any other legal or equitable relief as justice requires.

COUNT IV- VIOLATION OF THE COMMON LAW
RIGHT TO MAKE HEALTH CARE DECISIONS
(SURVIVAL ACTION BY MICHELLE TYLER-SIMMS, AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF ERNEST W. TYLER)

Claimant adopts by reference and incorporates herein the allegations in all preceding paragraphs and in all other counts as if fully set forth herein.

92. Decedent was entitled to the protection of his common law right as an adult to make his own decisions regarding medical treatment and/or to receive medical care in accordance with his wishes. This right included the right of Claimants, as Decedent's sole authorized health care decision makers, to make health care decisions for Decedent in accordance with his wishes. Decedent/Claimants also had the common law right to refuse medical treatment, including palliative or comfort care.

93. At all times relevant herein, Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including all duly-authorized actual and/or apparent agents, servants and employees, owed to Decedent the duty to respect and protect his common law rights as stated in this Statement of Claim.

94. Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including all duly-authorized actual and/or apparent agents, servants and/or employees, violated such duty knowingly, intentionally, with malice, and/or with reckless disregard for Decedent's autonomy and for Decedent's right to make his own health care decisions or to have health care decisions made by his family in accordance with his wishes, including, but not limited to:

a. Failing to properly and lawfully disclose information regarding Decedent's conditions and regarding changes in treatment plans;

b. Failing to lawfully and ethically implement plans to withdraw care from Decedent;

c. Failing to lawfully and ethically permit Decedent and or his authorized/lawful representatives to make health care decisions for Decedent.

d. Failing to give Decedent and/or his authorized/lawful representatives time to transfer Decedent to another health care facility.

e. Failing to treat and administer medications to Decedent, while Decedent's authorized/lawful representatives made plans to transfer Decedent.

f. Failing to timely refer Decedent's case to the ethics committee.

g. Failing to obtain consent from Decedent and/or Claimants, as his authorized health care decision makers, before withdrawing care from Decedent.

95. As a direct and proximate result of the negligent and/or intentional conduct of Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including any and all of their duly-authorized actual and/or apparent agents, servants and/or employees, Decedent suffered bodily injuries, including but not limited to, loss of quality of life, loss of dignity, and loss of ability to make his own health care decisions or to have health care decisions made in accordance with his wishes. As a further and direct result of the negligent and/or intentional conduct of Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including any and all of their duly-authorized actual and/or apparent agents, servants and employees, Decedent died.

96. As a further result of the conduct of the Health Care Providers herein, individually and /or jointly, Claimant was deprived of the right to receive medical care consistent with his wishes and the wishes of his lawful representatives. As a further direct and proximate result, Decedent died.

97. At all times relevant hereto, Health Care Providers acted intentionally, with malice, and/or with reckless disregard for Decedent's autonomy and for Decedent's right to make his own health care decisions or to have decisions made by his family in accordance with his wishes.

WHEREFORE, Claimant, Michelle Tyler-Simms, as the Personal Representative of the Estate of Ernest Tyler, demands judgment against Health Care Providers, Genesis Healthcare Corporation and Kenneth Lindyberg, individually and/or jointly, for actual, general, special, punitive, and compensatory damages in an amount exceeding the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00), exclusive of interest and costs, and any other legal or equitable relief as justice requires.

COUNT V - VIOLATION OF STATUTORY RIGHTS UNDER
THE HEALTH CARE DECISIONS ACT
(SURVIVAL ACTION BY MICHELLE TYLER-SIMMS, AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF ERNEST W. TYLER)

Claimant adopts by reference and incorporates herein the allegations in all preceding paragraphs and in all other counts as if fully set forth herein.

98. In addition to the common law right to make health care decisions as stated in this Statement of Claim, Decedent possessed rights and protections afforded to him under this State's Health Care Decisions Act, Md. Ann. Code, Health – General Article, §§5-601, *et seq.*

99. Pursuant to the provisions of The Health Care Decisions Act, including, but not limited to, §5-605, Claimants, collectively, were solely authorized to make health care decision for their father. Health Care Providers knew this.

100. Pursuant to the provisions of The Health Care Decisions Act, including, but not limited to, §5-605, absent consent from Claimants, Health Care Providers had an obligation to consult and seek approval from an advisory or ethics committee before withdrawing care from

Decedent. Health Care Providers failed to do this. Otherwise, Health Care Providers needed to obtain the Decedent/Claimants' consent before withdrawing any medical care.

101. Pursuant to of The Health Care Decisions Act, including, but not limited to, §5-605, if Health Care Providers intended to provide care inconsistent with the wishes of Decedent's authorized health care agents or surrogates, Health Care Providers had an obligation to make every reasonable effort to transfer the patient to another health care provider, assist in the transfer, and comply with the instructions of authorized health care decision makers to prevent Decedent's death, while the transfer was pending. Health Care Providers did not comply with these statutory requirements.

102. Otherwise, Health Care Providers did not properly certify Decedent as incompetent to make his own health care decisions. Health Care Providers withdrew care from Decedent in violation of the Maryland Health Care Decisions Act without lawful authorization.

103. In direct violation of the statutorily protected rights and the obligations and duties attendant thereto, Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including all duly-authorized actual and/or apparent agents, servants and employees violated the Maryland Health Care Decisions Act intentionally, with malice, and/or with reckless disregard for Decedent's autonomy and for Decedent's right to make his own health care decisions or to have decisions made by his family in accordance with his wishes pursuant to the Maryland Health Care Decisions Act by withdrawing care from Decedent without permission and by not providing care to Decedent, while transfer to another facility was being arranged.

104. As a direct and proximate result of the negligent and/or intentional conduct of Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including any and all of their duly-authorized actual and/or apparent agents, servants and/or employees, Decedent

suffered bodily injuries, including but not limited to, loss of quality of life, loss of dignity, and loss of ability to make his own health care decisions or to have health care decisions made in accordance with his wishes.

105. As a further and direct result of the negligent and/or intentional conduct of Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including any and all of their duly-authorized actual and/or apparent agents, servants and employees, Decedent died.

106. At all times relevant hereto, Health Care Providers acted intentionally, with malice, and/or with reckless disregard for Decedent's autonomy and for Decedent's right to make his own health care decisions or to have decisions made by his family in accordance with his wishes

WHEREFORE, Claimant, Michelle Tyler-Simms, as the Personal Representative of the Estate of Ernest Tyler, demands judgment against Health Care Providers, Genesis Healthcare Corporation and Kenneth Lindyberg, individually and/or jointly, for actual, general, special, punitive, and compensatory damages in an amount exceeding the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00), exclusive of interest and costs, and any other legal or equitable relief as justice requires.

COUNT VI – INFORMED CONSENT
(SURVIVAL ACTION BY MICHELLE TYLER-SIMMS, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ERNEST W. TYLER)

Claimant, Michelle Tyler-Simms, as the personal representative of the Estate of Ernest Tyler, hereby adopts by reference and incorporates herein the allegations in all preceding paragraphs and in all other counts as if fully set forth herein.

107. At all times relevant herein, Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including all duly-authorized actual and/or apparent agents, servants

and employees, owed to Decedent and Claimants, as Decedent's health care agents/representatives, the duty to explain any and all proposed treatments, interventions and/or withdrawal of care and to warn them of any material risks and/or dangers of such treatments, interventions and/or withdrawal of care, such that Claimants, when acting on behalf of their father, and Decedent, when he was competent to do so, could have made intelligent and informed decisions regarding proposed treatments and interventions, including decisions about the withdrawal of care, palliative care, or comfort care.

108. Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including all duly-authorized actual and/or apparent agents, servants and employees, owed to Decedent and Claimants the duty to accurately inform Decedent and/or Claimants about 1) the nature of Decedent's medical condition, 2) the nature of all proposed treatments, including withdrawal of care, 3) the probability of success of any proposed treatments, 4) alternative methods of treatment, including alternatives to comfort/palliative care, 5) any material risks or side effects associated with any proposed treatment, including palliative/comfort care, 6) and any other information that Claimants and/or Decedent would have considered material in making decisions regarding Decedent's health care, including decisions about withdrawal of medical care.

109. Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including any and all of their duly-authorized actual and/or apparent agents, servants and employees, breached their duty of full and proper disclosure and thereby failed to obtain Decedent and/or Claimants' informed consent, directly or indirectly, for withdrawing care and for the implementation of comfort/palliative care. Among other things, Health Care Providers:

a. Failed to properly and lawfully disclose information regarding Decedent's conditions and regarding changes in treatment plans;

b. Failed to timely and properly inform Decedent and/or Claimants that care may be withdrawn or that care was withdrawn;

e. Failed to timely and properly explain to Decedent and/or Claimants the nature and purpose of comfort care or palliative care;

f. Failed to explain and/or offer alternatives to comfort/palliative care to Decedent and/or Claimants.

g. Failed to explained to Claimants and/or Decedent their options if they refused palliative or comfort care measures; and

h. Failed to timely obtain consent from Decedent or Claimants for withdrawing care before limiting or withdrawing care from Decedent.

110. As a direct and proximate result of all the negligence of Health Care Providers, Lindyberg and Long Green, individually and/or jointly, including any and all of their duly-authorized actual and/or apparent agents, servants and/or employees, Decedent suffered serious and permanent disabling bodily injuries, including but not limited to, loss of quality of life, loss of dignity, and death.

111. As a further direct and proximate result of the wrongful conduct of these Health Care Providers, Decedent was deprived of his right to make health care decisions or to have health care decisions made in accordance with his wishes.

112. Had Health Care Providers disclosed information to Decedent and/or Claimants as discussed in this Complaint, Decedent and/or Claimants would have refused the withdrawal of care. Decedent and/or Claimants would have insisted that medical care be fully provided and that

palliative/comfort care was not acceptable. Had these Health Care Providers refused to provide care as instructed, Decedent would have been transferred to another facility where care would have been provided in accordance with Decedent/Claimants' wishes. Otherwise, Decedent would have received care in accordance with his wishes, and Decedent and Claimants would have avoided injuries/damages as stated in this Complaint.

113. In failing to obtain informed consent from Decedent and/or Claimants, Health Care Providers acted in bad faith, intentionally, with malice, and/or with reckless disregard for Decedent's autonomy and for Decedent's right to make his own health care decisions or to have decisions made by his family in accordance with his wishes pursuant to the Maryland Health Care Decisions Act.

114. Decedent and Claimants were in no way contributorily negligent.

WHEREFORE, Claimant, Michelle Tyler-Simms, as the Personal Representative of the Estate of Ernest Tyler, demands judgment against Health Care Providers, Genesis Healthcare Corporation and Kenneth Lindyberg, individually and/or jointly, for actual, general, special, punitive, and compensatory damages in an amount exceeding the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00), exclusive of interest and costs, and any other legal or equitable relief as justice requires.

COUNT VII – NEGLIGENT SUPERVISION
(SURVIVAL ACTION BY MICHELLE TYLER-SIMMS, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ERNEST W. TYLER)

Claimant adopts by reference and incorporates herein the allegations in all preceding paragraphs and in all other counts as if fully set forth herein.

115. At all relevant times herein, an employment relationship existed between Health Care Provider Long Green and Health Care Provider Lindyberg. Health Care Provider Lindyberg was an actual and/or apparent agent or employee of Health Care Provider Long Green.

116. Within the scope of his agency or employment with Health Care Provider Long Green, Health Care Provider Lindyberg engaged in wrongful conduct as described in this Complaint, including, but not limited to, failing to act within the applicable standards of care as described in Count I of this Complaint, concealing information regarding health care as described in Count II of this Complaint, engaging in constructive fraud as described in Count III of this Complaint, violating Decedent/Claimants' common law and statutory rights as described in Count IV and V of this Complaint, and failing to obtain informed consent from Decedent/Claimants as described in Count VI of this Complaint.

117. Health Care Provider Long Green had actual and/or constructive knowledge that Health Care Provider Lindyberg was not properly communicating with Decedent and Claimants as discussed in this Complaint and that he withdrew and/or planned to withdraw care from Decedent in violation of Decedent/Claimants' wishes and in violation of Maryland law. Health Care Provider Long Green knew or should have known that Health Care Provider Lindyberg withdrew care from Decedent unlawfully, without proper consent, or otherwise improperly as described in this Complaint. Health Care Provider Lindyberg's wrongful conduct was evident when he sought the approval to withdraw care from Long Green's clinical director, not once, but twice. Instead of insuring that proper consent was obtained for the withdrawal of care or that Decedent's case was timely and properly referred to the ethics committee, Health Care Provider Long Green permitted Health Care Provider Lindyberg to unlawfully withdraw care from

Decedent. Health Care Provider Long Green otherwise had actual or constructive knowledge of Health Care Provider Lindyberg's improper conduct.

118. As a direct and proximate result of the actions and/or inactions of Health Care Provider Lindyberg as stated in this Complaint, Decedent and Claimants sustained injuries and other damages as stated in this Complaint, including in Counts I through VI.

119. Health Care Provider Long Green failed to use proper care in supervising Health Care Provider Lindyberg during his care and treatment of Decedent by permitting Health Care Provider Lindyberg to withdraw medical care from Decedent without his/Claimants' consent/knowledge in violation of Maryland law and otherwise engaging in wrongful conduct as described in Counts I through VI.

120. As a direct and proximate result of the actions and/or inactions of Health Care Provider Long Green, including, but not limited to, insuring that care was withdrawn from Decedent with the knowledge and lawful consent of Decedent/Claimants or otherwise pursuant to the Maryland Health Care Decisions Act, Decedent and Claimants suffered injuries and damages as stated in this Complaint, including in Counts I through VIII.

121. In failing to obtain informed consent from Decedent and/or Claimants, Health Care Providers acted in bad faith, intentionally, with malice, and/or with reckless disregard for Decedent's autonomy and for Decedent's right to make his own health care decisions or to have decisions made by his family in accordance with his wishes pursuant to the Maryland Health Care Decisions Act.

122. Decedent and Claimants were in no way contributorily negligent.

WHEREFORE, Claimant, Michelle Tyler-Simms, as the Personal Representative of the Estate of Ernest Tyler, demands judgment against Health Care Providers, Genesis Long Green

and Kenneth Lindyberg, individually and/or jointly, for actual, general, special, punitive, and compensatory damages in an amount exceeding the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00), exclusive of interest and costs, and any other legal or equitable relief as justice requires.

COUNT VIII – WRONGFUL DEATH
(BY CLAIMANTS, INDIVIDUALLY, AGAINST HEALTH CARE PROVIDERS)

Claimants adopt by reference and incorporate herein the allegations in all preceding paragraphs and in all other counts as if fully set forth herein.

123. Claimants, except for Claimant, Juliane Tyler, are the surviving children of the Decedent, Ernest Tyler.

124. Juliane Tyler is the lawful wife of Decedent, Ernest Tyler.

125. As a direct and proximate result of the wrongful conduct of Health Care Providers, Lindyberg and Long Green, by and through their joint and/or individual actual and/or apparent agents, servants, and employees, as described in this Complaint, including in Counts I through VII, Decedent died, and Claimants' relationship with the Decedent was forever destroyed.

126. As a direct and proximate result of the wrongful conduct of these Health Care Providers, Lindyberg and Long Green, by and through their joint and/or individual actual and/or apparent agents, servants, and employees, Decedent suffered bodily injuries and other damages, including but not limited to, loss of quality of life, loss of dignity, and loss of ability to make his own health care decisions or to have health care decisions made in accordance with his wishes.

127. As a further result of the conduct of the Health Care Providers herein, individually and /or jointly, Claimants have suffered in the past and will continue to suffer in the future tremendous grief, mental anguish, emotional pain and suffering, which they would not have had

to endure had Decedent been permitted to make his own health care decisions and had Claimants been permitted to make health care decisions for their father in accordance with his wishes and Maryland law.

128. As a further direct result of the conduct of these Health Care Providers as alleged in this Complaint, Claimants have lost the love, support, guidance, companionship, advice, counsel, care, attention, protection and comfort furnished by their beloved father. The death of their father represents a tragedy from which they will never recover.

129. At all relevant times herein, Health Care Providers acted negligently and/or intentionally, with malice, and/or with reckless disregard for Decedent's autonomy and for Decedent's right to make his own health care decisions or to have decisions made by his family in accordance with his wishes pursuant to the Maryland Health Care Decisions Act.

WHEREFORE, Claimants, individually, demand judgment against Health Care Providers, Genesis Long Green and Kenneth Lindyberg, individually and/or jointly, for actual, general, special, punitive, and compensatory damages in an amount exceeding the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00), exclusive of interest and costs, and any other legal or equitable relief as justice requires.

Respectfully Submitted,

MURPHY, FALCON & MURPHY



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