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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

MILDRED O. WATSON, by and through her Successor-in-Interest, Lisa Watson; LISA WATSON, Individually,

Plaintiffs,

vs.

BEVERLY HILLS REHABILITATION CENTRE, LLC dba Beverly Hills Rehabilitation Centre; CEDARS SINAI MEDICAL CENTER and DOES 1 through 200, inclusive,

Defendants.

CASE NO.: 23STCV28540

Assigned to the Hon. Daniel M. Crowley
Department 71

OPPOSITION TO DEFENDANT CEDARS SINAI MEDICAL CENTER'S DEMURRER TO PLAINTIFFS' FIRST AMENDED COMPLAINT

[Filed concurrently with Opposition to Motion to Strike]

DATE: April 22, 2026
TIME: 8:30 a.m.
DEPT.: 71

Action Filed: November 21, 2023
Trial Date: Not Set

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Plaintiffs hereby submit the following Memorandum of Points & Authorities in Opposition to Defendant CEDARS SINAI MEDICAL CENTER'S Demurrer to Plaintiff's Complaint.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant's demurrer ignores what is actually pled. This is not a case about negligent medical judgment. It is a case about repeated failure to provide basic, non-discretionary care to a completely dependent patient over multiple hospitalizations, resulting in the development and progression of severe pressure injuries, infection, and ultimately death. The FAC does not allege a single isolated act of negligence; it alleges a pattern of neglect across five separate admissions, including failures to turn and reposition, offload pressure, monitor skin integrity, maintain adequate nutrition and hydration, and respond to obvious deterioration despite known, extreme risk. These are not discretionary medical decisions; they are fundamental custodial obligations owed to a dependent adult. Defendant's attempt to recharacterize these allegations as mere "medical care" fails because the FAC targets the absence of basic care, not the quality of medical judgment.

II. THE FACTS IN A COMPLAINT MUST BE ACCEPTED AS TRUE FOR PURPOSES OF RULING ON A DEMURRER

For purposes of ruling on a demurrer, the Court must view the facts in a Complaint as true, no matter how unlikely or improbable. *Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604; *Gervase v. Superior Court* (1995) 31 Cal. App. 4th 1218. A demurrer can be used only to challenge defects that appear on the face of the pleading under attack, or from matters outside the pleading that are judicially noticeable. *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318. For the purpose of testing the sufficiency of a cause of action, the demurrer admits the truth of all material facts property pleaded. *Serrano v. Priest* (1971) 5 Cal.3d 584, 591. In addition, the complaint's "allegations must be liberally construed, with a view to substantial justice between the parties." *See* Cal. Code. Civ. Proc. §452. Furthermore, Defendant makes the argument that Plaintiffs' operative complaint is a sham pleading but Defendant's argument is devoid of merit. Plaintiffs have plead numerous detailed facts of neglect by Defendant, Cedars Sinai Medical Center, against Plaintiff, Mildred O. Watson and have provided a detailed timeline of the facilities Plaintiff was at up until the death of her death. Accordingly, Plaintiffs request that this Court rule on the merits of this demurrer.

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III. FACTUAL BACKGROUND RELATING TO THE PROTECTION OF ELDER/DEPENDENT ADULTS UNDER THE ELDER ABUSE ACT

As expressly noted by the California Legislature, the elderly segment of the population is particularly subject to various forms of abuse and neglect. Physical infirmity or mental impairments, such as those suffered by plaintiff often place the elderly in a dependent and vulnerable position. At the same time, these impairments have left the elderly, and plaintiff herein, incapable of asking for help and/or protection. In addressing this problem, the California Legislature recognized this vulnerability in *Welfare & Institutions Code* section 15600(a)-(d).

Specifically, the California Legislature promulgated the Elder Abuse and Dependent Adult Civil Protection Act ("Elder Abuse Act"), codified in California *Welfare & Institutions Code* sections 15657 through 15657.3. The purpose and intent of the inclusion of *Welfare & Institutions Code* sections 15657 through 15657.3 in the Elder Abuse Act is made clear by the simultaneous addition of subsections (h) and (j) to *Welfare & Institutions Code* section 15600. Pursuant to *Welfare & Institutions Code* section 15600(h), the Legislature declared that infirm, elderly and dependent adults are a disadvantaged class, and that few civil cases are brought in connection with their abuse due to problems with proof, delays and lack of incentives to prosecute these suits.

Indeed, the elderly are among the most vulnerable members of our society and often have a particular need for legal assistance. Welf. & Inst. Code. §15600(h). In declaring its findings regarding elder abuse, the California State Legislature indicated that "it is the intent of the legislature . . . to enable interested persons to engage attorneys to take up the Cause of abused elderly persons and dependent adults." Welf. & Inst. Code. §15600(h).

IV. PLAINTIFF'S ELDER ABUSE CAUSE OF ACTION IS SUFFICIENTLY PLED

A review of the Operative Complaint demonstrates that Plaintiff has alleged sufficient facts to state a claim for elder abuse and neglect against Defendant. The elements of an elder abuse claim with corporate ratification are reflected in CACI VF 3105, and the FAC pleads each of those elements with specificity.

The FAC alleges that decedent was an elder within the meaning of the statute. (FAC ¶15.) It further alleges that Defendant had care and custody of decedent during multiple hospital admissions and undertook responsibility for her basic needs. (FAC ¶¶16, 19–31, 33.) The FAC also alleges that Defendant's employees failed to use reasonable care by failing to protect decedent

from health and safety hazards and by failing to provide necessary medical and custodial care, including basic preventative measures to avoid pressure injuries. (FAC ¶¶17, 20, 22, 26, 34–36.)

The FAC further alleges that Defendant's conduct was a substantial factor in causing decedent's injuries, including the development and progression of pressure injuries, infection, and ultimately her death. (FAC ¶¶19–31, 34–37, 44, 51–64.) It also alleges that Defendant's officers, directors, and managing agents ratified and authorized the wrongful conduct, including through policies and practices involving understaffing, inadequate training, and failure to correct known deficiencies. (FAC ¶¶5, 7, 10, 18, 39–41, 52–57.)

Finally, the FAC alleges that Defendant's employees and managing agents acted with recklessness, oppression, fraud, and/or malice by knowingly disregarding the high risk of harm to a completely dependent patient and failing to implement basic care measures despite repeated warnings and obvious deterioration. (FAC ¶¶19–44, 51–64.)

Taken together, these allegations satisfy each element required under CACI VF 3105 and are more than sufficient to state a claim for elder abuse at the pleading stage.

A. Cedars Undertook A Custodial and Caretaking Role And is Not Immune from Elder Abuse Liability

In *Winn v. Pioneer Medical Group, Inc.* (2016) 63 Cal.4th 148, the California Supreme Court held that a claim of neglect under the Elder Abuse Act requires a caretaking or custodial relationship in which the defendant has assumed significant responsibility for attending to one or more of the basic needs of the elder or dependent adult, needs that an able-bodied, fully competent adult would ordinarily be capable of managing without assistance. The Court emphasized that it is the nature of the relationship, not the defendant's status as a medical provider, that determines whether liability for neglect may arise.

Similarly, in *Oroville Hospital v. Superior Court* (2022) 74 Cal.App.5th 382, the Court held that sporadic or limited medical services, even where the patient is dependent, do not establish the type of substantial custodial relationship required under *Winn*. There, the home health agency provided intermittent in-home wound care services, but did not assume responsibility for the patient's basic daily needs. As such, the court found no custodial relationship sufficient to support an elder abuse claim.

This case is fundamentally different. Here, the FAC alleges that during each of WATSON's hospital admissions, she was profoundly immobile, malnourished, and entirely dependent on staff for all activities of daily living, including repositioning, hygiene, feeding,

hydration, and skin care. (FAC ¶¶19–20, 33.) Unlike the defendants in *Winn* and *Oroville*, CEDARS did not provide limited or intermittent services, it assumed continuous responsibility for WATSON's basic needs during multiple inpatient hospitalizations spanning nearly a year. (FAC ¶¶19–31.)

During these admissions, CEDARS staff were responsible for turning and repositioning WATSON, maintaining her hygiene, ensuring adequate nutrition and hydration, monitoring her skin integrity, and implementing pressure-injury prevention measures. (FAC ¶¶20, 22, 26, 34.) These are precisely the types of custodial functions identified in *Winn*, functions that an able-bodied adult would ordinarily manage independently, but which WATSON could not perform due to her condition. Indeed, the FAC specifically alleges that WATSON was "fully dependent" and that CEDARS undertook a "substantial caretaking and custodial relationship" with her during each admission. (FAC ¶33.)

Moreover, the care at issue was not episodic or limited to discrete medical tasks. WATSON remained under CEDARS' care, custody, and control for extended inpatient stays, during which staff had exclusive responsibility over her environment, movement, hygiene, and basic bodily needs. (FAC ¶¶19–31.) This is the very type of continuous, comprehensive custodial relationship that courts recognize as sufficient to support an elder abuse claim.

Accordingly, unlike *Winn* and *Oroville*, where the defendants provided only outpatient or sporadic care, CEDARS assumed responsibility for WATSON's most fundamental daily needs. The FAC therefore adequately alleges a substantial caretaking and custodial relationship sufficient to support a claim for neglect under the Elder Abuse Act.

B. Plaintiffs Have Pled An Elder Neglect Cause of Action with "Particularity"

A Complaint must state "the facts constituting the cause of action, in ordinary and concise language." *California Code of Civil Procedure* § 425.0(a). Although the general rule requires statutory causes of action to be pleaded with particularity (*Covenant Care, Inc. v. Superior Court* (2004) 32 Cal.4th 771, 790), the plaintiff need only set forth the essential facts of the case with reasonable precision and particularity *sufficient to acquaint the defendant with the nature of the claim. Youngman v. Nevada Irrigation Dist*. (1969) 70 Cal.2d 240, 245 (emphasis added). "The particularity required in pleading facts depends on the extent to which the defendant in fairness needs detailed information that can be conveniently provided by the plaintiff; *less particularity is required where the defendant may be assumed to have knowledge of the facts equal to that possessed by the plaintiff*." *Jackson v. Pasadena City School Dist.* (1963) 59 Cal.2d 876, 879

(emphasis added).

Defendant's argument that the FAC lacks particularity is without merit. Here, the FAC here sets forth a detailed chronology tying specific omissions to specific injuries. The FAC alleges that during the April 2022 admission, no pressure-injury prevention measures were implemented despite immobility, resulting in the initial breakdown. (FAC ¶20.) During the May 2022 admission, a Stage II ulcer was identified at Cedars with no documented turning or prevention measures. (FAC ¶22.) During the January 2023 admission, a known ulcer progressed to a Stage III–IV injury after delays in implementing a specialty mattress and wound care consultation. (FAC ¶26.) During the final admission from February through March 2023, additional pressure injuries developed and the existing wound progressed to a massive Stage IV ulcer leading to sepsis and death. (FAC ¶¶29–31.) These allegations identify when the injuries occurred, where they occurred, what care was not provided, and how the injuries progressed as a result. That is more than sufficient at the pleading stage.

C. Plaintiffs Have Pled Sufficient Facts Constituting "Neglect"

Under the Act, neglect is "[t]he negligent failure of any person having the care or custody of an elder or a dependent adult to *exercise that degree of care that a reasonable person in a like position would exercise*." Welf. & Inst. Code, §15610.57, subd. (a)(1). "Neglect includes, but is not limited to, all of the following: [¶] (1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter. [¶] (2) *Failure to provide medical care for physical and mental health needs*. . . [¶] (3) *Failure to protect from health and safety hazards*. [¶] (4) Failure to prevent malnutrition or dehydration. . ." *Id*. at §15610.57, subd. (b) (1)-(4). (Emphasis added).

In proving neglect, plaintiffs may use regulatory violations to establish the "negligent failures" of which *Welfare and Institutions* Code section 15610.57(a)(1) speaks. *Norman v. Life Care Centers* (2003) 107 Cal. App. 4th 1233, 1240-44, 1248 [elder "neglect" per se arises from regulatory safety rule violations.] Specifically, the state and federal regulations set forth herein set the standard of care and help define the care duty to patients, and said regulations are appropriate in determining whether the facilities conduct amounted to physical abuse, neglect, recklessness, oppression, or malice. (*Norman v. Life Care Centers of America, Inc.* (2003) 107 Cal.App.4th 1233, and *Gregory v. Beverly Enterprises* (2000) 80 Cal.App. 4th 514).

Defendant's contention that these allegations amount only to professional negligence mischaracterizes the FAC. The FAC does not challenge discretionary medical decisions such as diagnosis or treatment selection. Instead, it targets non-discretionary, routine care obligations, such

as turning and repositioning, offloading pressure, maintaining hygiene, monitoring skin integrity, and ensuring adequate nutrition and hydration, all of which are basic custodial functions necessary to prevent harm to a dependent patient. (FAC ¶¶20, 22, 34.) Courts have repeatedly held that the failure to provide such care, particularly where it occurs repeatedly and in the face of known risk, constitutes neglect under the Elder Abuse Act. Here, the FAC alleges that CEDARS knew WATSON was profoundly immobile, malnourished, and at extreme risk for pressure injuries, yet failed to implement or follow basic preventive measures across multiple admissions, including failing to timely provide pressure-relieving surfaces, wound care interventions, and adequate monitoring. (FAC ¶¶20, 26, 33–36.) This is not a case of choosing the wrong treatment; it is a case of failing to provide care at all.

D. Plaintiffs Have Pled Sufficient Facts Constituting Recklessness, Oppression, Fraud, or Malice

To recover enhanced remedies under the Elder Abuse Act, a plaintiff must ultimately prove recklessness, oppression, fraud, or malice. While that is a trial standard—not a pleading requirement—the FAC contains ample factual allegations supporting a reasonable inference that Defendant's conduct rises to that level. Those allegations bring Defendant's misconduct squarely within the purview of the Act.

Whether conduct amounts to recklessness, oppression, fraud, or malice is generally a question of fact for the jury. In *Intrieri v. Superior Court* (2004) 117 Cal.App.4th 72, the Court of Appeal reversed summary judgment, holding that even relatively modest facts, there, placing a keypad code above the door in an Alzheimer's unit, were sufficient to support a reasonable inference of recklessness and create a triable issue. *Id*. at 84. If such minimal conduct is enough to defeat summary judgment, it necessarily follows that far more serious allegations, like those pled here, are sufficient to overcome a demurrer.

Defendant's position, that these allegations are insufficient as a matter of law, is contrary to established authority. The FAC alleges detailed, repeated failures in care, including failure to follow care plans, failure to provide basic medical and custodial care, failure to protect from known health and safety hazards, and failure to implement appropriate interventions despite obvious and escalating risk. (FAC ¶¶7, 10, 18, 19–44, 51–64.) These allegations support a reasonable inference that Defendant acted with a "deliberate disregard of a high degree of probability" that decedent would suffer injury. (*Sababin v. Superior Court* (2006) 144 Cal.App.4th 81, 90.)

Sababin is directly on point. There, the court held that a facility's failure to follow a known care plan and failure to monitor a vulnerable resident's condition supported a finding of recklessness. Id. at 90. The court emphasized that ignoring basic care requirements in the face of known risk permits a trier of fact to conclude the defendant acted with conscious disregard of a high probability of harm.

The same is true here. Plaintiffs allege that Defendant knew of decedent's immobility, malnutrition, and extreme risk for pressure injuries, yet repeatedly failed to implement and follow basic care measures across multiple admissions. (FAC ¶¶19–44.) These are not isolated oversights; they reflect a pattern of disregard for known risks. When the facts and reasonable inferences are viewed in the light most favorable to Plaintiff, they more than adequately support a finding of recklessness, oppression, fraud, or malice. Accordingly, the FAC sufficiently pleads entitlement to enhanced remedies under the Elder Abuse Act.

E. Plaintiffs Have Sufficiently Pled Corporate Ratification/Authorization

These concepts, authorization and ratification, are inherently factual and may be established in a number of ways. One common method, particularly in healthcare settings, is through a prolonged period of noncompliance with basic custodial and health care standards, which supports an inference that the conduct was either authorized by management or ratified through inaction. Here, the FAC alleges that Defendant's misconduct occurred over an extended period of time, across multiple admissions, during which supervisory staff had repeated opportunities—shift by shift—to intervene, assess, and respond to decedent's deteriorating condition, yet failed to do so. (FAC ¶¶19–44.) From these repeated failures, a reasonable inference arises that Defendant's conduct was, at a minimum, acquiesced in and ratified.

Under California law, managing agents are those who exercise substantial discretionary authority over significant aspects of a corporation's business. (*White v. Ultramar, Inc.* (1999) 21 Cal.4th 563, 577.) Whether an employee qualifies as a managing agent, and whether ratification occurred, are questions of fact. Moreover, a plaintiff is not required to identify a specific corporate officer or managing agent at the pleading stage, particularly where those facts lie within the defendant's knowledge. Here, the FAC alleges that Defendant's officers, directors, and managing agents were aware of chronic understaffing, deficient care practices, and the resulting risk of harm to patients like decedent, yet failed to take corrective action. (FAC ¶¶5, 7, 10, 18, 39–41, 52–57.)

Courts routinely find ratification where a defendant is on notice of misconduct and fails to investigate, discipline, or correct it. The FAC alleges precisely that—Defendant retained staff responsible for decedent's care without discipline, failed to investigate the causes of her worsening

condition, and allowed the same deficient practices to continue. (FAC ¶¶39–40, 54.) Such allegations support a reasonable inference that Defendant knew of, accepted, and ratified the wrongful conduct.

Additionally, the FAC alleges that Defendant implemented and maintained corporate policies prioritizing cost-cutting over patient care, including chronic understaffing and the use of inadequately trained personnel, despite knowledge that such practices would lead to patient harm. (FAC ¶¶5, 7, 10, 52–57.) This type of systemic conduct—driven by corporate policy and allowed to persist despite known risks—has repeatedly been recognized as sufficient to support a finding of ratification and corporate liability.

Finally, where, as here, the alleged misconduct is the product of corporate policy or practice, no separate showing of ratification is required. Corporate liability may be established where managing agents themselves are responsible for, or knowingly permit, the conduct at issue. The FAC alleges exactly that: Defendant's managing agents knowingly allowed understaffing, inadequate training, and deficient care practices to persist, resulting in decedent's injuries and death. (FAC ¶¶5, 7, 10, 39–41, 52–57.) These allegations are more than sufficient to support a finding of recklessness, oppression, fraud, and/or malice at the pleading stage.

V. CONCLUSION

For the foregoing reasons, Defendant's Demurrer as to Plaintiffs' Complaint should be overruled in its entirety. If the court sustains the Demurrer, in whole or in part, Plaintiffs respectfully request leave to amend to cure any deficiencies in the Complaint. "[I]t is an abuse of discretion to sustain a demurrer without leave to amend if the plaintiff shows there is a reasonable probability any defect identified by the defendant can be cured by amendment." *Genesis Environmental Services v. San Joaquin Valley Unified Air Pollution Control Dist.* (2003) 113 Cal. App. 4th 597, 603.

DATED: April 9, 2026

PECK LAW GROUP, APC

By: 

Adam J. Peck, Esq.
Attorneys for Plaintiffs

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the action; my business address is 6454 Van Nuys Boulevard, Suite 150, Van Nuys, California 91401.

On April 9, 2026, I served the foregoing document described as set forth below on the interested parties in this action, addressed as follows:

Document Served: **OPPOSITION TO DEFENDANT CEDARS SINAI MEDICAL CENTER'S DEMURRER TO PLAINTIFFS' FIRST AMENDED COMPLAINT**

Person(s) Served: See Attached SERVICE / MAILING LIST

XX (ELECTRONIC TRANSMISSION) The document(s) referenced above were served solely via electronic mail to the individual(s) listed below, from the email address lkoller@thepecklawgroup.com, in accordance with Code of Civil Procedure §1010.6(e)(1) and 1013(g). Accordingly, service has been completed exclusively by electronic transmission.

XX (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED at Van Nuys, California on April 9, 2026

Declarant, Leslie Koller

SERVICE / MAILING LIST

Mildred O. Watson, et al. v. Beverly Hills Rehabilitation Centre, LLC, et al.
LASC Case No. 23STCC28540

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