

2014 WL 4069736 (Mass.Super.) (Trial Pleading)
Superior Court of Massachusetts.
Middlesex County

William MYERSON, and Dorothy Myerson, Plaintiffs,
v.
EMERITUS CORPORATION, a/k/a Emeritus Senior Living, d/b/a Emeritus
At Farm Pond, Smuel Ayekple, and Damaris Diaz Escobar, Defendants.

No. MICV2014-06898.
August 8, 2014.

Complaint

[Robert A. Shuman](#), Esq. BBO # 460780, Robert A. Shuman & Associates, PC, One Chestnut Square, Sharon MA 02067, 781-793-1111, rshuman@shumanlawoffices.com.

[David J. Hoey](#), Esq. BBO #: 628619, Krzysztof G. Sobczak, Esq. BBO #: 680813, Law Offices of David J. Hoey, P.C., 352 Park Street, Suite 105, North Reading, MA 01864, T: (978) 664-3633, F: (978) 664-3643, E: dhoey@hoeylaw.com, E: ksobczak@hoeylaw.com.

PARTIES

1. The plaintiff, William Myerson, is a resident of Westboroug in Worcester County.
2. The plaintiff, Dorothy Myerson, is the wife of William Myerson, and at all times relevant to this action is the attorney-in-fact and agent, as well as the health care proxy of William Myerson, and is resident of Westborough in Worcester County.
3. At all times pertinent hereto, the defendant, Emeritus Corporation a/k/a Emeritus Senior Living is and was a corporation organized under the laws of the State of Washington with a principal place of business located at 3131 Elliot Avenue, Suite 500, Seattle, WA 98121.
4. At all times pertinent hereto, the defendant, Emeritus Corporation a/k/a Emeritus Senior Living was a corporation organized under the laws of the state of Washington with a principal place of business located at 3131 Elliot Avenue, Suite 500, Seattle, WA and has as its Massachusetts Registered Agent: The Prentice-Hall Corporation System, Inc. located at 84 State Street, Boston, MA, Suffolk County, Massachusetts.
5. At all times pertinent hereto, the defendant, Emeritus Corporation, d/b/a Emeritus at Farm Pond, was the owner, operator and/or sponsor of Emeritus at Farm Pond, an assisted living residence within the meaning of 651 C.M.R. §12.00 et seq., located at W. Farm Pond Rd, Framingham, Middlesex County, Massachusetts. Hereinafter, Emeritus Corporation a/k/a Emeritus Senior Living d/b/a Emeritus at Farm Pond will be referred to as “Emeritus at Farm Pond.”
6. At all times pertinent hereto, the defendant, Emeritus Corporation owned and/or operated, or sponsor of, twelve assisted living communities within the Commonwealth of Massachusetts.
7. At all times pertinent hereto, the defendant, Emeritus Corporation has made a representation and a promise to live up to the Emeritus promise that “Our Family is Committed to yours.”

8. At all times pertinent hereto, the defendant, Samuel Ayekple, of legal age, was an agent and employee of Emeritus at Farm Pond and a resident of Framingham, Middlesex County, Massachusetts.

9. At all times pertinent hereto, the defendant Damaris Diaz Escobar (hereinafter “Damaris Diaz”), of legal age, was an agent and employee of Emeritus at Farm Pond and a resident of Framingham, Middlesex County, Massachusetts.

FACTS

10. Mr. William Myerson was admitted to Emeritus at Farm Pond, an assisted living residence on or about March 29, 2014.

11. Prior to this admission, Mr. Myerson was diagnosed with Alzheimer's. Mr. Myerson was at Heywood Hospital for one week. While he was at Heywood Hospital Mr. Myerson underwent a neuropsychological evaluation. After Mr. Myerson's discharge on March 3, 2014 he underwent a series of CT scans and MRI's at Milford Regional Hospital. The family was told that he needed to be put into an assisted living facility.

12. On March 29, 2014 when Mr. Myerson was admitted to Farm Pond, the family was told by the faculty of the facility not to visit Mr. Myerson as the facility wanted to get him acclimated to the new living facility.

13. On April 6, 2014, eight days after Mr. Myerson was admitted, wife Ms. Dorothy Myerson received a phone call at about 9:00PM from the Framingham Police informing her that they found her husband, William Myerson, about 1 mile from the Emeritus at Farm Pond building. William Myerson was taken to Framingham Hospital.

14. When William Myerson's course of hospitalization approached the end, Dorothy was told by Emeritus at Farm Pond staff that William could not come back to Emeritus because William was an “Exit Seeker.”

15. Dorothy Myerson found a new facility for William at Atria Draper in Hopedale. On the day of admission to Atria Draper, Dorothy Myerson received a call from Barbara Harrison, an employee and agent of Emeritus at Farm Pond, telling Dorothy Myerson that some information had come to light regarding her husband and asked if herself, the head of the geriatric psych unit, Amanda Francis, and the vice president could come to her house to speak with her. Dorothy Myerson was not home,

16. About 6:00PM that night, Barbara Harrison called Dorothy Myerson again and told Dorothy that her husband had been **abused** mentally and physically at Emeritus at Farm Pond, by employees of Emeritus, and that the **abuse** had been videotaped.

17. The incident happened at 10:30 am on March 30, 2014. The video showed Mr. Myerson in a diaper, sitting in the common room with no other residents around. When the video started, the male Emeritus employee was in Mr. Myerson's face boxing, Mr. Myerson would put his hands up in defense trying to protect himself. The Emeritus employee was smacking Mr. Myerson on the shoulder and the face. Mr. Myerson was backing away from the **abuse**, which made the male Emeritus employee pursue him more. As Mr. Myerson continued to back away, the male Emeritus employee went behind him and slapped him in the buttocks and told Mr. Myerson to get back to his room. The nurse slapped his buttocks a second time causing Mr. Myerson to fumble onto a chair to regain his balance and get away from the attack. After this, the video was turned off. Upon information and belief the male employee was defendant Samuel Ayekple and the operator of the video recorder was defendant Damaris Dias.

18. Upon information and belief, William Myerson attempted to elope from Emeritus twice after being physically assaulted on March 30, 2014,

19. Since having learned of this **abuse** and the attempted escape, Dorothy Myerson's blood pressure has elevated and her primary care physical believes that it is due to the anxiety she has been experiencing as a result of what her husband has gone through.

COUNT I

Negligence - William Myerson v. Emeritus Corporation d/b/a Emeritus at Farm Pond

20. The Plaintiff hereby alleges and repeats paragraphs 1 through 19 of this Complaint, in the same manner and fashion as if expressly set forth herein.

21. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond, held itself out to be an assisted living residence skilled in the care and supervision of assisted living residents, able to provide said care, services and supervision to the residents of the facility in a safe environment, in a manner conforming to accepted standards and established practices of the assisted living industry.

22. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond, had a duty to secure competent staff for its residents, including, William Myerson.

23. In reliance upon the defendant's representations, the plaintiff, William Myerson, was admitted to Emeritus at Farm Pond on or about March, 29 2014.

24. At all times pertinent hereto, the defendant Emeritus Corporation assured that the dignity of its residence will be maintained and respected at all times.

25. At all times pertinent hereto, the defendant Emeritus Corporation assured that the residents would not be **abused**, neglected or maltreated.

26. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond, by and through its employees, agents and/or servants negligently failed to adequately supervise and assist William Myerson, causing him to be subjected to physical and mental **abuse**.

27. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond, by and through its employees, agents and /or servants, negligently failed to adequately train it's staff, causing William Myerson to be subjected to physical and mental **abuse**.

28. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond, negligently admitted William Myerson to Emeritus Corporation d/b/a Emeritus at Farm Pond when it should have been apparent that it could not adequately care for or supervise him.

29. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond, negligently admitted William Myerson to Emeritus at Farm Pond when they knew they were inadequately staffed.

30. At all times relevant to this complaint, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond, negligently failed to ensure that William Myerson's needs and dignity were cared for.

31. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond negligently failed to discharge William Myerson from Emeritus at Farm Pond when it was apparent that it could not adequately care for or supervise him.

32. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond, negligently failed to hire competent staff to care for and supervise William Myerson.

33. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond, negligently failed to properly train its staff in caring for and supervising William Myerson.

34. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond negligently failed to properly supervise its staff in caring for and supervising William Myerson.

35. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond failed to maintain Mr. Myerson's dignity at all times.

36. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond failed to ensure that Mr. Myerson was free from **abuse**.

37. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond by and through its employees, agents and/or servants, was negligent as it:

i. caused William Myerson to be exposed to risk of personal injury from **abuse**, mistreatment and/or neglect, which did, in fact, occur;

ii. failed to take necessary and appropriate actions to provide adequate supervision and prevent William Myerson from escaping the facility on at least two separate occasions;

iii. failed to provide a safe environment for William Myerson;

iv. failed to take necessary and appropriate measures to prevent William Myerson's health and overall condition from becoming worse while he was a resident at the facility;

v. failed to take necessary and appropriate measures to prevent William Myerson from suffering **abuse** and mistreatment while a resident at Emeritus at Farm Pond;

vi. failed to treat William Myerson with dignity and respect; and

vii. performed the above-mentioned actions willfully and knowingly.

38. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond was negligent as it violated several regulations, including but not limited to:

i. Scope, Purpose and Authority of Procedures and Standards for Assistant Living Residents [651 C.M.R. § 12.01](#);

ii. General Requirements for an Assistant Living Resident [651 C.M.R. § 12.04\(3\)\(a\), \(b\)](#);

iii. Service Plan Requirements [651 C.M.R. § 12.04\(8\)](#);

iv. Staffing Requirements [651 C.M.R. § 12.06\(3\)\(4\)](#); and

v. Resident Rights and Required Disclosures [651 C.M.R. § 12.08\(1\)](#).

39. As a direct and proximate result of the negligence on the part of the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond, William Myerson was a victim of physical and mental **abuse**, suffering from a loss of dignity, and conscious pain and suffering.

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiffs favor and against the Defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond in an amount deemed just and fair by this Honorable Court to compensate William Myerso's personal injuries, bills for medical care and attendance, and pain and suffering, loss of dignity, together with interest, attorney fees, costs of suit, and for such other relief as the Court may award.

COUNT II

Negligence - William Myerson v. Damaris Diaz

40. The Plaintiff hereby alleges and repeats paragraphs 1 through 39 of this Complaint, in the same manner and fashion as if expressly set forth herein.

41. At all times pertinent hereto, the defendant, Damaris Diaz, held herself out to be a trained certified nursing assistant in the care and supervision of assisted living residents, able to provide said care, services and supervision to the residents of the facility in a safe environment, in a manner conforming to accepted standards of the assisted living industry.

42. At all times pertinent hereto, the defendant, Damaris Diaz, had a duty to provide an acceptable standard of care for all residents, including, William Myerson.

43. At all times pertinent hereto, the defendant Damaris Diaz assured that the dignity of all patients would be maintained and respected at all times.

44. At all times pertinent hereto, the defendant Damaris Diaz assured that the residents would not be **abused**, neglected or maltreated.

45. At all times pertinent hereto, the defendant, Damaris Diaz negligently failed to adequately take care of and assist William Myerson, causing him to be subjected to physically and mental **abuse**.

46. At all times relevant to this complaint, the defendant, Damaris Diaz, negligently failed to ensure that William Myerson's needs and dignity were cared for.

47. At all times pertinent hereto, the defendant, Damaris Diaz negligently failed to inform a supervisor when it was apparent that she could not adequately care for or supervise William Myerson.

48. At all times pertinent hereto, the defendant, Damaris Diaz failed to maintain Mr. Myerson's dignity at all times.

49. At all times pertinent hereto, the defendant, Damaris Diaz failed to ensure that Mr. Myerson was free from **abuse**.

50. At all times pertinent hereto, the defendant, Damaris Diaz, was negligent as she:

i. caused William Myerson to be exposed to risk of personal injury from **abuse**, mistreatment and/or neglect, which did, in fact, occur;

ii. failed to provide a safe environment for William Myerson;

iii. failed to take necessary and appropriate measures to prevent William Myerson's health and overall condition from becoming worse while he was a resident at the facility;

- iv. failed to take necessary and appropriate measures to prevent William Myerson from suffering neglect and mistreatment while a resident at Emeritus at Farm Pond;
- v. failed to treat William Myerson with dignity and respect; and
- vi. performed the above-mentioned actions willfully and knowingly.

51. As a direct and proximate result of the negligence on the part of the defendant, Damaris Diaz, William Myerson was a victim of physical and mental **abuse**, suffering from a loss of dignity, and conscious pain and suffering.

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiffs favor and against the Defendant Damaris Diaz in an amount deemed just and fair by this Honorable Court to compensate William Myerson's personal injuries, bills for medical care and attendance, and pain and suffering, loss of dignity, together with interest, attorney fees, costs of suit, and for such other relief as the Court may award.

COUNT III

Negligence- William Myerson v. Samuel Ayekple

52. The Plaintiff hereby alleges and repeats paragraphs 1 through 51 of this Complaint, in the same manner and fashion as if expressly set forth herein.

53. At all times pertinent hereto, the defendant, Samuel Ayekple, held himself out to be a trained certified nursing assistant in the care and supervision of assisted living residents, able to provide said care, services and supervision to the residents of the facility in a safe environment, in a manner conforming to accepted standards of the assisted living industry.

54. At all times pertinent hereto, the defendant, Samuel Ayekple, had a duty to provide an acceptable standard of care for all residents, including, William Myerson.

55. At all times pertinent hereto, the defendant Samuel Ayekple assured that the dignity of all patients would be maintained and respected at all times.

56. At all times pertinent hereto, the defendant Samuel Ayekple assured that the residents would not be **abused**, neglected or maltreated.

57. At all times pertinent hereto, the defendant, Samuel Ayekple negligently failed to adequately take care of and assist William Myerson, causing him to be subjected to physically and mental **abuse**.

58. At all times relevant to this complaint, the defendant, Samuel Ayekple, negligently failed to ensure that William Myerson's needs and dignity were cared for.

59. At all times pertinent hereto, the defendant, Samuel Ayekple negligently failed to inform a supervisor when it was apparent that he could not adequately care for or supervise William Myerson.

60. At all times pertinent hereto, the defendant, Samuel Ayekple failed to maintain Mr. Myerson's dignity at all times.

61. At all times pertinent hereto, the defendant, Samuel Ayekple failed to ensure that Mr. Myerson was free from **abuse**.

62. At all times pertinent hereto, the defendant, Samuel Ayekple, was negligent as he:

i. caused William Myerson to be exposed to risk of personal injury from **abuse**, mistreatment and/or neglect, which did, in fact, occur;

ii. failed to provide a safe environment for William Myerson;

iii. failed to take necessary and appropriate measures to prevent William Myerson's health and overall condition from becoming worse while he was a resident at the facility;

iv. failed to take necessary and appropriate measures to prevent William Myerson from suffering neglect and mistreatment while a resident at Emeritus at Farm Pond;

v. failed to treat William Myerson with dignity and respect; and

vi. performed the above-mentioned actions willfully and knowingly.

63. As a direct and proximate result of the negligence on the part of the defendant, Samuel Ayekple, William Myerson was a victim of physical and mental **abuse**, suffering from a loss of dignity, and conscious pain and suffering.

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiff's favor and against the Defendant Samuel Ayekple in an amount deemed just and fair by this Honorable Court to compensate William Myerson's personal injuries, bills for medical care and attendance, and pain and suffering, loss of dignity, together with interest, attorney fees, costs of suit, and for such other relief as the Court may award.

COUNT IV

Assault and Battery- William Myerson v. Emeritus Corporation

64. The Plaintiff hereby realleges and repeats paragraphs 1 through 63 of this Complaint, in the same manner and fashion as if expressly set forth herein.

65. At all times pertinent hereto, the plaintiff states, there is no excuse for **elder abuse**.

66. Emeritus Corporation d/b/a Emeritus at Farm Pond by and through its employees, intentional touched, and applied physical force to William Myerson in a harmful or offensive manner without William's consent.

67. At all times pertinent hereto, the defendant, Emeritus Corporation d/b/a Emeritus at Farm Pond by and through its employees, subjected William Myerson to physical contact which both harmed and created a substantial likelihood of harm, when an employee of Emeritus pretended to box Mr. Myerson and slapped Mr. Myerson on the cheek, the buttocks and the shoulder.

68. Emeritus Corporation d/b/a Emeritus at Farm Pond, as care giver, who received monetary benefit as a result of a bargained for agreement to be responsible for providing primary and substantial assistance for the care of William Myerson, failed to fulfill such responsibility which would adversely affect the physical health of such **elder** person.

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiff's favor and against the Defendant Emeritus Corporation d/b/a Emeritus at Farm Pond in an amount deemed just and fair by this Honorable Court to compensate William Myerson's personal injuries, bills for medical care and attendance, and pain and suffering, loss of dignity, together with interest, attorney fees, costs of suit, and for such other relief as the Court may award.

COUNT V

Civil Assault - William Myerson v. Damaris Diaz

69. The Plaintiff hereby realleges and repeats paragraphs 1 through 68 of this Complaint, in the same manner and fashion as if expressly set forth herein.

70. At all times pertinent hereto, the plaintiff states, there is no excuse for **elder abuse**.

71. At all times pertinent hereto, the defendant, Damaris Diaz subjected William Myerson to an intentional attempt or threat to inflict injury on William, coupled with an apparent ability to cause the harm which created a reasonable apprehension of bodily harm or offensive contact to William.

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiff's favor and against the Defendant Damaris Diaz in an amount deemed just and fair by this Honorable Court to compensate William Myerso's personal injuries, bills for medical care and attendance, and pain and suffering, loss of dignity, together with interest, attorney fees, costs of suit, and for such other relief as the Court may award.

COUNT VI

Civil Assault and Battery- William Myerson v. Samuel Ayekple

72. The Plaintiff hereby realleges and repeats paragraphs 1 through 70 of this Complaint, in the same manner and fashion as if expressly set forth herein.

73. At all times pertinent hereto, the plaintiff states, there is no excuse for **elder abuse**.

74. Samuel Ayekple intentional touched, and applied physical force to William Myerson in a harmful or offensive manner without William's consent

75. At all times pertinent hereto, the defendant, Samuel Ayekple subjected William Myerson to physical contact which both harmed and created a substantial likelihood of harm, when he pretended to box Mr. Myerson and slapped Mr. Myerson six times on the cheek and two times on the buttocks,

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiffs favor and against the Samuel Ayekple in an amount deemed just and fair by this Honorable Court to compensate William Myerson's personal injuries, bills for medical care and attendance, and pain and suffering, loss of dignity, together with interest, attorney fees, costs of suit, and for such other relief as the Court may award.

COUNT VII

Intentional Infliction of Emotional Distress- William Myerson v Emeritus Corporation

76. The plaintiff hereby realleges and repeats paragraph 1 - 75 of this Complaint, in the same manner and fashion as it expressly set forth herein.

77. Emeritus Corporation knew or should have known that emotional distress would likely be the result of their employees' **abusive** conduct while they were employed by the facility at the time of the incident.

78. Emeritus Corporation, through their employee's conduct was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community

79. The actions of the defendant were the direct cause of the plaintiff's distress

80. The emotional distress suffered by Mr. Myerson was severe and such in nature that no reasonable person would be expected to endure it.

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiffs favor and against the defendant, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff for his injuries together with interest, attorney fees, costs of suit, and for such other relief that the Court may award.

COUNT VIII

Intentional Infliction of Emotional Distress- William Myerson v Damaris Diaz

81. The plaintiff hereby realleges and repeats paragraph 1-80 of this Complaint, in the same manner and fashion as it expressly set forth herein.

82. Damaris Diaz knew or should have known that emotional distress would likely be the result of her **abusive** conduct while she were employed by the facility at the time of the incident.

83. Damaris Diaz' sconduct was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community

84. The actions of the defendant were the direct cause of the plaintiffs distress

85. The emotional distress suffered by William Myerson was severe and such in nature that no reasonable person would be expected to endure it.

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiffs favor and against the defendant, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff for his injuries together with interest, attorney fees, costs of suit, and for such other relief that the Court may award.

COUNT IX

Intentional Infliction of Emotional Distress- William Myerson v Samuel Ayekple

86. The plaintiff hereby realleges and repeats paragraph 1- 85 of this Complaint, in the same manner and fashion as it expressly set forth herein.

87. Samuel Ayekple knew or should have known that emotional distress would likely be the result of his **abusive** conduct while he was employed by the facility at the time of the incident.

88. Samuel Ayekple's conduct was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community

89. The actions of the defendant were the direct cause of the plaintiff's distress

90. The emotional distress suffered by William Myerson was severe and such in nature that no reasonable person would be expected to endure it.

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiffs favor and against the defendant, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff for his injuries together with interest, attorney fees, costs of suit, and for such other relief that the Court may award.

COUNT X

Negligent Infliction of Emotional Distress- Dorothy Myerson v Emeritus Corporation

91. The plaintiff hereby realleges and repeats paragraphs 1 -90 of this Complaint, in the same manner and fashion as it expressly set forth herein

92. Emeritus Corporation knew or should have known that emotional distress would likely be the result of their employee's **abusive** conduct while they were employed by the facility at the time of the incident

93. The defendants had a duty to protect and supervise William Myerson while he was in their facility. The defendant's lack of trained and professional staff breached this duty, creating severe emotional distress to wife, Dorothy Myerson resulting in the direct cause of Dorothy Myerson's severe anxiety and elevated blood pressure. A reasonable person would have suffered emotional distress under the circumstances of this case

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiff Dorothy Myerson's favor and against the defendant, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff for her injuries together with interest, attorney fees, costs of suit, and for such other relief that the Court may award.

COUNT XI

Negligent Infliction of Emotional Distress- Dorothy Myerson v Damaris Diaz

94. The plaintiff hereby realleges and repeats paragraphs 1 -93 of this Complaint, in the same manner and fashion as it expressly set forth herein

95. Damaris Diaz knew or should have known that emotional distress would likely be the result of her conduct while she was employed by the facility at the time of the incident

96. Damaris Diaz had a duty to protect and supervise William Myerson while he was in their facility. The defendant's lack supervision and care created severe emotional distress to wife, Dorothy Myerson resulting in the direct cause of Dorothy Myerson's severe anxiety and elevated blood pressure. A reasonable person would have suffered emotional distress under the circumstances of this case

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiff Dorothy Myerson's favor and against the defendant, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff for her injuries together with interest, attorney fees, costs of suit, and for such other relief that the Court may award.

COUNT XII

Negligent Infliction of Emotional Distress- Dorothy Myerson v Samuel Ayekple

97. The plaintiff Dorothy Myerson hereby realleges and repeats paragraphs 1 - 96 of this Complaint, in the same manner and fashion as it expressly set forth herein.

98. Samuel Ayekple knew or should have known that emotional distress would likely be the result of his **abusive** conduct while he was employed by the facility at the time of the incident

99. Samuel Ayekple had a duty to protect and supervise William Myerson while he was in their facility. The defendant's lack supervision and care created severe emotional distress to wife, Dorothy Myerson resulting in the direct cause of Dorothy Myerson's severe anxiety and elevated blood pressure. A reasonable person would have suffered emotional distress under the circumstances of this case

WHEREFORE, the plaintiff Dorothy Myerson prays that judgment be entered in the plaintiff Dorothy Myerson 's favor and against the defendant, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff for her injuries together with interest, attorney fees, costs of suit, and for such other relief that the Court may award.

COUNT XIII

Loss of Consortium- Dorothy Myerson v Emeritus Corporation

100. The plaintiff's spouse, Dorothy Myerson, realleges, repeats and incorporates the allegations of paragraph 1-99 as if expressly rewritten and set forth herein

101. As the direct and proximate result of Emeritus Corporations' negligence and carelessness, all as aforesaid, the plaintiff's spouse Dorothy Myerson has been deprived of the seres, protection, care, assistance, society companionship, comfort, counsel, advice, love and affection of Mr. Myerson.'

WHEREFORE, the plaintiff Dorothy Myerson prays that judgment be entered in the plaintiff Dorothy Myerson's favor and against the defendant, Emeritus Senior Living Corporation, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff Dorothy Myerson for her injuries together with interest, attorney feeds, costs of suit, and for such other relief that the Court may award.

COUNT XIV

Loss of Consortium- Dorothy Myerson v Damaris Diaz

102. The plaintiff's spouse Dorothy Myerson realleges, repeats and incorporates the allegations of paragraph 1-101 as if expressly rewritten and set forth herein

103. As the direct and proximate result of Damaris Diaz's negligence and carelessness, all as aforesaid, the plaintiff's spouse Dorothy Myerson has been deprived of the services, protection, care, assistance, society companionship, comfort, counsel, advice, love and affection of Mr. Myerson.'

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiff Dorothy Myerson's favor and against the defendant, Damaris Diaz, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff Dorothy Myerson for her injuries together with interest, attorney feeds, costs of suit, and for such other relief that the Court may award.

COUNT XV

Loss of Consortium- Dorothy Myerson v Samuel Ayekple

104. The plaintiff's spouse Dorothy Myerson realleges, repeats and incorporates the allegations of paragraph 1-103 as if expressly rewritten and set forth herein

105. As the direct and proximate result of Samuel Ayekple's negligence and carelessness, all as aforesaid, the plaintiff's spouse Dorothy Myerson has been deprived of the services, protection, care, assistance, society companionship, comfort, counsel, advice, love and affection of Mr. Myerson.'

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiff Dorothy Myerson 's favor and against the defendant, Samuel Ayekple, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff Dorothy Myerson for her injuries together with interest, attorney fees, costs of suit, and for such other relief that the Court may award.

COUNT XVI

Respondent Superior v. William Myerson v. Emeritus Corporation

106. The plaintiff hereby realleges and repeats paragraphs 1 - 105 of this Complaint, in the same manner and fashion as it expressly set forth herein.

107. At all times pertinent hereto, the co-defendants Samuel Ayekple and Damaris Diaz were agents and employees of co-defendant Emeritus Corporation.

108. At all times pertinent hereto, the co-defendants Samuel Ayekple and Damaris Diaz encountered Mr. Myerson only as agents and employees of co-defendant Emeritus Corporation.

109. At all times pertinent hereto, the co-defendants Samuel Ayekple and Damaris Diaz encountered Mr. Myerson as agents and employees of co-defendant Emeritus Corporation within the scope of their employment with Emeritus Corporation.

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiff's favor and against the defendant, Emeritus Senior Living Corporation, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff for his injuries together with interest, attorney fees, costs of suit, and for such other relief that the Court may award.

COUNT XVII

Respondent Superior v. Dorothy Myerson v. Emeritus Corporation

110. The plaintiff hereby realleges and repeats paragraphs 1 - 109 of this Complaint, in the same manner and fashion as it expressly set forth herein.

111. At all times pertinent hereto, the co-defendants Samuel Ayekple and Damaris Diaz were agents and employees of co-defendant Emeritus Corporation.

112. At all times pertinent hereto, the co-defendants Samuel Ayekple and Damaris Diaz encountered Mr. Myerson only as agents and employees of co-defendant Emeritus Corporation.

113. At all times pertinent hereto, the co-defendants Samuel Ayekple and Damaris Diaz encountered Mr. Myerson as agents and employees of co-defendant Emeritus Corporation within the scope of their employment with Emeritus Corporation.

WHEREFORE, the plaintiff prays that judgment be entered in the plaintiff Dorothy Myerson's favor and against the defendant, Emeritus Senior Living Corporation, in an amount deemed just and fair by this Honorable Court to compensate the plaintiff for her injuries together with interest, attorney fees, costs of suit, and for such other relief that the Court may award.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL CLAIMS SO TRIABLE.

Respectfully Submitted,

The Plaintiff, By Their attorney,

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Respectfully Submitted,

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