



IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

PHYLLIS ROBERTSON, as Conservator
 of A.M., an incapacitated adult,

Plaintiff,

vs.

ARABELLA HEALTH AND WELLNESS
 OF GRAND BAY OPCO, LLC;
 ARABELLA HEALTH & WELLNESS OF
 GRAND BAY HOLDCO, LLC; HWOOD
 PARTNERS, LLC; GRAND BAY
 CONVALESCENT HOME, INC.; JEFF
 WILLIAMS; JOANN POSTLES; A, B, C,
 D, E, F, G, H, and I, the persons who
 were the administrators, directors of
 nursing, or employees at Grand Bay
 Convalescent Home, Inc., when A.M.
 was a resident at said facility; J, K, L, M,
 N, and O, the persons who were the
 administrators, directors of nursing, or
 employees at Arabella Health and
 Wellness of Grand Bay OpCo LLC when
 A.M. was a resident at said facility; P, Q,
 R, S, and T, the persons, firm, or legal
 entity who was responsible for creating,
 implementing, enforcing, and complying
 with policies and procedures for the
 prevention of abuse of residents at
 Grand Bay Convalescent Home, Inc.,
 and Arabella Health and Wellness of
 Grand Bay OpCo LLC; U, V, and W, the
 person, firm, or legal entity who was
 responsible for creating, implementing,
 enforcing, and complying with standards
 of care with regard to A.M.; all of whose
 true names are unknown, but will be
 added when ascertained, individually and
 severally,

Defendants.

Civil Action No.: CV-25- _____

JURY TRIAL DEMANDED

COMPLAINT**FIRST CAUSE OF ACTION**

COMES NOW the Plaintiff, Phyllis Robertson, as Conservator of A.M., an incapacitated adult, and alleges against Defendants Arabella Health and Wellness of Grand Bay OpCo, LLC; Arabella Health & Wellness of Grand Bay Holdco, LLC; Hwood Partners, LLC; Grand Bay Convalescent Home, Inc.; Jeff Williams; Joann Postles; A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, and W as follows:

1. A.M. suffers from Phelan-McDermid Syndrome, a condition diagnosed shortly after her birth.

2. As a result of her disabilities, A.M. requires constant care and attention, as she is one-hundred percent dependent upon others for her health, welfare, and safety.

3. On or about February 17, 2022, Defendant Grand Bay Convalescent Home, Inc. ("Grand Bay"), admitted A.M. as a resident of its facility.

4. At the time of her admission to Grand Bay, and throughout her entire admission at both facilities, A.M. was legally incapacitated and incompetent, and dependent upon the staff and employees of Defendants for her care, support, and safety.

5. On or about October 1, 2024, Defendant Arabella Health and Wellness of Grand Bay OpCo LLC ("Arabella"), purchased Defendant Grand Bay Convalescent Home, Inc.

6. Pursuant to this purchase, Defendant Arabella took over operational control of the Grand Bay facility effective October 1, 2024.

7. Arabella Health & Wellness of Grand Bay Holdco, LLC, is a 100% owner of Arabella Health and Wellness of Grand Bay OpCo, LLC, and by virtue of said ownership, controls the activities of said facility.

8. Hwood Partners, LLC, is a 100% owner of Arabella Health and Wellness of Grand Bay Holdco, LLC, and by virtue of said ownership, controls the activities of said entity.

9. Defendant Jeff Williams was the Administrator and/or Executive Director of Grand Bay and/or Arabella Health and Wellness of Grand Bay OpCo, LLC, at all material times herein, acting within the line and scope of said employment.

10. Defendant Joann Postles was the Director of Nursing (DON) of Arabella Health and Wellness of Grand Bay OpCo, LLC, at all material times herein, acting within the line and scope of said employment.

11. On March 7, 2025, the Mobile County Probate Court issues Letters of Conservatorship to Phyllis Robertson, A.M.'s maternal grandmother, over the Estate of A.M.

12. Beginning at least as early as August 2024, and continuing through January 13, 2025, Defendants were aware, or should have been aware, that one of their residents was entering A.M.'s room for the purpose of sexually gratifying himself.

13. Prior to January 13, 2025, A.M. was in a room located directly across from the nurses station, said location being a preferred location due to her total reliance upon the Defendants for her care and support and the ability to closely monitor A.M.

14. At some point, however, Defendant Arabella made the decision to move A.M. to a different room around the corner from the nurses' station, making A.M.'s previous room available for a private pay resident, thereby allowing Arabella to increase their profits by charging a higher fee for this room.

15. The location where A.M. was moved was directly across the hall from the resident who Defendants knew was known to come into A.M.'s room.

16. On December 10, 2024, A.M.'s mother and step-father were visiting A.M.

17. On this date, this same resident was observed in his room staring into A.M.'s room while masturbating.

18. Defendants were immediately notified of this incident, at which time the staff apologized and shut this resident's door.

19. Thus, by January 13, 2025, Defendants clearly knew that one its current residents was engaged in activity that posed a clear and present danger of abuse towards A.M.

20. Despite this knowledge, Defendants failed to take appropriate actions to protect A.M. from further incidences of potential sexual abuse.

21. By failing to take affirmative action to protect A.M., Defendants created an environment that provided an opportunity for this resident to abuse A.M.

22. At approximately 2:12 a.m. CST, January 13, 2025, an Arabella nurse believed to be Ashley Creagh called Melanie Ellinger, A.M.'s Mother, who was at that time living in Colorado.

23. Nurse Creagh was unable to reach Ms. Ellinger, so she left a voicemail asking Ms. Ellinger to return her call.

24. Upon listening to said voicemail that same morning, Ms. Ellinger attempted to contact Arabella concerning A.M., without success.

25. Ms. Ellinger then asked her mother, Ms. Robertson, to go to Arabella and determine the reason the nurse called he in the middle of the night.

26. Ultimately, another Arabella nurse called Ms. Ellinger after Ms. Robertson showed up at Arabella to inquire as to A.M.'s condition and the reason for said telephone call.

27. During this call to Ms. Ellinger, this nurse advised that one of their staff walked into A.M.'s room earlier that morning, and found a male resident either in or sitting on A.M.'s bed, naked and with an erection, touching A.M.

28. Due to the nature of the incident involving A.M., the fact that A.M. is non-verbal and unable to provide any information as to what was done to her, and the fact that Defendants were aware of this particular resident's propensity to engage in sexual conduct involving A.M., Defendants were under a legal duty to immediately report this incident to the appropriate regulatory agencies and authorities.

29. Instead of immediately notifying the appropriate law enforcement and regulatory agencies, Defendants downplayed the incident, claiming that this resident was just trying to "comfort" A.M.

30. Defendants later informed A.M.'s mother that the incident did not occur as previously explained to A.M.'s mother, and that there were no evidence or signs of any abuse.

31. After repeating this false statement to A.M.'s mother, Defendants continued in this attempted coverup by failing to conduct an investigation into a potential criminal assault upon A.M., as required by law.

32. Pursuant to 42 CFR 483.12 et al., residents in an Alabama skilled nursing facility have the right to be free from abuse, neglect, misappropriation of resident property, and exploitation. This includes sexual abuse.

33. Instead of reporting said incident, however, Defendants continued to engage in a systematic and concerted effort to downplay and coverup the incident.

34. It was only after Melanie Ellinger demanded Defendants report the incident did Defendants begin the process of reporting the incident.

35. Additionally, as part of their continuing duty to A.M., and upon notice that a resident was in A.M.'s bed touching her for sexual purposes, Defendants should have immediately transported A.M. to an appropriate medical facility for a sexual abuse examination.

36. Defendants, however, failed to request such an examination.

37. Finally, on January 15, 2025, after A.M.'s Mother demanded such examination, Defendants acquiesced and agreed to transport A.M. to a medical facility so that she could be examined.

38. However, upon arrival to the medical facility, Defendants then made various statements to the medical facility that no such examination was "necessary."

39. Based on the information received from Defendants, the hospital personnel refused to conduct said examination.

40. Eventually, after A.M.'s mother demanded an examination proceed, the medical facility conducted a partial examination, taking labs and administering a pregnancy test, which occurred in the late evening of December 15, 2025, almost 3 days post-incident.

41. By this time, any evidence of sexual assault had either been destroyed or was no longer present.

42. Defendants' conduct in delaying a proper investigation into the abuse of A.M. was reckless and in total disregard for the rights of A.M.

43. As a result of said conduct, Defendants' spoliated potential evidence material to this case.

44. Plaintiff alleges that Defendants were negligent and reckless in one or more of the following manners:

- a. By failing to take appropriate actions or having appropriate safeguards in place to prevent individuals from entering A.M.'s room;
- b. By failing to provide adequate staffing such that residents could not obtain access to A.M.'s room at night;
- c. By allowing individuals to enter A.M.'s room;
- d. By failing to take appropriate action against the resident who entered A.M.'s room, including but not limited to removing said individual from the facility, once said Defendants were aware of said resident's propensity of abuse towards A.M..
- e. By failing to properly investigate the multiple incidences where this resident was entering A.M.'s room, or otherwise in a position to watch A.M., for purposes of sexually gratifying himself, prior to January 13, 2025;
- f. By failing to properly investigate the incident where this resident was found in A.M.'s room on January 13, 2025;
- g. By failing to timely notify the appropriate regulatory and law enforcement authorities of the subject incident involving A.M.;
- h. By failing to immediately transport A.M. to the hospital on the morning of January 13, 2025 for a sexual assault examination of A.M., which allowed potential evidence of sexual assault to be lost or destroyed, thereby spoliating any and all such evidence material to this case.

45. As a proximate consequence of said negligence and wantonness, the Plaintiff suffered abuse, personal injury, and mental anguish, and will so suffer such damages in the future.

WHEREFORE, premises considered, Plaintiff demands judgment against the Defendants, Arabella Health and Wellness of Grand Bay OpCo, LLC; Arabella Health &

Wellness of Grand Bay Holdco, LLC; Hwood Partners, LLC; Grand Bay Convalescent Home, Inc.; Jeff Williams; Joann Postles; A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, and W for compensatory and punitive damages in excess of the jurisdictional threshold of this Court, plus interest and costs.

Respectfully submitted,

HEDGE COPELAND, P.C.

Attorneys for Plaintiff

/s/ Robert J. Hedge

ROBERT J. HEDGE (HED003)

1206 Dauphin Street

Mobile, Alabama 36604

Telephone: (251) 432-8844

Facsimile: (251) 432-8555

Robert@HedgeCopeland.com

Defendant may be served by Certified Mail:

Arabella Health & Wellness of Grand Bay OpCo LLC

Vcorp Agent Services, Inc.

2 North Jackson Street, Suite 605

Montgomery, AL 36104

Arabella Health & Wellness of Grand Bay Holdco LLC

Vcorp Agent Services, Inc.

2 North Jackson Street, Suite 605

Montgomery, AL 36104

Hwood Partners, LLC

13750 U.S. Highway 90

Grand Bay, Alabama 36541

Jeff Williams

13750 U.S. Highway 90

Grand Bay, Alabama 36541

Joann Postles

13750 U.S. Highway 90

Grand Bay, Alabama 36541