

**IN THE CIRCUIT COURT OF THE 15<sup>th</sup> JUDICIAL CIRCUIT,  
IN AND FOR PALM BEACH COUNTY, FLORIDA**

CIRCUIT CIVIL  
Case No.:

GREGORY ROLAND, as  
Plenary Guardian of  
PHYLLIS J. ROLAND,

Plaintiff,

vs.

AVANTÉ AT BOCA RATON, INC.,

Defendant.

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**COMPLAINT**

Plaintiff, GREGORY ROLAND, as Husband and Plenary Guardian of PHYLLIS J. ROLAND, hereby sues Defendant, AVANTÉ AT BOCA RATON, INC. (hereinafter also referred to as “AVANTÉ”) and alleges as follows:

**GENERAL ALLEGATIONS**

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs, and attorneys’ fees.
2. Plaintiff has satisfied all conditions precedent to the filing of this action.
3. That the Plaintiff, GREGORY ROLAND, a resident of Broward County, Florida is the Husband and Plenary Guardian of PHYLLIS J. ROLAND.
4. At all times material hereto, Defendant, AVANTÉ was licensed and authorized to do business as a nursing home in Florida, as AVANTÉ AT BOCA RATON, INC. The Defendant was in the business of owning, managing and maintaining nursing homes and related healthcare facilities, including AVANTÉ AT BOCA RATON, INC. located in Palm Beach County, Florida.

5. At all times material hereto, Defendant, AVANTÉ AT BOCA RATON, INC, was the licensee and owner of AVANTÉ AT BOCA RATON, INC.

6. At all times material hereto, Defendant, AVANTÉ, was subject to the provisions Chapter 400 of the Florida Statutes, which sets the standards for operating nursing homes in Florida.

7. At all times material hereto, PHYLLIS J. ROLAND, was a resident at AVANTÉ beginning on or about August 5, 2015 with her final discharge on or about March 18, 2016.

8. Between her initial admission to AVANTÉ on or about August 5, 2015, and her final discharge to the hospital on or about March 18, 2016, Phyllis Roland had four separate hospital admissions beginning October 9, 2015, November 27, 2015, January 7, 2016 and February 15, 2016.

9. That PHYLLIS J. ROLAND suffered a severe stroke prior to becoming a resident at AVANTÉ and was totally incapable of caring for herself in any way.

10. At all times material hereto, and while a resident at AVANTÉ, Phyllis Roland was blind, unable to speak and totally incapable of defending herself against abuse and neglect.

11. That PHYLLIS J. ROLAND was unable to assist in her own care and was totally dependent on AVANTÉ for all of her care, treatment and protection.

12. At all times material hereto, PHYLLIS J. ROLAND was able to hear, feel pain and was aware of the physical care and treatment being provided to her.

13. That while a resident at AVANTÉ, PHYLLIS J. ROLAND, was the victim of negligent, inadequate and substandard care and treatment and violations of her nursing home resident's rights.

14. As a direct result of the acts and omissions of AVANTÉ, PHYLLIS J. ROLAND

developed a large Stage IV pressure ulcer which required surgical debridement, pressure ulcers on her heels, contractures of her upper and lower extremities, infections, the need for surgical intervention to correct damage caused by substandard and dangerous care of her airway, trachea and overall pulmonary condition as well as other medical conditions.

15. Plaintiff's counsel certifies by signing this Complaint that a good faith investigation into the merits of this claim was made.

16. It has been necessary for GREGORY ROLAND to retain the undersigned firm to bring this claim and he has agreed to pay the firm a reasonable fee for its services.

**COUNT I – CHAPTER 400 CLAIM  
AGAINST DEFENDANT, AVANTÉ**

The Plaintiff, GREGORY ROLAND, Husband of Phyllis Roland at all times material hereto and Plenary Guardian of PHYLLIS J. ROLAND, re-avers and re-alleges each and every allegation contained in paragraphs one (1) through sixteen (16) above, as fully set forth herein and further alleges:

17. Defendant has a statutorily mandated responsibility to PHYLLIS J. ROLAND to provide her with the benefits and protections of her nursing home resident's rights, as set forth in Florida Statute § 400.022; these rights include, but are not limited to, the following:

- a) the right to receive adequate and appropriate healthcare and protective and support services;
- b) the right to privacy in treatment and in caring for her personal needs;
- c) the right to be treated courteously, fairly, and with the fullest measure of dignity and respect;
- d) the right to be free from mental or physical abuse.
- e) the right to a safe environment; and

f) compliance with the regulations for the operation of nursing homes promulgated by the department of Health and Rehabilitative Services as contained in the Florida Administrative Code 59A-4.

18. That Defendant's responsibilities to PHYLLIS J. ROLAND, as outlined in Florida Statute § 400.022, are non-delegable such that Defendant has direct liability for violations, deprivations, and infringements by any person or entity under Defendant's control, direct or indirect, including its employees, agents, apparent agents, consultants and independent contractors, whether in-house or outside entities, individuals, agencies or pools, or caused by Defendant's policies and procedures, whether written or unwritten, or common practices.

19. That in addition to Defendant's direct responsibility under Florida Statute § 400.022 and as alleged in the preceding paragraph, Defendant had vicarious liability for the acts and omissions of all persons or entities under Defendant's control, direct or indirect, including its employees, agents, consultants and independent contractors, whether in-house or outside entities, individuals, agencies or pools causing any deprivations or infringements of PHYLLIS J. ROLAND's resident's rights as set forth in Florida Statute § 400.022.

20. That the duty alleged in the immediately preceding paragraphs include, but are not limited to, proper training and supervision; proper hiring, background and referral screening; and proper retaining and dismissing of employees, agents, apparent agents, consultants and independent contractors, as well as providing adequate staffing.

21. That notwithstanding the responsibility of Defendant to provide PHYLLIS J. ROLAND with her statutorily mandated nursing home resident's rights, PHYLLIS J. ROLAND was deprived of such rights by the negligent acts or omissions of Defendant's agents and employees which include, but are not limited to, the following:

- a) failure to properly supervise PHYLLIS J. ROLAND;
- b) failure to provide adequate and appropriate protective and support services to PHYLLIS J. ROLAND;
- c) failure to provide therapeutic and rehabilitative services to PHYLLIS J. ROLAND consistent with the resident care plan;
- d) failure to protect PHYLLIS J. ROLAND from physical abuse;
- e) failure to protect PHYLLIS J. ROLAND from mental abuse;
- f) failure to treat PHYLLIS J. ROLAND courteously;
- g) failure to treat PHYLLIS J. ROLAND fairly;
- h) failure to treat PHYLLIS J. ROLAND with dignity;
- i) failure to develop, implement and update an adequate and appropriate resident skin integrity care plan to meet the custodial needs of PHYLLIS J. ROLAND;
- j) failure to provide weekly comprehensive skin assessments;
- k) failure to prevent deterioration of the pressure ulcer on or about the area of her Sacrum;
- l) failure to appropriately monitor PHYLLIS J. ROLAND and recognize significant signs and symptoms of change in her health condition, including but not limited to the development of a Stage IV pressure ulcer on or about the area of her Sacrum;
- m) failure to prevent PHYLLIS J. ROLAND from developing osteomyelitis associated with the Stage IV pressure ulcer on or about the area of her Sacrum;

- n) failure to prevent Phyllis J. Roland from needing a wound vacuum to treat the Stage IV pressure ulcer she developed on or about the area of her Sacrum;
- o) failure to properly notify the family and physicians of PHYLLIS J. ROLAND of significant changes in her health status;
- p) failure to implement care plans that addressed PHYLLIS J. ROLAND's risk of developing infections;
- q) failure to implement care plans that addressed PHYLLIS J. ROLAND's risk for developing impaired respiratory function;
- r) failure to implement care plans that addressed PHYLLIS J. ROLAND's increased risk of aspiration;
- s) failure to implement care plans that addressed the use and risk of tube feeding for PHYLLIS J. ROLAND;
- t) failure to implement care plans that addressed PHYLLIS J. ROLAND's risk of dehydration;
- u) failure to provide PHYLLIS J. ROLAND with appropriate incontinence care;
- v) failure to follow universal precautions for the prevention of infection while caring for PHYLLIS J. ROLAND;
- w) failure to protect PHYLLIS J. ROLAND from foreseeable harm;
- x) failure to properly supervise the staff caring for PHYLLIS J. ROLAND;
- y) failure to properly train staff caring for PHYLLIS J. ROLAND;

- z) improper retention of staff caring for PHYLLIS J. ROLAND;
- aa) failure to provide adequate staffing for the care and treatment of PHYLLIS J. ROLAND;
- bb) failure to follow physician orders relating to PHYLLIS J. ROLAND;  
and
- cc) failure to properly document the medical chart of PHYLLIS J. ROLAND pursuant Florida Statute 400, F.A.C.59-A; and 42 C.F.R. 483.

22. As a direct and proximate result of the failure of AVANTÉ to comply with the requirements of Florida Statute 400 and to provide adequate and appropriate healthcare and protective and support services, PHYLLIS J. ROLAND has in the past undergone and will in the future undergo extensive medical care and treatment and has in the past incurred and will in the future incur medical bills and expenses.

23. As a direct and proximate cause of the failure of AVANTÉ AT BOCA RATON, INC. to comply with the requirements of Florida Statute 400, and to provide adequate and appropriate healthcare and protective and support services, PHYLLIS J. ROLAND suffered damages, including loss of dignity; humiliation; bodily injury; pain and suffering, disability, physical impairment; disfigurement; mental anguish, inconvenience; loss of capacity to enjoy life; discomfort; aggravation of existing diseases or physical defect; and medical, hospital and nursing expenses.

**WHEREFORE**, Plaintiff, GREGORY ROLAND, as Husband and Plenary Guardian of PHYLLIS J. ROLAND, demands judgment against AVANTÉ AT BOCA RATON, INC. for all compensatory damages allowed by law for failure to comply with the requirements of Florida

Stature 400 and the deprivation of PHYLLIS J. ROLAND's resident's rights as stated above, and further demands prejudgment interest and for any other relief as the Court deems just and proper.

Plaintiff reserves the right to amend to allege a cause of action for punitive damages at a later date.

**DEMAND FOR JURY TRIAL**

Plaintiff demands trial by jury on all issues so triable.

Respectfully submitted,

**Kelley Uustal, PLC**  
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By:           /S/ Donald J. Fann  
Donald J. Fann, Esquire  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that the foregoing was filed via the Florida Courts' e-Filing

Portal on the 21<sup>st</sup> day of March, 2017.

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