

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO.: _____

MARGARITA NAVARRO, as Personal
Representative of the ESTATE OF MIGUEL
ANTONIO FRANCO, deceased; and

MARGARITA NAVARRO, as Legal
Guardian for CECILIA FRANCO,

Plaintiffs,

v.

REHABILITATION CENTER AT
HOLLYWOOD HILLS, LLC,

Defendant.

_____ /

COMPLAINT

Plaintiff Margarita Navarro, as the Personal Representative of the Estate of Miguel Antonio Franco, and as Legal Guardian for Cecilia Navarro, hereby sues Defendant Rehabilitation Center at Hollywood Hills, LLC, and alleges as follows:

INTRODUCTION

1. This lawsuit arises out of the negligence and reckless indifference that a nursing home facility, Defendant Rehabilitation Center at Hollywood Hills, LLC (the "Rehab Center"), demonstrated toward the elderly residents who were entrusted to its care. As a result of the Rehabilitation Center's failure to prepare for Hurricane Irma, including by failing to secure reliable and effective air conditioning systems to operate in the event of an inevitable and foreseeable power outage, the elderly residents suffered for days in extreme heat and deplorable

conditions.

2. Even worse, the Rehabilitation Center failed to address the obvious health crisis by evacuating the residents or by calling for emergency medical assistance from the hospital that was literally across the street. Instead, it forced the helpless residents to endure for days in the sweltering heat and humidity.

3. To date, ten of the Rehabilitation Center's residents have died, including Miguel Antonio Franco, the father of plaintiff Margarita Navarro. And, an even larger number have suffered injuries and serious damage to their health requiring hospitalization, including Cecilia Franco, the mother of plaintiff Margarita Navarro.

JURISDICTION AND VENUE

4. This is an action for damages which exceed the minimum jurisdictional limits of this Court.

5. Venue is proper in Broward County, Florida, because the Rehabilitation Center is located there, and because Broward County is where the tortious conduct at issue occurred.

PARTIES

6. Plaintiff Margarita Navarro is the daughter of Miguel Antonio Franco and Cecilia Franco, both of whom were residents at a nursing home facility owned and operated by the Defendant Rehabilitation Center at Hollywood Hills, LLC, and both of whom were victims of the Rehabilitation Center's negligence. Mrs. Navarro is the Personal Representative of the Estate of Miguel Antonio Franco and is the Legal Guardian of Cecilia Franco.

7. Defendant Rehabilitation Center at Hollywood Hills, LLC (the "Rehabilitation Center") is a Florida limited liability company that owns and operates a nursing home facility located at 1200 North 35th Avenue in Hollywood, Florida.

GENERAL ALLEGATIONS

8. The Rehabilitation Center is a 152-bed skilled nursing facility located in Hollywood, Florida. According to its own marketing materials, it is located “directly across the street from Hollywood’s Memorial Regional Hospital, so in case of emergency [its] patients have access to even more of the finest health care at all hours of the day or night.”

9. On September 7, 2017, Broward County, Florida was placed under a hurricane and storm surge warning by the National Hurricane Center, and residents were advised to prepare for Hurricane Irma, then a Category 5 hurricane which was anticipated to make landfall on or about September 10, 2017.

10. At the time, both Miguel Antonio Franco and his wife Cecilia Franco were residents at the Rehabilitation Center. Mr. and Mrs. Franco depended on the Rehabilitation Center and its staff for their nursing care and daily needs.

11. As Hurricane Irma approached, Margarita Navarro, the Franco’s daughter, was told by the Rehabilitation Center that her parents would not be evacuated, but was assured that they would be safe and cared for at the Rehabilitation Center. Mr. and Mrs. Franco and the other elderly residents thus depended on the Rehabilitation Center to make the necessary preparations for the approaching hurricane to ensure their safety and wellbeing both during the storm and its aftermath.

12. Unbeknownst to either the Franco’s or Mrs. Navarro, the Rehabilitation Center did not have a generator-powered air conditioning system and had no reliable way of keeping the facility at a safe temperature in the event of a power outage. The Rehabilitation Center knew that it had no such system, knew or should have known that the center would likely suffer

a power outage as a result of the hurricane, and knew or should have known that as a result the temperature inside the facility would become unsafe and dangerous. Notwithstanding these foreseeable, dangerous, and life-threatening conditions, the Rehabilitation Center made no effort to relocate the elderly and vulnerable residents in advance or to secure an adequate cooling system for the facility.

13. As expected, the storm impacted South Florida on Sunday, September 10, 2017. By Sunday afternoon, the power lines operating the cooling systems at the Rehabilitation Center had failed and the internal temperature at the facility began to rise.

14. Thus, by Sunday afternoon, the Rehabilitation Center was aware that its air conditioning equipment had ceased to operate effectively. Notwithstanding the obviously dangerous resulting situation, and with high temperatures forecasted for the area, the Rehabilitation Center's management and staff failed to respond appropriately to ensure the safety of its more than 150 residents, including Mr. and Mrs. Franco.

15. Even as temperatures continued to rise inside the facility over the following days, the Rehabilitation Center did not take steps to evacuate the residents, who were suffering, including Mr. and Mrs. Franco. Instead, they wheeled many of the residents into the hallway, undressed some of them, and left them to remain there, trapped in the sweltering heat.

16. The Rehabilitation Center management and staff could have easily alerted the hospital (that was literally across the street) as to the unfolding crisis, where the residents could have been cared for and spared further suffering. Inexplicably, they failed to do so.

17. Finally, on Wednesday morning at 1:30am, after nearly three days without power to the air conditioning system, someone called 911 to report that a resident at the Rehabilitation Center was in cardiac distress.

18. When emergency personnel responded to the facility, they discovered the horrific conditions, the dozens of elderly residents suffering in the heat, and that, tragically, eight residents would die at the facility as a result. Two more of the elderly residents subsequently died after being evacuated to the nearby hospital.

19. Mrs. Navarro was never alerted by the Rehabilitation Center as to the dire situation that was affecting her parents. Mrs. Navarro's repeated efforts to contact the Rehabilitation Center after the hurricane's impact went unanswered. In fact, to this date, nobody from the Rehabilitation Center has ever contacted Mrs. Navarro or her other family members to explain how this was allowed to happen to her parents or to advise them of Mr. Franco's death – let alone to apologize.

20. On or about September 13, 2017, Mr. Franco died as a result of his continued exposure to the unbearable conditions at the Rehabilitation Center and the negligent conduct of its management and staff. Mrs. Franco survived but suffered severe damage to her health and well-being and had to be evacuated to the nearby hospital, where she remains in serious condition as of the filing of this lawsuit.

21. On September 20, 2017, Florida's Agency for Health Care Administration (AHCA) entered an Emergency Suspension Order immediately suspending the Rehabilitation Centers licensure to operate a nursing home in the State of Florida. Among other findings, AHCA found that the Rehabilitation Center "failed to maintain safe conditions in its Facility; failed to timely evacuate its Facility once conditions were no longer safe for residents; and failed to timely contact '911' during a medical emergency. These failures resulted in the deaths of at least eight (8) residents of the Facility"

CAUSES OF ACTION

COUNT I

WRONGFUL DEATH
(ON BEHALF OF THE MIGUEL ANTONIO FRANCO)

22. Plaintiff adopts and realleges paragraphs 1 through 21 above.

23. This cause of action is brought pursuant to Florida's Wrongful Death Act, Florida Statutes § 768.16, *et seq.* Plaintiff Margarita Navarro, as Personal Representative of the Miguel Antonio Franco brings this action on behalf of the Estate and on behalf of all lawful heirs and beneficiaries of Mr. Franco and his Estate.

24. The Rehabilitation Center, by and through its agents, apparent agents and employees, had and undertook the duty to provide nursing care, safety and shelter to Miguel Antonio Franco during Hurricane Irma and in the days that followed.

25. The Rehabilitation Center, Defendant, by and through its management and staff, breached this duty in one or more of the following ways:

a. by subjecting Mr. Franco to extreme and prolonged heat inside the Rehabilitation Center for several days;

b. by failing to relocate or evacuate Mr. Franco from the Rehabilitation Center, even as conditions there worsened and became life-threatening;

c. by failing to timely recognize that Mr. Franco was in distress and suffering heat-related injuries;

d. by failing to adequately and appropriately assess Mr. Franco's physical and medical condition and to call for emergency assistance from the nearby hospital;

e. by failing to adequately respond to the emergent situation and to render the appropriate care; and

f. by failing to have in place and to carry out an effective and adequate comprehensive emergency plan, including an effective plan to evacuate residents in case of an emergency.

26. As a direct and proximate result of the Rehabilitation Center's negligence, Miguel Antonio Franco died on or about September 13, 2017 at the Rehabilitation Center's facilities.

WHEREFORE, Plaintiff Margarita Navarro, as Personal Representative of the Estate of Miguel Antonio Franco, hereby demands judgment be entered against Defendant Rehabilitation Center at Hollywood Hills, LLC for all compensatory damages allowable by law, pre-judgment interest and costs, and for such other relief as is deemed just and proper.

COUNT II

NEGLIGENCE (ON BEHALF OF CECILIA FRANCO)

27. Plaintiffs adopt and reallege paragraphs 1 through 22 above.

28. The Rehabilitation Center, by and through its agents, apparent agents and employees, had and undertook the duty to provide nursing care, safety and shelter to Cecilia Navarro during Hurricane Irma and in the days that followed.

29. The Rehabilitation Center, Defendant, by and through its management and staff, breached this duty in one or more of the following ways:

a. by subjecting Mrs. Franco to extreme and prolonged heat inside the Rehabilitation Center for several days;

b. by failing to relocate or evacuate Mrs. Franco from the Rehabilitation Center, even as conditions there worsened and became life-threatening;

c. by failing to timely recognize that Mrs. Franco was in distress and

suffering heat-related injuries;

d. by failing to adequately and appropriately assess Mrs. Franco's physical and medical condition and to call for emergency assistance from the nearby hospital;

e. by failing to adequately respond to the emergent situation and to render the appropriate care; and

f. by failing to have in place and to carry out an effective and adequate comprehensive emergency plan, including an effective plan to evacuate residents in case of an emergency.

30. As a direct and proximate result of the Rehabilitation Center's negligence, Cecilia Franco suffered personal injuries and damages to her health and well-being.

WHEREFORE, Plaintiff Margarita Navarro, as Legal Guardian for Cecilia Franco, hereby demands judgment be entered against Defendant Rehabilitation Center at Hollywood Hills, LLC for all compensatory damages allowable by law, pre-judgment interest and costs, and for such other relief as is deemed just and proper.

COUNT III

VIOLATION OF FLORIDA STATUTES § 400.022 (RESIDENT'S RIGHTS) **(ON BEHALF OF MIGUEL ANTONIO FRANCO)**

31. Plaintiffs adopt and reallege paragraphs 1 through 22 above.

32. At all relevant times, the Rehabilitation Center was responsible to ensure that its facility was operated in compliance with the requirements of Chapter 400 of the Florida Statutes, along with all other State and Federal statutes, rules and regulations that apply to nursing home facilities.

33. The Rehabilitation Center, by and through its agents, apparent agents and employees, had and undertook the duty to provide and protect Mr. Franco's nursing home

resident's rights. These rights included the right, pursuant to Florida Statutes § 400.022(1), to receive adequate and appropriate health care and protective and support services.

34. The Rehabilitation Center violated Mr. Franco's rights, including his rights under Florida Statutes § 400.022(1), by:

a. Negligently subjecting Mr. Franco to extreme and prolonged heat inside the Rehabilitation Center for several days;

b. Negligently failing to relocate or evacuate Mr. Franco from the Rehabilitation Center, even as conditions worsened and became life-threatening;

c. Negligently failing to timely recognize that Mr. Franco was in distress and suffering heat-related injuries;

d. Negligently failing to adequately and appropriately assess Mr. Franco and to call for emergency assistance from the nearby hospital;

e. Negligently failing to adequately respond to the emergent situation and to render the appropriate care; and

f. Negligently causing the wrongful death of Mr. Franco.

35. As a direct and proximate result of the Rehabilitation Center's negligence, Miguel Antonio Franco died on or about September 13, 2017 at the Rehabilitation Center's facilities.

WHEREFORE, Plaintiff Margarita Navarro, as Personal Representative of the Estate of Miguel Antonio Franco, hereby demands judgment be entered against Defendant Rehabilitation Center at Hollywood Hills, LLC for all compensatory damages allowable by law, pre-judgment interest and costs, and for such other relief as is deemed just and proper.

COUNT IV

VIOLATION OF FLORIDA STATUTES § 400.022 (RESIDENT'S RIGHTS)
(ON BEHALF OF CECILIA FRANCO)

36. Plaintiffs adopt and reallege paragraphs 1 through 22 above.

37. At all relevant times, the Rehabilitation Center was responsible to ensure that its facility was operated in compliance with the requirements of Chapter 400 of the Florida Statutes, along with all other State and Federal statutes, rules and regulations that apply to nursing home facilities.

38. The Rehabilitation Center, by and through its agents, apparent agents and employees, had and undertook the duty to provide and protect Mrs. Franco's nursing home resident's rights. These rights included the right, pursuant to Florida Statutes § 400.022(1), to receive adequate and appropriate health care and protective and support services.

39. The Rehabilitation Center violated Mrs. Franco's rights, including her rights under Florida Statutes § 400.022(1), by:

a. Negligently subjecting Mrs. Franco to extreme and prolonged heat inside the Rehabilitation Center for several days;

b. Negligently failing to relocate or evacuate Mrs. Franco from the Rehabilitation Center, even as conditions worsened and became life-threatening;

c. Negligently failing to timely recognize that Mrs. Franco was in distress and suffering heat-related injuries;

d. Negligently failing to adequately and appropriately assess Mrs. Franco and to call for emergency assistance from the nearby hospital; and

e. Negligently failing to adequately respond to the emergent situation and to render the appropriate care.

40. As a direct and proximate result of the Rehabilitation Center's negligence, Cecilia Franco suffered personal injuries and damages to her health and well-being.

WHEREFORE, Plaintiff Margarita Navarro, as Guardian for Cecilia Franco, hereby demands judgment be entered against Defendant Rehabilitation Center at Hollywood Hills, LLC for all compensatory damages allowable by law, pre-judgment interest and costs, and for such other relief as is deemed just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all issues triable as of right by a jury.

Respectfully submitted,

ALBERT Z. LEVIN, P.A.
Albert Z. Levin
Courthouse Tower
40 N.W. 3rd Street, Suite 200
Miami, FL 33128
Tel: (305) 379-7101

COLSON HICKS EIDSON, P.A.
255 Alhambra Circle, Penthouse
Coral Gables, Florida 33134
Tel: (305) 476-7400

By: /s/ Curtis Miner
Curtis B. Miner
(Fla. Bar No. 885681)
curt@colson.com