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VENTURA
SUPERIOR COURT**FILED**

OCT 20 2016

MICHAEL D. PLANET
Executive Officer and Clerk

BY: _____ Deputy

DEBRA HEBERT**JAMES R. TRAUT**
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ERIC V. TRAUTBAR#146644
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5 HUTTON CENTRE DRIVE
SANTA ANA, CALIFORNIA 92707(714) 835-7000
FAX (714) 957-5759**REPRESENTING PLAINTIFF****SUPERIOR COURT OF THE STATE OF CALIFORNIA****COUNTY OF VENTURA**

LANI LINK,

Plaintiff,

vs.

JOHN RONCAL; PASSAGES MALIBU PHP,
LLC; PASSAGES SILVER STRAND, LLC;
GRASSHOPPER HOUSE, LLC; AND DOES 1
to 25, inclusive,

Defendants.

CASE NO. 56-2-16-00479572-CU-PO-VTA
Assigned to: Hon. Kevin G. DeNoce
Dept: 43**PLAINTIFF'S SECOND AMENDED
COMPLAINT FOR DAMAGES**

1. WRONGFUL DEATH
2. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
3. NEGLIGENCE INFLICTION OF EMOTIONAL DISTRESS
4. MISREPRESENTATION (FRAUD)
5. CONCEALMENT
6. CONSPIRACY

Complaint Filed: 3/21/2016
Trial Date: None

I.

INTRODUCTION

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3 1. Gregory Link (Hereinafter referred to as "Decedent") was a successful air traffic
4 controller and businessman who lived in Hawaii with his loving wife, plaintiff LANI LINK. He
5 founded Link Properties more than 10 years ago with his brother Tom. They jointly owned four Hawaii
6 rental properties, and Decedent personally managed each of them. He led a comfortable life, but when
7 the pressure of his job at the airport began to weigh down on him, he understandably sought help. It
8 was suggested to him that he go to "Passages," which is advertised to the general public as a substance
9 abuse rehabilitation facility. After a few phone interviews, PASSAGES assured plaintiff and Decedent
10 they would treat Decedent for his anxiety. Plaintiff and Decedent believed Decedent would be in good
11 hands with Passages, and Decedent traveled to California to admit himself into the facility.
12 Unfortunately, this decision to get his life back on track would ultimately be Decedent's last.

13 1a. Decedent was admitted to PASSAGES on April 23, 2015. Once admitted, Decedent
14 was a Dependent Adult under Welfare and Institutions Code 15610.23(b), which includes any person
15 between the ages of 18 and 64 years who is admitted as an inpatient to a 24-hour health facility, as
16 defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code. PASSAGES qualifies
17 as a 24-hour health facility as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety
18 Code. Thus, the Elder Abuse Act, where neglect or abuse of an elder or dependent adult is reckless
19 or done with oppression, fraud, or malice such that the statutory prerequisites are satisfied, damages
20 for the victim's pre-death pain, suffering, or disfigurement are recoverable in a survivor action pursued
21 by the victim's personal representative or successor in interest, notwithstanding the usual prohibition
22 on such recovery under Code of Civil Procedure section 377.34." (Quiroz v. Seventh Ave. Center
23 (2006) 140 Cal.App.4th 1256, 1265.

24 2. Decedent was found the morning after he checked in dead on the floor of his room,
25 with a trash bag tied over his head. His roommate, who was in the room with him the entire night,
26 claimed he did not notice anything out of the ordinary. He allegedly first saw Decedent on the floor
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1 when he awoke, but did not call a nurse for help until he had taken a photo of Decedent and dressed
2 for the day.

3 3. Gregory Link's death was determined to be a suicide by both the investigator and the
4 County Coroner who conducted the autopsy, both of whom have since been either terminated or put
5 on administrative leave as they are together the subject of a conspiracy investigation. Decedent was
6 not depressed or suicidal prior to his death. Passages' employees were instructed not to cooperate with
7 law enforcement during this investigation, and the employees who ignored those instructions have
8 since been fired. Passages actively withheld and concealed evidence from law enforcement and
9 compromised the investigation of Decedent's murder. This, because of the perceived bad publicity that
10 could result from the public learning someone had been brutally murdered at their facility.

11 4. This lawsuit stems from both the tragic loss of a wonderful husband and a genuine
12 concern that this matter has not been the subject of the scrutiny and investigation it deserves. Decedent
13 Gregory Link leaves behind a loving family, who deserves answers and compensation for the
14 incalculable loss they have suffered. But, if not for an exhaustive investigation conducted by plaintiff
15 LANI LINK, and the refusal by two former Passages employees to participate in a cover-up, the truth
16 may never have come out.

17 II.

18 GENERAL ALLEGATIONS

19 A. THE PARTIES

20 5. Plaintiff, LANI LINK ("Plaintiff"), individually and as Successor in Interest of her
21 husband Decedent Gregory Link, brings this action against defendants. Plaintiff is, and was at all times
22 herein relevant, a resident of Honolulu, Hawaii.

23 6. Defendants PASSAGES MALIBU PHP, LLC, PASSAGES SILVER STRAND, LLC,
24 GRASSHOPPER HOUSE, LLC (collectively "PASSAGES") and DOES 1 through 15 are, and at all
25 times mentioned in the Complaint was, authorized to operate by the State of California and the United
26 States government and qualified to do business in the County of Los Angeles and Ventura. Defendant
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1 PASSAGES's place of business, where the following causes of action took place, was and is in the
2 County of Ventura, at 241 Market Street, Port Hueneme. Defendant GRASSHOPPER HOUSE, LLC
3 is, and at all times mentioned in the Complaint was, authorized to operate by the State of California
4 and the United States government and authorized and qualified to do business in the county of Los
5 Angeles. Defendant PASSAGES MALIBU PHP, LLC's place of business, was and is in the County
6 of Los Angeles, at 6428 Meadows Court, Malibu, California 90265. Defendant SILVER STRAND
7 LLC is, and at all times mentioned in this Complaint was, authorized to operate by the State of
8 California and the United States government. Defendant's place of business, was and is in the County
9 of Ventura, at 224 E. Clara Street, Port Hueneme, CA 93041.

10 7. Defendant JOHN RONCAL ("RONCAL") and DOES 16 through 25, were residents of
11 the PASSAGES in Port Hueneme at the time of LINK's death, but are now residents of Little Elm,
12 Texas.

13 8. Plaintiff is ignorant of the true names and capacities of defendants sued herein as DOES
14 1 to 25, Inclusive, and therefore sues said defendants by such fictitious names. Plaintiff will amend
15 this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and
16 believes, and thereon alleges, that each fictitiously named Defendants is responsible in some manner
17 for the occurrences herein alleged, and plaintiff's injuries are herein alleged were proximately caused
18 by defendants' conduct.

19 9. On information and belief, and at all relevant times mentioned in this complaint,
20 defendants were the agents and employees of their co-defendants, and in doing the things alleged in
21 this complaint were acting within the course and scope of their employment. In the alternative, each
22 of the defendants authorized, consented to, and ratified each act and omission, as hereinafter alleged,
23 of the remaining defendants, and each of them.

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1 **B. FACTUAL ALLEGATIONS**

2 **i. PASSAGES**

3 7. Decedent was an air traffic controller in Honolulu, Hawaii, where he lived with his
4 wife, Plaintiff LANI LINK. He began feeling out of sorts, and at a doctor's suggestion, contacted
5 PASSAGES and DOES 1-15 to interview them and determine whether they could treat him for his
6 anxiety and caffeine addiction. He had no prior mental health issues, nor was he ever suicidal.

7 8. After several discussions, PASSAGES and DOES 1-15 assured Plaintiff and Decedent
8 that they could treat Decedent for his anxiety, despite not being equipped or licensed to do so. They
9 also claimed to be able to help Decedent with his caffeine addiction.

10 9. Decedent expressed to PASSAGES and DOES 1-15 over the phone that he was worried
11 he would lose his job if it was revealed he was being treated for anxiety/mental issues, and PASSAGES
12 and DOES 1-15 told Plaintiff and Decedent they would document the reason for his admission as
13 "substance abuse" despite Decedent not having a substance abuse problem. Decedent and Plaintiff
14 were also told Decedent would receive two days of intensive counseling as soon as he arrived.

15 10. Based on those representations, Decedent admitted himself into PASSAGE's Ventura
16 location, located at 224 E. Clara Street, Port Hueneme, CA 93041 on April 23, 2015 for treatment. His
17 brother, Tom Link, was with him during admission.

18 11. During admission, Decedent explained that he was admitting himself to help himself
19 unwind from the stress he was experiencing from work. Decedent had drank vodka before check in,
20 but could not be described as having a substance abuse problem, according to family members. Once
21 PASSAGES' intake staff realized Decedent was not being admitted for substance abuse, Decedent was
22 instructed to stop filling out the admission forms, and that they would be completed for him by
23 PASSAGE's staff.

24 12. Decedent asked the intake staff how much caffeine he could drink, and was told by
25 PASSAGES staff that there were vending machines at various parts of the facility, and that he could
26 have as much as he wanted. Decedent explained that he had spoken with PASSAGES representatives
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1 and was assured that they would treat him for his caffeine addiction.

2 13. Plaintiff and Decedent paid thousands of dollars for the program. Decedent was
3 admitted and then checked into his room after being administered Clonidine by PASSAGES's nursing
4 staff. Decedent was then introduced to his roommate, defendant JOHN RONCAL.

5 **ii. JOHN RONCAL**

6 14. Defendant RONCAL and DOES 16 through 25 ("RONCAL") were patients and
7 residents at Defendant PASSAGES's Ventura facility on the date of the incident, April 24, 2015.
8 RONCAL was inhabiting the room Decedent was ultimately assigned to, and was Decedent's
9 roommate.

10 15. RONCAL was introduced to Decedent and they spoke briefly. Throughout the day,
11 Decedent and RONCAL were in and out of the room. Decedent was generally ignored by PASSAGES
12 staff, and only at Decedent's insistence he be evaluated was Decedent assessed and administered
13 Clonidine two more times by PASSAGES staff. At around 10:00 p.m. Decedent and RONCAL retired
14 to their rooms for the remainder of the night.

15 16. Upon information and belief, at some point in the early morning hours, RONCAL
16 murdered Decedent and placed a trash can over his head. He affixed the trash bag over Decedent's
17 mouth and nose. The scene evidence depicted a struggle, which resulted in blood splatter on
18 RONCAL's bed, and severe bruising on the left side of Decedent's face and forearm, along with
19 multiple cuts and scratches in the same areas. RONCAL asphyxiated Decedent, leaving Decedent
20 on the floor between their respective beds with the trash can still over his head.

21 17. Inexplicably, RONCAL decided to take a photo of Decedent on his cell phone, then
22 proceeded to get ready for the day, and walked to a supervisor station to alert staff of his roommate's
23 disposition, calmly stating Decedent "needed some help." He is also the likely suspect to have stolen
24 \$900 in cash from Decedent before reporting the murder.

25 18. RONCAL was quickly transferred from PASSAGES' Ventura location, to the Malibu
26 location, before eventually being ejected due to increasingly "threatening" behavior toward other
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1 patients, and allegations that he had been videotaping interactions with other patients.

2 **iii. INVESTIGATION**

3 19. Several PASSAGES employees arrived to Decedent's room to assist Decedent. Nurses
4 removed the trash can and trash bag from around Decedent's head, and after attempting to revive him,
5 paramedics were called. At that point, rigor mortis had set in. The police were called and arrived a
6 short time later to investigate.

7 20. PASSAGES's Chief Operating Officer Marina Mahoney conducted a meeting with the
8 Program Manager, Compliance Assistant, and Director of Human Resources of PASSAGES's Ventura
9 location at this time, and told them there was something odd about Decedent's death, explaining that
10 it could have been a homicide. She indicated that she had not revealed all relevant information to the
11 police, insisting she wanted to see a medical report first before doing so. The intention of defendants,
12 and each of them, in withholding the relevant information from the police concerning the true cause
13 of the Decedent's death was to avoid potential civil litigation by plaintiff or criminal investigation of
14 PASSAGES and its agents which led directly to the death of Decedent.

15 21. PASSAGES's staff who had initially responded to the scene had discovered blood on
16 RONCAL's sheets, and were instructed by Marina Mahoney to place these bloody sheets in a bag, and
17 not to show them to the police. Staff was also instructed by Marina Mahoney not to cooperate with
18 police. Marina Mahoney was concerned what affect a "homicide" at PASSAGES's facility would
19 have on prospective customers. It was also Marina Mahoney's intention, as well as the intention of
20 other agents of PASSAGES, whose names are not known at this time, and each of them, in instructing
21 staff not to cooperate with the police concerning the true cause of the Decedent's death, to avoid
22 potential civil litigation by plaintiff or criminal investigation of PASSAGES and its agents which led
23 directly to the death of Decedent.

24 22. The hourly bed checks that were a required PASSAGES policy to be performed were
25 definitely not done between 12:00 a.m. and 3:00 a.m. that morning due to claimed short staffing. The
26 truth may be they did NONE after midnight. Further, the nursing staff that was present at the time of
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1 Decedent's death had not received mandatory training required of them.

2 23. At least two PASSAGES's employees, one of which was the Director of Human
3 Resources, were later terminated from employment at PASSAGES for refusing to comply with Marina
4 Mahoney's unlawful demands to cover-up what really happened, and for bringing to Marina
5 Mahoney's attention the above deficiencies in the PASSAGES staff. Wrongful termination lawsuits
6 have been filed by both employees and are currently pending.

7 **III.**

8 **FIRST CAUSE OF ACTION**

9 **WRONGFUL DEATH - AGAINST DEFENDANT PASSAGES and DOES 1-15**

10 24. Plaintiff incorporates by reference paragraphs 1 through 23 above as if fully stated
11 herein.

12 25. Decedent checked into Defendant PASSAGES's Ventura facility on April 23, 2015.
13 Defendants PASSAGES and DOES 1 through 15, and each of them, were entrusted with the care and
14 overall well-being of Decedent.

15 26. At the time and place aforesaid, these Defendants so negligently, carelessly, recklessly,
16 and unlawfully supervised, treated, handled, and cared for Decedent as to directly and proximately
17 cause his untimely death. As a direct result of said injuries, Decedent died on April 24, 2015.
18 Specifically, these defendants exposed Decedent to RONCAL, who had exhibited threatening
19 behavior in the past, and left him vulnerable to RONCAL; these defendants failed to properly monitor
20 their facility and the persons who they accepted into it; these defendants failed to properly train and
21 prepare PASSAGES staff for handling patrons such as Decedent and RONCAL; these defendants
22 failed to properly supervise PASSAGES staff and patrons including Decedent and RONCAL; these
23 defendants failed to properly treat, handle, oversee, and care for Decedent who was left unattended,
24 unsupervised, and unprotected in the same room as RONCAL.

25 27. As a direct and proximate result of the negligent, careless, reckless, and unlawful acts
26 of Defendant PASSAGES, Decedent was murdered. Prior to his death, Decedent lived with Plaintiff,

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1 and Plaintiff received the affection, services, support, love, care, comfort, companionship, solace, and
2 property of her husband. As a result, Plaintiff LANI LINK has lost her loving husband, all to Plaintiff's
3 damage in a sum within the jurisdiction of this court and to be shown according to proof.

4 28. As a further proximate result of said conduct of Defendants, and each of them, and the
5 resulting murder of Decedent, Plaintiff incurred funeral expenses, and other professional services, the
6 exact total amount of which has not yet been ascertained.

7 28a. The specific and deliberate intention of Marina Mahoney, as well as other agents and
8 employees of defendants, whose names are currently not known, and each of them, in withholding the
9 relevant information from the police concerning the true cause of the Decedent's death was to avoid
10 potential civil litigation brought by plaintiff or criminal investigation of PASSAGES and its agents
11 which led directly to the death of Decedent. It was also the specific and deliberate intent of
12 defendants and each of them to refuse to cooperate from the police, to destroy and alter evidence, such
13 as decedent's body and removal of the body and blood spatter from the crime scene, to avoid civil
14 litigation brought by plaintiff and/or criminal investigation of PASSAGES and its agents which led
15 directly to the death of Decedent.

16 28b. As the surviving spouse of Decedent, plaintiff has standing to sue for the wrongful
17 death of her husband, the Decedent. In today's litigation minded society, it is certainly foreseeable
18 that the death of a patient would result of civil litigation. PASSAGES contemplated that plaintiff
19 might file civil litigation for the wrongful death of her husband against PASSAGES once Decedent's
20 body was found, and evidence that his death may have been a homicide by one of its other patients,
21 specifically RONCAL. In furtherance of attempting to avoid that potential civil litigation, Ms.
22 Mahoney and other PASSAGES' employees conspired to and did, destroy and alter evidence, hid
23 evidence from the police, refused to cooperate with the police in their criminal investigation. This was
24 all done for the specific purpose of avoiding civil litigation for Decedent's wrongful death and to avoid
25 potential criminal prosecution.

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1 **SECOND CAUSE OF ACTION**

2 **WRONGFUL DEATH**

3 **AGAINST DEFENDANT JOHN RONCAL and DOES 16-25**

4 29. Plaintiff hereby incorporates the allegations of paragraphs 1 through 28 as if fully stated
5 herein.

6 30. RONCAL and DOES 16-25 intentionally placed Decedent in imminent danger by
7 placing a trash bag over Decedent's mouth and nose, thereby causing death by asphyxiation.

8 31. At the time and place aforesaid, RONCAL and DOES 16-25 owed a duty to Decedent
9 not to willfully harm him, and a duty to rescue Decedent where to do so would not imperil himself or
10 others. RONCAL and DOES 16-25 violated these duties, thereby causing the untimely death of
11 Decedent.

12 32. As a direct and proximate result of the intentional, malicious, harmful, unlawful and
13 offensive acts of Defendants RONCAL and DOES 16-25, DECEDENT was killed. Prior to his
14 death, Decedent lived with Plaintiff, and Plaintiff received the affection, services, support, love, care,
15 comfort, companionship, solace, and property of her husband. As a result, Plaintiff has lost her loving
16 husband, all to Plaintiff's damage in a sum within the jurisdiction of this court and to be shown
17 according to proof.

18 33. As a further proximate result of said conduct of Defendants, and each of them, and the
19 resulting murder of Decedent, Plaintiff incurred funeral expenses for Decedent, and other professional
20 services, the exact total amount of which has not yet been ascertained.

21 **THIRD CAUSE OF ACTION**

22 **FRAUDULENT CONCEALMENT - DIRECT ACTION**

23 **AGAINST DEFENDANT PASSAGES and DOES 1 - 15**

24 34. Plaintiff hereby incorporates the allegations of paragraphs 1 through 33 as if fully stated
25 herein.

26 35. PASSAGES, and DOES 1 to 15, and each of them, during the course of the
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1 investigation surrounding Decedent's death, actively concealed evidence from law enforcement and
2 the coroner that would have substantially affected their investigation and the determination of how
3 Decedent died. PASSAGES also concealed information from Plaintiff, and refused to provide Plaintiff
4 with the true facts of the circumstances surrounding her husband's death. Plaintiff learned of this
5 concealment from defendant PASSAGES's former employees who were terminated after the
6 investigation surrounding Decedent's death.

7 **A. Communication with law enforcement not privileged.**

8 36. Where the communications between law enforcement and PASSAGES would be
9 absolutely privileged, an exception under Civil Code §47(b)(2) applies, which states, in pertinent part:
10 "This subdivision does not make privileged any communication made in furtherance of an act
11 of intentional destruction or alteration of physical evidence undertaken for the purpose of depriving a
12 party to litigation of the use of that evidence, whether or not the content of the communication is...
13 privileged pursuant to this section."

14 37. PASSAGES intentionally concealed this evidence so as to avoid liability within a
15 criminal and/or civil proceeding, thus doing it to deprive Plaintiff and LINK'S family use of that
16 evidence to that end. Further, had this evidence not been concealed, Plaintiff would certainly be part
17 of a criminal proceeding against RONCAL for the homicide of her husband.

18 38. Additionally, the evidence that was concealed by PASSAGES is considered a "tangible
19 thing" within California Code of Civil Procedure 2031.010 (a) and is therefore discoverable to Plaintiff
20 as authorized under Civil Code §47(b)(2).

21 **B. Passages had duty to disclose to Plaintiff the true facts as to LINK's death.**

22 39. Defendants had a duty to Plaintiff to provide her, as Decedent's wife, with the true facts
23 of how her husband died at these defendants' facility which was supposed to provide care and treatment
24 for Decedent. Passages assumed responsibility as to LINK'S well-being by admitting him into their
25 health facility. Plaintiff herself contacted PASSAGES about the disposition of her husband, and
26 PASSAGES took down her name and number and returned her call at a later time. As PASSAGES
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1 voluntarily spoke to Plaintiff regarding LINK, it was required to make a full and fair disclosure. Esau
2 v. Briggs 89 Cal. App. 2d 427, 434-435 (1948).

3 40. PASSAGES breached this duty by concealing the true circumstances of LINK'S death
4 during their return call to Plaintiff, and did so with the intent to avoid liability. PASSAGES was the
5 only party in this circumstance who had knowledge of the true circumstances. As neither Plaintiff, law
6 enforcement, or the coroner knew of this concealed evidence, and PASSAGES and DOES 1-15
7 intentionally and directly informed its staff to keep this evidence concealed with the intention to
8 deceive Plaintiff.

9 41. In relying on Defendants' intentional concealment of how Decedent actually died,
10 Plaintiff was forced to address the stigma and adverse social, legal, familial, emotional, and financial
11 results of her husband's purported suicide. Plaintiff erroneously reported to LINK's insurance that his
12 death was a suicide instead of a homicide. Additionally, Plaintiff was less involved with her
13 community, and removed from her family and loved ones, as she was shocked and shamed by the
14 revelation of her husband's purported suicide. Plaintiff was irreparably harmed by this concealment,
15 and continues to be harmed at the prospect that her husband, with whom she was happily living, might
16 not have ended his own life, but instead it was taken from him. As a direct and proximate result of this
17 concealment and deception, Plaintiff suffered severe emotional distress and other damages, all to
18 Plaintiff's damage in a sum within the jurisdiction of this court and to be shown according to proof.

19 **C. Passages had duty to disclose to Law Enforcement the true facts as to LINK's**
20 **death.**

21 42. Not only was Plaintiff harmed by this concealment, both law enforcement and the
22 coroner relied on this deception, and were subsequently harmed. PASSAGES was under a duty to
23 report the true circumstances of LINK's death as all entities and citizens are required to do so to avoid
24 obstruction of justice and making false statements in a police investigation, which are considered
25 against the law. As a result, the investigation surrounding Decedent's death was badly compromised.
26 Police and investigators relied on these false representations and not only informed Plaintiff
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1 incorrectly of LINK's death, but also incorrectly advised the coroner as they were conducting their
2 autopsy.

3 43. This prevented law enforcement from accurately charging RONCAL with homicide,
4 and allowing Plaintiff to see her husband's killer charged properly, and instead caused Plaintiff to
5 experience the heartbreak and social stigma associated with knowing her husband committed suicide.
6 As a direct and proximate result of this concealment and deception, Plaintiff suffered severe emotional
7 distress and other damages, all to Plaintiff's damage in a sum within the jurisdiction of this court and
8 to be shown according to proof.

9 **FIFTH CAUSE OF ACTION**

10 **FRAUD - DIRECT AND SURVIVAL ACTION**

11 **AGAINST PASSAGES and DOES 1-15**

12 44. Plaintiff hereby incorporates the allegations of paragraphs 1 through 43 as if fully stated
13 herein.

14 45. At the time of Decedent's admission to PASSAGES, and telephonically prior thereto,
15 PASSAGES and DOES 1-15 verbally and in writing, falsely represented to both Decedent and
16 Plaintiff LINK that it was equipped and staffed properly to treat Decedent's anxiety and caffeine
17 addiction, among other misrepresentations, when PASSAGES is only licensed to treat substance abuse
18 issues. PASSAGES and DOES 1-15 also falsely represented to both Decedent and Plaintiff that they
19 would provide a physically safe, therapeutically supportive, adequately and professionally staffed, and
20 run environment for Decedent who was seeking care and treatment for anxiety and caffeine addiction
21 when they were not capable of or willing to provide such an environment.

22 46. Decedent and Plaintiff reasonably relied on the oral representations of PASSAGES
23 made through its employees telephonically during the initial interview required by their Certification
24 Standards, and further representations made by its employees that were on duty during Decedent's
25 admission on or about April 23, 2015 at the Ventura facility. The specific identities of these employees
26 are maintained in PASSAGES records, which Certification Standards Section 17015 requires are
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1 signed and dated by the employee at every stage and entry. Such records remain in the exclusive
2 control of PASSAGES as they are required to be maintained for no less than three years by the
3 Certification Standards. While plaintiff does not currently know the specific name of the person who
4 made the representations, she will have access to this information once discovery has commenced and
5 will be able to specifically name the employee by name. PASSAGES is liable for the
6 misrepresentations made by its employees with authority as agents to represent the qualifications of
7 the facility and enter into a contract with and admit the Decedent into the facility.

8 47. PASSAGES knew at the time of these misrepresentations that they could not and would
9 not treat Decedent for mental health issues or caffeine addiction, however, PASSAGES continued to
10 make false representations, over several telephone calls, to Decedent and Plaintiff in order to induce
11 Decedent to admit himself to their facility at significant expense. Decedent and Plaintiff relied to their
12 detriment on these representations by believing that PASSAGES was an appropriate and capable
13 facility to help Decedent with his anxiety and caffeine addition. PASSAGES and DOES 1-15 also
14 participated in a fraudulent cover-up of Decedent's death. Fortunately, at least two of PASSAGES
15 employees refused to cooperate and are now involved in wrongful termination lawsuits against
16 PASSAGES for their unlawful termination. Otherwise, the truth about Decedent's death may have
17 never been determined.

18 47a. Decedent was admitted to PASSAGES on April 23, 2015. Once admitted, Decedent
19 was a Dependent Adult under Welfare and Institutions Code 15610.23(b), which includes any person
20 between the ages of 18 and 64 years who is admitted as an inpatient to a 24-hour health facility, as
21 defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code. PASSAGES qualifies
22 as a 24-hour health facility as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety
23 Code. Thus, the Elder Abuse Act, where neglect or abuse of an elder or dependent adult is reckless
24 or done with oppression, fraud, or malice such that the statutory prerequisites are satisfied, damages
25 for the victim's pre-death pain, suffering, or disfigurement are recoverable in a survivor action pursued
26 by the victim's personal representative or successor in interest, notwithstanding the usual prohibition

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1 on such recovery under Code of Civil Procedure section 377.34." (Quiroz v. Seventh Ave. Center
2 (2006) 140 Cal.App.4th 1256, 1265.

3 **A. Plaintiff detrimentally relied on the misrepresentations, and suffered harm**
4 **caused therefrom.**

5 48. Had Plaintiff known the truth about these defendants' facility and its inability to
6 provide needed care for Decedent, and about these defendants' deceptive practices, Plaintiff would not
7 have agreed to pay thousands of dollars and entrust these defendants with Decedent's care. Plaintiff
8 would have objected to Decedent's admission into an underqualified facility.

9 49. As a direct and proximate result of the acts of Defendants, Plaintiff paid funds to have
10 Decedent admitted, lost her husband, and sustained severe emotional distress. Additionally, Plaintiff
11 erroneously reported the nature of LINK's death to insurance agencies, all to Plaintiff's damage in a
12 sum within the jurisdiction of this court and to be shown according to proof.

13 50. The aforementioned conduct of these defendants constituted intentional
14 misrepresentation, deceit, omission, or concealment of material facts known to defendants with the
15 intention on the part of defendants of profiting, and without regard for the foreseeable injury that could
16 result by defendants' actions, and was despicable conduct that subjected Plaintiff to unjust hardship in
17 conscious disregard of their rights so as to justify an award of exemplary damages.

18 **B. Decedent detrimentally relied on the misrepresentations, and suffered harm**
19 **caused thereof.**

20 51. Had Decedent known the truth about these defendants' facility and its inability to
21 provide needed care for Decedent, and about these defendants' deceptive practices, Decedent would
22 not have agreed to pay thousands of dollars and entrust these defendants with his care. But for LINK's
23 reliance on PASSAGE's misrepresentations, Decedent would not have admitted himself, and would
24 not have been placed in the dangerous condition PASSAGES allowed to exist while LINK was in their
25 care.

26 52. As a direct and proximate result of the acts of Defendants, as aforesaid, Decedent was
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1 subjected to battery, pain, suffering, and was murdered, all to Decedent's damage in a sum within the
2 jurisdiction of this court and to be shown according to proof.

3 53. The aforementioned conduct of these defendants constituted intentional
4 misrepresentation, deceit, omission, or concealment of material facts known to PASSAGES with the
5 intention on the part of PASSAGES to profit, and was done without regard for the foreseeable injuries
6 that could result by PASSAGES' actions. It was this despicable conduct that subjected Decedent to
7 unjust hardship in conscious disregard of their rights so as to justify an award of exemplary damages.
8 Decedent is entitled to these pre-death damages under the Elder Abuse and Dependent Adult Civil
9 Protection Act, as Decedent was a "Dependent Adult" and PASSAGES was a "health facility" at the
10 time of the incident.

11 **SIXTH CAUSE OF ACTION**

12 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

13 **AGAINST DEFENDANT PASSAGES and DOES 1-15**

14 54. Plaintiff hereby incorporates the allegations of paragraphs 1 through 53 as if fully
15 stated herein.

16 55. Because Decedent was a patient and resident of PASSAGES' Ventura location,
17 defendant PASSAGES, and DOES 1 through 15, and each of them, had a duty under state regulations
18 (which were designed for the protection and benefit of resident patients like Decedent) to provide care,
19 comfort, and safety. Plaintiff, as Decedent's wife and emergency contact, was concerned with
20 Decedent's care and disposition while under PASSAGES' care.

21 56. Leading up to and during the brief time Decedent was admitted to PASSAGES, these
22 defendants breached their duties to Plaintiff as described above. These breaches continued after
23 Decedent's death by the aforementioned concealment and lies that were told to Plaintiff and
24 investigators. These actions of defendants were intentional and in reckless disregard for the probability
25 that severe injury or death would result from their conduct.

26 57. Defendant PASSAGES and DOES 1 - 15 knew that injury or death would result from
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1 the failure to adhere to their duties, policies and procedures. Further, PASSAGES knew that
2 concealing evidence and failing to inform Plaintiff of Decedent's death accurately, PASSAGES
3 engaged in this cover-up with the intent of causing Plaintiff emotional distress or with the knowledge
4 that Plaintiff would be caused emotional distress This follows as defendants also knew that Decedent
5 was married to Plaintiff, as Plaintiff was indicated as Decedent's wife and emergency contact on
6 defendants' intake paperwork, and any mistreatment inflicted upon Decedent would emotionally harm
7 Plaintiff.

8 58. Lastly, the cover-up by these defendants and PASSAGES employees to ensure the
9 death was not declared a homicide resulted in emotional distress to plaintiff. And, it was certainly
10 foreseeable that covering up the cause of death, if the true facts were then revealed, would result in
11 emotional distress.

12 59. At all times mentioned herein, Defendant PASSAGES, and DOES 1 through 15, and
13 each of them, acted intentionally in conscious failure to avoid the perils to their patients and families.
14 They also acted intentionally in their failed effort to cover up the fact the death was a homicide caused
15 by the roommate.

16 60. As a result of these defendants' conduct, Plaintiff was forced to endure great pain,
17 mental anguish, shock, and despair in losing her life partner and husband.

18 61. As a direct and proximate result of the intentional, malicious, harmful, unlawful and
19 offensive act of defendant PASSAGES and DOES 1 -15, Decedent and plaintiff sustained severe
20 emotional distress, all to their damage in a sum within the jurisdiction of this court and to be shown
21 according to proof.

22 62. The aforementioned conduct of these defendants constituted intentional
23 misrepresentation, deceit, omissions, or concealment of material facts known to defendants with the
24 intention on the part of defendants of profiting, and without regard for the foreseeable injury that could
25 result by defendants' actions, and was despicable conduct that subjected Plaintiff to unjust hardship in
26 conscious disregard of their rights so as to justify an award of exemplary damages.

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1 **SEVENTH CAUSE OF ACTION**

2 **BATTERY - SURVIVAL ACTION**

3 **AGAINST DEFENDANT RONCAL and DOES 16-25**

4 63. Plaintiff hereby incorporates the allegations of paragraphs 1 through 62 as if fully stated
5 herein.

6 64. Upon information and belief, at some point in the early morning hours of April 24,
7 2015, RONCAL and DOES 16-25 murdered Decedent and placed a trash can over his head. These
8 defendants intentionally affixed the trash bag over Decedent's mouth and nose with the intent to
9 emotionally and physically harm Decedent.

10 65. Decedent did not consent to defendants' contact, and the scene evidence depicted a
11 struggle which resulted in blood splatter on RONCAL's bed, and severe bruising on the left side of
12 Decedent's face and forearm, along with multiple cuts and scratches in the same areas which were
13 inflicted by RONCAL and DOES 16-25. These defendants asphyxiated Decedent, leaving
14 Decedent on the floor between their respective beds with the trash can still over his head.

15 66. As a direct and proximate result of the intentional, malicious, harmful, unlawful and
16 offensive acts of Defendants RONCAL and DOES 16-25, Decedent suffered severe physical and
17 emotional pain and harm, and was killed, all to Decedent's damage in a sum within the jurisdiction of
18 this court and to be shown according to proof.

19 67. The aforementioned conduct of these defendants was intentional and without regard
20 for the foreseeable injury that could and did result by defendants' actions, and was despicable conduct
21 that subjected Decedent to unjust hardship in conscious disregard of his rights so as to justify an award
22 of exemplary damages.

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PRAYER

WHEREFORE, Plaintiff requests judgment against Defendants, and each of them, for the following:

- A. General damages in a sum according to proof;
- B. Special damages in a sum according to proof, including loss of income;
- C. Punitive damages in a sum according to proof;
- D. Funeral and burial expenses;
- E. Loss of love, companionship, affection, society, and solace;
- F. Interest provided by law including, but not limited to, California Civil Code, Section 3291, where applicable; and
- G. Costs of suit and for such other and further relief as the court deems proper.

Dated: October 19, 2016

TRAUT FIRM

By:

ERIC V. TRAUT
Attorney for Plaintiff