

CAUSE NO: _____

BYRON K. WOODARD AND
 RONDIA CRENSHAW, AS HEIRS AT
 LAW OF ROSA D. WOODARD,

Plaintiffs,

v.

WILLOWBROOK SNF
 MANAGEMENT, LLC AND
 WILLOWBROOK RESIDENCE AND
 REHABILITATION CENTER,

Defendants.

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

____ JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Come Now, BYRON K. WOODARD and RONDIA CRENSHAW, AS HEIRS AT LAW OF ROSA D. WOODARD, (“Plaintiffs”) complaining of WILLOWBROOK SNF MANAGEMENT, LLC and WILLOWBROOK RESIDENCE AND REHABILITATION CENTER (“Defendants”), and for cause of action would respectfully show the Court and the jury as follows:

**I.
DISCOVERY CONTROL PLAN**

1. Discovery in this case should be conducted under Level 3, pursuant to Rule 190.4 of the Texas Rules of Civil Procedure. Plaintiffs respectfully request that this Court enter an appropriate Scheduling Order so that discovery may be conducted in this case pursuant to Level 3.

**II.
PARTIES**

2. Plaintiffs Byron K. Woodard and Rondia Crenshaw bring this suit as heirs at law of their deceased mother, Rosa D. Woodard.

3. Plaintiff Byron K. Woodard resides in Franklin Lakes, New Jersey.
4. Plaintiff Rondia Crenshaw resides in Spring, Texas.
5. Defendant WILLOWBROOK SNF MANAGEMENT, LLC, is a domestic limited liability company doing business in the State of Texas. Said Defendant may be served with citation by serving its registered agent Vcorp Services, LLC, 1999 Bryan Street, Suite 900, Dallas, TX 75201.
6. Defendant WILLOWBROOK RESIDENCE AND REHABILITATION CENTER is a skilled nursing facility doing business in the State of Texas. Said Defendant may be served with citation by serving its administrator at 13631 Ardfield Dr, Houston, TX 77070, or wherever it may be found.
7. To the extent that the above-named Defendants are conducting business pursuant to a trade name or assumed name, then suit is brought against them pursuant to the terms of Rule 28 of the TEXAS RULES OF CIVIL PROCEDURE, and Plaintiffs hereby demand that upon answering this suit, that they answer in their correct legal name and assumed name.

**III.
JURISDICTION AND VENUE**

8. Plaintiffs cite to and fully incorporate herein the facts set forth in Sections II, IV, and V of this pleading.
9. Plaintiffs affirmatively plead that this Court has jurisdiction because the damages sought are in excess of the minimum jurisdictional limits of the Court. Furthermore, all of the causes of action asserted in this case arose in the State of Texas, and all of the parties to this action are either residents of the State of Texas or conduct business in this State and committed the torts that are the subject of this suit in whole or in part in Texas, as hereafter alleged in more detail. Therefore, this Court has both subject matter and personal jurisdiction over all of the parties and all of the claims.
10. Venue is proper in Harris County, Texas under the general venue statute of Tex. Civ. Prac.

& Rem. Code § 15.002(a)(1) because all or a substantial part of the events or omissions giving rise to the claim occurred in Harris County, Texas, and no mandatory venue provision applies.

**IV.
SURVIVAL ACTIONS**

11. These claims are brought pursuant to §71.021 of the Texas Civil Practice & Remedies Code, more commonly referred to as survival actions. Plaintiffs Byron K. Woodard and Rondia Crenshaw are children of Rosa D. Woodard, deceased.

12. Plaintiffs assert herein that there is no estate administration pending and none is necessary. Plaintiffs are entitled to bring this suit under the Texas Survival Statute as the heirs at law of Rosa D. Woodard.

**V.
BACKGROUND AND CAUSES OF ACTION**

13. It has become necessary to institute this suit due to the injuries Rosa D. Woodard suffered as a result of medical negligence that occurred during Ms. Woodard's residency at Willowbrook Residence and Rehabilitation Center skilled nursing facility.

14. When this case is tried, the evidence will show that Ms. Woodard was 65 years-old when she was admitted to Willowbrook Residence and Rehabilitation Center ("Willowbrook") on December 30, 2017. Upon admission to Willowbrook, Ms. Woodard suffered from unspecified dementia and Stage Four Parkinson's Disease. As such, she was unable to care for herself.

15. On March 22, 2018, a nursing assistant responded to a call light from Ms. Woodard's room. Upon entry, the nurse witnessed another male resident standing over Ms. Woodard with his pants down and his penis in her mouth. The resident was observed moving Ms. Woodard's head back and forth while his penis was in her mouth. Ms. Woodard was observed with her pants down without briefs.

16. An employee at Willowbrook Residence and Rehabilitation Center assessed Ms. Woodard,

and she was emergently transferred to the Methodist Hospital Willowbrook Emergency Room. The staff of Methodist Hospital Willowbrook diagnosed Ms. Woodard as a victim of sexual assault. Houston Police Department arrived and administered a rape kit on Ms. Woodard. Currently, criminal charges are being pursued against the alleged perpetrator.

17. When this case is tried, the evidence will show that Willowbrook and its staff members were negligent in their care and treatment of Ms. Woodard. Specifically, the evidence will show that Defendant Willowbrook and its staff members' negligence includes, but is not limited to: (1) failing to ensure resident safety, (2) failing to promote a safe environment for the resident, including but not limited to an environment free of sexual assault, and (3) failing to protect a resident from facility acquired injuries, including but not limited to sexual assault. As a result of the negligence by Defendants, Ms. Woodard was sexually assaulted.

18. The breaches of the standard of care constitute negligence as that term is defined by the laws and statutes of this State. Said breaches of the standard of care and Defendants' negligence were a proximate cause of Ms. Woodard's injuries and damages.

19. At all times material to this cause, the nurses and staff of Defendants were acting within the course and scope of their employment or agency as the employees, servants, or agents of the Defendants. Therefore, Defendants are liable to Plaintiffs under *respondeat superior*, apparent agency, or agency by estoppel as those terms are defined and applied under the laws and statutes of the State of Texas.

VI. DAMAGES

20. The above breaches of the standard of care by Defendants were a proximate cause of harm to Ms. Woodard. This suit is instituted by Plaintiffs Byron K. Woodard and Rondia Crenshaw as heirs at law of their deceased mother, Rosa D. Woodard for the recovery of the following, which are provided under the Texas survival statute:

- (a) Pain and mental anguish; that is, the conscious physical pain and emotional pain, torment, and suffering experienced by Ms. Woodard before her death as a result of the occurrence in question; and
- (b) Medical expenses; that is, the reasonable expense of the necessary medical and hospital care received by Ms. Woodard for treatment of injuries sustained by her as a result of the occurrence in question.

21. All of the cited elements of damages have been proximately caused by the negligent acts and omissions of Defendants, for which this suit is brought. Because of the above and foregoing, Ms. Woodard has been damaged in a sum greatly in excess of the minimum jurisdictional limits of this Court.

22. Plaintiffs seek monetary relief over \$200,000 but not more than \$1,000,000.

VII. DISCOVERY REQUESTS

23. Pursuant to Texas Rules of Civil Procedure 194, Plaintiffs request that Defendants disclose, within the time required under Texas law, the information or material described in Rule 194.2 (a) through (l).

24. Pursuant to Texas Rules of Civil Procedure 193, 196, 197 and 198, Plaintiffs request that Defendant Willowbrook Residence and Rehabilitation Center respond, within the time required under Texas law, to the requests in Exhibit A.

VIII. NOTICE

25. Plaintiffs provided Defendants written notice of their claims as required by the Texas Civil Practice & Remedies Code § 74.051.

IX. EXPERT REPORT

26. Pursuant to Chapter 74 of the Texas Civil Practice and Remedies Code, Plaintiffs hereby serve on Defendants the expert report and curriculum vitae required. The expert report and curriculum vitae of Terrence Shaneyfelt, M.D. are attached as Exhibits B and C respectively, and

are served in compliance with the Texas Rules of Civil Procedure.

**X.
JURY TRIAL**

27. Plaintiffs respectfully request a jury trial in accordance with the applicable provisions of the Texas Rules of Civil Procedure.

**XI.
PRAYER**

28. For the above reasons, Plaintiffs request that Defendants be cited to appear and answer, and that on final trial Plaintiffs have judgment against Defendants for the following:

- (a) All actual damages, general and special, to which they show themselves justly entitled;
- (b) Exemplary or punitive damages to the extent allowed by law;
- (c) Pre-judgment and post-judgment to the extent allowed by law;
- (d) All costs incurred in this lawsuit; and
- (e) Such other and further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

BROWN & BROTHERS

/s/ Charles D. Brown

Charles D. Brown

Texas Bar No: 24026966

JP Morgan Chase Bank Building

712 Main Street, Suite 800

Houston, Texas 77002

Telephone: 713-428-2595

Facsimile: 832-767-1783

Email: firm@medmalfirm.com

ATTORNEY FOR PLAINTIFFS