IN THE COURT OF COMMON PLEAS OF PREBLE COUNTY, OHIO
CIVIL DIVISION

ZACKARY M. SHAFFER, as Administrator of the Estate of Jordan Shinn, Deceased,
1500 Timberwolf Dr.
Holland, OH 43528

&

ASHLEY SHINN
1790 S. L St. Apt. 4C
Richmond, IN 47374

Plaintiffs,

v.

MILLER HOLDINGS FOUNDATIONS INC. D/B/A FOUNDATIONS
c/o Kurt Miller
2460 Elm Rd Ste 600
Warren, OH 44483

&

FOUNDATIONS HEALTH, LLC
c/o Ohio Agent Solutions, Inc.
25000 Country Club Blvd., Ste 255
North Olmsted, OH 44070

&

FOUNDATIONS HEALTH SOLUTIONS, LLC
c/o Ohio Agent Solutions, Inc.
25000 Country Club Blvd., Ste 255
North Olmsted, OH 44070

Case No.:

Judge:

COMPLAINT WITH AFFIDAVIT OF MERIT ATTACHED

(Jury Demand Endorsed Hereon)

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&

CARDINAL NEW PARIS, INC.
c/o Ohio Agent Solutions, Inc.
25000 Country Club Blvd Ste 255
North Olmsted, OH 44070

&

TRINITY MISSION NEW PARIS RESIDENTIAL CARE FACILITY, LP
c/o CT Corporation System
4400 Easton Commons Way Ste 125
Columbus, OH 43219

&

EMPOWERING PEOPLE, INC.
c/o Michael K. Provenza
25000 Country Club Blvd. #255
North Olmsted, OH 44011

&

JASON A. BLOUGH
963 Washington Twin Rd.
Eaton, OH 45320

&

CHARLOTTE M. WILMORE
10947 County Road 335
New Paris, OH 45347

&

CYNTHIA D. PECK
10306 Pence Shewman Rd.
New Paris, OH 45347

&

KELLY F. COLLINS
636 Washington Ave.
Greenville, OH 45331

&

MELANIE MCINERNEY, as Special Administrator of the Estate of Jessica Rene Carico, Deceased
332 W 806 N
Valparaiso, IN 46385

&

SENEQUA L. CARR, a/k/a SENEQUA L. WOODS
2906 Wurtsboro Ln.
Holland, MI 49424

&

JOHNATHAN I. LYNCH
644 Isaacs Rd.
Camden, OH 45311

&

JENNIFER FELLERS
8044 E 50th St.
Indianapolis, IN 46226

&

REBEKAH A. JOHNSTON, LPN
178 Country Club Dr.
Dayton, OH 45417

Defendants.

Plaintiffs, ZACKARY SHAFFER, Administrator of the ESTATE OF JORDAN SHINN, Deceased and Ashley Shinn, hereby brings this action against DEFENDANTS MILLER HOLDINGS FOUNDATIONS INC. D/B/A FOUNDATIONS, FOUNDATIONS HEALTH, LLC, FOUNDATIONS HEALTH SOLUTIONS LLC, CARDINAL NEW PARIS, INC.,

TRINITY MISSION NEW PARIS RESIDENTIAL CARE FACILITY, LP, EMPOWERING PEOPLE, INC., (collectively, "Foundations" or "Corporate Defendants"), JASON BLOUGH, CHARLOTTE WILMORE, CYNTHIA PECK, KELLY COLLINS, MELANIE MCINERNEY as Special Administrator of the ESTATE OF JESSICA RENE CARICO, Deceased, SENEQUA CARR, JOHNATHAN LYNCH, JENNIFER FELLERS, and REBEKAH JOHNSTON, LPN. This Complaint is based upon information and belief except as to those paragraphs that relate to Plaintiffs, which are based on Plaintiffs' personal knowledge. In support of Plaintiffs' claims, Plaintiffs state as follows:

NATURE OF THE ACTION

1. This action involves multiple claims (wrongful death, breach of contract, corporate negligence/negligence per se, and vicarious liability) based upon Foundation's inadequate care, supervision, corporate control, systemic neglect, and mishandling during Jordan Shinn's ("Jordan") residency at Foundations. Foundations is an Ohio-licensed Intermediate Care Facility that provides care for individuals with intellectual disabilities like Jordan, who had serious, profound intellectual disabilities and neurological conditions. Based on Foundations representations and assurances, Plaintiff Ashley Shinn ("Ashley") entrusted her minor son's care to Foundations. Tragically, just days after his 16th birthday and while under the care of Foundations, Ashley's son Jordan was found dead in his room after being carelessly exposed to fentanyl laced with xylazine. Jordan died on July 23, 2023, as a result of the toxic effects of these illicit substances.
2. An Affidavit of Merit is attached as Exhibit 1 pursuant to Civil Rule 10(D)(2).

3. A copy of the Resident/Admissions Agreement is not attached hereto, pursuant to Civil Rule 10(D), because Plaintiffs are not in possession of a copy of the Agreement. Upon information and belief, Foundation is in possession of a copy of such agreement.

THE PARTIES

4. Plaintiff, Zackary Shaffer, is an individual and resident of Toledo, Lucas County, Ohio. On August 3, 2024, Zackary Shaffer was appointed as Administrator of the Estate of Jordan Shinn by the Preble County Probate Court. Jordan died in and was a resident of New Paris, Preble County, Ohio, on July 23, 2023, at the age of 16. A copy of the Preble County Probate Court's Entry of Appointment is attached to this Complaint as Plaintiffs' Exhibit 2.
5. Plaintiff, Ashley Shinn, is an individual and resident of Richmond, Wayne County, Indiana.
6. Upon information and belief, Defendant Miller Holdings Foundations Inc. D/B/A Foundations is an Ohio corporation and is in the business of owning, operating, controlling, and/or managing an intermediate care facility known as Foundations, which is located at 7739 US Route 40, New Paris, Preble County, Ohio 45347-9048.
7. Upon information and belief, Defendant Foundations Health, LLC, is an Ohio limited liability company and is in the business of owning, operating, controlling, and/or managing an intermediate care facility known as Foundations, which is located at 7739 US Route 40, New Paris, Preble County, Ohio 45347-9048.
8. Upon information and belief, Defendant Foundations Health Solutions, LLC, is an Ohio limited liability company and is in the business of owning, operating, controlling, and/or managing an intermediate care facility known as Foundations, which is located at 7739 US Route 40, New Paris, Preble County, Ohio 45347-9048.

9. Upon information and belief, Defendant Cardinal New Paris, Inc., is an Ohio corporation and is in the business of owning, operating, controlling, and/or managing an intermediate care facility known as Foundations, which is located at 7739 US Route 40, New Paris, Preble County, Ohio 45347-9048.

10. Upon information and belief, Defendant Trinity Mission New Paris Residential Care Facility, LP ("Trinity") is a foreign limited partnership formed under the laws of the State of Georgia, is licensed to do business in Ohio, and is in the business of owning, operating, controlling, and/or managing an intermediate care facility known as Foundations, which is located at 7739 US Route 40, New Paris, Preble County, Ohio 45347-9048.

11. Upon information and belief, Defendant Empowering People Inc., is an Ohio Corporation and is in the business of owning, operating, controlling, and/or managing an intermediate care facility known as Foundations, which is located at 7739 US Route 40, New Paris, Preble County, Ohio 45347-9048.

12. At all times relevant to this action, Defendants Miller Holdings Foundations, Inc., Foundations Health, LLC, Foundations Health Solutions, LLC, Cardinal New Paris, Inc., Trinity Mission New Paris Residential Care Facility, LP, and/or Empowering People, Inc. (hereinafter collectively referred to as "Foundations" or "Corporate Defendants") owned, operated, controlled, and/or managed the intermediate care facility known as Foundations, located at 7739 US Route 40, New Paris, Preble County, Ohio 45347-9048.

13. At all times relevant to this action, the Corporate Defendants had operational and managerial control of the intermediate care facility known as Foundations, located at 7739 US Route 40, New Paris, Preble County, Ohio 45347-9048.

14. At all times relevant to this action, Defendant, JASON BLOUGH ("Blough"), was the Administrator at Foundations and was responsible for the hiring, firing, training, and supervision of employees and/or staff at Foundations in New Paris, Preble County, Ohio and was further responsible for the implementation of treatment plans and care that ensured a safe and supervised environment for its residents.

15. At all times relevant to this action, Defendant, CHARLOTTE WILMORE ("Wilmore"), was an employee or agent of Foundations, employed as the Director of Nursing, and was responsible for the hiring, firing, training, and/or supervision of employees and/or staff at Foundations in New Paris, Preble County, Ohio and was further responsible for the implementation of treatment plans and care that ensured a safe and supervised environment for its residents.

16. At all times relevant to this action, Defendant, CYNTHIA PECK ("Peck"), was an employee or agent of Foundations, employed as the Care/Service Coordinator, and was responsible for the hiring, firing, training, and/or supervision of employees and/or staff at Foundations in New Paris, Preble County, Ohio and was further responsible for the implementation of treatment plans and care that ensured a safe and supervised environment for its residents.

17. At all times relevant to this action, Defendant, KELLY COLLINS ("Collins"), was an employee or agent of Foundations, employed as a Direct Support Professional Lead, and was responsible for the hiring, firing, training, and/or supervision of employees and/or staff at Foundations in New Paris, Preble County, Ohio and was further responsible for the implementation of treatment plans and care that ensured a safe and supervised environment for its residents.

18. Defendant, Melanie McInerney, is an Indiana resident and was duly appointed as Special Administrator of the Estate of Jessica Rene Carico by the Wayne Superior Court of Indiana in Case No. 89D02-2506-ES-000030. The Deceased Defendant died on or about September 19, 2024, and at the time of her death was domiciled in Wayne County, Indiana. A copy of the Wayne County Superior Court's Entry of Appointment is attached to this Complaint as Plaintiffs' Exhibit 3.

19. At all times relevant to this action, Jessica Rene Carico (hereinafter referred to as "Defendant Carico") was an employee or agent of Foundations in New Paris, Preble County, Ohio.

20. At all times relevant to this action, Defendant SENEQUA CARR ("Carr") was an employee or agent of Foundations in New Paris, Preble County, Ohio.

21. At all times relevant to this action, Defendant JOHNATHAN I. LYNCH ("Lynch") was an employee or agent of Foundations in New Paris, Preble County, Ohio.

22. At all times relevant to this action, Defendant JENNIFER FELLERS ("Fellers") was an employee or agent of Foundations in New Paris, Preble County, Ohio.

23. At all times relevant to this action, Defendant REBEKAH JOHNSTON, LPN ("Johnston") was an employee or agent of Foundations in New Paris, Preble County, Ohio.

JURISDICTION AND VENUE

24. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.

25. This Court has jurisdiction over this action pursuant to R.C. 2305.01.

26. Venue is proper in this Court pursuant to Civil Rule 3(C)(3) and 3(C)(6), as this is the county in which Defendants conducted activity giving rise to Plaintiffs' claims for relief, and the county in which all or part of the claims for relief arose.

27. Pursuant to Civil Rule 8(A), Plaintiffs state that this Complaint seeks recovery in excess of Twenty-Five Thousand Dollars ($25,000.00).

FACTUAL ALLEGATIONS

28. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.

29. Jordan was admitted to the care, custody, and control of Foundations as a resident suffering from profound intellectual disabilities in addition to cerebral palsy and other neurological disorders.

30. He was severely cognitively impaired, with an IQ estimated between 1 and 24, so he required full assistance for all basic needs, including prompting and help with eating. Jordan also required crushed medications and softened foods due to his difficulty swallowing.

31. Jordan was non-verbal and confined to a wheelchair with limited function only in his left arm. Though, many staff members described his abilities similar to those of a toddler, as he was known to occasionally place items in his mouth that he wasn't supposed to.

32. Defendants were aware of Jordan's conditions and knew that a care plan addressing such was required to ensure his safety at Foundations.

33. Foundations is a Medicaid-certified facility and is licensed by the Ohio Department of Health as an Intermediate Care Facility.

34. At all relevant times to this Complaint, Defendants—Blough, Wilmore, Peck, Collins, Carr, Lynch, Fellers, Johnston, and Carico (collectively "Employee Defendants")—were each an employee or agent of Foundations and were each acting in the scope and course of their employment with Foundations.

35. Upon information and belief, Defendants, Carico, Carr, Lynch, and Fellers were each employed by Foundations as a Caregiver/Direct Support Professional ("DSP") and were each responsible for supervising and assisting Foundations' residents, including Jordan, with daily living skills at all times relevant to the Complaint.

36. As DSPs, Defendants, Carico, Carr, Lynch, and Fellers, were also each responsible for conducting continuous rounds, every two-hours, to check on every resident under their care, including Jordan.

37. Foundations failed to implement a policy requiring its DSPs to document their nighttime rounds.

38. The DSP nighttime rounds/checks typically involved making sure the resident was asleep, dry, breathing, and that there were otherwise no signs of any safety concerns.

39. On or about July 22, 2023, Defendant Carico was Jordan's second-shift DSP and was in charge of putting Jordan to bed around 8:00 PM.

40. Then, beginning around 10:00 PM, Defendant Carr became responsible for conducting rounds in Jordan's hallway, which included checking on Jordan every two hours.

41. During Jordan's 12:00 AM check, Defendant Carr felt that Jordan was cold, so she covered him with a blanket.

42. At approximately 2:00 AM on or about July 23, 2023, Defendant Carr rolled Jordan onto his back in his bed and discovered that he was unresponsive.

43. Upon doing so, Defendant Carr screamed for help, and responding staff observed that Jordan was obviously deceased, as his abdomen had turned purple and his lips were blue.

44. Defendant Johnston, the licensed practical nurse assigned to Jordan's hallway at the time, removed Jordan from his bed, laid him on the floor, and began performing CPR in accordance with facility protocol.

45. Emergency responders were called to the scene at Foundations, where Jordan was officially pronounced dead on July 23, 2023.

46. Following Jordan's death, Defendant Carr was hysterical and refused to ever work the hallway where Jordan lived. Many staff members described her extreme emotional reaction to be particularly unusual.

47. Defendant Lynch's reaction to Jordan's death was also described as out of the ordinary as he was vividly angry with Jordan's death and was seen yelling with co-workers shortly after.

48. After an autopsy, the coroner later confirmed that Jordan Shinn died due to the combined toxic effects of fentanyl, xylazine, and phenobarbital. Jordan was only prescribed phenobarbital and had no reason to have fentanyl or xylazine in his system.

49. The detection of xylazine, a veterinary medication not prescribed for humans, confirms that the substances in Jordan's system were illicit street drugs, and not attributable to any prescribed medication, thus eliminating the possibility of a legitimate pharmaceutical overdose of prescribed medication.

50. It's believed that any concentration of xylazine would be fatal.

51. Based on these findings, the coroner determined that Jordan's manner of death was a homicide, occurring while he was under the care of Foundations.

52. Following the coroner's conclusion, the Preble County Sheriff's Office and the Ohio Attorney General's Office opened a formal investigation into the circumstances of Jordan's death, which

resulted from an unintentional but fatal exposure to illicit drugs that had been brought into the Foundations facility.

53. Based on findings of the formal investigation, several Foundations employees were investigated for the negligent homicide of Jordan Shinn.

54. It was discovered that Foundations lacked adequate oversight regarding staff and visitor entry of the building and access to the residents. No visitor logs were maintained, and individuals were not required to sign in upon entry, resulting in no record of who entered the building.

55. Although staff were not permitted to have visitors inside, the Director of Nursing, Defendant Wilmore, reported that enforcement of this policy was generally limited to periodic email reminders. Defendant Wilmore further acknowledged that it was not unusual for staff to meet with other individuals outside the facility during their breaks.

56. Additionally, Jordan's biological father informed investigators that, years earlier, he was brought into the facility by a former employee, which further reflects the insufficient control over the facility's premises.

57. Defendant Collins was the DSP Lead who was in charge of supervising and notifying her supervisor (Defendant Peck) if any DSP, including Defendants Carico, Carr, Lynch, and Fellers, were unfit or not doing their job.

58. Several employees were also aware that Defendants Lynch and Fellers routinely brought personal belongings, such as their backpacks, into the residents' rooms and left them unattended, making them accessible to residents.

59. It was even reported that, on the evening of July 22, 2023—the night before Jordan's death—Jordan's roommate, an intellectually disabled resident, accessed a staff member's bag and scattered its contents throughout the room they shared.

60. Following Jordan's death, Defendant Lynch was terminated as a DSP but was later rehired by Foundations to work in housekeeping.

61. Before and after Jordan's death, it was also common knowledge among Foundations staff, based on their own or others' observations, that several Foundations employees were active drug users and that some of these employees would work while under the influence.

62. Prior to Jordan's death, there were also numerous incidents where employees, including Defendants Carico and Fellers, were seen falling asleep, nodding off, or otherwise exhibiting behaviors of someone under the influence while caring for, or in the presence of, Foundations residents.

63. Director of nursing, Defendant Wilmore, even admitted to investigators that she was aware Defendant Johnston would use marijuana during her employment at Foundations.

64. Notwithstanding this knowledge, the Corporate Defendants submit to the public that they maintain a drug-free work environment.

65. However, Defendant Carico had a history of drug-related criminal convictions both prior to and following Jordan's death.

66. Despite her criminal history, Foundations hired Defendant Carico initially on February 24, 2023, then terminated her employment on an unknown date, but later rehired her on April 20, 2023.

67. Despite having no professional references, Foundations rehired Defendant Carico in April of 2023 even though her employment record and conduct raised significant red flags, including signs of impairment on the job, unexplained absences, and poor performance in caring for highly vulnerable residents.

68. Facility records indicate that Defendant Carico was also the subject of multiple complaints and documented concerns regarding her conduct and job performance, both before and after Jordan's death.

69. Foundations ultimately terminated Defendant Carico's employment on August 22, 2023, subsequent to Jordan's death on July 23, 2023.

70. Later in August 2024, investigating authorities interviewed Defendant Carico while she was incarcerated on unrelated criminal charges stemming from a traffic stop in which police found fentanyl in her purse.

71. During this interview, Defendant Carico admitted to being a drug user.

72. Defendant Carico subsequently died of a fentanyl overdose on September 19, 2024, following her release from incarceration.

FIRST CAUSE OF ACTION
(*Wrongful Death*)

73. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.

74. Plaintiffs bring this Cause of Action pursuant to R.C. 2125.01 as they have suffered loss and damages due to Jordan's wrongful death.

75. The Defendants' wrongful acts, neglect, and omissions caused Jordan's untimely death, along with the pain and suffering he endured before his death.

76. Had death not ensured, the Defendants' wrongful acts, neglect, or default would have entitled Jordan to maintain an action and recover damages for the harm he suffered.

77. As a direct and proximate result of the Defendants' tortious actions and/or omissions described herein, Plaintiffs have suffered a loss of Jordan's society and services, companionship,

consortium, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, education and have incurred great mental anguish.

78. As a further consequence of the Defendants' unreasonable conduct described herein, Plaintiffs have sustained pecuniary loss including, but not limited to, medical, funeral, burial, internment, and estate expenses.

SECOND CAUSE OF ACTION
(*Breach of Contract*)

79. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.

80. The Defendants themselves or by and through their agents, representatives, and employees held the Foundations Facility out to the public as an intermediate care facility; skilled in the performance of nursing and other medical support services; and as being properly equipped and staffed to care for residents in need of basic life and medical support, care, supervision, and attention.

81. In reliance upon these representations, Plaintiff Ashley Shinn, on behalf of her minor son Jordan, formed a contract with the Defendants to engage their services to protect and provide competent assistance with Jordan's activities of daily living and to provide competent assistance with his physical, emotional, and medical needs.

82. Additionally, Plaintiff Ashley Shinn contracted with the Defendants to provide Jordan with a safe environment, protection from harm, competent and appropriate health care, and necessary services in addition to the rights guaranteed under applicable federal, state, and local laws and regulations, including the right to be free from hazards and to receive adequate, safe care delivered with dignity and respect.

83. By virtue of the Foundation Facility's acceptance of Jordan as a resident, Defendants owed Plaintiffs a duty to protect Jordan and provide him with competent care and assistance using the standard knowledge, skill, and care that's used with intellectually disabled residents in intermediate care facilities.

84. In exchange for valuable consideration, Defendants promised and agreed to provide Jordan with a safe living environment, meals, and competent care, assistance, treatment, and supervision that his profound intellectual disabilities required to ensure his safety and well-being.

85. Plaintiff Ashley Shinn complied with all applicable provisions of the contractual relationship with Defendants.

86. While under the Defendants' care, custody, and supervision, Jordan was nonetheless exposed to illicit substances, resulting in his premature death on July 23, 2023.

87. The Defendants themselves or by and through their agents, representatives and employees breached the contract described herein by allowing him to suffer neglect and harm at their facility, which ultimately led to his untimely death.

88. The Defendants further breached the contract by failing to provide adequate, competent assistance, including, but not limited to:

a. Their failure to provide a **safe**, clean, comfortable, and homelike environment.
b. Their failure to protect and promote Jordan's rights as a resident.
c. Their failure to provide adequate assistance with his activities of daily living.
d. Their failure to ensure that all drugs are administered without error.
e. Their failure to provide adequate assistance with Jordan's medical needs.
f. Their failure to provide care and services that meet professional standards of practice and quality.
g. Their failure to provide **adequate supervision**.
h. Their failure to hire and/or maintain sufficient, **competent staff** with the skills sets to provide services, to assure resident safety, and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

i. Their failure to ensure that their facility was administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.
j. Their failure to ensure that their facility was designed, constructed, equipped, and maintained to protect the health and safety of residents.
k. Their failure to protect Jordan from unnecessary drugs.
l. Their failure to ensure employee performed his or her duties effectively, efficiently, and competently.
m. Their failure to develop, implement, and maintain an effective training program for all new and existing staff.
n. Their failure to report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff.

89. Defendants failed to comply and breached its obligations, warranties, and duties owed to Plaintiff under the Resident/Admissions Agreement.

90. As a result of Defendants' breaches, Plaintiffs suffered damages.

91. As described herein, Plaintiffs' injuries and damages were foreseeable results of the Defendants' breach of contract.

THIRD CAUSE OF ACTION
(*Corporate Negligence – Corporate Defendants*)

92. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.

93. At all relevant times, the Corporate Defendants were engaged in a joint venture, in which:

a. The Corporate Defendants had an agreement, express and/or implied, among the members of the group to operate the intermediate care facility known as Foundations, located at 7739 US Route 40, New Paris, Preble County, Ohio 45347-9048 ("Foundations");

b. The Corporate Defendants had a common purpose to operate Foundations;

c. The Corporate Defendants had a community of pecuniary interest in the operation of Foundations;

d. The Corporate Defendants had an equal right to a voice in the direction of the operation of Foundations; which gave the Defendants an equal right of control.

94. At all relevant times, a close relationship existed among the Corporate Defendants.

95. As a consequence of the joint venture, the Corporate Defendants owed Plaintiffs a joint duty to exercise reasonable care for Jordan's safety, health, and wellbeing while he was under their care and supervision at Foundations.

96. The conduct described herein was performed by the agents, representatives, servants, and employees of the Corporate Defendants and was performed either with the full knowledge and consent of the Corporate Defendants, and/or within the scope of those individuals' agency, representation, or employment with the Corporate Defendants.

97. Furthermore, the conduct performed by the Corporate Defendants' agents, representatives, servants, and/or employees was performed or was supposed to be performed on behalf of and/or for the benefit of the Corporate Defendants.

98. The Corporate Defendants exercised substantial control over key aspects of the operation and management of Foundations prior to and during Jordan's period of residency. This included but was not limited to, the creation, setting, funding and/or implementation of budgets; creating and maintaining business relationships with related parties as defined by the Centers for Medicare Services that resulted in an undercapitalized facility with unqualified staff; the hiring, training, and supervision of staff; the monitoring of resident acuity levels and staffing sufficiency to meet each resident's needs; control over resident admissions and discharge to and from the facility; and the creation and enforcement of written policies and procedures pertaining to the rules that provide for the safety and well-being of residents.

99. Each of these managerial and operational functions directly impacted the quality of care delivered to Jordan and other residents at Foundations and were carried out in furtherance of the Corporate Defendants' operational and managerial control over the facility.

100. At all times mentioned in this Complaint, the Corporate Defendants were under a duty to draft, adopt, formulate, institute, and promulgate policies, plans, measures, and steps to provide for proper care, treatment, monitoring, and supervision of its residents including Jordan, and to enforce, implement, and effectuate such policies, plans, measures, and steps through its employees at Foundations.

101. The Corporate Defendants failed in its duty to draft, adopt, formulate, institute, and promulgate such policies, plans, measures, and steps to provide for the proper care, treatment, monitoring, and supervision of its residents including Jordan, and also failed in its duty to enforce, implement, and effectuate such policies, plans, measures, and steps through the hiring of competent employees at Foundations.

102. At all relevant times, the Corporate Defendants had a duty to act in accordance with the corporate and applicable legal standards of care required of those owning, operating, managing, maintaining, and/or controlling an intermediate care facility.

103. These duties required the Corporate Defendants to employ and supervise a sufficient number of trained and qualified staff at Foundations to ensure the proper care and treatment of all residents, including Jordan. They were also required to protect their residents from unfit or incompetent staff who posed a foreseeable risk of harm.

104. These duties also required the Corporate Defendants to ensure that Foundations was adequately capitalized to ensure the proper care for, and treatment of all residents, including Jordan.

105. The Corporate Defendants knew or should have known that the Employee Defendants were unfit or incompetent for their respective positions.

106. Specifically, the Corporate Defendants knew or should have known that Defendant Carico had a drug-related criminal history and that she, along with other Defendant Employees, exhibited behavior indicative of active drug use.

107. Therefore, the Corporate Defendants knew or should have known that employing unfit or incompetent employees, like the Employee Defendants, to care for a highly vulnerable population was likely to result in harm to residents, including the harm that ultimately led to Jordan's wrongful death.

108. Due to the carelessness and negligence of the Corporate Defendants in failing to formulate and promulgate such policies and measures, and/or to enforce and implement them through competent employees of Foundations, Jordan suffered serious harm and his untimely death.

109. As a further direct and proximate result of the Corporate Defendants' conduct that resulted in an unsecure, undercapitalized facility staffed with unqualified individuals during Jordan's residency, Jordan suffered a premature death.

110. Based upon the allegations above, the Corporate Defendants are liable for the damages alleged in all counts of this Complaint.

FOURTH CAUSE OF ACTION
(*Corporate Negligence Per Se*)

111. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.

112. Defendants are an intermediate care facility that receives federal funding, subjecting it to the requirements provided by the Nursing Home Reform Act (NHRA), specifically 42 C.F.R.

§ 483, enacted by Congress as part of the Omnibus Budget Reconciliation Act of 1987 (OBRA).

113. As such, the Defendants, themselves or by and through their agents, representatives, and employees had a duty to Jordan and his family to be in compliance with all applicable provisions of Federal, State and local laws, regulations and codes pertaining to the protection of the health, safety, and sanitation of the residents at Foundations Facility, including specifically the Nursing Home Reform Act of 1987 and the regulations codified in 42 C.F.R. § 483.

114. The Defendants, themselves or by and through their agents, representatives and employees, negligently and/or deliberately failed to follow the applicable federal statutes and regulations for the health and welfare of the residents at Foundations Facility, including their failure to follow one or more of the following:

a. 42 CFR § 483.10(a)(1), providing that a facility must treat each resident with respect, dignity, and care in a manner and in an environment that promotes maintenance or enhancement of the resident's quality of life and that the facility must protect and promote the rights of the resident.
b. 42 CFR § 483.10(i)(1), providing that a facility must provide a **safe**, clean, comfortable, and homelike environment.
c. 42 CFR § 483.12(a)(2), providing that the facility must ensure that the resident is free from chemical restraints.
d. 42 CFR § 483.12(a)(4), providing that the facility must report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff.
e. 42 CFR § 483.12(b), providing that the facility must develop and implement written policies and procedures that prohibit and prevent abuse, neglect, and exploitation of residents; establish procedures to investigate any such allegations, include training as required by this act, and ensure reporting of crimes occurring in federally funded long-term care facilities in accordance with section 1150B of the Act.
f. 42 CFR § 483.25, providing that each resident must receive and the facility must provide the necessary care and services and that the services and care provided to facility residents must meet professional standards of practice and quality;
g. 42 CFR § 483.25(d), providing that the facility must ensure that the resident environment remains as free of accident hazards as is possible; and each resident receives adequate supervision.

h. 42 CFR § 483.35, providing that the facility must have sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.
i. 42 CFR § 483.70, providing that the facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.
j. 42 CFR § 483.90, providing that the facility must be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel and the public.
k. 42 CFR § 483.95, providing that the facility must develop, implement, and maintain an effective training program for all new and existing staff; individuals providing services under a contractual arrangement; and volunteers, consistent with their expected roles and training topics must include resident's rights and facility responsibilities and abuse/neglect/exploitation training.
l. 42 CFR § 483.420(a), providing that the facility must ensure the rights of all clients and therefore must ensure clients are not subject to any forms of abuse or punishment and ensure that the clients are free from unnecessary drugs.
m. 42 CFR § 483.430, providing that the facility must provide each employee with initial and continuing training that enables the employee to perform his or her duties effectively, efficiently, and competently.
n. 42 CFR § 483.460(k)(2), providing that the facility must have an organized system, which must assure that all drugs are administered without error.

115. The Corporate Defendants also have a duty under Ohio R.C. 4723.34(a) to report to the Board of Nursing if they know or have reason to believe that an employee has engaged in conduct that warrants disciplinary action, which would include drug use impairing the employees' ability to safely and competently perform their duties.

116. The Corporate Defendants breached their duty by failing to report Defendant Johnston, despite having knowledge—either directly or through their agents, including Director of Nursing Defendant Wilmore—that she was using marijuana during her employment at Foundations.

117. Additionally, Ohio R.C. 5123.61 places a duty upon all Defendants to immediately report if they have reason to believe that an individual with a developmental disability has suffered

or faces a substantial risk of suffering any, ". . . injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that individual."

118. Defendants breached their mandatory reporting duty by failing to report the Foundation employees' drug use, alcohol use, or other inappropriate conduct as described herein, which reasonably indicated abuse or neglect of the individuals/residents under their care and supervision at Foundations.

119. The Defendants' failure to obey the federal and State statutes, rules and regulations as described herein constitutes a violation of Jordan's rights and amounts to negligence per se, or, at a minimum, gives rise to a rebuttable presumption of corporate negligence.

120. As a direct and proximate result of the Defendants' conduct that resulted in an unsecure, undercapitalized facility, staffed with unqualified individuals, Jordan suffered a premature death and Plaintiffs have suffered damages.

121. Based upon the allegations described herein, the Defendants are liable for the damages alleged throughout this complaint.

122. Furthermore, at all relevant times, Jordan was in the sole custody and control of Defendants and suffered his fatal injury while under their exclusive supervision. As such, Plaintiffs specifically plead the doctrine of *res ipsa loquitur*, in light of the harm suffered by Jordan—namely his exposure to non-prescribed, illicit drugs while under the Defendants' sole care and supervision that caused his premature death.

FIFTH CAUSE OF ACTION
(*Vicarious Liability/Agency by Estoppel – Corporate Defendants*)

123. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.

124. The Corporate Defendants are liable to Plaintiffs, either through their own actions and/or on theories of *respondeat superior*, *apparent agency,* and/or *agency by estoppel* that directly resulted in the injuries and damages described herein.

125. The Corporate Defendants, expressly, impliedly and/or apparently authorized the Employee Defendants or their other employees to act on Foundations' behalf and/or intentionally or carelessly caused or allowed its employees to believe they were authorized to act on Foundations' behalf in providing care, supervision, and assistance to Jordan.

126. The Corporate Defendants intended Plaintiffs to rely on the belief that the Employee Defendants or its other employees were authorized to act on Foundations' behalf in providing care, supervision, and assistance to Jordan.

127. Plaintiffs had a right to rely and did reasonably rely on that belief that the Defendants and its employees were acting within the scope of their express, implied, or apparent authority at all relevant times described herein.

128. As a result, the Corporate Defendants are liable for the acts and damages caused by the acts of the Employee Defendants as described herein under the principles of *respondeat superior, apparent agency,* and/or *agency by estoppel.*

ON ALL DEFENDANT COUNTS
(*Punitive Damages*)

129. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.

130. Due to his profound intellectual disabilities, medical conditions, and limited mobility, Jordan belonged to a highly vulnerable class of people.

131. Because of his condition, Jordan was highly dependent on a skilled facility with competent staff to provide him with assisted living services and appropriate medical care.

132. The Corporate Defendants are for-profit entities whose revenue is generated from residents like Jordan.

133. At all relevant times, the Corporate Defendants were aware of the staffing and facility issues at Foundations, which reasonably affected and jeopardized their residents' rights and care/services. Such issues were known to the Corporate Defendants who had a duty to prevent, address, and correct any issues that affected their residents' rights and/or the care/services they received.

134. However, the Corporate Defendants wantonly and/or recklessly and/or consciously failed to do so, breaching their contractual and legal duties to their resident, Jordan Shinn. Said breach constituted heedless and reckless indifference to the legal rights of Jordan Shinn under circumstances, warranting an award of punitive damages.

135. As described, the Defendants' conduct and misrepresentations about its quality and capability of providing care to Jordan were made to not only induce Plaintiff Ashley Shinn to place her minor son in their facility but were ongoing in order to induce her to keep her son in their facility. Such conduct was unconscionable.

136. The Defendants' care, treatment, monitoring, and supervision of Jordan was of such a wanton, willful, reckless and/or heedless character as to manifest and evince a callous and reckless disregard for the health and well-being of others, including Jordan, which caused him to suffer serious injuries, pain and suffering, and ultimately, an untimely death.

137. The acts and omissions of the Defendants, as described herein, constitute malice. Specifically, their careless and reckless conduct—including allowing lethal, illicit drugs to be brought into the facility and made accessible to a profoundly vulnerable individual like Jordan—was outrageous and demonstrated a conscious disregard for Jordan's legal, statutory,

and constitutional rights, as well as his safety and well-being. Their actions created a substantial risk of serious harm to Jordan, a risk that ultimately materialized and resulted in his death.

138. As to all Defendants, Plaintiffs are entitled to and demand punitive damages in an amount to be determined by the trier of fact

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against the Defendants, jointly and severally, in an amount exceeding Twenty-Five Thousand Dollars ($25,000.00), together with interest, costs, reasonable attorney fees associated herewith, and such other and further relief as the Court may deem just. Additionally, Plaintiffs pray for punitive damages against all Defendants in an amount to be determined by the trier of fact.

Respectfully submitted,

/s/Charles E. Boyk
Bar Number 0000494 Attorney for Plaintiffs
1500 Timberwolf Dr. Holland, OH 43528
Telephone: (419) 241-1395
Facsimile: (419) 241-8731

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues triable by right herein.

Respectfully submitted,

/s/Charles E. Boyk
Bar Number 0000494 Attorney for Plaintiffs
1500 Timberwolf Dr. Holland, OH 43528
Telephone: (419) 241-1395
Facsimile: (419) 241-8731

PRAECIPE

TO THE CLERK:

Please serve summons and complaint upon Defendants by certified mail, return receipt requested, at the addresses listed on the caption.

Respectfully submitted,

/s/Charles E. Boyk
Bar Number 0000494 Attorney for Plaintiffs
1500 Timberwolf Dr. Holland, OH 43528
Telephone: (419) 241-1395
Facsimile: (419) 241-8731

AFFIDAVIT OF MERIT
BY
JASON E. ROCK, MD, MPH

STATE OF OHIO)
) ss
COUNTY OF TRUMBULL)

Now comes, Jason E. Rock MD, MPH, first being duly sworn according to law, and does hereby depose and state as follows:

1. I am of sound mind, lawful age and in all other respects competent to make this Affidavit.
2. I am licensed to practice medicine in the States of Ohio and Pennsylvania, and I spend over 50% of my time in the active clinical practice of medicine in my field of licensure.
3. I am board certified in Child and Adolescent Psychiatry as well as Psychiatry.
4. I work in a number of clinical settings with patients across the lifespan who are in different types of residential facilities. A significant portion of my practice has me working with intellectually disabled patients and patients on the autism spectrum.
5. I have over 15 years of experience working in in-patient and residential facilities. I have substantial familiarity with the standards of care and practice for these types of facilities, which are similar to the standards for intermediate care facilities.
6. My area of specialty is similar to the Defendants' area of specialty due to the population of patients. With nearly two decades of clinical experience of working with children/adolescents with different intellectual disabilities, I have substantial familiarity between the specialties and with working with this population of patients.
7. I have reviewed all medical records reasonably available to the Plaintiff, concerning the allegations contained in the complaint.

8. I am familiar with the applicable standards of care relative to the allegations contained in the Complaint and the care and treatment provided to Jordan Shinn at Foundations.
9. All opinions stated in this Affidavit are based off my knowledge, skill, experience, training, or education and are expressed to a reasonable degree of medical certainty.
10. It is my opinion that the applicable standards of care were breached by the Defendants to this action by failing to protect Jordan Shinn and by failing to provide him with necessary and appropriate care and with a safe and secure facility/environment, relative to the allegations contained in the Complaint.
11. It is my opinion that the aforementioned breaches were a direct and proximate cause of the injuries to, and the death of, Jordan Shinn.
12. I reserve the right to amend my opinions based on the review of additional relevant information.

Further Affiant Sayeth Naught.

7-3-25
Date

Jason E. Rock, MD, MPH.

SWORN TO BEFORE ME and subscribed in my presence this 3 day of July 2025.

Notary Public

DREA ROBINSON
Notary Public
State of Ohio
My Comm. Expires
April 23, 2028

PROBATE COURT OF Preble **COUNTY, OHIO**

ESTATE OF Jordan Shinn **, DECEASED**

CASE NO. 20241123

ENTRY APPOINTING FIDUCIARY; LETTERS OF AUTHORITY

[For Executors and all Administrators]

PREBLE COUNTY PROBATE COURT
2024 AUG 8 PM2:07

Name and Title of Fiduciary Zackary Shaffer, Administrator

JENIFER K. OVERMYER
JUDGE

On hearing in open Court the application of the above fiduciary for authority to administer decedent's estate, the Court finds that;

Decedent died **[check one of the following]** ☐ testate - ☒ intestate - on 07/23/2023, domiciled in _____.

[Check one of the following] ☐ Bond is dispensed with by the Will - ☒ Bond is dispensed with by law - ☐ Applicant has executed and filed an appropriate bond, which is approved by the Court; and

Applicant is a suitable and competent person to execute the trust.

The Court therefore appoints applicant as such fiduciary, with the power conferred by law to fully administer decedent's estate. This entry of appointment constitutes the fiduciary's letters of authority.

August 8, 2024
Date

PROBATE JUDGE Jenifer K. Overmyer

CERTIFICATE OF APPOINTMENT AND INCUMBENCY

The above document is a true copy of the original kept by me as custodian of the records of this Court. It constitutes the appointment and letters of authority of the named fiduciary, who is qualified and acting in such capacity.

Jenifer K. Overmyer
Probate Judge/Clerk

by Rhonda D. Haines

August 8, 2024
Date

[Seal]

STATE OF INDIANA	)	IN THE WAYNE _____ COURT
	)	
COUNTY OF WAYNE	)	SITTING IN RICHMOND, INDIANA
IN THE ESTATE OF	)	CAUSE NO.
JESSICA RENE CARICO	)	
Deceased	)	

ORDER APPOINTING SPECIAL ADMINISTRATOR FOR THE SOLE PURPOSE OF PURSUING WRONGFUL DEATH ACTION

The Court, after having examined Petitioner's Verified Petition for Appointment of Special Administrator, which Petition is on file and a part of the Court's record, now finds as follows:

1. Jessica Rene Carico died on or about September 19, 2024, and at the time of death was domiciled in Wayne County, Indiana.

2. It is believed that Decedent died without a Last Will and Testament.

3. Melanie McInerney is appointed as Special Administrator of the Estate of Jessica Rene Carico and has qualified as such by taking an Oath as Special Administrator and the Clerk of the Court shall issue Letters of Special Administration to Petitioner.

4. Melanie McInerney, as Special Administrator, is hereby authorized to proceed as follows:

(a) Accept service of process relating to the matter of *Zackary Shaffer as administrator of the Estate of Jordan Shinn v. Miller Holdings Foundations, Inc. d/b/a Foundations*;

(b) Provide timely notice of suit to all liability insurance carriers.

5. Special Administrator may Petition the Court for additional authority as required to effectively manage this matter.

6. No bond is required

SO ORDERED June 13, 2025.

Thomas A. Jones
JUDGE, Wayne Superior COURT 2