

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT DEPARTMENT

BRISTOL, SS

CIVIL ACTION NO. BRCV2013-00271-C

BRADLEY J. PEARSON, PERSONAL)	
REPRESENTATIVE OF THE ESTATE OF)	
GRANT R. PEARSON,)	
)	
PLAINTIFF,)	
)	COMPLAINT AND JURY
VS.)	CLAIM FOR WRONGFUL
)	DEATH
CRYSTAL SPRINGS, INC.,)	
SPENCER A. MOORE, JOHN DOE I,)	
JOHN DOE II, and JOHN DOE III)	
)	
DEFENDANTS.)	

PRELIMINARY STATEMENT

1. The plaintiff, Bradley J. Pearson, resides in Leesburg, Virginia and is the duly appointed Personal Representative of the Estate of Grant R. Pearson, late of Assonet, Bristol County, Massachusetts.

2. At all times relevant hereto, the decedent, Grant R. Pearson, was a resident of the Children's Residential Program of Crystal Springs, Inc. from February 24, 2009 to October 25, 2011.

3. The defendant, Crystal Springs, Inc., is a duly organized and existing Massachusetts corporation with a principal place of business at 38 Narrows Road, Assonet, Massachusetts.

4. The defendant, Spencer A. Moore, is a resident of Marblehead, Massachusetts and at all times relevant hereto was the President and Chief Executive Officer of the defendant, Crystal Springs, Inc., and was responsible for (a) the care and safety of the plaintiff's decedent; (b) setting and implementing policies and procedures for resident care, including intake, evaluation, monitoring and treatment plans; and (c) setting and implementing policies and procedures for competent and adequate staff to ensure the safety of its residents.

5. The defendant, John Doe I, is the unidentified employee of the defendant, Crystal Springs, Inc., who was responsible for leaving an unsecured latex glove within the premises at 38 Narrows Road, Assonet, Massachusetts.

6. The defendant, John Doe II, is the unidentified nursing staff employee of the defendant Crystal Springs, Inc., who was responsible for CPR/resuscitation efforts within the premises at 38 Narrows Road, Assonet, Massachusetts at the time of the decedent's incident as hereinafter alleged.

7. The defendant, John Doe III, is the unidentified employee(s), administrator(s), or director(s) of the defendant, Crystal Springs, Inc., who was/were responsible for (a) the care and safety of the plaintiff; (b) setting and implementing policies and procedures for resident care, including intake,

evaluation, monitoring and treatment plans; and (c) setting and implementing policies and procedures for competent and adequate staff to ensure the safety of its residents.

8. PLAINTIFF DEMANDS TRIAL BY JURY ON ALL COUNTS HEREIN.

FACTS RELEVANT TO ALL COUNTS

9. The Plaintiff incorporates and realleges the allegations of paragraphs 1 through 8 as if fully stated herein.

10. Defendant Crystal Springs, Inc. at all times pertinent hereto was the owner and/or operator of the Crystal Springs Children's Residential program in Assonet, Massachusetts. Upon information and belief, Crystal Springs, Inc. was formerly incorporated as Institute for Developmental Disabilities, Inc., or "IDDI" and formerly changed its name to Crystal Springs, Inc. in May 2011.

11. Crystal Springs, Inc. is a residential care facility for profoundly disabled children and adults and is licensed by the Massachusetts Department of Developmental Services and Department of Early Education and Care.

12. On or about February 24, 2009, Grant R. Pearson was re-admitted as a resident of the defendant, Crystal Springs, Inc. (formerly Institute for Developmental Disabilities, Inc., or "IDDI"). He had previously been admitted to the IDDI from August 2001 to January 2005.

13. At the time of his re-admission, the admissions staff of defendant Crystal Springs was aware that Pearson had been diagnosed with PICA and had a history of mouthing inedible objects, as well as numerous other diagnoses such as Pervasive Developmental Disorder, Seizure Disorder, Autism and Profound Mental Retardation.

14. PICA is a mental disorder, the essential feature of which is the persistent ingestion of nonnutritive substances for a period of at least one month at an age for which this behavior is developmentally inappropriate.

15. When Pearson was re-admitted, his level of supervision was one-to-one but this staffing ratio was subsequently removed by the agents, servants and/or employees of the defendant Crystal Springs, Inc.

16. At all relevant times hereto, the late Grant R. Pearson was a paying resident of said residential care facility, Crystal Springs, Inc. The defendant Crystal Springs, Inc. by and through its employees, had contractual and other duties to provide competent care to the late Grant Pearson as required by law and consistent with industry standards. These duties included: (a) ensuring the care and safety of the plaintiff's decedent; (b) setting and implementing policies and procedures for resident care, including intake, evaluation, monitoring and treatment plans; and (c) setting and

implementing policies and procedures for competent and adequate staff to ensure the safety of its residents.

17. This defendant, Crystal Springs, Inc., held itself out to be a specialist in the field of residential, therapeutic and educational services with expertise to maintain the health and safety of persons unable to care for themselves, such as the late Grant R. Pearson.

18. On or about October 25, 2011, an employee of Crystal Springs showered the late Grant R. Pearson in a bathroom stall.

19. Gloves utilized by staff in performing Assisted Daily Living activities were left in the bathroom in an unlocked drawer and on the tub railing.

20. The defendant Crystal Springs did not have a written policy regarding the removal/disposal of gloves and, as a result, gloves were disposed of in numerous ways, including in unsecured trash barrels near the bathroom.

21. Following his shower, the late Grant R. Pearson was allowed to ambulate unsupervised around the halls of the defendant's premises.

22. Shortly thereafter the late Grant R. Pearson arrived back to the bathroom area. A staff person observed Pearson vomiting and saw him drop to his knees.

23. The staff person noticed Pearson's lips were purple and no breath came from his mouth. She called for a nursing staff to assist.

24. Nursing staff was paged, but due to an inadequate paging system, response was delayed.

25. When nursing staff finally arrived on the scene, Pearson was lying on the floor, pale with blue lips and unresponsive. Pearson had no pulse and was not breathing. The responding nurse had difficulty assembling and utilizing the oxygen bag. The nursing staff finally attempted to apply supplemental oxygen and noticed air was not going into his lungs. Despite the fact that his airway was restricted, the nursing staff did not attempt to clear the late Grant R. Pearson's airway or apply any life-saving techniques to prevent Pearson from choking to death. Nursing staff applied chest compressions.

26. A staff person attempted to place a telephone call to emergency medical response by dialing 911 but did not know the code to access an outside line, and accordingly, could not complete the call. After further delay, another staff person was finally able to access an outside line and complete the call. When paramedics arrived, they removed a fully intact latex glove from the late Grant R. Pearson's throat with the use of forceps.

27. Pearson was taken to Charlton Memorial Hospital and pronounced dead.

COUNT I

**Crystal Springs, Inc. - Negligence
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 2)**

28. The Plaintiff incorporates and realleges the allegations of paragraphs 1 through 27 as if fully stated herein.

29. As a direct and proximate result of the defendant's negligence, Pearson died on October 25, 2011.

30. The plaintiff brings this action for the wrongful death of Grant R. Pearson for the benefit of his next of kin pursuant to G. L. c. 229, § 2.

WHEREFORE, the plaintiff demands judgment against the defendant, Crystal Springs, Inc., together with interest and costs of suit.

COUNT II

**Crystal Springs, Inc. - Punitive Damages
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 2)**

31. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 30 as if fully stated herein.

32. All of the aforementioned acts and/or omissions of the defendant constitute gross negligence, and/or rose to the

level of willful, wanton, and/or reckless behavior within the meaning of the Wrongful Death Statute, so as to merit an award of punitive damages against this defendant.

WHEREFORE, the plaintiff demands judgment against the defendant, Crystal Springs, Inc., in an amount of punitive damages together with interest and costs of suit.

COUNT III

**Crystal Springs - Conscious Pain and Suffering
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 6)**

33. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 32 as if fully stated herein.

34. As a result of the defendant's negligence, the late Grant R. Pearson was caused to suffer great pain and conscious suffering up to the moment of his death.

WHEREFORE, the plaintiff demands judgment against the defendant, Crystal Springs, Inc., together with interest and costs of suit.

COUNT IV

Crystal Springs - Negligence

35. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 34 as if fully stated herein.

36. As a direct and proximate result of the ingestion of the glove, the late Grant R. Pearson suffered pain and suffering, injuries and death.

37. The injuries sustained by the plaintiff were the direct and proximate result of negligence of the defendant as follows:

- a. The defendant negligently failed to properly train its staff in caring for Pearson and others like him who were unable to attend to their own health and safety and were confined to the residential care facility.
- b. The defendant negligently failed to hire competent staff to care for Pearson and others like him confined to the residential care facility.
- c. The defendant negligently failed to properly train its staff in keeping accurate intake, evaluation, monitoring and treatment notes.
- d. The defendant carelessly and negligently failed to provide a safe environment to Pearson.
- e. The defendant carelessly and negligently failed to adhere to the plan of care.
- f. The defendant carelessly and negligently failed to provide adequate and proper supervised care as needed by Pearson.

- g. The defendant carelessly and negligently failed to provide adequate care to prevent the ingestion of non-edible objects by Pearson.
- h. The defendant carelessly and negligently failed to properly assess and monitor Pearsons' condition.
- i. The defendant carelessly and negligently failed to develop a plan of care based on Pearson's condition (PICA).
- j. The defendant negligently failed to have adequate emergency response policies and/or protocols, and failed to ensure that its staff was properly instructed and trained with respect to those policies and/or protocols.

38. At all times pertinent hereto, the decedent, Grant R. Pearson, was unable to care for himself and under the exclusive control and care of this defendant.

39. At all times pertinent hereto, the decedent, Grant R. Pearson was in the exercise of due care under the circumstances and was otherwise free from any and all comparative negligence.

40. As a direct and proximate result of this defendant's wrongful and negligent acts and omissions, Pearson was severely injured, was caused to endure conscious pain and suffering, suffered bodily injury resulting in his death and was otherwise injured and damaged.

WHEREFORE, the plaintiff demands judgment against the defendant, Crystal Springs, Inc., together with interest and costs of suit.

COUNT V

Crystal Springs, Inc. - Breach of Contract

41. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 40 as if fully stated herein.

42. Defendant breached their contract with the late Grant R. Pearson to provide a safe facility and use reasonable care in compliance with the law in providing services to Pearson, thereby proximately causing the death of Grant R. Pearson.

WHEREFORE, the plaintiff demands judgment against the defendant, Crystal Springs, Inc., together with interest and costs of suit.

COUNT VI

Crystal Springs, Inc. - 93A

43. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 42 as if fully stated herein.

44. At all times material hereto, the defendant, Crystal Springs, Inc., is a corporation engaged in the conduct of trade and commerce within the meaning of M.G.L. 93A.

45. The defendant's actions in failing to comply with its contractual obligations for the safety and well-being of the late Grant R. Pearson, including:

- a. failing to keep adequate data regarding the late Grant R. Pearson's medical condition and diagnoses;
- b. failing to maintain the one-to-one supervision with respect to the late Grant R. Pearson as called for by his original treatment plan;
- c. failing to have any policy regarding the storage and disposal of latex gloves;
- d. failing to have a formal PICA protocol;
- e. failing to have adequate emergency response mechanisms in place to respond to medical emergencies;
- f. failing to have an adequate paging system to contact nursing staff in medical emergencies;
- g. failing to adequately supervise and train staff to ensure their competence in reacting to medical emergencies and performing life-saving techniques.
- h. employing incompetent nursing staff who had difficulty assembling and properly utilizing the oxygen bag;
- i. failing to hire competent nursing staff and/or failing to train its staff to adequately perform life-saving resuscitation attempts, including ascertaining that Pearson had a restricted airway and clearing said airway; and
- j. not properly training its employees to access outside telephone lines to contact emergency medical responders.

Individually and collectively amount to unfair and deceptive acts or practices in violation of the Massachusetts Consumer Protection Act, M.G.L. c. 93A, § 2.

46. The unfair or deceptive acts or practices employed by the defendant, Crystal Springs, Inc., resulting in the late Grant R. Pearson's personal injuries and ultimately his death, as set forth above, were willful and knowing violations of M.G.L. c. 93A, § 2.

47. On or about February 13, 2013, the plaintiff mailed to the defendant, by certified mail, a written demand for relief pursuant to M.G.L. c. 93A, § 9, a copy of which is attached hereto as Exhibit "A".

48. The defendant has failed to respond to plaintiff's demand within thirty (30) days from the plaintiff's mailing of said written demand.

49. The defendant's refusal to grant appropriate relief upon demand was made in bad faith with knowledge, or reason to know, that the acts or practices complained of violated Chapter 93A.

WHEREFORE, the plaintiff demands that:

- a. A judgment be entered against the defendant, together with interest and costs of suit.
- b. The plaintiff be awarded treble damages because the defendant's failure to grant reasonable relief upon

demand was in bad faith with reason to know that the acts complained of have violated M.G.L. c. 93A.

c. The plaintiff be awarded a reasonable allowance for attorney's fees as provided by M.G.L, c. 93A, § 9(4).

d. The plaintiff be granted such other relief as is fair and equitable.

COUNT VII

**Spencer A. Moore - Negligence
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 2)**

50. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 49 as if fully stated herein.

51. As a direct and proximate result of the defendant's negligence, Pearson died on October 25, 2011.

52. The plaintiff brings this action for the wrongful death of Grant R. Pearson for the benefit of his next of kin pursuant to G. L. c. 229, § 2.

WHEREFORE, the plaintiff demands judgment against the defendant, Spencer A. Moore, together with interest and costs of suit.

COUNT VIII

**Spencer A. Moore - Punitive Damages
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 2)**

53. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 52 as if fully stated herein.

54. All of the aforementioned acts and/or omissions of the defendant constitute gross negligence, and/or rose to the level of willful, wanton, and/or reckless behavior within the meaning of the Wrongful Death Statute, so as to merit an award of punitive damages against this defendant.

WHEREFORE, the plaintiff demands judgment against the defendant, Spencer A. Moore, in an amount of punitive damages together with interest and costs of suit.

COUNT VIX

**Spencer A. Moore - Conscious Pain and Suffering
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 6)**

55. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 54 as if fully stated herein.

56. As a result of the defendant's negligence, the late Grant R. Pearson was caused to suffer great pain and conscious suffering up to the moment of his death.

WHEREFORE, the plaintiff demands judgment against the defendant, Spencer A. Moore, together with interest and costs of suit.

COUNT X

Spencer A. Moore - Negligence

57. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 56 as if fully stated herein.

58. Defendant, Spencer A. Moore, was negligent in providing proper and reasonable supervision to the decedent, Grant R. Pearson, resulting in the death of Pearson.

59. As a direct and proximate result of this defendant's wrongful and negligent acts and omissions, Pearson was severely injured, was caused to endure conscious pain and suffering, suffered bodily injury, died and was otherwise injured and damaged.

WHEREFORE, the plaintiff demands judgment against the defendant, Spencer A. Moore, together with interest and costs of suit.

COUNT XI

**John Doe I - Negligence
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 2)**

60. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 59 as if fully stated herein.

61. As a direct and proximate result of the defendant's negligence, Pearson died on October 25, 2011.

62. The plaintiff brings this action for the wrongful death of Grant R. Pearson for the benefit of his next of kin pursuant to G. L. c. 229, § 2.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe I, together with interest and costs of suit.

COUNT XII

**John Doe I - Punitive Damages
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 2)**

63. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 62 as if fully stated herein.

64. All of the aforementioned acts and/or omissions of the defendant constitute gross negligence, and/or rose to the level of willful, wanton, and/or reckless behavior within the

meaning of the Wrongful Death Statute, so as to merit an award of punitive damages against this defendant.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe I, in an amount of punitive damages together with interest and costs of suit.

COUNT XIII

**John Doe I - Conscious Pain and Suffering
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 6)**

65. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 64 as if fully stated herein.

66. As a result of the defendant's negligence, the late Grant R. Pearson was caused to suffer great pain and conscious suffering up to the moment of his death.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe I, together with interest and costs.

COUNT XIV

John Doe I - Negligence

67. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 66 as if fully stated herein.

68. Defendant, John Doe I, was negligent in failing to secure a plastic glove within the premises at 38 Narrows Road,

Assonet, Massachusetts, which Grant R. Pearson ultimately ingested, resulting in his death.

69. As a direct and proximate result of this defendant's wrongful and negligent acts and omissions, Pearson was severely injured, was caused to endure conscious pain and suffering, suffered bodily injury, died and was otherwise injured and damaged.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe I, together with interest and costs of suit.

COUNT XV

**John Doe II - Negligence
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 2)**

70. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 69 as if fully stated herein.

71. As a direct and proximate result of the defendant's negligence, Pearson died on October 25, 2011.

72. The plaintiff brings this action for the wrongful death of Grant R. Pearson for the benefit of his next of kin pursuant to G. L. c. 229, § 2.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe II, together with interest and costs of suit.

COUNT XVI

**John Doe II - Punitive Damages
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 2)**

73. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 72 as if fully stated herein.

74. All of the aforementioned acts and/or omissions of the defendant constitute gross negligence, and/or rose to the level of willful, wanton, and/or reckless behavior within the meaning of the Wrongful Death Statute, so as to merit an award of punitive damages against this defendant.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe II, in an amount of punitive damages together with interest and costs of suit.

COUNT XVII

**John Doe II - Conscious Pain and Suffering
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 6)**

75. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 74 as if fully stated herein.

76. As a result of the defendant's negligence, the late Grant R. Pearson was caused to suffer great pain and conscious suffering up to the moment of his death.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe II, together with interest and costs.

COUNT XVIII

John Doe II - Negligence

77. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 76 as if fully stated herein.

78. Defendant, John Doe II, at all times relevant hereto, held himself/herself out as a competent nurse for the care and treatment for a patient such as the plaintiff.

79. On October 25, 2011, the plaintiff was in a patient-nurse relationship with John Doe II.

80. The defendant, John Doe II, failed to provide proper medical care to the plaintiff by failing to properly respond to and adequately perform life-saving resuscitation attempts, to wit, failure to ascertain that Pearson had a restricted airway and clear said airway.

81. As a direct and proximate result of defendant John Doe II's wrongful and negligent acts and omissions, Pearson was severely injured, was caused to endure conscious pain and suffering, suffered bodily injury, died and was otherwise injured and damaged.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe II, together with interest and costs of suit.

COUNT VIX

**John Doe III - Negligence
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 2)**

82. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 81 as if fully stated herein.

83. As a direct and proximate result of the defendant's negligence, Pearson died on October 25, 2011.

84. The plaintiff brings this action for the wrongful death of Grant R. Pearson for the benefit of his next of kin pursuant to G. L. c. 229, § 2.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe III, together with interest and costs of suit.

COUNT XX

**John Doe III - Punitive Damages
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 2)**

85. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 84 as if fully stated herein.

86. All of the aforementioned acts and/or omissions of the defendant constitute gross negligence, and/or rose to the level of willful, wanton, and/or reckless behavior within the meaning of the Wrongful Death Statute, so as to merit an award of punitive damages against this defendant.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe III, in an amount of punitive damages together with interest and costs of suit.

COUNT XXI

**John Doe III - Conscious Pain and Suffering
(Pursuant to the Massachusetts Wrongful Death Statute,
G. L. c. 229, § 6)**

87. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 86 as if fully stated herein.

88. As a result of the defendant's negligence, the late Grant R. Pearson was caused to suffer great pain and conscious suffering up to the moment of his death.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe III, together with interest and costs of suit.

COUNT XXII

John Doe III - Negligence

89. The plaintiff incorporates and realleges the allegations of paragraphs 1 through 88 as if fully stated herein.

90. Defendant, John Doe III, was negligent in providing proper and reasonable supervision to the decedent, Grant R. Pearson, resulting in the death of Pearson.

91. As a direct and proximate result of this defendant's wrongful and negligent acts and omissions, Pearson was severely injured, was caused to endure conscious pain and suffering, suffered bodily injury, died and was otherwise injured and damaged.

WHEREFORE, the plaintiff demands judgment against the defendant, John Doe III, together with interest and costs of suit.

Respectfully Submitted,
The Plaintiff,
By His Attorney,

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