



IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA
 CIVIL ACTION NO.: _____

CATHERINE ESCALANTE, as personal representative of **JOHN C. OKOYE**,
 deceased,

Plaintiff,

v.

RESTORE CARE, INC.;
RESTORE CARE OF NORTH ALABAMA, L.L.C.;
CHOICE MEDICINE: HWY 53 MEDICAL CENTER;
CELIA W. LLOYD-TURNEY, M.D.; and,

Fictitious Party Nos. 1-10, whether singular or plural, any person who physically or verbally abused or assaulted John;

Fictitious Party Nos. 11-20, whether singular or plural, any hospital, clinic or medical entity that provided medical care to John Okoye, prescribed medications to John, or was responsible for providing him care for his traumatic injuries;

Fictitious Party Nos. 21-30, whether singular or plural, any medical doctor, doctor of osteopathy, pharmacist, psychiatrist or other medical provider who provided medical care to John Okoye, prescribed, managed and/or dispensed medication to John Okoye, or who was responsible for providing him care for his traumatic injuries;

Fictitious Party Nos. 31-40, whether singular or plural, any nurse practitioner, nurse, caregiver or agent of the above that provided medical care to John Okoye, prescribed, managed and/or dispensed medications to John, or was responsible for providing him care for his traumatic injuries;

Fictitious Party Nos. 41-50, whether singular or plural, any person or entity who or which undertook to provide services to, supervise, house, or otherwise care for John Okoye;

Fictitious Party Nos. 51-60, whether singular or plural, any employer of the above;

Fictitious Party Nos. 61-70, whether singular or plural, any employee or agent of the above; and

Fictitious Party Nos. 71-80 (any predecessor or successor in interest of the above);

Defendants.

COMPLAINT

This is an action for the wrongful death of John C. Okoye on January 4, 2017, which was caused by the wrongful conduct of the defendants.

PARTIES, JURISDICTION AND VENUE

1. **Catherine Escalante** (“Catherine”) is an individual over the age of 19, who on August 22, 2017, was appointed by the Madison County Probate Court as the personal representative of John C. Okoye (“John”), deceased.

2. **Restore Care, Inc.** (“Restore Care”) is an Alabama company with its principal place of business in Madison County, Alabama.

3. **Restore Care of North Alabama, L.L.C.** (“Restore Care, LLC”) is a limited liability company formed under the laws of Alabama with its principal place of business in Madison County, Alabama.

4. **Choice Medicine: Hwy 53 Medical Center d/b/a Choice Medicine** (“Choice Medicine”) is an Alabama company with its principal place of business in Madison County, Alabama.

5. **Celia W. Lloyd-Turney, M.D.** (“Dr. Lloyd-Turney”) is an individual over the age of 19, who practices medicine in Toney, Madison County, Alabama.

6. Fictitious Party Nos. 1-10 are any person who physically or verbally abused or assaulted John, or tackled him to the floor.

7. Fictitious Party No. 11-20 are any hospital, clinic or medical entity that provided medical care to John Okoye, prescribed medications to John, or was responsible

for providing him care for his traumatic injuries.

8. Fictitious Party Nos. 21-30 are any medical doctor, doctor of osteopathy, pharmacist, psychiatrist or other medical provider who provided medical care to John Okoye, prescribed, managed and/or dispensed medication to John Okoye, or who was responsible for providing him care for his traumatic injuries.

9. Fictitious Party Nos. 31-40 are any nurse practitioner, nurse, caregiver or agent of the above that provided medical care to John Okoye, prescribed, managed and/or dispensed medications to John, or was responsible for providing him care for his traumatic injuries.

10. Fictitious Party Nos. 41-50 are any person or entity who or which undertook to provide services to, supervise, house, or otherwise care for John Okoye

11. Fictitious Party Nos. 51-60 are any employer of the above;

12. Fictitious Party Nos. 61-70 are any employee or agent of the above;

13. Fictitious Party Nos. 71-80 are any predecessor or successor in interest of the above.

14. The medical care at issue in this case occurred in Madison County, Alabama.

15. The amount in controversy exceeds the \$10,000 minimum of this court.

FACTS

16. John suffered from mental retardation, severe autism and seizure disorder.

17. John was living at the Restore Care and/or Restore Care, LLC, group home

located in Toney, Alabama.

18. On or about August 29, 2016, John was physically abused and assaulted at Restore Care and/or Restore Care, LLC, by one or more of its staff members, including Nuradeen Taofeek and Olayemi Babalola. This was reported by another staff member. As a result, John had multiple bruises and contusions to multiple areas of his body and head.

19. On an unknown date in September 2016 John was again physically abused and assaulted at Restore Care and/or Restore Care, LLC, by one or more of its staff members, including John Mitchell. This was reported by another staff member.

20. On or about November 1 and 9, 2016, living conditions for residents at Restore Care and/or Restore Care, LLC, were reported to include bedbugs, inadequate food, inadequate staffing, and dirty and missing clothes, among other issues.

21. In 2015 and 2016 John was treated at Choice Medicine by Celia Lloyd-Turney, M.D., his primary care physician, who noted on multiple visits (including in March and April 2016) bruising and other evidence of abuse and/or assault on John's body and head while John was a resident at Restore Care and/or Restore Care, LLC. Dr. Lloyd-Turney had a responsibility to know all medications John was taking and to monitor/manage those medications properly from 2015 to the date of John's death. Dr. Lloyd-Turney had a financial interest in Restore Care, Restore Care LLC, and Choice Medicine during all times material to this complaint.

22. On or about November 8, 2016, John presented to Huntsville Hospital for reported "increased lethargy and some unsteadiness in his gait over the past several days which had worsened today." John underwent a CT scan that same day which revealed a

“large subacute right-sided subdural hematoma with right to left shift.”

23. The next day, November 9, 2016, John underwent surgery which included a right frontal and right parietal burr hole with evacuation of a chronic subdural hematoma.

24. John was discharged to Restore Care and/or Restore Care, LLC. When John arrived back at Restore Care he began exhibiting signs of anxiety and suffered a seizure. John returned to Huntsville Hospital due to the seizure activity.

25. Restore Care and/or Restore Care, LLC, failed to schedule John’s follow up, post-surgical neurology appointment. John was also supposed to have 1:1 care at Restore Care and/or Restore Care, LLC, but did not receive it.

26. On or about December 21, 2016, an incident report for neglect and a General Event Report (GER) was completed by case manager Kate DuBois, stating, among other things, that: “John is currently not attending day hab due to a brain surgery which was caused by trauma/abuse from his residential staff [at Restore Care and/or Restore Care, LLC].”

27. On or about January 4, 2017, Restore Care and/or Restore Care, LLC, staff contacted case manager Dubois demanding that the General Event Report be changed; but were informed it would not be changed. Later that day, staff at Restore Care and/or Restore Care, LLC, informed John’s mother that John had gone into cardiac arrest, had been revived and was being taken to Huntsville Hospital.

28. John was pronounced dead at approximately 9:10 pm on January 4, 2017.

29. The autopsy report lists as a cause of death: “acute mixed drug toxicity”

and lists as a contributing cause of death: “severe traumatic brain injury as a result of blunt force trauma associated with subdural hematoma.” The autopsy further lists evidence of bruises and contusions to over fourteen (14) different areas of John’s body, including his head and face.

30. Dr. Ricaurte Solis certified John’s death certificate listing as a cause of his death: “acute mixed drug toxicity” and listing as a contributing cause of death: “severe traumatic brain injury, blunt force trauma.”

COUNT I
NEGLIGENCE/WANTONNESS AGAINST RESTORE CARE & RESTORE CARE, LLC

31. The plaintiff re-adopts and re-alleges all previous paragraphs as if fully stated herein.

32. Restore Care, Restore Care, LLC, (and/or Fictitious Party Nos. 1-80) by and through its employees, agents and representatives, including but not limited to Nuradeen Taofeek, Olayemi Babalola, John Mitchell, Dr. Lloyd-Turney and Fictitious Party Nos. 1-80, had a duty to supervise John, provide a safe and clean environment for John, ensure John was not physically abused or assaulted, to not neglect John, and to ensure John received appropriate and proper medical care.

33. Restore Care, Restore Care, LLC, (and/or Fictitious Party Nos. 1-80) negligently or wantonly breached those duties.

34. That negligence or wantonness, which combined and concurred with the actions of the other defendants, including Fictitious Defendants, caused John’s death.

WHEREFORE, the Plaintiff, Catherine Escalante, as Personal Representative of

the Estate of John C. Okoye, deceased, requests a verdict against Restore Care, Restore Care, LLC, and each of the other Defendants (and/or Fictitious Party Nos. 1-80), jointly and severally, for punitive damages pursuant to the Wrongful Death Act of the State of Alabama in an amount sufficient to preserve life, punish the defendants, and deter the same or similar wrongs in the future by the defendant and others in the future. Plaintiff requests that this Court enter judgment consistent with the verdict, and that it also award Plaintiff interest from the date of the judgment and costs incurred.

COUNT II
NEGLIGENT/WANTON TRAINING AGAINST RESTORE CARE & RESTORE CARE, LLC

35. The plaintiff re-adopts and re-alleges all previous paragraphs as if fully stated herein.

36. Restore Care, Restore Care, LLC, (and/or Fictitious Party Nos. 1-80) negligently or wantonly trained and/or failed to train its employees and/or agents, including but not limited to Nuradeen Taofeek, Olayemi Babalola, John Mitchell and Dr. Lloyd-Turney (and/or Fictitious Party Nos. 1-80).

37. That negligence or wantonness, which combined and concurred with the actions of the other defendants, including Fictitious Defendants, caused John's death.

WHEREFORE, the Plaintiff, Catherine Escalante, as Personal Representative of the Estate of John C. Okoye, deceased, requests a verdict against Restore Care, Restore Care, LLC, and each of the other Defendants (and/or Fictitious Party Nos. 1-80), jointly and severally, for punitive damages pursuant to the Wrongful Death Act of the State of Alabama in an amount sufficient to preserve life, punish the defendants, and deter the

same or similar wrongs in the future by the defendant and others in the future. Plaintiff requests that this Court enter judgment consistent with the verdict, and that it also award Plaintiff interest from the date of the judgment and costs.

COUNT III
NEGLIGENT/WANTON HIRING AND/OR RETENTION AGAINST RESTORE CARE & RESTORE CARE, LLC

38. The plaintiff re-adopts and re-alleges all previous paragraphs as if fully stated herein.

39. Restore Care, Restore Care, LLC, (and/or Fictitious Party Nos. 1-80) by and through its employees, agents and representatives, negligently or wantonly hired, and/or negligently or wantonly retained its staff, including but not limited Nuradeen Taofeek, Olayemi Babalola, John Mitchell and Dr. Lloyd-Turney (and/or Fictitious Party Nos. 1-80).

40. That negligence, which combined and concurred with the actions of the other defendants, including Fictitious Defendants, caused John's death.

WHEREFORE, the Plaintiff, Catherine Escalante, as Personal Representative of the Estate of John C. Okoye, deceased, requests a verdict against Restore Care, Restore Care, LLC, and each of the other Defendants (and/or Fictitious Party Nos. 1-80), jointly and severally, for punitive damages pursuant to the Wrongful Death Act of the State of Alabama in an amount sufficient to preserve life, punish the defendants, and deter the same or similar wrongs in the future by the defendant and others in the future. Plaintiff requests that this Court enter judgment consistent with the verdict, and that it also award Plaintiff interest from the date of the judgment and costs incurred.

COUNT IV
MEDICAL MALPRACTICE AGAINST RESTORE CARE, RESTORE CARE,
LLC & DR. LLOYD-TURNEY

41. The plaintiff re-adopts and re-alleges all previous paragraphs as if fully stated herein.

42. In providing care to John, Dr. Lloyd-Turney, Restore Care, Restore Care, LLC, and/or Fictitious Party Nos. 1-80, including by and through its employees, agents and/or representatives, had a duty to use such reasonable care, skill and diligence as other similarly situated health care providers in the same general line of practice.

43. Defendants Restore Care, Restore Care, LLC, and/or Fictitious Party Nos. 1-80, are vicariously liable for the negligence or wantonness of its employees, agents and/or representatives, including but not limited to Nuradeen Taofeek, Olayemi Babalola, John Mitchell and Dr. Lloyd-Turney (and/or Fictitious Party Nos. 1-80), under principles of agency.

44. Restore Care, Restore Care, LLC, Dr. Lloyd-Turney, (and/or Fictitious Party Nos. 1-80) negligently or wantonly breached that duty by:

- a. failing to properly supervise John;
- b. failing to provide a safe environment for John;
- c. failing to provide a clean environment for John;
- d. failing to ensure that John not be physically abused/assaulted by staff;
- e. allowing John to be physically abused/assaulted by staff;
- f. failing to report that John had been physically abused/assaulted by staff;

- g. neglecting John;
- h. failing to ensure John received appropriate care by its staff, including an appropriate staffing ratio;
- i. failing to arrange, schedule and/or transport John to doctor, hospital and other medical appointments;
- j. arranging for and/or allowing Choice Medicine and/or Dr. Lloyd-Turney to treat John for physical abuse and assault when Choice Medicine and/or Dr. Lloyd Turney had a financial interest in John remaining a resident of Restore Care and/or Restore Care, LLC;
- k. failing to provide appropriate medical treatment to John for physical abuse and/or traumatic injuries;
- l. failing to properly prescribe, manage, monitor, and/or dispense John's medications;
- m. failing to train or to properly train its employees and/or staff;
- n. hiring employees and/or staff members who were unfit to care for John;
- o. retaining employees and/or staff members who were unfit to care for John; and,
- p. failing to implement proper policies and procedures for the care of its residents, including John.

45. Those breaches combined with the actions of other defendants were a legal cause of death for John, in that without the breaches, John would have more likely than not survived.

46. WHEREFORE, the Plaintiff, Catherine Escalante, as Personal Representative of the Estate of John C. Okoye, deceased, requests a verdict against Restore Care, Restore Care, LLC, and each of the other Defendants (and/or Fictitious

Party Nos. 1-80), jointly and severally, for punitive damages pursuant to the Wrongful Death Act of the State of Alabama in an amount sufficient to preserve life, punish the defendants, and deter the same or similar wrongs in the future by the defendant and others in the future. Plaintiff requests that this Court enter judgment consistent with the verdict, and that it also award Plaintiff interest from the date of the judgment and costs incurred by the court in managing this lawsuit.

COUNT V
MEDICAL MALPRACTICE AGAINST CHOICE MEDICINE & DR. LLOYD-TURNEY

47. The plaintiff re-adopts and re-alleges all previous paragraphs as if fully stated herein.

48. In providing care to John, Choice Medicine, Dr. Lloyd-Turney, (and/or Fictitious Party Nos. 1-80), including by and through its/her employees, agents and/or representatives, had a duty to use such reasonable care, skill and diligence as other similarly situated health care providers in the same general line of practice.

49. Defendants Choice Medicine and/or Fictitious Party Nos. 1-80, are vicariously liable for the negligence or wantonness of its employees, agents and/or representatives, including but not limited to Dr. Lloyd-Turney (and/or Fictitious Party Nos. 1-80), under principles of agency.

50. Choice Medicine, Dr. Lloyd-Turney (and/or Fictitious Party Nos. 1-80) negligently or wantonly breached that duty as follows:

- a. failing to properly treat John for physical abuse and/or assault;
- b. failing to properly treat John for traumatic injuries, including a brain

injury;

- c. failing to properly manage John's medical treatment, including for a traumatic brain injury and other traumatic injuries;
- d. failing to properly prescribe, manage, monitor and/or dispense John's medications;
- e. failing to report that John had been physically abused and/or assaulted;
- f. allowing John to be discharged to Restore Care and/or Restore Care, LLC, with knowledge or suspicion of abuse; and,
- g. for treating John for injuries from abuse and/or assault at Restore Care and/ Restore Care, LLC, while having a financial interest in John remaining a resident at Restore Care and/or Restore Care, LLC.

51. At the time of her breach, Dr. Lloyd-Turney was acting within the line and scope of her employment with Choice Medicine and/or Fictitious Defendant Nos. 1-80. Choice Medicine and/or Fictitious Defendant Nos. 1-80, are vicariously liable for the negligent breach of the standard of care by Dr. Lloyd-Turney.

52. The breaches of the standard of care by Choice Medicine, Dr. Lloyd-Turney and/or Fictitious Defendant Nos. 1-80, which combined with the actions of other defendants, were a legal cause of death for John Okoye, in that without the breaches, John would have more likely than not survived.

53. WHEREFORE, the Plaintiff, Catherine Escalante, as Personal Representative of the Estate of John C. Okoye, deceased, requests a verdict against Choice Medicine, Dr. Lloyd-Turney, and each of the other Defendants (and/or Fictitious Party Nos. 1-80), jointly and severally, for punitive damages pursuant to the Wrongful Death Act of the State of Alabama in an amount sufficient to preserve life, punish the

defendants, and deter the same or similar wrongs in the future by the defendant and others in the future. Plaintiff requests that this Court enter judgment consistent with the verdict, and that it also award Plaintiff interest from the date of the judgment and costs.

Respectfully submitted August 30, 2017,

/s/Rip Andrews

RIP ANDREWS (AND100)

E-mail: ripandrews@mrblaw.com

/s/J. Ben Ford

J. BEN FORD (FOR077)

E-mail: bford@mrblaw.com

MARSH, RICKARD & BRYAN, P.C.

800 Shades Creek Pkwy, Suite 600-D

Birmingham, Alabama 35209

Phone: (205) 879-1981

Fax: (205) 879-1986

/s/Mark A. Jackson

MARK A. JACKSON (JAC044)

E-mail: jackoesq@aol.com

MARK A. JACKSON, P.C.

525 Madison Street, Suite 202

Huntsville, Alabama 35801

Phone: (256) 533-5306

Fax: (256) 533-0020

JURY DEMAND

Plaintiff hereby demands a trial by struck jury.

/s/Rip Andrews

RIP ANDREWS (AND100)

[See service instructions on following page]

PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL AS FOLLOWS:

Restore Care, Inc.

c/o Celia Lloyd-Turney, M.D.
10674 Wall Triana Highway
Toney, Alabama 35773

Restore Care of North Alabama, L.L.C.

c/o Celia Lloyd-Turney, M.D.
10674 Wall Triana Highway
Toney, Alabama 35773

Choice Medicine: Hwy 53 Medical Center

c/o Jessie Turney
10664 Wall Triana Highway
Toney, Alabama 35773

Celia W. Lloyd-Turney, M.D.

10674 Wall Triana Highway
Toney, Alabama 35773