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Form 10  
[Rule 3.25]

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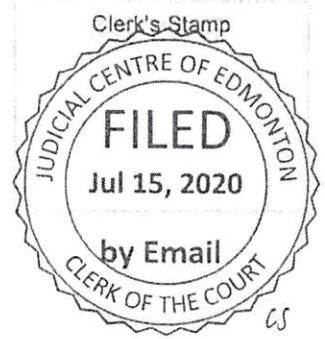
COURT                      COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE        EDMONTON

PLAINTIFF(S)            CHERI MCPHILLAMEY as REPRESENTATIVE PLAINTIFF

DEFENDANT(S)          INTEGRATED LIFE CARE (MCLENNAN) INC. and INTEGRATED LIFE CARE INC.

DOCUMENT                **STATEMENT OF CLAIM**



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A Class Proceeding pursuant to the  
*Class Proceedings Act*, Chapter C-16.5

**NOTICE TO DEFENDANT(S)**

You are being sued. You are Defendants.

Go to the end of this document to see what you can do and when you must do it.

Statement of facts relied on:

**A. LITIGANTS**

1. The Representative Plaintiff Cheri McPhillamey resides in the City of Saskatoon in the Province of Saskatchewan.
2. The Defendants Integrated Life Care (McLennan) Inc. and Integrated Life Care, or either one of them, carried on business at all material times in McLennan, Alberta at all material times owned and operated a care facility for elderly persons under the name "Manoir du Lac" in Alberta.

**B. CLASS**

3. The Plaintiff claims on behalf of herself and natural persons in Canada who:
  - a. Are current or former Residents of Manoir du Lac ("Residents") who became infected with COVID-19 while resident at Manoir du Lac and became ill or passed away;
  - b. Are spouses, adult interdependent partners or children of any age ("Family Class") of Residents of Manoir du Lac who have been ill or passed away.

**C. THE COVID-19 PANDEMIC IN CANADA**

4. The elderly are especially vulnerable to COVID-19 and are entitled to care from properly trained and equipped staff, in an proper environment with adequate testing and response protocols to prevent the introduction or spread of COVID-19.
5. On January 26, 2020, the first presumptive case of COVID-19 in Canada was announced in the City of Toronto, in the Province of Ontario.
6. On February 25, 2020, the World Health Organization stated that older adults are more vulnerable to contracting severe or fatal forms of COVID-19.
7. On March 5, 2020, the first presumptive case of COVID-19 in Alberta was announced;

8. The first death in Alberta from COVID-19 was announced on March 19, 2020.

**D. THE REPRESENTATIVE PLAINTIFF**

9. Cheri McPhillamey's father, a resident of Manoir du Lac, tested positive for COVID-19 on April 15, 2020. The Plaintiff was not informed that her father was being tested for COVID-19.
10. The Plaintiff received a phone call on April 19, 2020 that her father's health was rapidly declining.
11. The Plaintiff's father died as a result of COVID-19 complications a few hours after she had received the phone call.

**E. NEGLIGENCE**

12. The Defendants are liable to the Plaintiff and the other Class members in negligence.
13. At all relevant times, the Defendants had an obligation to safeguard the life, health, and dignity of Residents and to ensure continued and adequate care.
14. The Defendants knew that the COVID-19 crisis constituted a serious danger to its Residents and its staff.
15. The Defendants knew that the Residents of Manoir du Lac were among the most vulnerable in the population to contracting severe or fatal symptoms of COVID-19.
16. At all material times the Defendants owed a duty of care to the Plaintiff and Class members to ensure that there were reasonable protocols and procedures in place to protect the Residents and prevent the introduction or spread of COVID-19.
17. The Defendants owed the Plaintiff and other similarly situated persons in Alberta, or elsewhere in Canada the following duties of care, and other duties, *inter alia*:
  - a. To ensure that adequate sanitation protocols were in place;
  - b. To conduct or arrange for regular testing to prevent the spread of COVID-19;

- c. To develop and implement adequate protocols for caring for Residents infected with COVID-19 and to prevent the spread to other Residents;
  - d. Upon discovering that COVID-19 was present at Manoir du Lac, to warn the Class of COVID-19 infection, take immediate and comprehensive steps to isolate those affected, or take any other appropriate remedial action.
18. The Defendants, through their employees, breached the duty of care and failed to meet the applicable standard of care, particulars of which include, inter alia:
- a. Failing to ensure that adequate safety protocols were in place;
  - b. Failing to warn the Class Members of the COVID-19 infection at Manoir du Lac and failing to take immediate and comprehensive steps to isolate those affected or take other appropriate remedial action.
  - c. Failing to provide or monitor adequate separation between Residents;
  - d. Failing to provide or monitor adequate separation between Residents and staff;
  - e. Failing to conduct regular testing to prevent the spread of COVID-19;
  - f. Failing to have any or adequate personal protective equipment available including proper masks, gloves, gowns and other equipment;
  - g. Failing to develop and implement adequate protocols for caring for Residents infected with COVID-19 and to prevent the spread to other Residents;
  - h. Allowing employees or contractors working at other facilities to enter and work at Manoir du Lac;
  - i. Failing to implement and adhere to protocols mandated or recommended by Alberta Health Services, Alberta's Chief Medical Officer of Health, and the World Health Organization, among others.
  - j. Failing to conduct proper, or any testing, for COVID-19, to identify cases and implement protocols to prevent the spread of COVID-19;
  - k. Failing to have adequate numbers of staff;
  - l. Failing to adopt technological advances in testing for COVID-19;

- m. Failing to devote sufficient financial resources to staffing personnel to provide care to Residents, testing for COVID-19 and to ensure adequate sanitation.
- n. Failing to implement adequate procedures for cleaning in order to prevent the spread of COVID-19, or, in the alternative, failing to ensure such procedures were followed;
- o. Failing to implement adequate procedures to ensure that personnel or staff or others infected or potentially infected with COVID-19 were not allowed entry into Manoir du Lac or, in the alternative, failing to ensure such procedures were followed;
- p. Failing to employ and properly train competent staff on proper, safe or adequate protocols for caring for those with COVID-19 and preventing the spread;
- q. Failing to implement adequate cleaning and maintenance procedures;
- r. Failing to take immediate and comprehensive steps to inform Alberta Health Services, the Chief Medical Officer or the public of the scope of the infection with COVID-19;
- s. Failing to ensure that the Residents or Family Members were adequately informed, or at all, of the COVID-19 outbreak at Manoir du Lac.
- t. Failing to ensure that the Family Members were adequately informed, or at all, of Residents being tested for COVID-19 and of Residents testing positive for COVID-19.

## **F. VICARIOUS LIABILITY**

19. The Plaintiff and the Class plead that the Defendants can only act through their employees, directors, officers, agents and contractors and are vicariously liable for their acts and omissions as hereinafter pleaded. The acts and omissions particularized and alleged in this claim to have been done by the Defendants were authorized, ordered or done by the Defendants' employees, directors, officers, agents or contractors while engaging in the management, direction, control and

transaction of the Defendants' business and are therefore acts and omissions for which the Defendants are vicariously liable.

**G. PUNITIVE DAMAGES**

20. The Plaintiff and the other Class Members plead that the Defendants' conduct was reckless and egregious and warrants the imposition of punitive damages.

**H. DAMAGES**

21. As a result of the breaches by the Defendants of the duty of care, failures to meet the applicable standard of care and the acts and omissions of the Defendants as referred to herein, the Class and Class Members suffered damage, particulars of which include:
- a. Damages for Family Members pursuant to the *Fatal Accidents Act*, RSA 2000, c F-8 and amendments thereto;
  - b. Damages for the unnecessary pain and suffering endured by residents who had COVID-19 but are recovered or recovering;
  - c. Damages for emotional distress and psychological injuries as a result of fearing for the health and lives of residents who were unnecessarily exposed to COVID-19 at Manoir du Lac;
  - d. Damages for loss of consortium for the Residents' spouses or adult interdependent partners;
  - e. Damages for hospital, medical, nursing, medication and other out of pocket expenses.
22. The trial of this action will not likely take more than twenty-five days.

23. The Plaintiff proposes that this action be tried in the City of Edmonton in the Province of Alberta.
24. The Plaintiff have sufficient facts and grounds to serve this Statement of Claim *ex juris* outside of Alberta and, if necessary, outside of Canada since the within claims arise out of and relate to torts committed in Alberta and is governed by the law of Alberta and have a real and substantial connection to Alberta.

#### I. REMEDY SOUGHT

25. The Plaintiff and the Class therefore claim against the Defendants:
  - a. A declaration that the Defendants are liable to the Plaintiff and the other Class Members for the damages caused by the COVID-19 outbreak in Manoir du Lac;
  - b. Certification of this action including certification of the common issues;
  - c. General damages, in the sum of \$15,000,000.00;
  - d. Special damages in the sum of \$5,000,000.00;
  - e. Exemplary, Aggregate or Punitive Damages in the sum of \$5,000,000.00;
  - f. Interest pursuant to the *Judgment Interest Act*, R.S.A. 2000, c. J 1 as may be allowed;
  - g. Costs of this action; and
  - h. Such further and other relief as this Honourable Court may allow or counsel may advise.

**NOTICE TO THE DEFENDANTS (S)**

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Edmonton, Alberta, AND serving your statement of defence or a demand for notice on the Plaintiff's address for service.

**WARNING**

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the Plaintiff against you.