

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

LINDA WAGNER

and

RICHARD BREWER,

and

MARI ANN PALMER,

and

STEPHEN BREWER,

and

THOMAS BREWER,

Plaintiffs,

v.

BBW MANAGEMENT GROUP, LLC

Serve: Registered Agent
VCORP Agent Services, Inc.
120 S. Central Ave.
Suite 400
Clayton, MO 63105

and

CHANTRI TRINH, MD

Serve:
Chantri Trinh, M.D.
St. Louis, MO 63111

and

GEROMED, LLC

Serve:
Tony Tang, M.D.
4675 South Grand Blvd.
St. Louis, MO 63111

CASE NO.

Division:

JURY TRIAL DEMANDED

and

OZARK LTC, LLC

Serve: National Registered Agents, Inc.
120 South Central Ave.
Clayton, MO 63105

and

JOHN/JANE DOE 1-5
HOLD SERVICE

Defendants.

PETITION FOR DAMAGES

PLAINTIFFS

1. Susan Brewer (“Susan”) died on June 10, 2019. Before her death, Susan was a resident at Big Bend Woods Healthcare Center, a Missouri licensed nursing home located at 110 Highland Ave., Valley Park, MO 63088. She resided at the facility from approximately September 3, 2018 until she left the facility on or about June 7, 2019.

2. Susan Brewer’s parents predeceased her, she was never married and had no children.

3. Plaintiff Linda Wagner is a surviving sibling of Susan Brewer, and therefore, a member of the class of individuals authorized to pursue a wrongful death claim pursuant to R.S.Mo. § 537.080. At all relevant times, she was a resident of St. Louis County, Missouri.

4. Plaintiff Richard Brewer is a surviving sibling of Susan Brewer, and therefore, a member of the class of individuals authorized to pursue a wrongful death claim pursuant to R.S.Mo. § 537.080. At all relevant times, he was a resident of St. Mary’s County, Maryland.

5. Plaintiff Mari Ann Palmer is a surviving sibling of Susan Brewer, and therefore, a member of the class of individuals authorized to pursue a wrongful death claim pursuant to R.S.Mo. § 537.080. At all relevant times, she was a resident of St. Louis County, Missouri.

6. Plaintiff Stephen Brewer is a surviving sibling of Susan Brewer, and therefore, a member of the class of individuals authorized to pursue a wrongful death claim pursuant to R.S.Mo. § 537.080. At all relevant times, he was a resident of Jasper County, Missouri.

7. Plaintiff Thomas Brewer is a surviving sibling of Susan Brewer, and therefore, a member of the class of individuals authorized to pursue a wrongful death claim pursuant to R.S.Mo. § 537.080. At all relevant times, he was a resident of St. Charles County, Missouri.

DEFENDANTS

BBW Management Group, Inc.

8. BBW Management Group, Inc. d/b/a Big Bend Woods Healthcare Center (hereinafter “Big Bend Woods”) is and was an active Missouri for-profit corporation doing business in the State of Missouri at 110 Highland Ave., Valley Park, Missouri 63088.

9. At all relevant times, Big Bend Woods held itself out as a professional healthcare provider with specialized expertise in short and long term rehabilitation, offering health care services to the general public in return for financial compensation.

10. At all relevant times, Big Bend Woods held itself out as a proprietary nursing home operating under Missouri’s Omnibus Nursing Home Act as a skilled nursing facility.

11. At all relevant times, Big Bend Woods held itself out to the public as providing 24-hour care from a professional and well-trained staff.

12. At all relevant times, Big Bend Woods held itself out to the public via its website as providing treatment through its “inter-department network of highly trained and compassionatenurses and physicians.”

ALL FOR ONE. ALL FOR ONE GOAL.

At Big Bend, progressive treatment and rehabilitation services are administered through our inter-department network of highly trained and compassionate physical therapists, occupational therapists, speech therapists, nutritionists, nurses, and physicians. This close collaboration places you front and center. All our talent and all our attention is focused on you and our ultimate goal:

YOUR SPEEDY RECOVERY.

13. At all relevant times, Big Bend Woods as well as its owners, operators, managers, agents, servants, consultants and employees were required to act within the standards of care set forth in the federal regulatory rules that apply to skilled nursing home facilities, specifically those found in the Omnibus Budget Reconciliation Act at 42 C.F.R. 483, *et seq.*

14. At all relevant times, Big Bend Woods as well as its owners, operators, managers, agents, servants, consultants and employees were required to act within the standards of care set forth in the Missouri regulations that apply to skilled nursing home facilities, specifically those found at 19 C.S.R. 30, *et seq.*

15. At all relevant times, Big Bend Woods acted by and through its owners, members, operators, managers, agents, servants, representatives, consultants and employees all of whom acted within the scope of their ownership, agency and employment.

Chantri Trinh, M.D.

16. Chantri Trinh, M.D. is, upon information and belief, an owner and/or employee, agent, servant and/or representative of Geromed, LLC which is an active Missouri Limited Liability Company corporation with its principal place of business located at 4675 South Grand Blvd., St. Louis, Missouri 63111.

17. At all relevant times, Chantri Trinh, M.D. held herself out as a physician duly licensed under the laws of the State of Missouri and was and is a resident of the State of Missouri.

18. At all relevant times, Chantri Trinh, M.D. was a licensed physician in the State of Missouri who provided care to Susan Brewer.

19. At all relevant times, Chantri Trinh, M.D. was an employee, agent, servant and/or representative of Big Bend Woods.

20. At all relevant times while acting in her individual capacity or as an employee,

agent or servant of Big Bend Woods and providing care to nursing home residents like Susan Brewer, Chantri Trinh, M.D. was required to act within the standards of care set forth in the federal regulatory rules that apply to skilled nursing home facilities, specifically those found in the Omnibus Budget Reconciliation Act at 42 C.F.R. 483, *et seq.*

21. At all relevant times while acting in her individual capacity or as an employee, agent or servant of Big Bend Woods and providing care to nursing home residents like Susan Brewer, Chantri Trinh, M.D. was required to act within the standards of care set forth in the state regulatory rules that apply to skilled nursing home facilities, specifically those found at 19 C.S.R. 30, *et seq.*

22. At all relevant times while acting in her individual capacity or as a co-owner, employee, agent or servant of Geromed, LLC and providing care to nursing home residents like Susan Brewer, Chantri Trinh, M.D. was required to act within the standards of care set forth in the federal regulatory rules that apply to skilled nursing home facilities, specifically those found in the Omnibus Budget Reconciliation Act at 42 C.F.R. 483, *et seq.*

23. At all relevant times while acting in her individual capacity or as a co-owner, employee, agent or servant of Geromed, LLC and while providing care to nursing home residents like Susan Brewer, Chantri Trinh, M.D. was required to act within the standards of care set forth in the state regulatory rules that apply to skilled nursing home facilities, specifically those found at 19 C.S.R. 30, *et seq.*

Geromed, LLC

24. Geromed, LLC is and was at all relevant times an active Missouri for-profit corporation doing business in the State of Missouri at 4675 South Grand Blvd., St. Louis, Missouri 63111.

25. At all relevant times, Geromed, LLC held itself out as a company that provided professional healthcare services with specialized expertise in geriatric care and internal medicine offering health care services to the general public in return for financial compensation.

26. At all relevant times, defendant Chantri Trinh was a co-owner and/or employee, agent or servant of Geromed, LLC.

27. At all relevant times, Geromed, LLC provided medical care to Susan Brewer during her residency at Big Bend Woods by and through its co-owner, employee, agent or servant, namely Chantri Trinh, M.D. who acted within the scope of her ownership, agency and employment.

28. At all relevant times while providing care to nursing home residents like Susan Brewer, Geromed, LLC through its owner, employee, agent, and servant, Chantri Trinh, M.D. was required to act within the standards of care set forth in the federal regulatory rules that apply to skilled nursing home facilities, specifically those found in the Omnibus Budget Reconciliation Act at 42 C.F.R. 483, *et seq.*

29. At all relevant times while providing care to nursing home residents like Susan Brewer, Geromed, LLC through its owner, employee, agent, and servant, Chantri Trinh, M.D. was required to act within the standards of care set forth in the state regulatory rules that apply to skilled nursing home facilities, specifically those found at 19 C.S.R. 30, *et seq.*

Ozark LTC, LLC

30. Ozark LTC, LLC is and was at all relevant times an active Delaware for-profit corporation authorized to do business in the State of Missouri as a foreign limited liability company with its principal place of doing business in Missouri located at 9 Bonneville Plaza, Bonne Terre, Missouri 63628.

31. At all relevant times, Defendant Ozark LTC, LLC appears to have done business

under the name of Ozark LTC Rx and acted by and through its owners, agents, servants and employees for, among other things, the filling and provision of medical prescriptions in its pharmacy for various nursing homes and nursing home residents around the State of Missouri including Susan Brewer during her residency at Big Bend Woods.

32. At all relevant times, Ozark LTC, LLC under the name of Ozark LTC Rx or Ozarks LTC Rx was the pharmacy for Susan Brewer during her residency at Big Bend Woods.

PHARMACY		
Pharmacy	Phone/Fax	Address
Ozarks LTC Rx (Primary) Primary Contact: Patrick Davis	Phone: (573) 755-0800 Fax: (573) 755-0900	9 Bonneville Plazas Bonne Terre, MO, 63628

33. In fact, Ozark LTC, LLC held itself out as a full service independent long term care pharmacy providing services to facilities consisting of Skilled Nursing Facilities, Assisted Living Communities, Youth Homes, ICF-DD facilities and hospice.

34. Upon information and belief, Defendant Ozark LTC, LLC employed defendants John/Jane Doe 1-5 who were involved in filling orders for nursing homes like Big Bend Woods, including one or more orders for Methotrexate for Big Bend Woods resident Susan Brewer.

35. At all relevant times, Ozark LTC, LLC as well as its owners, employees, agents, and servants, including John/Jane Doe 1-5, was required to act within the standards of care set forth in the federal regulatory rules that apply to pharmacy companies coordinating with skilled nursing facilities, specifically those found in the Omnibus Budget Reconciliation Act at 42 C.F.R. 483, *et seq.*

36. At all relevant times, Ozark LTC, LLC as well as its owners, employees, agents, and servants, including John/Jane Doe 1-5, was required to act within the standards of care set forth in the state regulatory rules that apply to pharmacy companies coordinating with skilled nursing facilities, specifically those found at 19 C.S.R. 30, *et seq.*

John/Jane Doe 1-5

37. John/Jane Doe 1-5 upon information and belief held themselves out as owners, agents, servants and/or employees of Ozark LTC, LLC and provided pharmaceutical services to Big Bend Woods resident Susan Brewer, including the review, filling and dispensing of a fatal dose of Methotrexate.

38. At all relevant times, through his/her employment with Ozark LTC, LLC, John/Jane Doe 1-5 provided pharmaceutical services to Big Bend Woods for its residents including, Susan Brewer.

39. At all relevant times, defendants John/Jane Doe 1-5 were required to act within the standards of care set forth in the federal regulatory rules that apply to employees, agents, servants and/or representatives of pharmacy companies coordinating with skilled nursing facilities, specifically those found in the Omnibus Budget Reconciliation Act at 42 C.F.R. 483, *et seq.*

40. At all relevant times, defendants John/Jane Doe 1-5 were required to act within the standards of care set forth in the federal regulatory rules that apply to employees, agents, servants and/or representatives of pharmacy companies coordinating with skilled nursing facilities, specifically those found in the state regulatory rules found at 19 C.S.R. 30, *et seq.*

JURISDICTION AND VENUE

41. Venue and jurisdiction are proper in this Court because the tortious acts and injuries to Susan Brewer occurred in St. Louis County, Missouri.

FACTUAL BACKGROUND

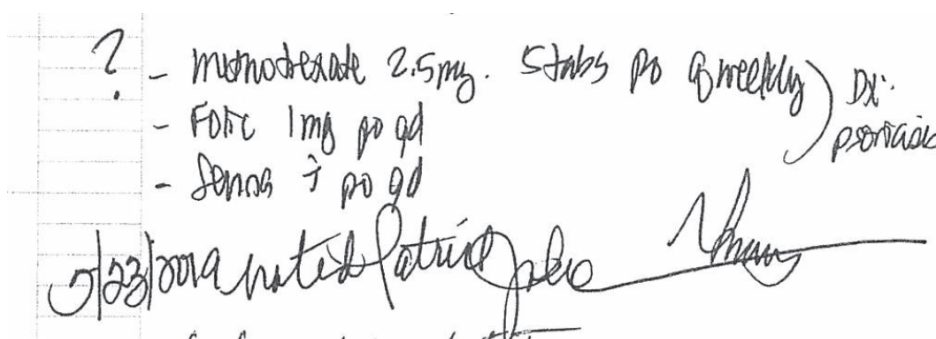
42. Susan Brewer was resident at Big Bend Woods beginning September 30, 2018 and remained a resident at the facility until June 7, 2019.

43. Susan Brewer's physician while she was a resident at Big Bend Woods was

Chantri Trinh, M.D.

44. The pharmacy that provided pharmacy services for Susan Brewer while she was a resident at Big Bend Woods was Ozark LTC, LLC d/b/a Ozark LTC Rx. (hereinafter Ozark LTX Rx).

45. On May 23, 2019, Defendant Chantri Trinh, M.D. gave an order for Susan Brewer for Methotrexate as follows: “Methotrexate 2.5mg. 5 tabs po q weekly. DX: psoriasis.” This order was noted Patrice Johnson, LPN and signed by Defendant Trinh.



46. Someone placed a question mark next to Dr. Trinh’s Methotrexate order, although at this point it is unknown why or when or by whom the question mark was placed.

47. The question mark next to Dr. Trinh’s Methotrexate order indicates that there was confusion over exactly what this order meant.

48. The Methotrexate order was transcribed by Patrice Johnson, LPN into the progress notes for Susan Brewer as: “...methotrexate 2.5 for 5 days...”.

Effective Date: 5/23/2019 18:13
Type: Order Note

New order placed for increase of novolog to 5 units TID, methotrexate 2.5 for 5 days, folic 1mg daily, senna 1x daily.
Author: Patrice Johnson - Licensed Practical Nurse [e-SIGNED]

49. The Methotrexate order was sent to Ozark LTC Rx to be filled.

50. Ozark LTC Rx, presumably by and through its owners, agents, employees and servants, including John/Jane Doe 1-5, reviewed the order, filled the prescription and produced the Methotrexate to Big Bend Woods with a Medication Administration Record that stated as

follows: “Methotrexate Tablet (Methotrexate Sodium) Give 2.5 mg by mouth one time a day related to OTHER PSORIASIS (L40.8) for 5 days – Start Date – 05/24/2019 0730”.

Facility	Big Bend Woods Healthcare Center - SNF				Pharmacy	Ozarks LTC Rx				Physician	Trinh, Chantri																							
Allergies	Amoxicillin, Metformin, Actos, Sulfu Antibiotics																																	
Advance Directive	DNR																																	
Sched for May 2019	Hours	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Magnesium Oxide Tablet Give 400 mg by mouth one time a day for Magnesium Deficiency -Start Date- 01/15/2019 0730	AM Me	jp	db	jp	tmb	jp	db	db	jp	db	db	pj	pj	db	jp	jp	db	jp	jp	jp	pj	db	lb	pj	sl	pj	pj	sl	jp	jp	tl			
Methotrexate Tablet (Methotrexate Sodium) Give 2.5 mg by mouth one time a day related to OTHER PSORIASIS (L40.8) for 5 Days -Start Date- 05/24/2019 0730	AM Me	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

51. After Big Bend Woods receive the Methotrexate back from Ozark LTC Rx, it gave Susan Brewer the Methotrexate five days in a row beginning May 24, 2019 and ending May 28, 2019.

Facility	Big Bend Woods Healthcare Center - SNF				Pharmacy	Ozarks LTC Rx				Physician	Trinh, Chantri																							
Allergies	Amoxicillin, Metformin, Actos, Sulfu Antibiotics																																	
Advance Directive	DNR																																	
Sched for May 2019	Hours	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Magnesium Oxide Tablet Give 400 mg by mouth one time a day for Magnesium Deficiency -Start Date- 01/15/2019 0730	AM Me	jp	db	jp	tmb	jp	db	db	jp	db	db	pj	pj	db	jp	jp	db	jp	jp	jp	pj	db	lb	pj	sl	pj	pj	sl	jp	jp	tl			
Methotrexate Tablet (Methotrexate Sodium) Give 2.5 mg by mouth one time a day related to OTHER PSORIASIS (L40.8) for 5 Days -Start Date- 05/24/2019 0730	AM Me	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

52. On May 24, 2019 and May 27, 2019 a Big Bend Woods employee with the initials “sl” gave Susan Brewer a dose of Methotrexate.

53. On May 25, 2019 and May 26, 2019 a Big Bend Woods employee with the initials “pj” gave Susan Brewer a dose of Methotrexate.

54. On May 28, 2019 a Big Bend Woods employee with the initials “jp” gave Susan Brewer a dose of Methotrexate.

55. Although there is no written order found in the nursing notes, there apparently was a second order by Chantri Trinh, M.D. for Methotrexate that was also filled by Ozark LTC, LLC as can be seen by the Medication Administration Record below. This Order states: "Methotrexate Table (Methotrexate Sodium) Give 2.5 mg by mouth 5 tabs 1 time/week every Mon for Prophylaxis."

Methotrexate Tablet (Methotrexate Sodium) Give 2.5 mg by mouth 5 tabs 1 time/week every Mon for Prophylaxis -Start Date- 06/03/2019 0000 -D/C Date- 06/07/2019 1608	0000	x	x	lea	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x

56. On June 3, 2019, Susan Brewer was provided another dose of Methotrexate by a Big Bend Woods employee with the initials "lea".

Methotrexate Tablet (Methotrexate Sodium) Give 2.5 mg by mouth 5 tabs 1 time/week every Mon for Prophylaxis -Start Date- 06/03/2019 0000 -D/C Date- 06/07/2019 1608	0000	x	x	lea	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x

57. On June 7, 2019 Dr. Trinh ordered that the second dose of Methotrexate be stopped.

58. Methotrexate is a "high alert" medication which means that extra precautions must take place before it is given to patients. In fact, high alert medications bear a heightened risk of causing significant patient harm when they are used in error and the consequences of an error can be more devastating to patients than errors involving medications that are not considered "high alert" medications.¹

59. Methotrexate is contraindicated for patients with decreased kidney function and renal failure meaning that physicians should not order Methotrexate for patients with decreased kidney function or abnormally high BUN and Creatinine levels.

60. Susan Brewer had a history of abnormally high BUN and Creatinine levels. In

¹ <https://www.ismp.org/sites/default/files/attachments/2018-01/EntireAssessmentWorkbook.pdf>

fact, on December 3, 2018 Susan Brewer had a BUN level of 45 and Creatinine level of 2.5. Defendant Big Bend Woods was aware of these lab results and defendant Chantri Trinh, M.D. was made aware of these elevated levels on December 4, 2018.

61. A further lab, on March 1, 2019 showed that Susan Brewer had a BUN level of 44 and Creatinine level of 2.7. Defendant Trinh was made aware of these elevated levels on March 3, 2019.

American Health Associates

BREWER,SUSAN M
 SSN: XXX-XX-XXXX MRN: [REDACTED]
 Unit/Room/Bed: [REDACTED]
 Patient Phone: [REDACTED]
 Accession: [REDACTED] Patient ID: [REDACTED]
 SO Event#: [REDACTED] Chart#: [REDACTED]
 Client#: MC [REDACTED] Client PI ID: [REDACTED]

Last Reprint Reported 03/01/2019 11:09
 Specimen Collected 03/01/2019 03:49
 Report Status Final

BIG BEND WOODS-100
 110 HIGHLAND VALLEY PARK, MO 63088

Ordering Dr: TRINH,CHANTRI
 Referring Dr:
 Attending Dr:

Test Name	Result	Normal Range	Test Loc
CMP-COMPREHENSIVE METABOLIC PNL			
GLUCOSE	173 H		STL
GLUCOSE, FASTING	65-99 mg/dL		
GLUCOSE, NON-FASTING	65-125 mg/dL		
SODIUM	140	135-145 mEq/L	
POTASSIUM	4.7	3.5-5.3 mEq/L	
CHLORIDE	103	96-110 mEq/L	
CARBON DIOXIDE (CO2)	28	21-33 mEq/L	
BUN (UREA NITROGEN)	44 H	7-25 mg/dL	
CREATININE	2.7 H	0.6-1.3 mg/dL	
BUN/CREATININE RATIO	16	6-34	
GFR-AFRICAN AMERICAN	22 L	>60 mL/min/1.73 m2	
GFR-NON-AFRICAN AMERICAN	18 L	>60 mL/min/1.73 m2	
stage of CKD eGFR (mL/min/1.73 square meters)			
Stage 1	>= 90	or > 89	
Stage 2	60 - 89		
Stage 3	30 - 59		
Stage 4	15 - 29		
Stage 5	<= 14	or < 15	
** GFR is reliable for adults 17 to 69 years with stable kidney function.			
CALCIUM	9.3	8.4-10.2 mg/dL	
PROTEIN, TOTAL	5.6 L	6.0-8.3 g/dL	
ALBUMIN	2.8 L	3.5-5.5 g/dL	
A/G RATIO	1.0	0.8-2.0	
ALKALINE PHOS	92	34-136 IU/L	
AST (SGOT)	11	4-40 IU/L	
ALT (SGPT)	11	4-40 IU/L	

↓

3/1/2019
 Lab results report
 to Dr. Trinh
 N. N. O. Phuong Chau

62. Defendants knew that Susan Brewer suffered from chronic kidney disease and renal failure before Methotrexate was ordered, filled and given to her.

63. Susan Brewer received her first dose of Methotrexate on May 24, 2019. There is one nurses notes in her chart on May 24, 2019 and no more nurse's notes until May 29, 2019. There are no nurse's notes for Susan Brewer on May 25, 2019, May 26, 2019, May 27, 2019 or May 28, 2019.

64. On June 2, 2019 Susan complained of diarrhea and had developed scabs/lesions on the skin around her nose and her upper check and upper lip were sore.

65. On June 3, 2019 at 7:27 a.m. Susan complained of sores in her mouth. Plain

medication provided to Susan was ineffective in resolving her pain.

66. On June 3, 2019 at 17:37 (5:37 p.m.), it was noted that Susan was unable to eat due to mouth pain.

67. On June 4, 2019 at 22:51 (10:51 p.m.), it is noted that Susan complained of elevated temperature, mouth pain, lip pain and cheek pain.

68. On June 6, 2019 at 16:40 (4:40 p.m.) it is noted in her chart that Susan was not eating due to her mouth hurting.

69. On June 7, 2019 at 10:28 a.m., it is noted in Susan's chart that she is still not eating due to mouth pain. In fact, throughout the entire day, it is noted that Susan is suffering mouth pain and is unable to eat as a result.

70. On June 7, 2019 at 14:41 (2:41 p.m.), it is charted that Dr. Trinh was notified and ordered Magic Mouth Wash for two weeks.

71. After receiving notice that Susan Brewer was suffering from mouth pain and refusing to eat, Dr. Trinh did not order her to go to a hospital nor did she personally examine Susan Brewer.

72. On June 7, 2019 at 23:11 (11:11 p.m.) it is noted in her chart that Susan Brewer asked to go to the hospital due to mouth pain and nausea. She was taken to Mercy South Hospital shortly thereafter.

73. It is well known in the medical community that diarrhea, skin lesions, mouth sores, refusing to eat due to mouth pain, and sores on them mouth or lips are symptoms of Methotrexate toxicity.

74. Upon her arrival at Mercy South Hospital, Susan Brewer was diagnosed with acute kidney injury, dehydration and pancytopenia. After testing was done at the hospital, she was further diagnosed with Methotrexate toxicity.

75. Susan Brewer died on June 10, 2019 as a direct result of the Methotrexate toxicity.

76. While holding themselves out to Susan Brewer, her family and other members of the public as providing quality care for nursing home residents, defendants – and each of them - failed to provide sufficient care oversight and supervision to Susan Brewer which resulted in her experiencing severe pain, injuries and death.

COUNT I – WRONGFUL DEATH
BBW Management Group, Inc. d/b/a Big Bend Woods Healthcare Center

77. Plaintiffs incorporate by reference all of the foregoing allegations in this Petition as though fully set forth herein.

78. At all times material hereto, Susan Brewer was in a defenseless and dependent condition.

79. As a result of her defenseless and dependent condition, Susan Brewer relied upon defendant BBW Management Group, Inc. d/b/a Big Bend Woods Healthcare Center (“Big Bend Woods”) to provide for her safety, protection, medical care and treatment.

80. At all relevant times, defendant Big Bend Woods had a duty to act in accordance with the standards of care required of those owning, operating, managing, maintaining, and/or controlling a skilled nursing facility.

81. These duties required defendant Big Bend Woods to implement and enforce policies and procedures to ensure that medications are properly ordered and dispensed for residents such as Susan Brewer.

82. These duties required defendant to have sufficiently trained and qualified staff at Big Bend Woods nursing home to ensure that residents of the nursing home receive proper care, supervision, monitoring, treatment and safe dispensing of medication.

83. These duties required defendant to ensure that the nursing staff at Big Bend Woods provide the care and supervision required by the resident as well as safely dispensing medication to residents such as Susan Brewer.

84. These duties required defendant to ensure that the nursing staff at Big Bend Woods were educated and trained to provide the care and supervision required by the resident as well as safely dispensing medication to residents such as Susan Brewer.

85. These duties required defendant to ensure that Big Bend Woods utilized physicians who were qualified to provide quality care, treatment and to safely order medications for its residents.

86. These duties required defendant to ensure that Big Bend Woods utilized pharmacy consults who were qualified to provide quality oversight to medication orders and qualified to report medication irregularities to those responsible for meeting the medical needs of each resident at the facility, including Susan Brewer.

87. Specifically, with respect to Susan Brewer, defendant Big Bend Woods and its owners, managers, agents, servants and/or employees breached their duties and were guilty of the following acts of negligence and carelessness by failing to measure up to the requisite standard of due care, skill, and practice ordinarily exercised by members of their profession under the same or similar circumstances, including:

- a. By failing to ensure that Dr. Trinh's order for Methotrexate was safe;
- b. By failing to clarify and question a questionable and unclear medication order;
- c. By failing to recognize the dangerous Medication Administration Record when it was returned to Big Bend Woods from Ozark LTC, LLC;
- d. By failing to determine the correct dosage and dosage time period for Methotrexate before administering the medication to Susan Brewer;

- e. By giving Susan Brewer an overdose of Methotrexate;
- f. By failing to recognize changes in Susan Brewer's physical conditions that were indicative of Methotrexate toxicity;
- g. By failing to timely report to a physician changes in Susan Brewer's condition;
- h. By failing to provide Susan Brewer with proper supervision;
- i. By failing to timely transfer Susan Brewer to a facility that could provide her adequate care;
- j. By failing to provide adequate staff to ensure Susan Brewer's 24-hour protective oversight, supervision and care;
- k. By failing to properly supervise and train the employees, agents and/or servants of defendant who were responsible for the care and treatment of Susan Brewer;
- l. By failing to have and/or implement appropriate policies and procedures regarding how to properly assess the correct dosage and time of medication for the residents at Big Bend Woods, including Susan Brewer;
- m. By failing to have and/or implement appropriate policies and procedures regarding how to properly assess and act upon a change in the resident's condition;
- n. By failing to ensure that Susan Brewer received proper care, oversight and treatment to prevent Methotrexate toxicity;
- o. By failing to take reasonable precautions to prevent a serious and deadly medication error; and
- p. By failing to adequately and timely respond to the signs and symptoms of Methotrexate toxicity in Susan Brewer.

88. Defendant Big Bend Woods, as a skilled care nursing facility licensed by the State of Missouri and accepting Medicare and Medicaid funds, was subject to regulations promulgated by the Missouri Division of Social Services and under the Social Security Act.

89. While providing care and treatment to Susan Brewer, defendant Big Bend Woods and their owners, managers, agents, servants and/or employees breached their duty to Susan Brewer and were guilty of acts of negligence and negligence, *per se*, in violating

regulatory rules governing skilled care facilities including but not limited to the following:

- a. 19 C.S.R. 30-85.042(3). The operator shall be responsible to assure compliance with all applicable laws and rules. The administrator shall be fully authorized and empowered to make decisions regarding the operation of the facility and shall be held responsible for the actions of all employees. The administrator's responsibilities shall include the oversight of residents to assure that they receive appropriate nursing and medical care;
- b. 19 C.S.R. 30-85.042(6). The facility shall not knowingly admit or continue to care for residents whose needs cannot be met by the facility directly or in cooperation with outside resources. Facilities which retain residents needing skilled nursing care shall provide licensed nurses for these procedures;
- c. 19 C.S.R. 30-85.042(13). The facility shall develop policies and procedures applicable to its operation to insure the residents' health and safety and to meet the residents' needs. At a minimum there shall be policies covering personnel practices, admission, discharge, payment, medical emergency treatment procedures, nursing practices, pharmaceutical services, social services, activities, dietary, housekeeping, infection control, disaster and accident prevention, residents' rights and handling residents' property;
- d. 19 C.S.R. 30-85.042(15). All personnel shall be fully informed of the policies of the facility and of their duties;
- e. 19 C.S.R. 30-85-14.042(16). All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner which would materially and adversely affect the health, safety, welfare or property of a resident;
- f. 19 C.S.R. 30-85.042(20). The facility shall develop and offer an in-service orientation and continuing educational program for the development and improvement of skills of all the facility's personnel, appropriate for their job function;
- g. 19 C.S.R. 30-85.042(22). The facility must ensure there is a system of in-service training for nursing personnel which identifies training needs related to problems, needs, and care of residents and sufficient to ensure staff's continuing competency;
- h. 19 C.S.R. 30-85.042(24). A registered nurse shall be responsible for the planning and then assuring the implementation of the in-service education program for nursing personnel;

- i. 19 C.S.R. 30-85.042(37). All facilities shall employ nursing personnel in sufficient numbers and with sufficient qualifications to provide nursing and related services which enable each resident to attain or maintain the highest practicable level of physical, mental and psychosocial well-being. Each facility shall have a licensed nurse in charge who is responsible for evaluating the needs of the residents on a daily and continuous basis to ensure there are sufficient trained staff present to meet those needs;
- j. 19 C.S.R. 30-85.042(38). Failing to ensure that all nursing personnel shall be on duty at all times on each resident-occupied floor;
- k. 19 C.S.R. 30-85.042(44). The facility shall ensure that the resident's private physician, the physician's designee, the facility's supervising physician or an alternate physician shall examine the resident at least annually, and shall examine the resident as often as necessary to ensure proper medical care;
- l. 19 C.S.R. 30-85.042 (52) All medication errors and adverse reactions shall be reported immediately to the nursing supervisor and the resident's physician and, if there was a dispensing error, to the issuing pharmacist.
- m. 19 C.S.R. 30-85.14.042(66). Each resident shall receive twenty-four (24)-hour protective oversight and supervision;
- n. 19 C.S.R. 15-14.042(67). Each resident shall receive personal attention and nursing care in accordance with his/her condition and consistent with current acceptable nursing practice;
- o. 19 C.S.R. 30-85.042(79). In the event of accident, injury or significant change in the resident's condition, facility staff shall notify the resident's physician in accordance with the facility's emergency treatment policies which have been approved by the supervising physician;
- p. 19 C.S.R. 30-85.042(80). In the event of accident, injury or significant change in the resident's conditions, facility staff shall immediately notify the person designated in the resident's record as the designee or responsible party;
- q. 19 C.S.R. 30-85.042(81). Staff shall inform the administrator of accidents, injuries or unusual occurrences which adversely affect, or could adversely affect the resident. The facility shall develop and implement responsive plans of action;
- r. 19 C.S.R. 30-85.042(100). Facilities shall ensure that the resident's clinical record must contain progress notes that include, but are not limited to:
 - a) Response to care and treatment;

- b) Change(s) in physical, mental and psychosocial condition;
 - c) Reasons for changes in treatment; and
 - d) Reasons for transfer or discharge;
- s. 19 C.S.R. 30-85.042(103). The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices. These records shall be complete, accurately documented, readily accessible on each nursing unit and systematically organized;
 - t. 19 C.S.R. 30-88.010(20). Failing to keep each resident free from mental and physical abuse;
 - u. 42 C.F.R. 483.25(m)(2). The facility must ensure that residents are free of any significant medication errors; and
 - v. 42 C.F.R. 483.60(a). A facility must provide pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of each resident.

90. Susan Brewer was a member of the class of persons intended to be protected by the enactment of the aforementioned regulatory rules.

91. The physical injuries Susan Brewer incurred were the type of injuries that the regulatory rules were enacted to prevent.

92. As a direct and proximate result of the individual and collective acts of negligence of defendant Big Bend Woods as described above, Susan Brewer suffered severe pain, anxiety, mental distress, and death.

93. As a direct and proximate result of the individual and collective acts of negligence of defendant Big Bend Woods as described above, Plaintiffs also suffered damages including, but not limited to, loss of companionship, loss of comfort, loss of guidance, loss of counsel and loss of instruction, pain, suffering, bereavement and mental anguish.

94. The actions of defendant Big Bend Woods were malicious, wanton, grossly negligent and reckless, and performed in reckless disregard of the welfare and safety of Susan Brewer and others, such that, in addition to damages for pain and suffering, defendant is liable

for punitive and exemplary damages for its grossly negligent care of Susan Brewer.

95. At all relevant times defendant Big Bend Woods failed or refused to recognize the significant changes in Susan Brewer's condition and failed to properly respond to those changes, they knew that their conscious disregard to providing adequate care and oversight of medication administration to Susan Brewer created a high degree of probability of injury to its residents, including Susan Brewer.

96. Accordingly, defendant Big Bend Woods showed a complete indifference to, or conscious disregard, for the safety of its residents, including Susan Brewer, and warrants punitive and/or exemplary damages be assessed against this defendant in an amount that is fair and reasonable and will punish this defendant and deter it and others from similar conduct.

97. As a direct and proximate result of defendant's negligence, and complete indifference to, or conscious disregard, for the care and safety of others, Susan Brewer was harmed and suffered damages, including but not limited to pain, suffering, mental anguish, loss of enjoyment of life and death.

WHEREFORE, Plaintiffs in their capacity as members of the wrongful death class of claimants pursuant to RSMO § 537.080, pray for judgment against this defendant in an amount a jury deems fair and reasonable under the circumstances, including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT II – WRONGFUL DEATH
Chantri Trinh, MD and Geromed, LLC

98. Plaintiffs incorporate by reference all of the foregoing allegations in this Petition as though fully set forth herein.

99. At all relevant times, defendant Chantri Trinh, M.D. was an owner, agent and/or employee of Geromed, LLC.

100. At all relevant times, Chantri Trinh, M.D. acted in her individual capacity and in her capacity as an owner, agent and/or employee of Geromed, LLC.

101. Defendant Chantri Trinh, M.D. was Susan Brewer’s physician and owed a duty to use that degree of skill and learning ordinarily used by skillful, careful and prudent members of the medical profession in providing medical services to Susan Brewer.

102. Susan Brewer was dependent upon defendant Chantri Trinh, M.D. to provide for her safety, protection, medical care and treatment.

103. Defendant Chantri Trinh, M.D. accepted Susan Brewer as a patient for the purpose of providing medical care to her.

104. At all relevant times, defendant Chantri Trinh, M.D. had a duty to act in accordance with the standards of care required of a medical doctor.

105. Defendant Chantri Trinh, M.D. breached her duty owed to Susan Brewer in one or more of the following ways:

- a. By negligently and carelessly treating Susan Brewer;
- b. By failing to determine the correct dosage and dosage time period for Methotrexate before ordering the medication to Susan Brewer;
- c. By failing to consider Susan Brewer’s kidney function before ordering Methotrexate;
- d. By ordering Methotrexate for Susan Brewer despite knowledge of her decreased kidney function and elevated BUN and Creatinine levels;

- e. By failing to know that Methotrexate was contraindicated for patients with decreased kidney function before ordering it for Susan Brewer or knowing that Methotrexate was contraindicated for patients with decreased kidney function and ordering it for Susan Brewer anyway;
- f. By writing a confusing order in Susan Brewer's chart on May 23, 2019 when ordering Methotrexate.
- g. By failing to provide Susan Brewer with proper supervision;
- h. By failing to recognize the Methotrexate was at all times relevant a "high alert" medication and carefully reviewing whether Susan Brewer was a good candidate for the drug;
- i. By failing to supervise the administration of Methotrexate to Susan Brewer;
- j. By failing to take reasonable precautions to prevent a serious and deadly medication error;
- k. By failing to recognize the signs and symptoms of Methotrexate toxicity in Susan Brewer;
- l. By failing to adequately and timely respond to the signs and symptoms of Methotrexate toxicity in Susan Brewer;
- m. By failing to take timely corrective action; and
- n. By failing to send Susan Brewer to a hospital when she was demonstrating clear signs of Methotrexate toxicity.

106. As a direct and proximate result of defendant Chantri Trinh, M.D.'s acts of negligence, Susan Brewer suffered severe pain, anxiety, mental distress, and death.

107. Defendant Chantri Trinh, M.D. knew or had information from which defendant, in the exercise of ordinary care, should have known that such conduct as described above created a high probability of injury and death to Susan Brewer.

108. As a direct and proximate result of defendant Chantri Trinh, M.D.'s acts of negligence, Plaintiffs also suffered damages including, but not limited to, loss of companionship, loss of comfort, loss of guidance, loss of counsel and loss of instruction, pain, suffering, bereavement and mental anguish.

109. The actions of defendant Chantri Trinh, M.D. were malicious, wanton, grossly negligent and reckless, and performed in reckless disregard of the welfare and safety of Susan Brewer and others, such that, in addition to damages for pain and suffering, defendant Chantri Trinh, M.D. is liable for punitive and exemplary damages for her grossly negligent care of Susan Brewer.

110. Defendant Chantri Trinh, M.D. failed or refused to recognize the significant changes in Susan Brewer's condition and failed to properly respond to those changes. Defendant knew that her conscious disregard to providing adequate care and oversight of medication administration to Susan Brewer created a high degree of probability of injury to her patient, Susan Brewer.

111. Defendant Chantri Trinh, M.D. showed a complete indifference to, or conscious disregard, for the safety of her patient Susan Brewer and such conduct warrants punitive and/or exemplary damages be assessed against this defendant in an amount that is fair and reasonable and will punish this defendant and deter it and others from similar conduct.

112. As a direct and proximate result of defendant Chantri Trinh, M.D.'s negligence, and complete indifference to, or conscious disregard, for the care and safety of others, Susan Brewer was harmed and suffered damages, including but not limited to pain, suffering, mental anguish, loss of enjoyment of life and death.

WHEREFORE, Plaintiffs in their capacity as members of the wrongful death class of claimants pursuant to RSMO § 537.080, pray for judgment against defendants Chantri Trinh, M.D. and Geromed, LLC in an amount a jury deems fair and reasonable under the circumstances, including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT III – WRONGFUL DEATH
Ozark LTC, LLC and John/Jane Doe 1-5

113. Plaintiffs incorporate by reference all of the foregoing allegations in this Petition as though fully set forth herein.

114. At all relevant times, defendant Ozark LTC, LLC was a pharmacy responsible for providing services to Big Bend Woods for the benefit of its residents, including Susan Brewer.

115. Defendants Ozark LTC, LLC and John/Jane Doe 1-5 agreed to be the pharmacy for Big Bend Woods and its residents in exchange for monetary compensation.

116. At all relevant times, defendant Ozark LTC, LLC accomplished its responsibilities to Big Bend Woods by and through its owners, agents and/or employees, namely defendants John/Jane Doe 1-5.

117. At all relevant times, defendant Ozark LTC, LLC through its owners, agents and employees, was required to receive, review and dispense medication orders in a safe manner to meet the needs of the residents at Big Bend Woods and any other entities for which it provided pharmaceutical services.

118. Defendants Ozark LTC, LLC and John/Jane Doe 1-5 were required to use that degree of skill and learning ordinarily used by skillful, careful and prudent members of the pharmaceutical profession in providing pharmaceutical services to Big Bend Woods and its residents, including Susan Brewer.

119. Susan Brewer was dependent upon defendant Defendants Ozark LTC, LLC and John/Jane Doe 1-5 to review, fill and dispense medication orders in safe manner in conformity with all safety requirements in the pharmaceutical industry.

120. At all relevant times, Defendants Ozark LTC, LLC and John/Jane Doe 1-5 had a duty to act in accordance with the standards of care required of a pharmacies, pharmacists and

pharmacy employees responsible for the review, filling and dispensing of medication orders.

121. Defendants Ozark LTC, LLC and John/Jane Doe 1-5 breached the duty owed to Susan Brewer in one or more of the following ways:

- a. By failing to adequately review the physician order for Methotrexate for Susan Brewer;
- b. By failing to recognize that the physician order for Methotrexate for Susan Brewer was defective and dangerous;
- c. By failing to determine the correct dosage and dosage time period for Methotrexate before ordering the medication to Susan Brewer;
- d. By failing to reject the physician's order for Methotrexate;
- e. By failing to contact the physician or Big Bend Woods about the dangerous and defective order for Methotrexate;
- f. By filing the order for Methotrexate in a manner that was dangerous to Susan Brewer;
- g. By preparing and providing to Big Bend Woods a Medical Administration Record with an inappropriate and dangerous dosage for Methotrexate for Susan Brewer;
- h. By failing to recognize the Methotrexate was a "high alert" medication and ignoring the warnings to determine if the ordered dosage was appropriate for Susan Brewer; and
- i. By failing to take reasonable precautions to prevent a serious and deadly medication error.

122. Defendants did not question Big Bend Woods staff or Dr. Chantri Trinh regarding the Methotrexate order for Susan Brewer.

123. Instead, defendants filled and provided to Big Bend woods a prescription prescribed by Dr. Chantri Trinh for "Methotrexate Tablet (Methotrexate Sodium) Give 2.5 mg by mouth one time a day related to OTHER PSORIASIS (L40.8) for 5 days – Start Date – 05/24/2019 0730".

124. As a direct and proximate result of defendants' acts of negligence, Susan Brewer received an inappropriate and dangerous dose of Methotrexate.

125. As a direct and proximate result of defendants' acts of negligence, Susan Brewer suffered severe pain, anxiety, mental distress, and death.

126. Defendants knew or had information from which they, in the exercise of ordinary care, should have known that such conduct as described above created a high probability of injury and death to Susan Brewer.

127. As a direct and proximate result of defendants' acts of negligence Plaintiffs also suffered damages including, but not limited to, loss of companionship, loss of comfort, loss of guidance, loss of counsel and loss of instruction, pain, suffering, bereavement and mental anguish.

128. The actions of defendants were malicious, wanton, grossly negligent and reckless, and performed in reckless disregard of the welfare and safety of Susan Brewer and others, such that, in addition to damages for pain and suffering, defendants are liable for punitive and exemplary damages for their grossly negligent conduct with respect to the care of Susan Brewer.

129. Defendants knew that their conscious disregard to providing adequate oversight of medication administration to Susan Brewer created a high degree of probability of injury to Susan Brewer.

130. Defendants showed a complete indifference to, or conscious disregard, for the safety of Susan Brewer and such conduct warrants punitive and/or exemplary damages be assessed against these defendants in an amount that is fair and reasonable and will punish these defendants and deter them and others from similar conduct.

131. As a direct and proximate result of defendants' negligence, and complete indifference to, or conscious disregard, for the care and safety of others, Susan Brewer was harmed and suffered damages, including but not limited to pain, suffering, mental anguish, loss of enjoyment of life and death.

WHEREFORE, Plaintiffs in their capacity as members of the wrongful death class of claimants pursuant to RSMO § 537.080, pray for judgment against these defendants in an amount a jury deems fair and reasonable under the circumstances, including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT IV – LOST CHANCE OF SURVIVAL
BBW Management Group, Inc. d/b/a Big Bend Woods Healthcare Center

132. Plaintiff Linda Wagner in her capacity as Plaintiff ad Litem for decedent Susan Brewer incorporates by reference all of the foregoing allegations in this Petition as though fully set forth herein.

133. At the time of the negligent acts complained of herein, and at all times mentioned, Plaintiff has been the surviving natural sibling of decedent Susan Brewer. As such, and pursuant Section 537.021, R.S.Mo., Plaintiff has been properly appointed as Plaintiff ad Litem for decedent Susan Brewer and as such is eligible to pursue any and all claims that survive her death.

134. The negligence of defendant in failing to properly care for Susan Brewer, as set forth herein, directly and proximately caused or directly and proximately contributed to cause Susan Brewer to lose her material chance of survival.

135. As a direct and proximate result of the carelessness and negligence of the defendant, as set forth previously herein, decedent Susan Brewer suffered the following injuries:

- a. Decedent has had her ability to survive and her significant material chance of survival taken away by defendant's negligence;
- b. Decedent suffered the loss of her chance of survival and with it the loss of her future enjoyment of life; and
- c. Decedent was required to undergo treatment for her injuries.

136. The negligence of the defendant was outrageous and constituted gross negligence in that defendant knew or, in the exercise of ordinary care, should have known that their conduct

created a high probability of injury to Susan Brewer; defendant thereby demonstrated a conscious and reckless disregard for the rights of Susan Brewer, permitting the recovery of punitive damages.

WHEREFORE Plaintiff Susan Brewer through her Plaintiff ad Litem prays for judgment against this defendant in an amount a jury deems fair and reasonable under the circumstances, including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT V – LOST CHANCE OF SURVIVAL
Chantri Trinh, M.D. and Geromed, LLC

137. Plaintiff Linda Wagner in her capacity as Plaintiff ad Litem for decedent Susan Brewer incorporates by reference all of the foregoing allegations in this Petition as though fully set forth herein.

138. At the time of the negligent acts complained of herein, and at all times mentioned, Plaintiff has been the surviving natural sibling of decedent Susan Brewer. As such, and pursuant Section 537.021, R.S.Mo., Plaintiff has been properly appointed as Plaintiff ad Litem for decedent Susan Brewer and as such is eligible to pursue any and all claims that survive her death.

139. The negligence of defendants in failing to properly care for Susan Brewer, as set forth herein, directly and proximately caused or directly and proximately contributed to cause Susan Brewer to lose her material chance of survival.

140. As a direct and proximate result of the carelessness and negligence of the defendants, as set forth previously herein, decedent Susan Brewer suffered the following injuries:

- a. Decedent has had her ability to survive and her significant material chance of survival taken away by defendant's negligence;
- b. Decedent suffered the loss of her chance of survival and with it the loss of her future enjoyment of life; and

c. Decedent was required to undergo treatment for her injuries.

141. The negligence of the defendants was outrageous and constituted gross negligence in that defendants knew or, in the exercise of ordinary care, should have known that their conduct created a high probability of injury to Susan Brewer; defendants thereby demonstrated a conscious and reckless disregard for the rights of Susan Brewer, permitting the recovery of punitive damages.

WHEREFORE Plaintiff Susan Brewer through her Plaintiff ad Litem prays for judgment against these defendants in an amount a jury deems fair and reasonable under the circumstances, including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT VI – LOST CHANCE OF SURVIVAL
Ozark LTC, LLC and John/Jane Doe 1-5

142. Plaintiff Linda Wagner in her capacity as Plaintiff ad Litem for decedent Susan Brewer incorporates by reference all of the foregoing allegations in this Petition as though fully set forth herein.

143. At the time of the negligent acts complained of herein, and at all times mentioned, Plaintiff has been the surviving natural sibling of decedent Susan Brewer. As such, and pursuant Section 537.021, R.S.Mo., Plaintiff has been properly appointed as Plaintiff ad Litem for decedent Susan Brewer and as such is eligible to pursue any and all claims that survive her death.

144. The negligence of defendants in failing to properly care for Susan Brewer, as set forth herein, directly and proximately caused or directly and proximately contributed to cause Susan Brewer to lose her material chance of survival.

145. As a direct and proximate result of the carelessness and negligence of the defendants, as set forth previously herein, decedent Susan Brewer suffered the following injuries:

- a. Decedent has had her ability to survive and her significant material chance of survival taken away by defendant's negligence;
- b. Decedent suffered the loss of her chance of survival and with it the loss of her future enjoyment of life; and
- c. Decedent was required to undergo treatment for her injuries.

146. The negligence of the defendants was outrageous and constituted gross negligence in that defendants knew or, in the exercise of ordinary care, should have known that their conduct created a high probability of injury to Susan Brewer; defendants thereby demonstrated a conscious and reckless disregard for the rights of Susan Brewer, permitting the recovery of punitive damages.

WHEREFORE Plaintiff Susan Brewer through her Plaintiff ad Litem prays for judgment against these defendants in an amount a jury deems fair and reasonable under the circumstances, including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT VII – MEDICAL NEGLIGENCE

BBW Management Group, Inc. d/b/a Big Bend Woods Healthcare Center

147. Plaintiff Linda Wagner, in her capacity as Plaintiff ad Litem for decedent Susan Brewer incorporates by reference all of the foregoing allegations in this Petition as though fully set forth herein.

148. Defendant owed Susan Brewer a duty to use reasonable care to protect her from unreasonable risk of harm and/or death.

149. Defendant owed Susan Brewer a duty to ensure that she remained free from mental and physical abuse.

150. Defendants had a duty to ensure that Susan Brewer received medication in a safe manner at the proper dosage and in the proper time period.

151. Defendant had a duty to ensure that Susan Brewer was treated with consideration, respect and full recognition of her dignity and individuality.

152. During her residency at Big Bend Woods, Susan Brewer was dependent upon defendant to meet her daily needs, safety, protection, care, treatment, assistance, and determinations of risk to her health, including dispensing medication.

153. Defendant was aware of the risks of dispensing Methotrexate incorrectly and knew that it was a “high alert” medication meaning that dispensing the medication incorrectly carried a higher risk of serious injuries including death.

154. Defendant failed to provide Susan Brewer with the care, treatment, monitoring, and supervision required to meet her needs.

155. Defendant failed to provide a sufficient number of staff members and sufficiently trained staff members to prevent the injuries sustained by Susan Brewer, including death.

156. Defendant failed to provide a sufficient staff-to-resident ratio so that the employees at Big Bend Woods could provide the care, treatment, monitoring and supervision Susan Brewer required.

157. Defendant failed to properly dispense Methotrexate to Susan Brewer during her residency at Big Bend Woods.

158. Defendant failed to recognize and properly respond to Susan Brewer’s significant change in condition as she demonstrated the well-known side-effects of Methotrexate toxicity.

159. The negligence of Defendant was willful, wanton, malicious and directly caused or contributed to cause the injuries and death of Susan Brewer, thereby creating aggravating circumstances allowing the consideration of exemplary and/or punitive damages.

WHEREFORE, Plaintiff Susan Brewer through her Plaintiff ad Litem prays for judgment against this defendant in an amount a jury deems fair and reasonable under the circumstances,

including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT VIII – MEDICAL NEGLIGENCE
Chantri Trinh, M.D. and Geromed, LLC

160. Plaintiff Linda Wagner, in her capacity as Plaintiff ad Litem for decedent Susan Brewer incorporates by reference all of the foregoing allegations in this Petition as though fully set forth herein.

161. Defendants owed Susan Brewer a duty to use reasonable care to protect her from unreasonable risk of harm and/or death.

162. Defendants owed Susan Brewer a duty to ensure that she remained free from mental and physical abuse.

163. Defendants had a duty to ensure that Susan Brewer was treated with consideration, respect and full recognition of her dignity and individuality.

164. Defendants had a duty to ensure that Susan Brewer received medication in a safe manner at the proper dosage and in the proper time period.

165. During her residency at Big Bend Woods, Susan Brewer was dependent upon defendants to provide her with proper medical care and supervision of ordered medical care including ordering medications that took into account her medical condition and that were safe for her and for supervising that medication was properly dispensed.

166. Defendants were aware of the risks of ordering and dispensing Methotrexate incorrectly and knew that it was a “high alert” medication meaning that dispensing the medication incorrectly carried a higher risk of serious injuries including death.

167. Defendants failed to provide Susan Brewer with the care, treatment, monitoring,

and supervision required to meet her needs.

168. Defendants failed to make a correct order for the dispensing of Methotrexate to Susan Brewer during her residency at Big Bend Woods.

169. Defendants failed to ensure that the Methotrexate was dispensed in a safe manner to Susan Brewer.

170. Defendants failed to recognize and properly respond to Susan Brewer's significant change in condition as she demonstrated the well-known side-effects of Methotrexate toxicity.

171. The negligence of defendants was willful, wanton, malicious and directly caused or contributed to cause the injuries and death of Susan Brewer, thereby creating aggravating circumstances allowing the consideration of exemplary and/or punitive damages.

WHEREFORE, Plaintiff Susan Brewer through her Plaintiff ad Litem prays for judgment against these defendants in an amount a jury deems fair and reasonable under the circumstances, including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT IX – MEDICAL NEGLIGENCE
Ozark LTC, LLC and John/Jane Doe 1-5

172. Plaintiff Linda Wagner, in her capacity as Plaintiff ad Litem for decedent Susan Brewer incorporates by reference all of the foregoing allegations in this Petition as though fully set forth herein.

173. Defendants owed Susan Brewer a duty to use reasonable care to protect her from unreasonable risk of harm and/or death.

174. Defendants owed Susan Brewer a duty to ensure that she remained free from

mental and physical abuse.

175. Defendants had a duty to ensure that Susan Brewer was treated with consideration, respect and full recognition of her dignity and individuality.

176. Defendants had a duty to ensure that Susan Brewer received medication in a safe manner at the proper dosage and in the proper time period.

177. During her residency at Big Bend Woods, Susan Brewer was dependent upon defendants to review medications orders and dispense medication orders that were safe for her and for ensuring that she was not provided with medication that would be harmful to her.

178. Defendants were aware of the risks of filling incorrect orders and dispensing Methotrexate incorrectly and knew that it was a “high alert” medication meaning that dispensing the medication incorrectly carried a higher risk of serious injuries including death.

179. Defendants failed to provide Susan Brewer with the care, treatment, monitoring, and supervision required to meet her needs.

180. Defendants failed to recognize that the order for Methotrexate to Susan Brewer was incorrect and dangerous for her as written.

181. Defendants failed to ensure that the Methotrexate was dispensed in a safe manner to Susan Brewer.

182. Defendants prepared a Medication Administration Record that identified the dispensing of Susan Brewer’s Methotrexate medication in a dangerous manner and delivered that Medication Administration Record to Big Bend Woods.

183. The negligence of defendants was willful, wanton, malicious and directly caused or contributed to cause the injuries and death of Susan Brewer, thereby creating aggravating circumstances allowing the consideration of exemplary and/or punitive damages.

WHEREFORE, Plaintiff Susan Brewer through her Plaintiff ad Litem prays for judgment

against these defendants in an amount a jury deems fair and reasonable under the circumstances, including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT X – NEGLIGENCE PER SE
BBW Management Group, Inc. d/b/a Big Bend Woods Healthcare Center

184. Plaintiffs incorporate by reference all of the foregoing allegations in this Petition as though fully set forth herein.

185. As a health care provider, owner, operators and/or manager of a skilled nursing care facility licensed by the State of Missouri and accepting Medicare and Medicaid funds Defendant was subject to regulatory rules promulgated by the Missouri Division of Social Services and under the Social Security Act.

186. While providing care to Susan Brewer, defendant Big Bend Woods breached their duties to her and were guilty of acts of violating the state and federal regulatory rules governing skilled nursing facilities including, but not limited to those identified above and incorporated herein.

187. Susan Brewer was a member of the class that the regulatory rules identified above and incorporated here intended to protect.

188. The injuries Susan sustained and identified herein was of the kind of injuries the regulatory rules identified above and incorporated herein were designed to prevent.

189. As a direct and proximate result of the negligence of defendant Big Bend Woods as well as its owners, managers, agents, servants and/or employees, Susan Brewer suffered severe pain, anxiety, mental distress, and death resulting from the poor care provided by defendants.

190. The failure of defendant Big Bend Woods as well as its owners, managers, agents, servants and/or employees was willful, wanton, malicious and directly caused or contributed to cause the injuries and death of Susan Brewer, thereby creating aggravating circumstances allowing the consideration of exemplary and/or punitive damages.

WHEREFORE, Plaintiffs pray for judgment against defendant Big Bend Woods in an amount a jury deems fair and reasonable under the circumstances, including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, and for such other and further relief as the Court deems just and proper.

COUNT XI – MISSOURI OMNIBUS NURSING HOME ACT
BBW Management Group, Inc. d/b/a Big Bend Woods Healthcare Center

191. Plaintiff Linda Wagner, designated Plaintiff ad litem for Susan Brewer, incorporates by reference all of the foregoing allegations in this Petition as though fully set forth herein.

192. The cause of action set forth in Count XI of this Petition is brought under the Missouri Omnibus Nursing Home Act, Missouri Revised Statute §198.003, *et seq.*, and more specifically by reason of statutorily created private cause of action created by §198.093, R.S.Mo.

193. As the owners, operators and/or managers of a long-term skilled care nursing facility licensed by the State of Missouri, defendants were at all times material hereto subject to the provisions of the Omnibus Nursing Home Act, §198.003, *et seq.*

194. On August 21, 2019, Plaintiff filed a timely written complaint with the office of the Attorney General for the State of Missouri against Big Bend Woods alleging deprivations of care by defendant causing injury to Susan Brewer. This complaint was filed in a timely manner.

195. The Office of the Attorney General for the State of Missouri declined to initiate legal action within sixty days of receiving Plaintiffs' complaint.

196. Plaintiffs filed this civil action against defendant Big Bend Woods and other defendants within two hundred forty days of filing the complaint with the Office of the Attorney General for the State of Missouri.

197. During her residency at Big Bend Woods, Susan Brewer was subject to abuse and neglect at the hands of defendants as stated above and incorporated here.

198. The aforementioned abuse and neglect by defendant and its employees was physically and mentally tortuous, causing great physical pain and suffering and emotional distress and requiring Susan Brewer to seek medical treatment.

199. The aforementioned abuse and neglect occurred in violation of the Omnibus Nursing Home Act, §198.088, declaring that, “1. Every facility, in accordance with the rules applying to each particular type of facility shall ensure that: (1) there are written policies and procedures available to staff, residents, their families or legal representative and the public which govern all areas of service provided by the facility...(2) Policies relating to admission, transfer, and discharge of residents shall assure that...(a) Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts;...(6) Each resident admitted to the facility...(g) Is free from mental and physical abuse;...(i) Is treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs...”

200. Susan Brewer was a member of the class of persons intended to be protected by the enactment of the aforementioned statutes.

201. The injuries sustained by Susan Brewer were the type of injuries the statutes were intended to protect.

202. As a direct and proximate result of the defendants’ failure to fulfill its

responsibility of care and protection to Susan Brewer as imposed by the aforementioned statutes attendant to defendants' privilege of ownership, operation, management and administration of a nursing home business, Susan Brewer suffered severe pain, anxiety, mental distress and ultimately death.

203. The aforementioned actions and omissions were intentional, willful, malicious and outrageous entitling Plaintiff to an award of punitive damages pursuant to Section 198.093(3).

204. Susan Brewer, through her Plaintiff ad Litem, is entitled to an award of a reasonable attorneys' fee pursuant to Section 198.093(3).

WHEREFORE, Plaintiff prays for judgment that is fair and reasonable under the circumstances, including, but not limited to, actual damages, damages for aggravating circumstances (exemplary/punitive damages), the costs of this action, attorneys' fees and for such other and further relief as the Court deems just and proper.

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