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**ORIGINAL FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

**JAN 24 2013**

John A. Clarke, Executive Officer/Clerk  
BY Mary Flores, Deputy

Attorneys for Plaintiffs VAL WEST and DAVID DIZENFELD

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

**BC 499863**

VAL WEST and DAVID DIZENFELD,

Plaintiffs,

v.

ARENT FOX LLP; LOS ANGELES JEWISH  
HOME FOR THE AGING; NADINE  
ROISMAN; and DOES 1 through 100,  
Inclusive,

Defendants.

CASE NO. \_\_\_\_\_

COMPLAINT

1. SLAPP back (CCP § 425.18)
2. Malicious Prosecution
3. Abuse of Process
4. Defamation
5. Violation of Business & Professions Code Sections 17200, et seq.
6. Intentional Infliction of Emotional Distress
7. Interference with Business Relations and Opportunities
8. Breach of Fiduciary Duty and Implied Warranty
9. Negligent Misrepresentation; and
10. Negligence

CASE FILED:

JURY TRIAL DEMANDED

Plaintiffs VAL WEST ("WEST") and DAVID DIZENFELD ("DIZENFELD") (singularly and/or collectively referred to as "Plaintiffs" herein) allege:

**INTRODUCTION AND OVERVIEW**

1. Defendant Arent Fox LLP ("ARENT FOX") is a law firm with offices in Los Angeles which represented Defendants Los Angeles Jewish Home for the Aging ("LAJHA") and

1 Nadine Roisman ("ROISMAN") in their abusive case against Valerie West and David Dizenfeld in  
2 the Superior Court State of California, County of Los Angeles, Van Nuys Division, Complaint No.  
3 LC088559. Defendant LAJHA owns and operates residential care facilities for the elderly in Los  
4 Angeles County. Defendant ROISMAN is the Executive Director of the facility known as  
5 Eisenberg Village, in Los Angeles County, which is a part of LAJHA. On information and belief,  
6 Defendant ROISMAN was, and is, a resident of the County of Los Angeles.

7 2. At all times mentioned herein, Plaintiff VAL WEST was, and is now, a resident of  
8 Los Angeles County in the State of California. At all times mentioned herein, Plaintiff DAVID  
9 DIZENFELD was, and is now, a resident of Los Angeles County in the State of California.

10 3. The true names and capacities, whether individual, corporate or otherwise, of the  
11 defendants sued in this action as Does 1 through 100, inclusive, are presently unknown to  
12 Plaintiffs, and thus are sued by such fictitious names. Plaintiffs may seek leave to amend this  
13 complaint to allege the true names and capacities of the Doe defendants when they are ascertained.  
14 Plaintiffs are informed and believe and upon that basis, allege that each of the fictitiously named  
15 defendants is liable for the causes of action set forth in this Complaint.

16 4. At all times mentioned herein, each of the Defendants was the agent, employee or  
17 partner of each of its co-defendants and in doing each act, was acting within the course and scope  
18 of such agency, employment and/or partnership.

19 5. Venue is appropriate in downtown Los Angeles because the acts and occurrences  
20 alleged herein occurred in Los Angeles County, and the parties reside in and/or do business in this  
21 district.

## 22 23 FACTUAL ALLEGATIONS

24 6. In or about March 2008, Plaintiff WEST moved her mother into LAJHA. LAJHA  
25 has continually represented a solemn covenant with families in the community that they can rest  
26 assured that entrusting their elders to LAJHA will result in those elders living out the remainder of  
27 their lives in peace and dignity, with good care, in compliance with regulations and the highest  
28 care standards. A generation before March 2008, WEST'S maternal grandmother had gifted a

1 sizable donation to LAJHA, and then lived out the rest of her life as a resident at LAJHA. WEST  
2 was led to believe, through many advertisements, that her mother would also enjoy a life free from  
3 elder financial, mental and physical abuse, theft, ID theft, and healthcare fraud, and that WEST  
4 could rely upon LAJHA to take good care of her precious mother. LAJHA extensively expounds  
5 their material representations of honor and dignity in the care of loved ones in marketing to and  
6 soliciting children of elderly parents, and in acquiring funds and support from prospective donors  
7 in the community. LAJHA's website proclaims that it emphasizes the needs of the complete  
8 individual and a culturally-based tradition of respect and compassion for seniors and families.

9 7. Plaintiffs grew up trusting LAJHA. Plaintiff WEST entrusted LAJHA with her  
10 mother, a retired LAUSD school teacher, breast cancer survivor, and diabetic. In keeping with its  
11 to-end-of-life commitment, LAJHA even required Plaintiff WEST to deliver to LAJHA a prepaid  
12 burial or cremation certificate to allow WEST'S mother into their facility.

13 8. Instead of the care and dignity LAJHA's representations had led Plaintiffs to  
14 believe they could expect, Plaintiffs were confronted with lack of care, abuse, fraud, theft, HIPAA  
15 and Title 22 violations.

16 9. By way of example, on June 23, 2008, LAJHA staff approached Plaintiff's mother  
17 in the dining hall at lunch in front of her tablemates with a large stack of confidential documents.  
18 This contained a fake coversheet and staff insisted the mother sign without reading or receiving a  
19 copy before being allowed to eat. Fearful and diabetic, the mother acquiesced to LAJHA's  
20 bullying, and signed. Extremely upset, the elder immediately called Plaintiff WEST. WEST'S  
21 requests for a copy were ignored for months with no way of knowing if ever received in full. The  
22 State of California Department of Social Services/Community Care Licensing Division ("DSS")  
23 issued a deficiency citation against LAJHA for this June 23, 2008 ambush signing in the dining  
24 hall. DSS Deficiency Citation/Facility Evaluation Report dated February 18, 2010, Type A  
25 87468B(a)(1)(B), cited LAJHA for coercing WEST'S mother on 6/23/08 to sign legal documents  
26 against her will, in dining room, without family present, not allowed to read, no copy: "Resident  
27 #1 was approached in the facility dining room with documents to sign. Resident #1 felt  
28 uncomfortable, did not have any knowledge of what she was signing nor did she have the

1 opportunity to read the documents requested.”

2       10. It was later discovered that even though a misleading cover sheet and oral  
3 representation by LAJHA staff indicated the stack as a Medi-Cal application, it was actually a  
4 completely new Resident Admission Agreement (“RAA”). The original RAA had been discussed  
5 and completed February 29, 2008 with Plaintiffs present. These documents, presented to  
6 Plaintiff's mother at the lunch table without family present, sought to reverse Plaintiff WEST'S  
7 mother's written instructions in the February 29th meeting, expressly denying LAJHA  
8 authorization to, among other things, open, handle or distribute her mail; remove funds from her  
9 trust account; redirect her Social Security check to LAJHA; and assign financial responsibility for  
10 erroneous drug orders to Plaintiff WEST without authorization or knowledge. Despite repeated  
11 pleas, LAJHA nevertheless intercepted and withheld Plaintiff's mother's private, U.S. Mail, as well  
12 as interstate shipments addressed to her. Since Plaintiff WEST was designated by her mother to  
13 order and receive her mother's drugs as well as insurance and benefits data, LAJHA seized private  
14 U.S. Mail belonging to Plaintiff WEST as well. LAJHA removed and withheld both government  
15 and private insurance documents.

16       11. Later that year, Defendant LAJHA deceitfully sought to redirect Plaintiff WEST'S  
17 mother's teacher's pension and retired employee mail away from her mother. WEST had brought  
18 her mother to LAJHA's on-site bank and waited in the hall where she could hear while her mother  
19 went to conduct a simple transaction. Instead, LAJHA staff again requested WEST'S mother to  
20 sign two forms, falsely and misleadingly stating that they were LAJHA change of address forms,  
21 while LAJHA staff covered up the top of the forms with her arm. WEST'S mother again refused  
22 to sign and instead requested possession of the forms. WEST and her mother discovered one to be  
23 a completely blank State retirement pension check redirect form and the second a blank school  
24 district retired employee address change form, both of which LAJHA would had to have obtained  
25 in advance. WEST contacted both entities and reported LAJHA's attempt to have pension funds  
26 redirected and intercept retired employee member benefits, insurance and other communications  
27 from the school district.  
28

1           12.     On July 22, 2009, a California State Ombudsman convened a grievance meeting  
2 with Plaintiffs and Plaintiff's mother at LAJHA regarding various complaints, including without  
3 limitation elder abuse, healthcare violations, insurance irregularities, ID theft, drug and other theft,  
4 intercepting and withholding private U.S. Mail, RAA, etc. Amongst its various violations and  
5 transgressions, LAJHA admitted its wrongdoing with respect to the June 23, 2008 ambush and  
6 coerced signing of legal documents; admitted intercepting the private U.S. Mail and packages;  
7 admitted failing to specify rental amount in the RAA, and promised to rectify. Plaintiff WEST'S  
8 mother was approached over a dozen times to sign documents while alone, private mail  
9 interception continued and, despite representations to correct, the rent amount remained blank. In  
10 the words of LAJHA's COO Brett Fielder: "The rent amount is left off because it is a floating  
11 target; irregardless [sic], it can be put on there and written in that way... I'll certainly make sure  
12 that the Admission Agreement after today's meeting is updated with the rent amount." LAJHA  
13 never did update with the rent amount, as required by State law, and subsequently misrepresented  
14 to the court by falsely testifying under penalty of perjury that that remedy had taken place.

15           13.     During that July 22, 2009 meeting, LAJHA confirmed to the State Ombudsman and  
16 Plaintiffs its understanding and agreement that plaintiff's mother did not want to meet with  
17 LAJHA alone without Plaintiffs present and absolutely represented to Plaintiffs that they would  
18 never meet with Plaintiff's mother without Plaintiffs present.

19           14.     Nevertheless, on January 22, 2010, despite the elder's strong objections, LAJHA  
20 physically coerced Plaintiff's mother in to a meeting alone with LAJHA staff, including Director  
21 of Nursing Betsy Kelly, who painfully elbowed Plaintiff's mother in her chest region of a previous  
22 breast cancer mastectomy when the elder resisted entering Kelly's office for the meeting. Once  
23 inside, Plaintiff's mother's cell phone and keys were taken from her. This clearly was in breach of  
24 the representations expressed by LAJHA to Plaintiffs and confirmed to the State Ombudsman.  
25 LAJHA claims the purpose of the meeting was to explain Title 22 to an 86-year-old. In addition to  
26 being physically assaulted and being harassed about her Title 22 rights, Plaintiff WEST'S mother  
27 was falsely imprisoned and again asked to sign a completely blank authorization and release form.  
28 Without authorization, consent or knowledge, LAJHA had been distributing and disseminating an

1 LAJHA-created "Facesheet" which also contained personal information about Plaintiff and  
2 alternate emergency contact in addition to HIPAA-protected health information of the resident.

3 15. Plaintiff's mother had left a distressed voicemail message for both Plaintiffs that she  
4 was being taken against her will to a meeting by the powers that be. When return calls to her  
5 mother's cell phone went unanswered, Betsy Kelly was called. Ms. Kelly taunted that Plaintiff's  
6 mother was currently in her office for a meeting, but when asked to put her on the phone, Ms.  
7 Kelly abruptly hung up. An immediate call back to Ms. Kelly was answered by Defendant  
8 ROISMAN, who similarly taunted and hung up.

9 16. Yet, Defendant LAJHA'S COO appears to have falsely testified under penalty of  
10 perjury with respect to the January 22, 2010 meeting when questioned by Jonathon E. Cohn of  
11 Defendant ARENT FOX: "We have not arranged meetings or sat down with (redacted resident),  
12 you know, in a, in a formal setting without Val and David present." (Brett Fielder, June 24, 2010  
13 testimony transcript at page 40). This sworn testimony, despite the fact that the January 22, 2010  
14 meeting had previously been specifically referenced in paragraph 25 of the February 10, 2010  
15 complaint prepared, signed and/or filed by questioner Jonathon E. Cohn of Defendant ARENT  
16 FOX.

17 17. On January 10, 2010, knowing that Plaintiffs and Plaintiff's mother were  
18 whistleblowers, LAJHA refused to comply with written physician specialist instructions to page  
19 her mother's PPO endocrinologist if the elder's glucose exceeded 250. Despite pleas from both  
20 Plaintiff's mother and from Plaintiff WEST herself, LAJHA refused to page the endocrinologist  
21 when the mother's glucose exceeded 300. As a result, Plaintiff had to have an ambulance take her  
22 mother to ER at Providence Tarzana Medical Center ("PTMC"), where she was treated all night  
23 and admitted to the hospital for days.

24 18. Upon return to LAJHA on or about January 12, 2010, Plaintiff WEST and her  
25 mother handed a copy of the written doctor's instructions to Defendant ROISMAN and simply  
26 asked that LAJHA comply with them in the future. Defendant ROISMAN appeared startled that  
27 Plaintiff WEST and her mother had physical possession of a copy of the instructions, WEST  
28 observing beads of perspiration on ROISMAN'S upper lip, and her hand shaking as she took the

1 instructions page from WEST. Within three days, by January 15, 2010, LAJHA instructed outside  
2 counsel Defendant ARENT FOX to prepare a lawsuit. This is evidenced by COO Brett Fielder's  
3 March 29, 2010 Declaration, paragraph 24: "On or about January 15, 2010, I instructed our  
4 outside counsel to begin preparing a complaint against Val West and David Dizenfeld, which was  
5 completed and filed on February 10, 2010." However, as of January 15, 2010, it was a lawsuit in  
6 search of causes of action. Subsequent incidents were preplanned, falsely staged and characterized  
7 to become allegations contained in causes of action. Ms. Kelly and Defendant ROISMAN  
8 instructed Plaintiffs to come to the administrative offices to discuss Plaintiff's mother's care and  
9 subsequently alleged an invited, uneventful January 26th visit to turn in doctor's insulin change  
10 orders as "trespass." Similarly, another post-January 15th incitement by LAJHA led to a February  
11 3rd email alleged to be "defamation."

12 19. On February 9, 2010, further to LAJHA's preparations in filing its then-upcoming  
13 lawsuit against WEST and DIZENFELD, Director of Nursing Betsy Kelly wrongfully contacted  
14 UCLA endocrinologist Dr. Vikram Kamdar's office, a physician WEST'S mother had not seen in  
15 three years. Dr. Kamdar was out of the country and a covering physician complied with LAJHA's  
16 request and faxed an unnecessary insulin prescription to WEST'S mother's private retirement  
17 carrier, having been falsely told that WEST had withheld her mother's drugs and funds. LAJHA  
18 also contacted the out-of-state carrier and changed WEST'S mother's private member account  
19 shipping address away from the power-of-attorney WEST'S home address to LAJHA's address,  
20 and LAJHA signed for the interstate UPS delivery, with the co-pay charged to WEST'S mother's  
21 credit card on file with her insurance carrier. It has since been discovered that LAJHA had ordered  
22 dozens of unnecessary drugs with WEST'S mother's identity, charged to the credit card, repeatedly  
23 changing the private member shipping address without the knowledge or consent of WEST'S  
24 mother or WEST. Since WEST'S mother had designated WEST to order, receive and turn in the  
25 medications to LAJHA, LAJHA was intercepting and withholding WEST'S mail. LAJHA's  
26 February 10, 2010 Complaint admits LAJHA was aware WEST ordered and received medication  
27 on behalf of her mother: "Ms. WEST was able to do this because she orders and receives  
28 medication on behalf of Resident A."

20. LAJHA's Strategic Lawsuit Against Public Participation ("SLAPP") was filed by Defendant ARENT FOX on February 10, 2010, the day after an investigation visit to LAJHA by DSS that resulted in deficiency citations being issued against LAJHA. The complaint alleged causes of action for trespass, intentional interference with contractual relations, civil harassment and defamation. The Superior Court of the State of California ruled that LAJHA violated California's Anti-SLAPP protection law, CCP 425.16, with respect to its defamation cause of action. The California Court of Appeal affirmed, its opinion stating Plaintiffs WEST and DIZENFELD, for successfully securing a ruling striking LAJHA's defamation claim, are entitled to their attorney fees reasonably incurred litigating that issue in the trial court and on appeal. LAJHA's malicious campaign of retaliation continued, seeking to stifle Plaintiffs' advocacy by filing a State Bar complaint against Plaintiff DIZENFELD, making false and defamatory reports about Plaintiff WEST to DSS and Adult Protective Services and escalating elder abuses of the mother. After investigating, the State Bar quickly dismissed the complaint on insufficient grounds and closed its file, and DSS and Adult Protective Services interviewed WEST'S mother and terminated their investigations.

21. In addition to the Defamation cause of action already stricken, three other meritless causes of action were also maliciously and abusively alleged and filed, especially groundless in light of subsequently-discovered facts.

22. The alleged Civil Harassment does not appear to be available for a non-natural person such as the entity LAJHA, and ROISMAN subsequently admitted that she had not even seen Plaintiff DIZENFELD for over six months.

23. The alleged Trespass on January 26, 2010, was also a complete misrepresentation. Self-contradictory sworn statements by LAJHA's participants reveal a trespass trap. Following the Defendants' January 15, 2010 instructions to prepare a complaint, Defendants invited Plaintiffs to visit. There is objective evidence which has been gathered discrediting any good faith claim or belief that there was, indeed, a trespass.

24. The alleged Intentional Interference with Contractual Relations is defective not only because Plaintiffs were acting on behalf of and at the direction of Plaintiff's mother (supposedly a



1 party in and to any alleged contract), it subsequently was discovered that there was no valid  
2 contract with which to have interfered. The alleged underlying contract referenced as "Exhibit A"  
3 in LAJHA's complaint is fraudulent on its face. Although purportedly dated February 8, 2008, it  
4 nevertheless contains pages dated June 23, 2008. Further, LAJHA's complaint asserted that  
5 "Exhibit B," dated March 6, 2008, is identical to "Exhibit A." Additionally, DSS subsequently  
6 informed that the State of California requires LAJHA to provide a written Plan of Care for all  
7 residents signed by both the resident and a family member, and that LAJHA had failed to so  
8 prepare and provide. Accordingly, LAJHA was issued yet another deficiency citation for no Plan  
9 of Care. In addition to there being no plan of care with which to have interfered, LAJHA has  
10 failed to produce any written physician paging instructions other than the "250" in effect by the  
11 patient's designated PPO specialist on January 10, 2010.

12         25. In addition to the meritless causes of action maliciously and abusively alleged,  
13 Defendant LAJHA's complaint was replete with knowingly false and misleading assertions.  
14 Amongst the numerous false and misleading allegations in LAJHA's SLAPP complaint were  
15 conspicuous assertions regarding the July 22, 2009 grievance session convened by the State  
16 Ombudsman. By way of example, Defendant's Complaint, Paragraph 18, page 5, line 22 through  
17 page 6, line 2: "JHA agreed to meet with Mr. Dizenfeld, Ms. West, and an Ombudsman to discuss  
18 their purported concerns regarding Resident A's care. That meeting took place on July 22, 2009,  
19 with Brett Fielder, Chief Operating Officer of JHA, representing JHA, and Nadine Roisman.  
20 During that meeting, Ms. West and Mr. Dizenfeld admitted that the allegations were a bargaining  
21 tactic designed to secure a lower rent for Resident A." That assertion is absolutely false and  
22 misleading. At no time during that meeting, or otherwise, did Ms. West and Mr. Dizenfeld state or  
23 admit that any allegations were a bargaining tactic, which they were not. This is evidenced by a  
24 recording of that July 22, 2009 meeting. Conspicuous, as LAJHA apparently overlooked or forgot  
25 the fact that the meeting was recorded. With respect to rental amount, the State Ombudsman  
26 herself also raised the issue of LAJHA's failure to state the rental amount in writing in the RAA,  
27 the Ombudsman informing that California law requires an amount put on any admission  
28 agreement: "There is no amount. Regardless of what program a person is in, the regs say a person

1 is not required to pay unless there is an amount." LAJHA's COO Brett Fielder admitted: "The rent  
2 amount is left off because it is a floating target; irregardless [*sic*], it can be put on there and written  
3 in that way....I'll certainly make sure that the Admission Agreement after today's meeting is  
4 updated with the rent amount." Following that July 22, 2009 meeting and thereafter, contrary to  
5 Mr. Fielder's recorded express representations to the State Ombudsman and his June 24, 2010  
6 testimony, there has never been any correction, and in fact, the specific rental amount has never  
7 been stated in any RAA to the Plaintiff's mother and/or Plaintiff as her family.

8         26.     Additionally, when Plaintiffs went with Plaintiff's mother to Providence Tarzana  
9 Medical Center ("PTMC") to receive copies of ER and hospital records, PTMC informed that her  
10 records were missing. In addition to the critical medical importance, these records were crucial  
11 evidence with respect to litigation regarding LAJHA. As if to flaunt his personally having  
12 unauthorized possession of Plaintiff's mother's private health information, on June 30, 2010,  
13 LAJHA's attorney Jonathon Cohn of Defendant ARENT FOX proceeded to read aloud in open  
14 court before a courtroom full of members of the general public the protected health information of  
15 one of LAJHA's residents, Plaintiff's mother's PTMC medical records, in an action to which she  
16 was not even a party, before the judge cut him off and ordered the record sealed. Over a year later,  
17 a document production from Defendant ARENT FOX included PTMC record pages never before  
18 seen by Plaintiffs or Plaintiff's mother, one of which had a handwritten notation on its face:  
19 "Copy's [*sic*] done for JHA lawyers. In HIPAA. Destroy when closing B&C chart."

20         27.     In addition to spoliation of evidence in the anti-SLAPP and other litigation matters,  
21 Defendants appear to have conspired and/or been complicit in the apparent withholding and/or  
22 destruction of medical records. LAJHA and/or ARENT FOX demonstrated callous and reckless  
23 disregard for the health and well-being of Plaintiff's mother, an elder resident at LAJHA, by  
24 apparently ordering that her HIPAA-protected medical records be copied, circulated and/or  
25 destroyed, Plaintiff and her mother not having the benefit of viewing vital test results, physician  
26 notes and medical information therein, all for LAJHA's litigation advantage. Acting on a  
27 preliminary investigation by the U.S. Department of Health and Human Services, Office of  
28 Inspector General, Office of Civil Rights, the FBI launched its own investigation against LAJHA

1 for possible criminal implications, according to HHS/OIG.

2 28. Amongst the State of California DSS deficiency citations issued against LAJHA  
3 that apparently triggered the SLAPP lawsuit filed by Defendant ARENT FOX on behalf of LAJHA  
4 and other retaliatory actions against Plaintiffs were violations with respect to LAJHA's disregard  
5 and negligence regarding diabetes care and management. Plaintiffs successfully advocated for her  
6 resident mother, as well as for all of the other elders at LAJHA, especially diabetics, whose care  
7 had been recklessly mismanaged or ignored by LAJHA. DSS Deficiency Citation/Facility  
8 Evaluation Report dated March 2, 2010, Type B, Section 87465(h)(6): "There is no documentation  
9 for R#1's medication Lantus. In addition, insulin medications belonging to other residents, has also  
10 not been logged or documented in the past. The licensee shall be responsible for assuring that a  
11 record of centrally stored prescription medications for each resident is maintained for at least one  
12 year (see cited regulation)."

13 29. Preying on Plaintiff WEST'S vulnerability since her mother's conditions included  
14 diabetes, LAJHA callously, systematically and maliciously retaliated and harassed Plaintiffs,  
15 intentionally inflicting emotional distress, while recklessly endangering the life and well-being of  
16 Plaintiff WEST'S mother. LAJHA was cited by DSS for failing to provide her mother's  
17 centrally-stored medication log record for review by DSS. LAJHA was cited by DSS for failing to  
18 dispense diabetes medication Janumet as prescribed by physician. LAJHA failed to provide her  
19 mother's glucose testing results when requested on numerous occasions, even though LAJHA's  
20 refusing to do so was knowingly possibly detrimental to WEST'S mother's critical daily diabetes  
21 dietary management. LAJHA refused to sign receipts upon turning in insulin, concealing that,  
22 while adequate insulin supplies were provided, WEST'S mother's identity was used to order,  
23 without consent, supplies that repeatedly went missing and LAJHA's own court-ordered  
24 inventories exposed LAJHA's apparently dispensing expired insulin to WEST'S mother. LAJHA  
25 refused and failed to page WEST'S mother's PPO endocrinologist January 10, 2010, rejecting pleas  
26 from WEST to comply with written doctor's instructions. Repeatedly, LAJHA withheld WEST's  
27 mother's PTMC medical records, preventing WEST from delivering those records to her mother's  
28 endocrinologist for insulin adjustment upon discharge per hospital on-call endocrinologist's

1 instructions to WEST. LAJHA was cited by DSS for violating 87628(b)(4) Diabetes: "Facility  
2 failed to follow doctor's written orders outlining dietary guidelines for R1." LAJHA was cited by  
3 DSS for violating 87507(g) Admission Agreement: " Facility failed to follow basic service  
4 outlined in resident #1's admission agreement. Basic Services. Food Service (section 87555)(b)(2)  
5 — special diets if prescribed by doctor was not met." LAJHA and ARENT FOX withheld and/or  
6 destroyed PTMC medical records. LAJHA refused to perform physician-ordered lab tests or  
7 forward glucose testing results to endocrinologist for insulin adjustments, causing Plaintiff WEST  
8 and her mother to have to leave physician appointments without insulin being adjusted. LAJHA  
9 staff repeatedly taunted Plaintiff and her elderly mother that insulin was missing or running low,  
10 but refused to let resident or her power of attorney daughter view insulin vials. LAJHA withheld  
11 Plaintiff WEST'S mother's insulin, ultimately forcing the whistleblower out of her home. LAJHA  
12 refused to return Plaintiff WEST'S mother's personal property insulin and other medications upon  
13 fleeing from the LAJHA facility.

14 30. On April 13, 2010, following Plaintiffs WEST and DIZENFELD'S securing a  
15 ruling that Defendants LAJHA and ARENT FOX had violated California's Anti-SLAPP  
16 protection law, CCP 425.16, LAJHA retaliated against Plaintiffs by serving Plaintiff's mother with  
17 a 3-Day Notice. LAJHA did so despite the fact that it already had received Plaintiff's check for  
18 April's rent and the check had already cleared both banks. Further, LAJHA had been forewarned  
19 by DSS that such action by LAJHA against an elder resident would be a violation of state law, and  
20 DSS subsequently issued yet another deficiency citation against LAJHA. DSS Deficiency  
21 Citation/Facility Evaluation Report dated August 5, 2010, Type B, violation of Section 87224(b)  
22 Eviction Procedures: "Facility failed to obtain prior written approval from the licensing agency,  
23 and issued (3) days written notice to quit."

24 31. In the face of continually mounting grievances, to suppress further complaints, and  
25 dissuade Plaintiffs from cooperating with ongoing investigations, LAJHA took desperate and  
26 draconian measures, including without limitation the posting of a warning on a bulletin board  
27 inside the facility to elder residents regarding complaints, instructing them: "DO NOT CONTACT  
28 DEPARTMENT OF SOCIAL SERVICES." LAJHA's heavy-handed tactic ran contrary to state

1 policy to facilitate, rather than discourage, access to state agencies.

2 32. Even though LAJHA's CEO Molly Forrest was quoted in The Sacramento Bee  
3 September 18, 2011 article "Falsified Patient Records Are Untold Story of California Nursing  
4 Home Care" as representing that "We have absolutely a zero tolerance for that," LAJHA  
5 nevertheless breached its fiduciary duty to Plaintiff and her family by apparently falsifying records.  
6 The investigative article pointed out altering patients' medical records masks serious conditions  
7 and covers up care not given, putting patients at risk and sometimes leads to death. The story  
8 included a spotlight on LAJHA's "fill-in-the-blank charting," the State of California having fined  
9 LAJHA on March 31, 2011, for falsifying records.

10 33. Drugs purchased and turned in by Plaintiffs to LAJHA's custody and control under  
11 lock and key for safekeeping and dispensing nevertheless went missing and unaccounted, even  
12 according to LAJHA's own inventories. Further, based on LAJHA's own purported records, it  
13 appears that LAJHA was dispensing and injecting Plaintiff WEST'S mother with expired insulin.

14 34. In yet another example of LAJHA's retaliation, harassment and questionable  
15 accounting procedures, on or about September 1, 2010, Plaintiff WEST sent LAJHA a rent check  
16 covering her mother's September rent via USPS, Certified Mail, Return Receipt Requested, which  
17 LAJHA received and signed for on September 7, 2010. On October 4, 2010, Plaintiff WEST sent  
18 LAJHA a rent check covering her mother's October rent via USPS, Certified Mail, Return Receipt  
19 Requested, which LAJHA received and signed for on October 5, 2010. Yet, seven weeks after  
20 having received September's rent, as part of its malicious plan to force WEST'S mother out,  
21 LAJHA inflicted emotional distress on Plaintiff by wrongfully claiming that her September rent  
22 had not been paid, apparently forgetting that it had signed a USPS delivery receipt. Even when it  
23 was pointed out that Plaintiff had the signed USPS receipt, LAJHA sought to cover up its bad faith  
24 tactic and questionable accounting procedures by claiming Plaintiffs could not prove the check  
25 was in the envelope, yet LAJHA did not mention anything for months. LAJHA's intent was clear.  
26 It proceeded to use its falsified and/or questionable records as a basis for filing a retaliatory  
27 unlawful detainer trying to force Plaintiff's mother out of her home.

28 35. Waiting until just a couple of days before Christmas Eve 2010, LAJHA served

1 Plaintiff's 87-year-old mother at her room at LAJHA with a 127-page 5-day Unlawful Detainer  
2 summons and complaint, with its deadline knowingly set to fall between Christmas and New  
3 Year's holidays. The Unlawful Detainer signed and filed by Jonathon E. Cohn of Defendant  
4 ARENT FOX, the same attorney who read Plaintiff WEST'S mother's HIPAA-protected private  
5 health information in open court without authorization or release, was defective on its face, as set  
6 forth in the response timely filed and served on behalf of Plaintiff's mother by the Van Nuys  
7 Courthouse Self-Help Center. Rather than file an amended unlawful detainer and proceed through  
8 a court hearing, LAJHA apparently decided to resort to withholding Plaintiff's mother's insulin  
9 and blood pressure medication to force her out.

10 36. On December 31, 2010, Plaintiff WEST received the following voicemail message  
11 recording from her mother — the trembling in her mother's terrified voice is haunting:  
12 "Hi Val, it's Mom. The nurses are refusing to give me my insulin and pills. This nasty nurse said  
13 it's a holiday so no one will come to help you, I'm alone and I should be very scared. Okay, I'm  
14 getting voicemail, you're probably in the shower. So call me, I'm very angry and upset. I'm like  
15 thinking, I'm a diabetic, are they trying to kill me? Okay, please call back. Mom."

16 37. In the face of such barbaric cruelty, bullying, abuse and life-threatening withholding  
17 of critical insulin and medication, Plaintiff WEST had no choice but to pull her elderly mother out  
18 of her home, away from her friends, a place she had come to think of as her final residence as her  
19 mother before her had thought. Forced to flee the LAJHA facility, Plaintiff WEST and her mother  
20 were refused the requested return of all of her personal property medications Plaintiff had paid for  
21 and in LAJHA's possession, custody and control, including insulin, blood pressure, pulmonary,  
22 diabetes, cholesterol and bone medicine. LAJHA's callous refusal left Plaintiff WEST'S  
23 87-year-old diabetic mother without any medications whatsoever. DSS issued yet another  
24 deficiency citation against LAJHA with respect to this abusive action.

25 38. The facts show that in trying to amicably work things out pertaining to the initial  
26 issues above, Plaintiffs alerted administrators. Even though investigations and remedies were  
27 promised, the issues went on unabated and even escalated. With Plaintiffs feeling things were a  
28 matter of life and death and financial solvency, they consulted with Bet Tzedek Legal Services and

1 reported to appropriate government agencies. Subsequently, Defendants engineered and engaged  
2 in a malicious and deceitful campaign of retaliation and harassment against Plaintiffs, as  
3 Defendants sought to stifle advocacy for elders at the facility, to retaliate against Plaintiffs'  
4 whistleblowing to government agencies responsible for handling elder abuse and healthcare fraud,  
5 and to force Plaintiff WEST'S mother out of her home, endangering her life in the process.

6 39. On December 8, 2011, a Los Angeles Superior Court judge in a different action  
7 against LAJHA, at the same time as he denied LAJHA's Motion for Summary Judgment on each  
8 of no less than seven causes of action against LAJHA, including without limitation Elder Physical  
9 Abuse, Assault & Battery, Elder Financial Abuse, Fraud, Intentional Infliction of Emotional  
10 Distress, Negligence and Negligent Misrepresentation and upon query from LAJHA's attorney  
11 Jonathon Cohn of Defendant ARENT FOX, handed each of LAJHA's no less than three attorneys  
12 in attendance a copy of a letter to the court from the Federal Bureau of Investigation dated  
13 November 23, 2011, wherein it stated that the FBI had launched an investigation against LAJHA.

14 40. Thereafter, Defendants have continued and escalated their malicious and deceitful  
15 campaign of retaliation and harassment against Plaintiffs, such action including without limitation  
16 intentional infliction of emotional distress, defamation, defamation per se with respect to  
17 Plaintiffs' livelihood, and intentional interference with business relations and opportunities.

# 18 19 **FIRST CAUSE OF ACTION**

20 (SLAPP back (CCP § 425.18), Against Defendants ARENT FOX, LAJHA,  
21 and All Does by All Plaintiffs)

22 41. Plaintiffs incorporate paragraphs 1 through 40, inclusive, of this complaint, as  
23 though fully set forth herein.

24 42. Defendant LAJHA through their attorney Defendant ARENT FOX brought their  
25 complaint for defamation with malice and without probable cause. The defamation cause of action  
26 was dismissed in favor of Plaintiffs through an anti-SLAPP motion<sup>1</sup>. Defendants' actions are in  
27

28 <sup>1</sup> The Complaint also included causes of action for trespass, intentional interference  
with contractual relations, and civil harassment. This claim will be amended to add the other three

violation of California Code of Civil Procedure § 425.16, and have created a SLAPP back cause of action pursuant to CCP § 425.18 to protect the valid exercise of the constitutional rights of free speech and petition by its deterrent effect on SLAPP (Strategic Lawsuit Against Public Participation) litigation, and by its restoration of public confidence in participatory democracy.

43. As a result of these actions and each of them, Plaintiffs have suffered and will continue to suffer damages, including without limitation general damages, special damages, compensatory damages, lost earnings, loss of earning potential, injury to their professional and personal reputation, and severe emotional distress, all to their damage in sums according to proof at trial.

44. The conduct of defendants described above was done with fraud, oppression and malice, thereby entitling Plaintiffs to punitive or exemplary damages in a sum according to proof at trial.

## SECOND CAUSE OF ACTION

(Malicious Prosecution Against All Defendants and Does by All Plaintiffs)

45. Plaintiffs incorporate paragraphs 1 through 44, inclusive, of this complaint, as though fully set forth herein.

46. Defendant LAJHA through their attorney Defendant ARENT FOX brought their complaint for defamation with malice and without probable cause. The defamation cause of action was dismissed in favor of Plaintiffs through an anti-SLAPP motion (see FN 1).

47. Defendants and each of them also with malice and without probable cause brought a state bar action against Plaintiff DIZENFELD which has been dismissed in favor of Plaintiff DIZENFELD. In addition, Defendants and each of them brought a retaliatory unlawful detainer action against Plaintiff WEST'S mother, which caused Plaintiff WEST damage and emotional distress.

48. As a result of these actions and each of them, Plaintiffs have suffered and will

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causes of action when they are terminated in favor of Plaintiffs.



1 continue to suffer damages, including without limitation general damages, special damages,  
2 compensatory damages, lost earnings, loss of earning potential, injury to their professional and  
3 personal reputation, and severe emotional distress, all to their damage in sums according to proof  
4 at trial.

5 49. The conduct of defendants described above was done with fraud, oppression and  
6 malice, thereby entitling Plaintiffs to punitive or exemplary damages in a sum according to proof  
7 at trial.

### 8 9 **THIRD CAUSE OF ACTION**

10 (Abuse of Process Against All Defendants and Does by All Plaintiffs)

11 50. Plaintiffs incorporate by reference paragraphs 1 through 49, inclusive, of this  
12 complaint as though fully set forth herein.

13 51. When Plaintiff WEST and her mother requested hospital records, they were told  
14 that the records were missing. However, in a subsequent document production, Defendant  
15 ARENT FOX included those same hospital records which had a handwritten notation "Copy's  
16 [sic] done for JHA lawyers. In HIPAA. Destroy when closing B&C chart."

17 52. Defendants and each of them willfully used the Court process for a purpose other  
18 than for which it was intended. Defendants had an ulterior purpose which was to prevent Plaintiffs  
19 from continuing their whistleblowing activities.

20 53. As a result of these actions and each of them, Plaintiffs have suffered and will  
21 continue to suffer damages, including without limitation general damages, special damages,  
22 compensatory damages, lost earnings, loss of earning potential, injury to their professional and  
23 personal reputation, and severe emotional distress, all to their damage in sums according to proof  
24 at trial. The conduct of defendants described above was done with fraud, oppression and malice,  
25 thereby entitling Plaintiffs to punitive or exemplary damages in a sum according to proof at trial.  
26

### 27 **FOURTH CAUSE OF ACTION**

28 (Defamation Against All Defendants and Does by All Plaintiffs)

1           54.     Plaintiffs incorporate by reference paragraphs 1 through 53, inclusive, of this  
2 complaint as though fully set forth herein.

3           55.     Defendants and each of them individually through their officers, partners, agents  
4 and employees, acting through the course and scope of their employment, made knowingly false  
5 statements and repeated them with knowledge of reckless disregard of their falsity, both orally and  
6 in writing, to persons other than Plaintiffs. In making the statements, defendants and each of them  
7 falsely accused Plaintiffs of professional and personal misconduct, and dishonesty, including  
8 without limitation falsely claiming that Plaintiff WEST had withheld her mother's drugs and  
9 funds, and somehow had coerced her mother into using the mother's own retirement benefits  
10 instead of government health and pharmaceutical plans which Defendant LAJHA, its vendors and  
11 business associates bill directly. Defendants and each of them falsely made claims about Plaintiffs  
12 and each of them that were not privileged and made outside of the litigation process and were  
13 made intending to harm the reputation, and did harm the reputation, of Plaintiffs.

14           56.     Plaintiff DIZENFELD is an entertainment and media attorney, documentary film  
15 producer and magazine publisher. A threshold question asked in these professions for E&O  
16 insurance is whether one has ever been sued for defamation. For the rest of Plaintiff  
17 DIZENFELD'S professional career, he will never again be able to respond "no" to that question.  
18 Plaintiff WEST is a writer and real estate agent who now faces similar hardship in her professional  
19 livelihood, including possible complications with E&O insurance questions.

20           57.     Plaintiff DIZENFELD received a voice message recording from a well-known  
21 leader in the Los Angeles business community whom Plaintiff DIZENFELD has known personally  
22 and professionally for over a quarter century who relayed a conversation he had with Defendant  
23 LAJHA's CEO Molly Forrest wherein Ms. Forrest told him that Plaintiffs WEST and  
24 DIZENFELD were just a bunch of bad guys trying to shake down the Home, just out for dough,  
25 and that there was no merit whatsoever. At the time of this statement, Plaintiffs had not yet made  
26 any claim whatsoever but it was Defendants who had falsely sued Plaintiffs. Plaintiff  
27 DIZENFELD also has received calls from other friends reporting that they have heard that Plaintiff  
28 DIZENFELD was on the bad side of Defendant LAJHA.

58. These statements are defamatory per se in that they relate directly to their profession, trade or business.

59. As a result of these actions and each of them, Plaintiffs have suffered and will continue to suffer damages, including without limitation general damages, special damages, compensatory damages, lost earnings, loss of earning potential, injury to their professional and personal reputation, and severe emotional distress, all to their damage in sums according to proof at trial. The conduct of defendants described above was done with fraud, oppression and malice, thereby entitling Plaintiffs to punitive or exemplary damages in a sum according to proof at trial.

### FIFTH CAUSE OF ACTION

(Violation of Business & Professions Code Sections 17200, et seq. Against Defendant LAJHA and Does 40-50 Only by Plaintiff WEST Only)

60. Plaintiffs incorporate by reference paragraphs 1 through 59, inclusive, of this complaint as though fully set forth herein.

61. Defendant LAJHA advertises to families that they can rest assured that entrusting their elders to LAJHA will result in the elders living out the remainder of their lives in peace and dignity, with good care, in compliance with regulations, free from elder financial, mental and physical abuse, theft, identify theft, and health care fraud. However, as set forth throughout this complaint, Defendant LAJHA has failed to do as it advertises. Defendant LAJHA is and has been making false allegations about its own conduct which is an unfair business practice under California Business & Professions Code Section 17200, et seq.

62. As a result of these actions and each of them, Plaintiffs have suffered and will continue to suffer damages, including without limitation general damages, special damages, compensatory damages, lost earnings, loss of earning potential, injury to their professional and personal reputation, and severe emotional distress, all to their damage in sums according to proof at trial. The conduct of defendants described above was done with fraud, oppression and malice, thereby entitling Plaintiffs to punitive or exemplary damages in a sum according to proof at trial.

**SIXTH CAUSE OF ACTION**

(Intentional Infliction of Emotional Distress)

Against All Defendants and Does by All Plaintiffs)

63. Plaintiffs incorporate by reference paragraphs 1 through 62, inclusive, of this complaint as though fully set forth herein.

64. In making statements and doing the things described above, defendants have acted outrageously and intended to cause and did cause Plaintiffs to suffer severe and ongoing emotional distress. Further, as a direct and proximate result of the conduct of the defendants and each of them as alleged in this cause of action, Plaintiffs have sustained damages in an amount substantially in excess of jurisdictional minimum of this Court to be proven at trial. Specifically, Plaintiffs have suffered harassment, humiliation, trauma, anxiety, sleeplessness and stress-induced related special medical damages. Defendants betrayed Plaintiff's trust and the centennial legacy of its business and, in so doing, further damaged Plaintiffs.

65. As a result of these actions and each of them, Plaintiffs have suffered and will continue to suffer damages, including without limitation general damages, special damages, compensatory damages, lost earnings, loss of earning potential, injury to their professional and personal reputation, and severe emotional distress, all to their damage in sums according to proof at trial. The conduct of defendants described above was done with fraud, oppression and malice, thereby entitling Plaintiffs to punitive or exemplary damages in a sum according to proof at trial.

**SEVENTH CAUSE OF ACTION**

(Intentional Interference With Business Relations and Opportunities)

Against All Defendants and Does by All Plaintiffs)

66. Plaintiffs incorporate by reference paragraphs 1 through 65, inclusive, of this complaint as though fully set forth herein.

67. After decades of public service and community involvement, building relationships and goodwill in Los Angeles, Plaintiff DIZENFELD was invited to be of counsel by a prestigious Los Angeles law firm to monetize relationships. In addition to defendants' campaign of

defamatory and disparaging remarks about Plaintiff DIZENFELD in the Los Angeles business community seeking to undermine DIZENFELD'S ability to develop and secure business relations, Defendant ARENT FOX escalated the harassment by maliciously and improperly sending mailings to the law firm about the lawsuit, falsely implying that the firm itself had become an interested party.

68. Plaintiff WEST has also had business relations and opportunities interfered with intentionally by defendants and each of them.

69. As a result of these actions and each of them, Plaintiffs have suffered and will continue to suffer damages, including without limitation general damages, special damages, compensatory damages, lost earnings, loss of earning potential, injury to their professional and personal reputation, and severe emotional distress, all to their damage in sums according to proof at trial. The conduct of defendants described above was done with fraud, oppression and malice, thereby entitling Plaintiffs to punitive or exemplary damages in a sum according to proof at trial.

## EIGHTH CAUSE OF ACTION

(Breach of Fiduciary Duty and Implied Warranty)

Against Defendant LAJHA and Does 35-45 by All Plaintiffs)

70. Plaintiffs incorporate by reference paragraphs 1 through 69, inclusive, of this complaint as though fully set forth herein.

71. Defendant LAJHA has handsomely enjoyed the benefits nurtured from a solemn covenant with families that they can rest assured in trusting their elders to LAJHA, where they will be able to live out the remainder of their life in peace and dignity, free from elder abuse, theft and healthcare fraud. This is a material representation that LAJHA extensively expounds in marketing to and soliciting children of elderly parents and prospective donors in the community. Further, its website proclaims that LAJHA promises a culturally-based tradition of respect and compassion for seniors and family.

72. As set forth above and throughout this complaint, Defendant LAJHA has breached this fiduciary duty and implied warranty.

1           73.     As a result of these actions and each of them, Plaintiffs have suffered and will  
2 continue to suffer damages, including without limitation general damages, special damages,  
3 compensatory damages, lost earnings, loss of earning potential, injury to their professional and  
4 personal reputation, and severe emotional distress, all to their damage in sums according to proof  
5 at trial. The conduct of defendants described above was done with fraud, oppression and malice,  
6 thereby entitling Plaintiffs to punitive or exemplary damages in a sum according to proof at trial.

7  
8                                   **NINTH CAUSE OF ACTION**

9                                   **(Negligent Misrepresentation)**

10                               **Against All Defendants and Does by All Plaintiffs)**

11           74.     Plaintiffs incorporate by reference paragraphs 1 through 73, inclusive, of this  
12 complaint as though fully set forth herein.

13           75.     A special relationship existed between Defendants and Plaintiffs. Defendants  
14 represented that they would accept the responsibility of properly and safely administering Plaintiff  
15 WEST'S mother's residency at LAJHA in a trustworthy, healthy and competent manner, including  
16 without limitation by providing agreed-upon housing, a safe and healthy environment, prescribed  
17 diet, and timely and accurate information. Defendants also represented that they would follow  
18 physician orders and protect personal property, medications, private health, financial and personal  
19 information for and in Plaintiff WEST's and her mother's best interests.

20           76.     Defendants' representations were untrue, inaccurate and/or misleading, including  
21 without limitation as set forth in LAJHA'S marketing and admission materials.

22           77.     Defendants acted negligently in making the misrepresentations and knew or should  
23 have known the falsity of the matters.

24           78.     Plaintiffs relied, in a reasonable manner, on Defendants' negligent  
25 misrepresentations, including without limitation by moving her mother into the LAJHA facility.

26           79.     Defendants acted negligently and unreasonably and breached their duty to  
27 Plaintiffs.

28           80.     Plaintiffs' reliance on Defendants' misrepresentations had detrimental

1 consequences and resulted in Plaintiffs' damages. As a direct and proximate result of Defendants'  
2 wrongful conduct, Plaintiffs suffered damages as alleged herein.

3 81. As a result of these actions, and each of them, plaintiffs have suffered and will  
4 continue to suffer damages, including without limitation general damages, special damages,  
5 compensatory damages, loss of earnings, loss of earning potential, injury to their professional and  
6 personal reputation, and severe emotional distress, all to their damage in sums according to proof  
7 at trial. The conduct of defendants described above was done with thought, oppression and  
8 malice, thereby entitling Plaintiffs to punitive or exemplary damages in a sum according to proof  
9 at trial.

#### 11 TENTH CAUSE OF ACTION

12 (Negligence Against All Defendants and Does by All Plaintiffs)

13 82. Plaintiffs incorporate by reference paragraphs 1 through 81, inclusive, of this  
14 complaint as though fully set forth herein.

15 83. Upon accepting Plaintiff WEST'S mother's residency and care, Defendants had an  
16 obligation and duty of care to Plaintiffs to properly and safely administer Plaintiff WEST'S  
17 mother's residency at LAJHA in a trustworthy, healthy and competent manner. Defendants had a  
18 duty to Plaintiffs to provide agreed-upon housing, a safe and healthy environment, prescribed diet,  
19 timely and accurate information, as well as to follow physician orders and to protect personal  
20 property, medications, private health, financial and personal information.

21 84. Defendants breached their duty to Plaintiffs by failing to properly and safely  
22 administer WEST'S mother's residency in a trustworthy, healthy and competent manner. Such  
23 breach included without limitation Defendants' failure to provide agreed-upon housing, proper care  
24 and diet in a responsible manner, inform Plaintiffs of medical test results, protect personal property  
25 and information and follow physician orders.

26 85. As a result of Defendants' breach of duty to Plaintiffs, Plaintiffs were damaged,  
27 including without limitation by the expenditure of time, effort, and funds, in addition to the stress,  
28 in trying to rectify Defendants' various incidents of breach and negligence.

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