

**VIRGINIA:**

**IN THE CIRCUIT COURT OF THE FAIRFAX COUNTY**

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**James L. Conrad,**  
**Administrator of the Estate of**  
**Giulianna E. Conrad**  
5814 Jane Way  
Alexandria, VA 22310

**Plaintiff,**

**v.**

**Law No. CL 2013-13209**

**CSP NOVA LLC,**  
**d/b/a COMMONWEALTH HEALTH**  
**AND REHAB CENTER**  
4315 Chain Bridge Road  
Fairfax, VA 22030  
Serve: National Registered Agents Inc.  
4701 Cox Road, Suite 301  
Glen Allen, VA 23060-6802

**COMMONWEALTH CARE OF**  
**ROANOKE, INC.**  
4423 Pheasant Rd, Suite 200  
Roanoke, VA 24014  
Serve: R. David Barbe  
4415 Electric Road  
Roanoke, VA 24018-0723

**Defendants.**

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**COMPLAINT**

COMES NOW Plaintiff, James L Conrad, as the Administrator of the Estate of Giulianna Conrad and on behalf of the statutory beneficiaries, by and through counsel, and files this, his Complaint against Defendants CSP NOVA LLC d/b/a Commonwealth Health and Rehab Center,

and Commonwealth Care of Roanoke, Inc. and moves this Court for judgment, jointly and severally, based upon the following:

1. On or about October 18, 2012, James L. Conrad was appointed as Administrator of the Estate of Guilianna Conrad. Mr. Conrad is Guilianna's father.

2. On or about October 9, 2006, Guilianna was admitted to Commonwealth Health and Rehab Center. Her medical history included a previous brain injury with altered mental status, the need for rehabilitation and assistance with her acts of daily living. She had reduced mobility and multiple risk factors for the development of skin breakdown.

3. Prior to October 1, 2010, Inova Health Systems a/k/a Inova Health System Services and Inova Services Inc. owned and operated Inova Commonwealth Care Center. Effective October 1, 2010, CSP NOVA LLC became the lessee and licensed operator of Inova Commonwealth Care Center. On that same date, Commonwealth Care of Roanoke, Inc. became the manager of the nursing facility and its name was changed to Commonwealth Health and Rehab Center. As manager, Defendant Commonwealth Care of Roanoke Inc. retained full authority to control and manage the daily business of the nursing home.

4. At all relevant times alleged herein, Defendants CSP NOVA LLC, d/b/a Commonwealth Health and Rehab Center and Commonwealth Care of Roanoke, Inc., were engaged in a joint venture as defined under Virginia law. By agreement, both Defendants participated in the nursing home's control and/or operation for their mutual benefits and shared in their joint venture's profits. All Defendants had a voice in the nursing home's control and/or management.

5. From the time of her admission until her discharge on or about September 13, 2011, Guilianna Conrad was mentally incapacitated under Virginia law. She was unable to

understand her health care providers or consent to medical treatments. Her father, James Conrad, made medical and related decisions on her behalf.

6. From the time of her admission until her discharge, Guilianna Conrad had a continuous and substantially uninterrupted course of treatment from Defendants and their agents/employees for the same conditions which prompted her admission.

**Count I**  
**(Negligence/Survivorship)**

Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs 1 through 6 of this Complaint, as if fully set forth herein, and further states as follows:

7. At all times set forth herein, Defendants and their direct staff who cared for Guilianna Conrad were aware of her medical condition and history as reflected in her records. Defendants, through their agents/employees, represented to the Conrad family and to the Commonwealth of Virginia that they could adequately care for Ms. Conrad by providing nursing, rehabilitation and related care, that they could adequately monitor her medical care needs at the skilled care level and provide sufficient staff in numbers and training to meet the total care needs of their nursing home residents and specifically those of Guilianna Conrad.

8. Defendants and their agents/employees owed Ms. Guilianna a duty to provide reasonable care and to properly monitor, assess, treat, maintain and rehabilitate her. They further had a duty to take care of Ms. Conrad's needs and treat her with dignity. Furthermore, the duty to provide care, maintenance and protection of Ms. Conrad was a non-delegable duty; hence, Defendants are responsible for the conduct of any individuals to whom they delegated such duties.

9. Defendants, as owners and operators of a skilled care nursing facility, had a duty to provide staffing, including nursing, CNA and various specialists, in sufficient numbers and with sufficient training to meet Ms. Conrad's needs. Defendants before and during Ms. Guilianna's nursing home residency were aware of staffing deficiencies yet persistently, and in violation of applicable standards of care, provided insufficiently trained and numbered staff to meet the needs of the nursing home residents, including Ms. Conrad. This proximately caused and/or contributed to substandard care which was provided to Ms. Conrad, in various healthcare areas, as described below.

10. On or about October 1, 2010, Defendants CSP NOVA LLC and Commonwealth Care of Roanoke, Inc. took over the nursing home's operation, which is now known as Commonwealth Health and Rehab Center. They further employed the staff who cared for Ms. Conrad after October 1, 2010. Despite a poor history of compliance in meeting minimum standards of care, as reflected through Department of Health deficiencies, Defendants CSP NOVA LLC and Commonwealth Care of Roanoke, Inc. significantly reduced staffing levels upon taking over the nursing home's operation. This staffing level reduction contributed to neglect experienced by many of the nursing home residents, including Guilianna Conrad.

11. On or about September 13, 2011, Guilianna Conrad was hospitalized because of the discovery of a deep pressure wound in her sacral area that had become infected. Between September 8, 2011 and September 13, 2011, Defendants' nursing staff had failed to document on Ms. Conrad's status in the nursing notes. Defendants and their staff negligently failed to catch the wound at its earlier stages, when it would have been much easier to treat and heal.

12. Defendants and their staff, operating within the course and scope of their employment, breached applicable standards of care by failing to prevent Ms. Conrad's

development of skin breakdown. Specifically, Defendants failed to undertake adequate daily assessments of her skin, failed to timely identify skin breakdown, failed to put in place an adequate care plan for preventive pressure relief and failed to provide adequate turning and repositioning.

13. In addition to the negligent acts described above, Defendants, through their agents/employees acting within the scope of their employment and during the course of a continued patient relationship, subjected Ms. Conrad to additional forms of substandard care in violation of accepted standards of care as follows:

a. Defendants failed to adequately monitor changes in Ms. Conrad's medical condition and otherwise failed to timely report such changes to Plaintiff's responsible party and attending physician;

b. Defendants failed to check on Ms. Conrad's skin status on a regular, daily basis and failed to document her status in the progress notes;

c. Defendants and their agents/employees negligently failed to provide adequate nutrition and hydration for Ms. Conrad, who because of a brain injury and swallowing issues, required staff assistance and encouragement during meal time, which she did not receive on a consistent basis;

d. Defendants and their agents/employees negligently failed to provide adequate care planning to maintain Ms. Conrad's highest practical mental, physical and psychosocial well-being;

e. Because of administrative failures in adequate staffing and/or staff training, Ms. Conrad did not receive proper care to avoid skin breakdown and was neglected in multiple ways as more fully set forth herein;

f. Defendants and their agents/employees negligently failed to provide adequate assistance with daily living activities;

g. Defendants and their agents/employees negligently failed to provide adequate restorative and range of motion exercises;

h. Defendants and their agents/employees negligently failed to provide adequate hygiene and proper toileting; and

i. Defendants and their agents/employees negligently failed to implement appropriate measures to prevent aspiration, despite Plaintiff's known swallowing problems.

14. As a direct and proximate result of the aforesaid negligence and breaches in the applicable standards of care as outlined above, Guilianna Conrad sustained personal injuries, including but not limited to the onset of a large infected pressure sore, decline in her physical and mental health, physical and mental suffering, and further incurred medical and related expenses in an effort to treat her injuries.

## **Count II (Wrongful Death)**

Plaintiff incorporates herein paragraphs 1 through 6 as if fully set forth herein and further alleges the following:

15. At the time of her nursing home admission, Guilianna Conrad had various risk factors for the development of skin breakdown and pressure sores. Defendants and their agents/employees operating within the course and scope of their employment breached applicable standards of care by failing to properly assess her risk factors, failing to timely identifying skin breakdown, failing to provide adequate care planning and pressure relief to prevent Ms. Conrad from developing pressure sores.

16. Defendants' staff negligently failed to monitor and address Plaintiff's change in condition leading up to her September 13, 2011 hospitalization including the progression of her wound and change in medical status. Nursing notes preceding September 13, 2011, fail to document the progression of her wound from earlier stages.

17. Defendants and their agents/employees negligently failed to implement appropriate measures to prevent aspiration, despite Plaintiff's known swallowing problems. This resulted in Plaintiff developing aspiration and related problems.

18. As a direct and proximate result of Defendants' negligence, Ms. Conrad developed a large, deep pressure wound in her sacral area that caused her to develop sepsis and other complications. On or about September 28, 2011, Ms. Conrad expired. Defendant's negligence in causing the pressure wound and/or preventing other adverse health consequences (including, but not limited to aspiration), were the proximate cause of her death. Ms. Conrad is survived by statutory beneficiaries including her parents and daughter.

19. As a direct and proximate result of Ms. Conrad's wrongful death, said beneficiaries sustained damages including monetary losses, funeral expenses, and have further suffered sorrow, mental anguish, solace, loss of society, companionship, and comfort.

### **Count III – Punitive Damages**

Plaintiff incorporates paragraphs 1 through 19 as if fully set forth herein and further alleges as follows:

20. During her residency at Defendants' nursing home, Guilianna Conrad suffered from cognitive deficiencies which had affected her ability to understand and communicate. In such a condition, she was completely vulnerable and trusted Defendants to take care of her total

healthcare needs. Because Ms. Conrad suffered from cognitive and communication limitations, she could not always express her needs or advocate for herself.

21. Defendants CSP NOVA LLC and Commonwealth Care of Roanoke, Inc., through their staff, intentionally took advantage of Ms. Conrad's inability to communicate and protect herself by failing to provide the services, assistance and care necessary for her physical well-being. Defendants knew that this conduct would pose a serious risk of harm to Ms. Conrad. Despite this knowledge, Defendants CSP NOVA, LLC and Commonwealth Care of Roanoke, Inc. continued in their course of action and failed to properly manage Ms. Conrad's risk for pressure sores, compromised nutrition and other medical conditions.

22. Defendants CSP NOVA LLC and Commonwealth Care of Roanoke, Inc. took over the operation of Commonwealth Health and Rehab Center nursing facility as of October 1, 2010. Prior to taking over operation of this nursing home, Defendants CSP NOVA LLC and Commonwealth Care of Roanoke Inc. were aware of wide spread staffing and care deficiencies of their nursing home residents. In 2010 these deficiencies included, *inter alia*, failure to undertake the proper assessments, failure to develop comprehensive care plans, failure of the nursing staff to follow proper professional standards, failure to follow orders to prevent skin breakdown for residents, failure to provide preventive skin care for residents at high risk of developing pressure sores, failure to follow orders by providing incontinence care, failure to follow orders to address patients weight loss, failure to insure that residents' drug regimen was free from unnecessary drugs, failure to prevent significant medication error rates, failure to provide physician visits on a timely basis, failure to comply with physician orders regarding requests for labs and failure to maintain complete and accurate clinical records for residents.



23. Upon taking over the facility, CPS NOVA LLC and Commonwealth Care of Roanoke Inc. had a duty to reassess staffing and determine this facility's appropriate staffing levels. Applicable federal regulations required Defendants' nursing facility to provide sufficient staffing to meet the total care needs of the residents, including Guilianna Conrad. Defendants CSP NOVA LLC and Commonwealth Care of Roanoke, Inc. knew or should have known based on this nursing home's prior abysmal performance in meeting regulatory standards that staffing levels needed to be increased. Defendants CSP NOVA LLC and Commonwealth Care of Roanoke Inc. intentionally, and with reckless disregard for the consequences, significantly reduced staffing levels at this nursing home when they knew that such a reduction would lead directly to the harm of residents, including those residents like Ms. Conrad, who required a high level of skilled care.

24. Defendants CSP NOVA LLC and Commonwealth Care of Roanoke, Inc. knew that the failure to provide vigilant pressure sore relief and monitoring for Ms. Conrad would place her at risk for developing skin breakdown and death. Defendants' corporate management staff recklessly failed to provide sufficient staffing for Ms. Conrad and other residents in an effort to increase their profits in the operation of this facility.

25. At the time Ms. Conrad presented to the hospital on or about September 13, 2011, she had a stage IV pressure wound that was infected. Such a wound would have taken several days or longer to develop. Nursing notes prior to September 13, 2011 failed to document the progression or existence of this wound because the staff was not performing daily body assessments. Despite the high risk for skin breakdown that Ms. Conrad presented, Defendants' staff recklessly disregarded her rights despite their knowledge that not checking on her skin condition on a daily basis would likely result in serious injury and/or death.

26. Defendants and their agents/employees operating within the course and scope of their employment, willfully, and in reckless disregard for the consequences, also failed to provide basic turning and repositioning to prevent the development of Ms. Conrad's pressure wounds, despite their knowledge that the failure to provide such daily care would result in injury or death to Ms. Conrad.

27. Defendants, through their corporate management staff, were well aware of wide spread deficiencies in the care and treatment rendered to patients at this nursing facility before and during Ms. Conrad's nursing home residence. As noted above, even before CSP NOVA LLC and Commonwealth Care of Roanoke, Inc. took over this facility's operation, the nursing home was cited for numerous and serious deficiencies in the care and treatment of their patients. Defendants CSP NOVA LLC and Commonwealth Care of Roanoke, Inc. were aware of these prior deficiencies and made an intentional business decision to not correct obvious problems with inadequate staffing and effectively sacrificed patient care in the name of enhanced business profit. Defendants CSP NOVA LLC and Commonwealth Care of Roanoke, Inc. made this conscious decision on staffing and resource allocation in conscious disregard of the rights of patients like Ms. Conrad, who were completely reliant upon the staff to meet their daily care needs.

28. CSP NOVA LLC and Commonwealth Care of Roanoke, Inc. ratified the acts of their nursing and CNA staff, as their management staff and employees were aware of Ms. Conrad's health status and directly participated in the neglect and reckless conduct described above. Defendants CSP NOVA LLC and Commonwealth Care of Roanoke, Inc. also ratified their employees conduct by condoning it and failing to correct repeated instances of neglect of their residents including Ms. Conrad. Furthermore, as corporate management participated in the

neglect of Ms. Conrad through the conduct of their Administrator and Director of Nurses, and as corporate management made the conscious business decision to reduce staffing levels in the face of an already deficiently performing facility, Defendants committed both direct and indirect acts of ratification making these corporate entities liable for punitive damages.

29. Defendants' management staff intentionally, and with reckless indifference to the consequences, ignored staffing complaints, inadequacies and other staffing problems even though they were aware that such deficiencies would lead directly to the harm of residents including Giulianianna Conrad. Moreover, Defendants through their management staff, by failing to properly hire, train and monitor their staff and implement policies and procedures to correct institution-wide problems, and by making business decisions to sacrifice patient care for increased income, committed direct acts of willful, wanton and reckless conduct that render these corporate Defendants directly liable for punitive damages.

30. As a direct and proximate result of the aforesaid willful, wanton and/or reckless conduct of Defendants CSP NOVA LLC, Commonwealth Care of Roanoke, Inc. and their staff, Giulianianna Conrad sustained personal injuries as described above, suffered a serious decline in her mental health status leading to her untimely death, suffered great pain of body and mind and incurred medical and related out-of-pocket expenses and attorneys' fees.

WHEREFORE these and other premises considered, James L. Conrad, as the Administrator of the Estate of Giulianianna Conrad and on behalf of the statutory beneficiaries, move this Court for judgment against Defendants CSP NOVA LLC, d/b/a Commonwealth Health and Rehab Center and Commonwealth Care of Roanoke, Inc., jointly and severally, for the following relief:


- a. \$2,500,000.00 in compensatory damages plus costs, interest and attorneys fees from October 1, 2010;
- b. \$500,000.00 in punitive damages with interest;
- c. An order from this Court exercising its power and equity and requiring Defendants to conform with applicable nursing home standards of care as a precondition to their continued licensure in the Commonwealth of Virginia;
- d. Any additional relief that this Court may deem appropriate.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury as to all issues involved herein.

Date: August 19, 2013

Respectfully submitted,

  
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