

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

PAMELA LEA TEEM, as Personal Representative of)
the Estate of Martha McConnell Burke, deceased;)

Plaintiff)

v.)

BALDWIN HOUSE ASSISTED LIVING FACILITY, ADKM)
PROPERTIES LLC, AKFN INVESTMENTS, LLC; TONYA)
FREEMAN; NO. 1-10, the person, firm, corporation)
 or other entity responsible for the home care and)
 safety of Martha McConnell Burke at the times and)
 places made the basis of this lawsuit; **NO. 11-20**, the)
 person, firm, corporation or other entity who was)
 the principal, master and/or employer of the person,)
 firm, corporation, or other entity responsible for the)
 home care and safety of Martha McConnell Burke at)
 the times and places made the basis of this lawsuit;)
NO. 21-30, the person, firm, corporation or other)
 entity who was the principal, master and/or)
 employer of any Fictitious Defendants described)
 herein; **NO. 31-40**, the person, firm, corporation, or)
 other entity who owned, operated and/or)
 controlled the business providing services to Martha)
 McConnell Burke at the times and places made the)
 basis of this lawsuit; **NO. 41-50**, the person, firm,)
 corporation, or other entity, who was responsible)
 for the screening, hiring, training, education, and/or)
 supervision of the person or persons who provided)
 home care to Martha McConnell Burke at the times)
 and places made the basis of this lawsuit; **NO. 51-60**,)
 the person, firm, corporation, or other entity, who)
 was responsible for the development of policies,)
 procedures, protocols and guidelines to be followed)
 by persons responsible for the home care and safety)
 of Martha McConnell Burke at the times and places)
 made the basis of this lawsuit; **NO. 61-70**, the)
 person, firm, corporation or other entity, who was)
 responsible for the implementation of policies,)

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procedures, protocols and guidelines to be followed)
 by persons responsible for the home care and safety)
 of Martha McConnell Burke at the times and places)
 made the basis of this lawsuit;)
NO. 71-80, the person, firm, corporation or other)
 entity, other than described above, whose)
 negligence, wantonness or other wrongful conduct)
 caused or contributed to cause the incident and)
 injuries and damages made the basis of this lawsuit,)
 and all of whose names and legal identities are)
 otherwise unknown to the Plaintiff at this time, but)
 who will be substituted by amendment when)
 ascertained; individually and jointly,)
)
Defendants.)
)

COMPLAINT

COMES NOW THE PLAINTIFF, Pamela Lea Teem, as Personal Representative of the Estate of Martha McConnell Burke, and files her Complaint against Baldwin House Assisted Living Facility, ADKM Properties LLC, AKFN Investments, LLC, Tonya Freeman, and defendants 1-80, and alleges the following:

THE PARTIES

1. Plaintiff **Pamela Lea Teem** is a resident of the state of Alabama, is over the age of nineteen (19) years old and has been appointed as Personal Representative of the Estate of Martha McConnell Burke. A copy of the Order appointing Pamela Lea Team as the Personal Representative of the estate of Martha McConnell Burke, deceased, is appended hereto as **Exhibit A**.

2. Defendant **Baldwin House Assisted Living Facility** is an unincorporated entity operating an assisted living and memory care facility for elderly individuals in Baldwin County, Alabama. According to Alabama Secretary of State records, this entity is not now, and has never been, qualified to do business in Alabama and never paid franchise fees for the privilege of conducting business in this state.
3. Defendant **ADKM Properties LLC** is a limited liability company organized under the laws of Texas with its principal office located in Dallas, Texas, and doing business in Daphne, Alabama at all material times referenced in the Complaint. Upon information and belief, its members are Texas residents. According to Alabama Secretary of State records, this entity is not now, and has never been, qualified to do business in Alabama and never paid franchise fees for the privilege of conducting business in this state
4. Defendant **AKFN Investments, LLC** is a limited liability company organized under the laws of Texas with its principal office located in Dallas, Texas, and doing business in Daphne, Alabama at all material times referenced in the Complaint. Upon information and belief, its members are Texas residents. According to Alabama Secretary of State records, this entity is not now, and has never been, qualified to do business in Alabama and never paid franchise fees for the privilege of conducting business in this state
5. Defendant **Tonya Freeman** is over 19 years of age and a resident of Baldwin County, Alabama. At all material times, Defendant Freeman was an agent, servant, or employee of one or more of Defendants Baldwin House Assisted Living Facility, ADKM Properties LLC, AKFN Investments, LLC, and/or certain Fictitious Defendants 1-80.

6. **Fictitious Defendants 1-80** are each identified and described in the style of this action, which is expressly incorporated and restated here.

FACTS

7. At all times relevant to this lawsuit, Defendants Baldwin House Assisted Living Facility, ADKM Properties LLC, AKFN Investments, LLC, Tonya Freeman, and/or certain Fictitious Defendants 1-80 provided non-medical home care services to Ms. Burke.
8. On August 22, 2022, 88-year-old Martha McConnell Burke (“Ms. Burke”) underwent a medical examination by a physician in anticipation of an upcoming move into Baldwin House Assisted Living Facility (“Baldwin House”). The findings of this examination were to be used to develop a plan of care to be followed at Baldwin House.
9. Ms. Burke’s admitting diagnoses included: atrial fibrillation, diabetes type II, hypertension, and dementia. The evaluation also noted that Ms. Burke “required assistance with all activities of daily living including personal safety.”
10. This information was communicated to Baldwin House on September 10, 2022, and Ms. Burke was admitted to Baldwin House.
11. On September 14, 2022, four days after Ms. Burke was admitted to Baldwin House, an agent from the Alabama Department of Public Health conducted an unannounced licensure survey of Baldwin House.
12. Baldwin House received six (“6”) citations because of this audit. These citations arose out of numerous violations of the Rules of the Alabama State Board of Health, Alabama

Department of Public Health, and Chapter 420-5-4 of the Alabama Administrative Code for Assisted Living Facilities.

13. According to the citations, the violations discovered in the September 14, 2022, audit “placed all 27 residents at risk for harm.”
14. One such violation arose out of Baldwin House’s failure to develop a plan of care for Ms. Burke who, as noted above, required assistance with all activities of daily living, **including personal safety**, and which Baldwin House, by agreeing to accept Ms. Burke for admission, promised to provide to her.
15. Within two weeks of her admission to Baldwin House a physical therapist visited Ms. Burke. This physical therapist had taken care of Ms. Burke at another facility where she resided prior to Baldwin House. The physical therapist reported to Baldwin House that Ms. Burke had a history of hallucinations and that she required assistance with all activities of daily living. Despite this report, Baldwin House did nothing to develop a plan of care for Ms. Burke.
16. At around 5:00 a.m. on the morning of October 13, 2022, Ms. Burke had a minor fall that caused injuries. A little while later at approximately 12:10 p.m. Ms. Burke was left alone and unsupervised on the porch of Baldwin House, when she suffered a severe fall down several concrete steps.
17. The fall caused severe injuries such that Ms. Burke was required to be life-flighted to Sacred Heart Hospital, where she ultimately passed away from her injuries.
18. An autopsy revealed nasal fracture, upper cervical vertebra 2 odontoid process fracture, fracture at cervical vertebra 6, spinal cord contusion, and extremity contusions.

19. The cause of Ms. Burke's death was concluded to be blunt impact injuries of the head and neck.
20. On November 2, 2022, an agent from the Alabama Department of Public Health returned to Baldwin House to conduct another unannounced licensure survey.
21. Again, this inspection revealed deficiencies for failure to operate in accordance with the Rules of the Alabama State Board of Health, the Alabama Department of Public Health, and Chapter 420-5-4 of the Alabama Administrative Code for Assisted Living Facilities.
22. The report from the November 2, 2022, survey found that "the deficiencies cited resulted in actual harm and the death of [Ms. Burke] and placed the remaining 26 residents at risk for significant harm."
23. At all times relevant to this lawsuit, the personnel who cared for Martha McConnell Burke, specifically including Tonya Freeman and Fictitious Defendants 1-80, were operating within the line and scope of their employment as agents, servants and/or employees of Baldwin House, ADKM Properties LLC, AKFN Investments, LLC, and/or certain Fictitious Defendants 1-80.
24. At all times relevant to this lawsuit, Tonya Freeman, while operating within the line and scope of her employment as aforesaid and was directly responsible for the non-medical home care and safety of Martha McConnell Burke.
25. Baldwin House, ADKM Properties LLC, AKFN Investments, LLC, Tonya Freeman and/or Fictitious Defendants 1-80, acting vicariously by and through their agents, servants and employees, had undertaken to provide and deliver non-medical home care services to Ms. Burke.

26. At the aforesaid times and places, Baldwin House, ADKM Properties LLC, AKFN Investments, LLC, Tonya Freeman, and/or certain Fictitious Defendants 1-80, had voluntarily and contractually undertaken and were therefore responsible for the overall care and safety of Ms. Burke.

FIRST CAUSE OF ACTION
Wrongful Death – Negligence

27. Plaintiff realleges and incorporates every allegation contained in the preceding paragraphs as if set forth herein.
28. At the aforesaid times and places, Baldwin House, ADKM Properties LLC, AKFN Investments, LLC, Tonya Freeman, and/or certain Fictitious Defendants 1-80, had the duties to provide reasonably proper and adequate non-medical care and safety to Martha McConnell Burke.
29. At the aforesaid times and places, these Defendants breached their duties, thereby proximately causing Ms. Burke's injuries and death.
30. At the aforesaid times and places, the Defendants acted negligently in on or more of the following respects:
- a. negligently failing to provide for the safety of Martha McConnell Burke;
 - b. negligently failing to provide proper and adequate non-medical care to Martha McConnell Burke;
 - c. negligently causing injuries to Martha McConnell Burke;

- d. negligently failing to recognize and treat Martha McConnell Burke's injuries;
 - e. negligently failing to contact medical personnel to treat Martha McConnell Burke's injuries;
 - f. negligently failing to comply with applicable laws, regulations and standards;
 - g. negligently breaching duties of non-medical home care voluntarily undertaken;
 - h. negligently breaching duties of non-medical home care contractually undertaken.
31. As a proximate consequence of the above-described negligent conduct of the Defendants, Martha McConnell Burke was caused to suffer physical injuries which resulted in her untimely death.

WHEREFORE, Plaintiff Pamela Lea Teem, as Personal Representative of the Estate of Martha McConnell Burke, deceased, demands judgment against the Defendants Baldwin House Assisted Living Facility, ADKM Properties LLC, AKFN Investments, LLC, Tonya Freeman, and/or certain Fictitious Defendants 1-80, in an amount of punitive damages deemed appropriate by the jury, which will adequately reflect the enormity of each Defendant's wrongs in causing Ms. Burke's wrongful death, and which will effectively prevent and deter similarly caused injuries and deaths in the future, plus interest and costs.

SECOND CAUSE OF ACTION
Wrongful Death – Wantonness

32. Plaintiff realleges and incorporates every allegation contained in the preceding paragraphs as if set forth herein.
33. At the aforesaid times and places, Baldwin House, ADKM Properties LLC, AKFN Investments, LLC, Tonya Freeman, and/or certain Fictitious Defendants 1-80, had the duties to provide reasonably proper and adequate non-medical home care to Martha McConnell Burke.
34. At the aforesaid times and places, Baldwin House, ADKM Properties LLC, AKFN Investments, LLC, Tonya Freeman and/or Fictitious Defendants 1-80, wantonly breached their duties to provide reasonably proper and adequate non-medical home care to Martha McConnell Burke and thereby proximately caused her injuries.
35. At the aforesaid times and places, these Defendants acted wantonly in the following respects:
- a. wantonly failing to provide for the safety of Martha McConnell Burke;
 - b. wantonly failing to provide proper and adequate care to Martha McConnell Burke;
 - c. wantonly causing injuries to Martha McConnell Burke;
 - d. wantonly failing to recognize and treat Martha McConnell Burke's injuries;
 - e. wantonly failing to contact medical personnel to treat Martha McConnell Burke's injuries;

- f. wantonly failing to comply with applicable laws, regulations and standards;
 - g. wantonly breaching duties of non-medical home care voluntarily undertaken;
 - h. wantonly breaching duties of non-medical home care contractually undertaken.
36. As a proximate consequence of the above-described wanton conduct of the Defendants, Martha McConnell Burke was caused to suffer physical injuries resulting in her untimely death.

WHEREFORE, Plaintiff Pamela Lea Teem, as Personal Representative of the Estate of Martha McConnell Burke, deceased, demands judgment against the Defendants, Baldwin House Assisted Living Facility, ADKM Properties LLC, AKFN Investments, LLC, Tonya Freeman, and Fictitious Defendants 1-80, in an amount of punitive damages deemed appropriate by the jury and which will adequately reflect the enormity of the Defendants' wrong in causing the wrongful death of Martha McConnell Burke and which will effectively prevent and deter similarly caused injuries in the future, plus interest and costs.

CUNNINGHAM BOUNDS, LLC
Attorneys for Plaintiff

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JURY DEMAND

Plaintiffs respectfully demand a trial by jury.

/S/ AARON N. MAPLES

THE FOLLOWING DEFENDANTS MAY BE SERVED WITH THIS COMPLAINT VIA PRIVATE PROCESS SERVER AS FOLLOWS:

Baldwin House Assisted Living Facility

10171 Papa George Street
Daphne, AL 36526

ADKM PROPERTIES LLC

Through its registered agent:
Syed Husain
10171 Papa George Street
Daphne, AL 36526

AKFN INVESTMENTS, LLC

Through its registered agent:
Syed Husain
10171 Papa George Street
Daphne, AL 36256

TONYA FREEMAN

3 Crabapple Ln
Foley, AL 36535