

Court File No.:

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**ANDREA IRWIN aka ANDREA SILCOX**

**Plaintiff**

**- and -**

**ELIZABETH WETTLAUFER and CARESSANT CARE NURSING AND RETIREMENT  
HOMES LIMITED**

**Defendants**

**STATEMENT OF CLAIM**

**TO THE**

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Plaintiff's claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A as prescribed in the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the, and file it, with proof of service, in this Court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another Province or Territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000.00 for costs, within the time for serving and filing your Statement of Defence, you may move to have this proceeding

dismissed by the Court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's claim and \$400.00 for costs and have the costs assessed by the Court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date .....

Issued By .....

Local Registrar

80 Dundas Street  
London, ON  
N6A 6A3

## CLAIM

1. The Plaintiff, Andrea Irwin, claims against the Defendants:
  - (a) general damages in the amount of \$100,000.00;
  - (b) special damages estimated to date in the amount of \$50,000.00;
  - (c) damages in the amount of \$100,000.00 pursuant to the provisions of the *Family Law Act*, R.S.O. 1990, Chapter F.3, as amended;
  - (d) costs of this action on a substantial indemnity basis;
  - (e) interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, Chapter C.43, as amended; and
  - (f) such further and other relief as to this Honourable Court may seem just.
  
2. The Plaintiff, Andrea Irwin, is an individual residing in the town of Ingersoll in the County of Oxford, and is the daughter of James Silcox.
  
3. The Defendant, Elizabeth Wettlaufer (“Wettlaufer”), is an individual who was employed by Caressant Care Nursing and Retirement Homes Limited as a Registered Nurse and was responsible for the care of James Silcox, Andrea Irwin’s father.
  
4. The Defendant, Caressant Care Nursing and Retirement Homes Limited, (“Caressant Care”) is a corporation carrying on business in the City of Woodstock in the business of providing nursing home care to seniors. At all material times Caressant Care employed Elizabeth Wettlaufer as a Registered Nurse and is vicariously liable for her actions.

5. On or about the 17<sup>th</sup> of August 2007 James Silcox died as a result of an injection of insulin administered by the Defendant Wettlaufer. Mr. Silcox was a resident of the nursing home operated by Caressant Care in Woodstock Ontario.

6. The Defendant Wettlaufer was a Registered Nurse employed with the Defendant Caressant Care at the time of Mr. Silcox's death. Mr. Silcox's death was due to an overdose of the drug Insulin administered by the Defendant Wettlaufer. The Defendant Wettlaufer has admitted to administering an overdose of Insulin to James Silcox with the intention of causing his death. She has plead guilty to the first degree murder of James Silcox.

7. The Defendant Caressant Care is vicariously liable for the actions of the Defendant Wettlaufer. Caressant Care placed Wettlaufer into a position of power and authority over James Silcox. Wettlaufer used this position of power and authority to obtain and administer the fatal overdose of Insulin to James Silcox.

8. The murder of James Silcox was not an isolated incident. While employed by Caressant Care Wettlaufer committed multiple murders and assaults against various residents of Caressant Care. Wettlaufer was able to operate undetected due to negligent oversight and management at Caressant Care and by fraudulently concealing her crimes. She utilized her position at Caressant Care to influence how the deaths of the various residents were perceived and investigated by the coroner.

9. Caressant Care failed to adequately monitor the health of their residents, the storage of their medications and the actions and behaviour of their employees.

10. The Plaintiff has suffered serious psychological injuries as a result of the actions and inaction of both Caressant Care and Wettlaufer.

11. The Plaintiff pleads and relies upon the provisions of the *Negligence Act*, R.S.O. 1990, c.N.1, as amended.

12. The Plaintiff has been unable to carrying on her normal tasks of living and has lost enjoyment of life. She will continue to suffer from the effects of the murder of James Silcox for the balance of her natural life. She has suffered from traumatic emotional and nervous upset and her manner of living has been changed.

13. The Plaintiff remains under the care of medical specialists, she continues to suffer and require treatment and, to date, the full extent of her injuries, disabilities and future treatment as yet have not been fully determined. She will continue to suffer from the effects of her injuries for the rest of her life.

14. The Plaintiff has incurred the loss of present and future income. The Plaintiff works in the nursing home industry the psychological trauma associated with the murder of her father in a nursing home has seriously compromised her ability to work in this industry. She has suffered loss of her competitive position in the economic marketplace. She will suffer a diminution of income on a permanent basis. Her competitive position in the marketplace has been compromised.

15. The Plaintiff has been required to take prescription drugs and undergo several courses of treatment and psychological therapy as a result of the psychological trauma associated with the murder of her father. She has suffered from traumatic, emotional and nervous upset

and has lost enjoyment of life. She has been unable to carry on her normal tasks of living and employment.

16. As a result of the aforesaid collision and negligence, the Plaintiff has incurred special damages for drugs, transportation, lost income, housekeeping, other related expenses which the Plaintiff estimates to date in the sum of \$15,000. Full particulars of these accounts will be delivered to the Defendants during the course of these proceedings.

17. The Plaintiff's, claim damages pursuant to Section 61 of the *Family Law Act*, R.S.O. 1990, c.F.3, including but not limited to the following:

- (a) Compensation for the loss of care, guidance and companionship that they might reasonably have expected to receive from one another had the murder of James Silcox not occurred;
- (b) Compensation for out-of-pocket and travel expenses incurred for the benefit of one another as a result of the murder of James Silcox.

18. The Plaintiff proposes that this action be tried in the City of London, in the County of Middlesex.

**DATE: June 26, 2017**

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**TO: Elizabeth Wettlaufer**

**AND TO:**

**Caessant Care Nursing and Retirement Home Limited**

**264 Norwich Avenue**

**Woodstock, Ontario**

**N4S 3V9**

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