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**IN THE SECOND JUDICIAL DISTRICT COURT, DAVIS COUNTY
FARMINGTON DEPARTMENT, STATE OF UTAH**

ROWENNA CLARK, an individual,

Plaintiff,

vs.

SOLSTICE RTC, LLC, a Utah limited liability
company, dba SOLSTICE RESIDENTIAL
TREATMENT CENTER,

Defendant.

COMPLAINT

[Tier 3]

Case No. _____

Judge: _____

Plaintiff Rowenna Clark, by and through the undersigned counsel of the law firm, Weber Law Group, PLLC, and for causes of action against the above-named Defendant Solstice RTC, LLC dba Solstice Residential Treatment Center, hereby alleges, avers, and complains as follows:

PARTIES, JURISDICTION, AND VENUE

1. At all times material hereto, Plaintiff Rowenna Clark ("Plaintiff" or "Rowenna"), Rowenna resided in Davis County, State of Utah; currently, Rowenna is a resident of the State of Washington.
2. At all times material hereto, Defendant Solstice RTC, LLC, doing business as Solstice

Residential Treatment Center, (“Defendant” or “Solstice”) is a limited liability company organized and existing pursuant to the laws of the State of Utah, and operates a residential treatment facility based in Layton, Davis County, State of Utah. As a residential treatment facility, Solstice is a health care facility under Utah laws and thereby governed by the Utah Medical Malpractice Act.

3. Rowenna alleges that Solstice is negligently responsible for the events herein referred to and proximately caused injuries and damages to Rowenna as alleged herein.

4. The events that gave rise to these causes of action took place in Davis County, State of Utah.

5. This Court has jurisdiction over the parties and subject matter of this action pursuant to Utah Code Ann. § 78A-5-102(1).

6. Venue is properly laid in the above-entitled Court pursuant to Utah Code Ann. § 78B-3-307.

GENERAL ALLEGATIONS

7. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully set forth herein.

8. Rowenna’s parents, Mark and Kelly Clark (“Mark and Kelly”), admitted Rowenna to Solstice in May 2014, for treatment in connection with eating disorder(s), suicidal ideations, depression, anxiety, and other related conditions.

9. When admitted to Solstice, Rowenna was 17 years old, and in fair physical health.

10. Rowenna turned 18 years old on August 21, 2014 while residing at Solstice. As an adult, Rowenna decided to stay at Solstice after her birthday.

11. On or about August 29, 2014, Rowenna became acutely ill, suffering from severe diarrhea, nausea, and vomiting over the course of three (3) days.
12. Rowenna attempted to consume water and Gatorade but was only able to keep a minimal amount in her system without vomiting.
13. During this time, Rowenna had an elevated temperature, increased heart rate, and decreasing blood pressure—and she continued to experience constant diarrhea and vomiting, aches and chills, among other symptoms.
14. Rowenna repeatedly begged Solstice staff members to take her to the hospital, but they refused, attributing her condition to exaggeration and anxiety.
15. At one point, Rowenna's blood pressure was very low, and Solstice staff members attributed this reading to an error with the diagnostic equipment.
16. Upon information and belief, Solstice staff members did not check the diagnostic equipment for malfunctions despite their mistaken belief that the equipment was malfunctioning.
17. Upon information and belief, Solstice employs a nurse who works periodically works remotely off-site and relays diagnoses over the phone to Solstice staff members.
18. Upon information and belief, Solstice staff members lack sufficient medical training to, among other things, provide medical care to Solstice residents.
19. During the first two (2) days of Rowenna's condition, there was no nurse at the Solstice facility, but Solstice staff members provided the nurse with Rowenna's vital signs via telephone.

20. It took approximately two (2) days while Rowenna remained in her serious condition before the Solstice nurse came to the Solstice facility and took one set of vital signs and a manual blood pressure reading of Rowenna.
21. Upon information and belief, the nurse called Rowenna's Solstice psychiatrist, and they agreed that Rowenna's condition was merely the effect of psychological factors. The nurse then left again, and continued receiving updates on Rowenna's deteriorating condition via telephone.
22. Rowenna wanted to go to the hospital, but Solstice staff members refused and, instead, threatened that she would not be allowed back at the Solstice facility if she left instead of addressing her failing vitals.
23. Alicia Sherman ("Ms. Sherman"), a Solstice staff member, finally realized the gravity of Rowenna's condition when her blood pressure was not palpable and too low to register on the diagnostic equipment.
24. Thereafter, Ms. Sherman agreed to take Rowenna to Davis Hospital in Layton, Utah—and rushed her to the Emergency Room.
25. After arrival, Rowenna was evaluated and initially diagnosed with severe sepsis, acute renal injury, hypotension, dehydration, and gastroenteritis—and thereafter transferred to the Intensive Care Unit ("ICU").
26. Her physicians also noted Rowenna's condition of septic shock, encephalopathy, hypoxic respiratory failure, volume overload, acute kidney insufficiency, metabolic alkalosis, and hypernatremia.

27. Solstice informed Mark and Kelly that Rowenna was taken to the hospital and was being kept for overnight observation.
28. Upon information and belief, Rowenna's treating doctors at the hospital inquired why she was not transported to the hospital sooner given her obviously serious condition.
29. Rowenna called Mark and Kelly twice the night she was admitted to the hospital, crying and asking them to come to the hospital.
30. Her ICU physician also called Mark and Kelly and informed them that Rowenna's blood pressure was barely registering, that he had put Rowenna on "life support", and that they should get to the hospital as soon as possible.
31. When Mark and Kelly, along with Rowenna's sister, flew from Washington to Utah to see Rowenna, they found her unresponsive in a coma-like state and on life support.
32. Rowenna's physicians informed her family that Rowenna had a ten-to-twenty percent (10-20%) chance of survival.
33. Rowenna was severely dehydrated, her kidneys had failed, she had extremely low blood pressure, she could not breathe without machine assistance, and she had gone into septic shock.
34. Her physicians experienced difficulties regulating the effects of the different medications he/she were using to help Rowenna's blood pressure and breathing—and ultimately had to put her into an induced coma to regulate her condition.
35. Although it was originally predicted that she would be in a coma for three (3) months if she survived, Rowenna was able to regain consciousness after approximately eleven (11) days.
36. Her condition improved thereafter, and she was discharged on September 12, 2014.

37. Rowenna began physical therapy in the hospital, and soon returned to Solstice to continue her recovery, where she was immediately required to undergo extensive psychological testing.

38. Ultimately, Rowenna was discharged from Solstice on or about November 8, 2014.

39. Since this incident, Rowenna continues to suffer the physical and emotional effects from Solstice's failure to properly care for her, including but not limited to, stomach/intestinal pain, vomiting/diarrhea, chest pain, irregular heartbeat, and diagnoses of Mesenteric Adenitis and Ulcerative Colitis.

40. Based on the foregoing, Solstice failed to adequately supervise her when she fell ill and to provide adequate care.

41. In accordance with the requirements of the Utah Medical Malpractice Act as set forth in Utah Code Ann. § 78B-3-418, the following have been completed:

- (a) Rowenna's counsel filed a Notice of Intent to Commence Action with the Utah Department of Professional Licensing Pre-Litigation Department on or about August 2, 2016.
- (b) On November 1, 2016, counsel for the parties appeared before a DOPL Prelitigation Screening Panel (the "Panel").
- (c) On December 2, 2016, the Panel issued its Panel Opinion and Certificate of Compliance.

42. As a result of the incident described herein, Rowenna has incurred general and special damages in an amount to be proven at trial.

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FIRST CAUSE OF ACTION
(Negligent Injury)

43. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully set forth herein.

44. In August 2015, Defendant, individually and through its agents and employees, undertook to provide and administer and did provide and administer medical care, treatment and services to Rowenna. As a residential treatment facility, Defendant had a duty to do so in a reasonable, prudent and non-negligent manner.

45. Defendant, individually or through its agents and employees, breached its duty of care to Rowenna, rendering medical care in a negligent manner, thereby causing injury and damage to Rowenna. Specifically, and without limitation, Defendant was negligent, by failing to:

- (a) accurately chart her vital signs;
- (b) address her failing vital signs;
- (c) address the malfunction of the diagnostic equipment used to monitor vital signs;
- (d) take manual vital signs after the equipment malfunctioned and/or operating improperly;
- (e) implement and/or follow adequate protocol for giving physical and/or medical care to patients with mental and emotional complications;
- (f) adequately monitor and document changes in condition in timely manner;
- (g) supply life sustaining medicine and medical treatment;
- (h) accommodate need for pain and medications;

- (i) take appropriate action to treat critical condition observed through temperature and blood pressure readings;
- (j) respond to Rowenna's request to transport her to a hospital;
- (k) have sufficient medically-trained staff on hand to monitor Rowenna's vital signs;
- (l) take preventative measures;
- (m) call a physician or the nurse when Rowenna's signs began to deteriorate; and/or
- (n) take appropriate action for a full two (2) days when symptoms showed acute illness.

46. Sufficiently trained medical staff would have taken action upon realizing the seriousness of Rowenna's failing condition which her vital signs signaled.

47. As a direct and proximate result of Solstice's negligence, Rowenna suffered actual damages of more than \$100,000.00 in connection to her medical care and treatment, for which economic damages Rowenna is entitled to recover from Solstice. Rowenna incurred other economic damages to be determined at trial for which she is entitled to recover from Solstice.

48. As a direct and proximate result of Solstice's negligence, Rowenna suffered significant and devastating permanent injuries, including but not limited to, physical pain and suffering, discomfort, disability, inconvenience, lack of energy and fatigue, emotional pain and suffering, loss of enjoyment of life, awareness and fear of her impending death, and other general damages in amounts to be proven at trial.

49. In addition, as a result of Defendant's negligence, Rowenna has been subjected painful medical treatments, drug therapies, and other treatments, to which Rowenna will continue to be subjected.

50. As a result of Defendant's negligence, Rowenna has incurred, and will incur in the future, special damages including but not limited to expenses for medical care, rehabilitation, treatment, therapy, and other care and services, lost income and future earning capacity, and other economic losses in amounts to be proved at trial.

51. Rowenna suffered significant non-economic damages in an amount to be determined at trial for the physical pain, permanent scarring, impairment, mental anguish, severe emotional distress, and discomfort she endured as a result of injuries sustained in the incident referenced herein, for which Rowenna is entitled to recover from Solstice.

52. Rowenna is also entitled to interest on damages as allowed by law, court costs, reasonable attorney's fees, and other relief as may be deemed proper by the Court.

SECOND CAUSE OF ACTION

(Negligence)

53. Plaintiff incorporates and re-alleges the preceding paragraphs as if fully set forth herein.

54. Defendant negligently failed to have policies, procedures and practices in place to reasonably ensure the timely communication of pertinent resident health information, such as, but not limited to, vital signs, or to the extent such policies and procedures existed, negligently failed to adhere to them or ensure they were complied with appropriately.

55. Defendant's negligence caused or contributed to the failure to timely diagnose and/or appreciate the severity of Rowenna's condition and necessity to transport her for more intensive medical treatment.

56. Defendant breached its duty to Rowenna by failing to have a medical professional on site,

follow policies and procedures in place for acute illness for its residents, and appropriately and in a timely manner transport them to a hospital for more intensive and comprehensive treatment.

57. Defendant's negligence delayed necessary treatment to Rowenna, and caused her to suffer significant and devastating permanent injuries, including but not limited to, stomach and intestinal pain, vomiting/diarrhea, chest pain, irregular heartbeat, diagnoses of Mesenteric Adenitis and Ulcerative Colitis, physical pain and suffering, discomfort, disability, inconvenience, lack of energy and fatigue, emotional pain and suffering, loss of enjoyment of life, awareness and fear of her impending death, and other general damages in amounts to be proven at trial.

58. In addition, as a result of Defendant's negligence, Rowenna has been subjected painful medical treatments, drug therapies, and other treatments, to which Rowenna will continue to be subjected.

59. As a result of Defendant's negligence, Rowenna has incurred, and will incur in the future, special damages including but not limited to expenses for medical care, rehabilitation, treatment, therapy, and other care and services, lost income and future earning capacity, and other economic losses in amounts to be proved at trial.

60. Rowenna suffered significant non-economic damages in an amount to be determined at trial for the physical pain, permanent scarring, impairment, mental anguish, severe emotional distress, and discomfort she endured as a result of injuries sustained in the incident referenced herein, for which Rowenna is entitled to recover from Solstice.

61. Rowenna is also entitled to interest on damages as allowed by law, court costs,

reasonable attorney's fees, and other relief as may be deemed proper by the Court.

TIER ELECTION

62. Rowenna incorporates and re-alleges the preceding paragraphs as if fully set forth herein.

63. Due to the amount of damages pled in this Complaint, this is a Tier 3 case pursuant to Rule 26(c)(3) of the Utah Rule of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Rowenna Clark prays for a judgment against Defendant Solstice RTC, LLC dba Solstice Residential Treatment Center, as follows:

1. For special damages in a reasonable amount for past, present, and future medical and related expenses, for loss of earnings, earning capacity and benefits, and for other economic and pecuniary harms and losses;
2. For general damages in a reasonable amount for physical, mental, and emotional injury, pain and suffering, loss of enjoyment of life, disability, and other harms and losses; and
3. For other general and special damages, costs and expenses, interest on damages, attorneys' fees, and other relief as may be appropriate in the circumstances.

DATED AND SIGNED this 27th day of January, 2017.

WEBER LAW GROUP, P.L.L.C.

/s/ Bradley Weber

Bradley J. Weber

W. Clay Wilkes

Attorneys for Plaintiff Rowenna Clark