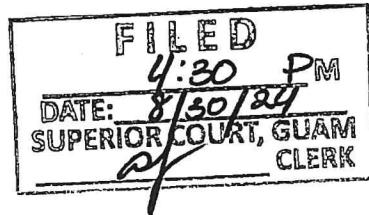


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7 **IN THE SUPERIOR COURT OF GUAM**

8 JOHN M. ACFALLE, as Representative of the
9 Estate of Vicente M. Acfalle (Deceased), and
as Personal Representative of the Heirs of
Vicente M. Acfalle.

CV 0484-24

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(REDACTED COPY)

10 Plaintiff,

11 vs.

12 GUAM MEMORIAL HOSPITAL
13 AUTHORITY, an autonomous agency of the
14 Government of Guam, and GUAM
15 BEHAVIORAL HEALTH AND WELLNESS
CENTER, a line agency of the Government of
Guam.

16 Defendants.

18 **INTRODUCTION**

19 1. This is an action for wrongful death claim brought by Plaintiff John M. Acfalle, as
20 Representative of the Estate of Vicente M. Acfalle (Deceased), and as Personal Representative of
21 the heirs of Vicente M. Acfalle (hereafter "Benny") against Defendants Guam Memorial Hospital
22 Authority ("GMH"), and Guam Behavioral Health and Wellness Center ("GBHWC").

23 **JURISDICTION**

24 2. This Court has jurisdiction over this matter pursuant to 7 GCA §3105.
25 3. On December 7, 2023, a notice of claim was filed with the Office of the Attorney General
26 ("OAG") against GMH and GBHWC.

4. On January 09, 2024, the OAG sent a letter stating that GMH is not a line agency, it is an autonomous agency and that no further action is needed by the OAG on the claim related to GMH.

5. On January 19, 2024, a notice of claim was served directly to GMH.

6. On June 21, 2024, OAG provided a letter denying the claim as to GBHWC.

7. As of the date of filing this complaint, no response had been received from GMH after six (6) months; therefore, the claim against GMH is deemed denied by operation of law.

PARTIES

8. Plaintiff John M. Acfalle is a natural person over the age of majority, competent and of sound mind, and a resident of Guam. He is the brother of Benny and has been appointed the Special Administrator of the Estate of Benny and personal representative of the heirs of Benny.

9. Benny died a widower. He is survived by his four adult children: Zachary L. Acfalle, Vanessa T. Acfalle, Eric J.T. Acfalle, and Krystal Marie San Nicolas Acfalle (collectively referred herein as "Heirs.")

10. Defendant GBHWC, a line agency of the Government of Guam, provides comprehensive mental health, alcohol and drug programs and services for adults and children in Guam, and has its address at 790 Governor Carlos G Camacho Road, Tamuning, Guam 96913.

11. Defendant GMH, an autonomous agency of the Government of Guam, is a public hospital that provides medical care to the people of Guam and has its address at 850 Gov. Carlos G. Camacho Rd., Tamuning, Guam 96913.

FACTUAL ALLEGATIONS

12. GBHWC and GMH have a duty to provide the degree of care, skill, diligence, and attention used by medical facilities generally in the care and treatment of patients. Defendants GBHWC and GMH employ physicians, physician assistants, nurses, nurses' aides, laboratory

1 technicians, physical therapist, counselors, and other personnel over which they each exercise
2 exclusive control and supervision.

3 13. Benny was admitted to GBHWC on July 10, 2022, following medical clearance from
4 GMH. He exhibited symptoms of [REDACTED] and was placed on a 72-hour involuntary hold by Dr.
5 Ismael. He was given [REDACTED] as ordered by Dr. Ismael.
6 Subsequently, he developed decreased respiration and oxygen levels, which were detected
7 through monitoring. He was transferred back to the GMH Emergency Department for further
8 evaluation and care.

9 14. On July 12, 2022, Benny was not deemed ready for release following evaluation.
10 GBHWC notes indicated that he should continue with stabilization. Benny agreed to a voluntary
11 admission for further stabilization after his initial 72-hour hold was completed.

12 15. On July 13, 2022, GBHWC notes recorded that "he appears to be improving but still
13 needs stabilization."

14 16. On July 14, 2022, Benny requested to go home. GBHWC notes recorded that "observation
15 will continue today and tomorrow, with a hopeful discharge planned for tomorrow."

16 17. During Benny's entire admission, the family was restricted from visiting, which raised
17 significant concerns.

18 18. Despite Joseph L.M. Acfalle, Benny's brother, holding a Durable Power of Attorney,
19 communication from the social worker was minimal. This lack of communication became
20 particularly problematic when Benny was sent back to GMH on July 25.

21 19. The information was relayed to his disabled son, Eric, causing him trauma, and the rest of
22 the family was only made aware of the situation later. The absence of family support not only
23 hindered Benny's recovery, potentially exacerbating his agitation, but also deprived the family of
24 the opportunity to advocate for his release.

1 20. This situation highlights the need for GBHWC to revise its Standard Operating
2 Procedures to permit family visitation after the initial 72-hour hold, acknowledging the crucial
3 role of family support in patient recovery and well-being.

4 21. On July 15, 2022, between 2:00 P.M. and 2:15 P.M., GBHWC notes indicate that Benny
5 “does not appear to be stable and at his baseline but he is wanting to go home.” The medical team
6 increased his [REDACTED] every evening, increased his [REDACTED]
7 [REDACTED] to be administered orally every morning and [REDACTED] twice daily, and decided to keep him
8 inpatient longer to stabilize his condition.

9 22. On July 17, 2022, Benny expressed a desire to go home, stating, “I think I am better.”
10 GBHWC notes indicate that a reevaluation would be conducted the following day. At 11:40 P.M.
11 on July 17, 2022, Dr. Lujan was contacted due to Benny’s increased hyperverbal behavior and his
12 refusal to go to sleep or comply with quiet time. In response, Dr. Lujan increased Benny’s [REDACTED]
13 [REDACTED] orally twice daily. Benny was also administered; [REDACTED]
14 [REDACTED]

15 23. On July 18, 2022, Benny’s medical records indicate that he was started on [REDACTED]
16 twice daily, [REDACTED] every night at bedtime; and [REDACTED] twice daily.

17 23. On July 20, 2022, Benny continued to exhibit yelling behavior, although his sleep patterns
18 had normalized. GBHWC notes indicate that [REDACTED] was increased to [REDACTED] orally at bedtime
19 and [REDACTED] was increased to [REDACTED]. Inpatient management and stabilization were continued.

20 24. On July 23, 2022, Benny was verbally and physically agitated and was moved to an
21 observation room. At 4:00 A.M., [REDACTED] were
22 administered [REDACTED] in the left and right buttocks as needed for agitation. GBHWC
23 notes state that at 4:25 A.M., Benny was “in bed asleep.”

24 25. On July 23, 2022, Benny exhibited a period of aggression. In response, he was

1 administered [REDACTED] (as needed) medication. Additionally, his treatment plan was adjusted to
2 include [REDACTED] taken orally twice daily. The dosage of [REDACTED] was also
3 increased to [REDACTED] at bedtime, while maintaining the [REDACTED] for the morning.

4 26. On July 25, 2022, at 12:45 A.M., Benny displayed aggressive behavior and was given
5 [REDACTED] administered intramuscularly
6 [REDACTED], along with [REDACTED] He complained of his eyes closing and slurred speech. At
7 5:50 A.M., he was placed back in bed.

8 27. On July 25, 2022, at 11:30 A.M., Benny was found unresponsive with no pulse.
9 Cardiopulmonary resuscitation (CPR) was initiated but was unsuccessful. Paramedics were called
10 and transported him to GMH.

11 28. At GMH, the following observations were noted:

12 “The total time from the patient’s arrest until the ambulance arrival was unknown. The
13 total time from the patient’s arrest until hospital arrival was also unknown. Symptoms
14 developed while the patient was asleep. The arrest was not witnessed and occurred while
15 the patient was asleep. There was no pulse present upon arrival and with CPR. The CPR
16 technique was deemed adequate. The initial rhythm on arrival at the hospital was asystole.
17 Associated symptoms were unknown.”

18 29. Additionally, GMH noted:

19 “According to reports, the patient was seen sleeping around 8:00 A.M., but no vital signs
20 were recorded at that time. The patient was seen again around 10:00 A.M. and was noted
to be unresponsive. CPR was started at 11:30 A.M.”

21 30. On July 25, 2022, Benny was brought to GMH following an asystolic arrest. After several
22 rounds of [REDACTED], he was intubated.

23 31. Benny did not develop [REDACTED] until his stay in the ICU. While in a vegetative
24 state, he was noted to have worsening sacral [REDACTED], which appeared to be infected.

25 32. On August 11, 2022, Benny underwent a [REDACTED]
26 [REDACTED] tube placement. His [REDACTED]
27 [REDACTED]. He remained in the Intensive Care Unit (ICU) until September 2, 2022.

33. Benny suffered a severe [REDACTED] resulting from [REDACTED] and was in a [REDACTED] state. During this period, he developed a [REDACTED], which is considered a "never event."

34. A "never event" refers to a serious, preventable medical error that should never occur if proper protocols and practices are followed.

35. Benny's family was not informed of the [REDACTED] until his transfer to the surgical unit. He required surgical debridement of the [REDACTED] in October 2022.

36. On March 24, 2023, Benny passed away due to

37. Throughout Benny's ordeal, both GMH and GBHWC were involved in providing medical care, and their respective failings contributed significantly to his suffering and eventual death. The combined negligence of both Defendants played a substantial role in Benny's deteriorating health and ultimate demise.

FIRST CLAIM FOR RELIEF
(Breach of Fiduciary Duty, Wrongful Death – Medical Malpractice Against GBHWC)

38. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

39. GBHWC holds itself out as having the expertise to provide medical care with the necessary skill, diligence, and attention expected of medical facilities in the care and treatment of patients. GBHWC employs medical healthcare professionals, and other personnel as part of the medical services they provide.

40. At all relevant times, employees of GBHWC, including their medical healthcare professionals, were acting within the course and scope of their employment with GBHWC, a line agency of the Government, thereby implicating in direct liability based upon agency and respondeat superior principles.

41. GBHWC owes a fiduciary duty to Benny to provide appropriate and competent medical

1 care. This includes:

2 a. Conducting thorough and accurate assessments.

3 b. Continuously monitoring the patient's health condition.

4 c. Delivering all medical care in accordance with the prevailing standard of care.

5 41. This fiduciary duty extends to ensuring that all actions and decisions in the care of Benny
6 align with recognized medical practices and standards to avoid harm and ensure the best possible
7 outcome.

8 42. Defendant GBHWC had a duty to render care to Benny with the degree of ordinary
9 prudence and skill exercised by medical providers of similar training and experience. They failed
10 in that duty.

11 43. Defendant GBHWC had a continuing duty to appropriately assess Benny as his condition
12 worsened or new information was received. They breached that duty by failing to properly assess
13 his condition.

14 44. As a result of the failure to properly assess these risks, Defendant GBHWC failed to
15 implement reasonable and appropriate interventions specific to Benny's needs.

16 45. Defendant GBHWC breached their duty by failing to adhere to established protocols for
17 managing high-risk patients. Specifically, they failed to maintain Benny's safety and to monitor
18 him consistent with industry standards of care.

19 46. Knowing Benny's condition, GBHWC should have implemented more stringent measures
20 to prevent complications during his stay.

21 47. The breach of this standard of care directly contributed to Benny's decline, leading to his
22 injury and subsequent death.

23 48. GBHWC had a duty to provide appropriate and competent treatment consistent with the

1 prevailing standard of care. GBHWC breached this duty through the following actions, omissions,
2 and failures:

- 3 a. Excessive Medications: GBHWC administered a high combined dosage [REDACTED]
4 [REDACTED] shortly before Benny became unresponsive. This excessive
5 medication contributed to his deteriorating condition.
- 6 b. Inadequate Monitoring: GBHWC's protocol required monitoring of Benny at 15-
7 minute intervals. However, records from July 25, 2022, reveal a lapse in this
8 protocol. Benny was last observed sleeping at 8 a.m., with no vital signs recorded.
9 He was found unresponsive around 10 a.m., and CPR was initiated only at 11:30
10 a.m., resulting in a significant two-and-a-half-hour gap in monitoring, which was
11 critical given his medical condition and medication regimen.
- 12 c. Failure to Implement Proper Medical Precautions: GBHWC did not implement
13 necessary precautions to manage Benny's condition adequately.
- 14 d. Failure to Conduct Regular Vital Sign Checks: Regular checks of Benny's vital
15 signs were not conducted as required, which contributed to the delay in identifying
16 and addressing his deteriorating condition.
- 17 e. Delayed Response to Serious and Life-Threatening Conditions: GBHWC was slow
18 to respond to the signs of Benny's serious and life-threatening medical conditions,
19 further exacerbating his health issues.
- 20 f. Inadequate and Untimely Diagnosis and Treatment: The diagnosis and treatment of
21 Benny's medical conditions were neither timely nor adequate, leading to further
22 complications.

g. Denial of Discharge Request and Subsequent Duty of Care: GBHWC did not appropriately address Benny's request to be discharged and failed to meet the heightened duty of care required when keeping him at the facility against his will.

h. Failure to Meet Elevated Duty of Care: GBHWC did not fulfill the elevated duty of care required when further detaining Benny at the facility, which was a significant lapse in their responsibility.

49. The breach of the standard of care directly contributed to the development of severe conditions in Benny, including the failure to adhere to standard care protocols, excessive medication dosages, and inadequate monitoring. These critical failures played a significant role in the tragic outcome of Benny's health and subsequent death.

SECOND CLAIM FOR RELIEF

(Breach of Fiduciary Duty, Wrongful Death – Medical Malpractice Against GMH)

50. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

51. At all relevant times, employees of GMH including their physicians, physician assistants, nurses, laboratory technicians, were acting within the course and scope of their employment with GMH, thereby implicating them in direct liability based upon agency and respondeat superior principles.

52. GMH owes a fiduciary duty to Benny to provide appropriate and competent medical care. This includes:

- a. Conducting thorough and accurate assessments.
- b. Continuously monitoring the patient's health condition.
- c. Delivering all medical care in accordance with the prevailing standard of care.

53. This fiduciary duty extends to ensuring that all actions and decisions in the care of Benny align with recognized medical practices and standards to avoid harm and ensure the best possible outcome.

54. Defendant GMH had a duty to render care to Benny with the degree of ordinary prudence and skill exercised by medical providers of similar training and experience. They failed in that duty.

55. Defendant GMH had a continuing duty to appropriately assess Benny as his condition worsened or new information was received. They breached that duty by failing to properly assess his condition.

56. Defendant GMH had a duty to provide appropriate and competent treatment consistent with the prevailing standard of care. GMH breached this duty, with their actions and omissions, and failures of the following:

- a. Failed to manage Benny's care that led to his development of [REDACTED]
- b. Failed to regularly monitor Benny.
- c. Failed to provide timely and appropriate medical interventions.
- d. Failed to provide employees with adequate skills and training for proper care of their patient, such as Benny.

57. GMH's negligence, including the failure to manage Benny's care and provide timely interventions, was a direct cause of Benny's suffering and death. The inadequate skills and training of GMH employees contributed significantly to Benny's suffering and ultimately his death.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

1. Award compensatory damages in an amount to be determined, which covers all medical expenses incurred due to the negligent care provided to Benny, including but not limited to hospitalization, emergency medical procedures, and any other related healthcare costs.

Additionally, include compensation for funeral and burial expenses, reflecting the direct costs associated with Benny's untimely death.

2. Award damages for the pain and suffering endured by Benny due to the negligence of the Defendants, as well as for the physical and emotional distress and mental anguish suffered by the Heirs as a result of witnessing their father's deteriorating health and eventual death.
3. Award damages for the Heirs for pecuniary loss, which includes loss of love, companionship, comfort, care, assistance, protection, affection, society, and moral support that they suffered due to the untimely death of their father.
4. Award damages under a theory of joint and several liability, allowing the Plaintiff to seek full recovery from any or all Defendants, as each is fully responsible for the total damages resulting from the wrongful death. Plaintiff requests a sum of \$2,000,000 against each agency or a total of \$4,000,000.
5. Award the costs of this action, including attorney fees, as permitted by law.
6. Award pre- and post-judgment interest on all monetary awards as allowed by law.
7. Grant such other and further relief as may be deemed just and equitable.

PACIFIC LEGAL TEAM, PC.

By:

MATTHEW J. HOLLEY
Attorneys for Plaintiff

DEMAND FOR TRIAL BY JURY OF SIX

Plaintiff demands that all issues triable by jury be tried by a jury of six. The amount in controversy between the parties herein exceeds the amount of Twenty-Five Dollars (\$25.00).

Respectfully submitted this 30th day of August, 2024.

PACIFIC LEGAL TEAM, PC.

By:

MATTHEW J. HOLLEY
Attorney for Plaintiff

FILED
SUPERIOR COURT
OF GUAM



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10 Attorneys for the Government of Guam

11 2024 OCT 31 AM 11:53

12 CLERK OF COURT

13 BY: _____

14 **IN THE SUPERIOR COURT OF GUAM**

15 JOHN M. ACFALLE, as) Civil Case No. CV0484-24
16 Representative of the Estate of)
17 Vicente M. Acfalle (Deceased) and as)
18 Personal Representative of the Heirs)
19 of Vicente M. Acfalle)
20 Plaintiff,)
21 vs.)
22 GUAM MEMORIAL HOSPITAL)
23 AUTHORITY, an autonomous agency)
24 of the Government of Guam, and)
25 GUAM BEHAVIORAL HEALTH AND)
WELLNESS CENTER, a line agency)
of the Government of Guam)
Defendants.)

14 **GMHA and GBHWC'S ANSWER TO
15 PLAINTIFF'S COMPLAINT**

16 COME NOW Defendants Guam Memorial Hospital Authority (GMHA) and Guam
17 Behavioral Health and Wellness Center (GBHWC) and for their Answer to Plaintiff's
18 Complaint, admit, deny and/or allege as follows:

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DEFENDANTS' ANSWER

(PLAINTIFF'S) INTRODUCTION

1. Paragraph 1 is a statement describing Plaintiff's cause of action and constitute an assertion by Plaintiff to which no response is required. To the extent a response is deemed required, the allegations in this paragraph are Denied.
2. Defendants Admit the Jurisdiction assertions in paragraph 2.
3. Defendants Admit to the assertions in paragraph 3.
4. Defendants Admit to the assertions in paragraph 4.
5. Defendants are without knowledge or information sufficient to form a belief as to the truth or the assertions in paragraph 5 of the Complaint and therefore deny same.
6. Defendants Admit to providing a letter denying the claim as to GBHWS, save for the date; the date of the letter was June 19, 2024 (not June 21, 2024) which Defendants Admit.
7. Defendants are without knowledge or information sufficient to form a belief as to the truth of the assertion in paragraph 7, and therefore Deny paragraph 7.

(PLAINTIFF'S) PARTIES

8. Defendants are without knowledge or information sufficient to form a belief as to the truth of the assertion in paragraph 8, and therefore Deny paragraph 8.
9. Defendants are without knowledge or information sufficient to form a belief as to the truth of the assertion in paragraph 9, and therefore Deny paragraph 9.
10. Admit.
11. Admit.

(PLAINTIFF'S) FACTUAL ALLEGATIONS

12. Defendants Admit that GBHWC and GMH have a duty to provide the degree of care, skill, diligence, and attention used by medical facilities generally in the care and treatment of patients. Defendants Deny the blanket assertion that Defendants "exercise exclusive control and supervision" over the people they employ.

13. As to Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 23 [sic], 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 of the Plaintiff's Complaint, Defendants lack knowledge or information sufficient to formulate a belief as to the allegations contained therein, and therefore Deny all allegations in Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 23 [sic], 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 of the Plaintiff's Complaint.

(PLAINTIFF'S) FIRST CLAIM FOR RELIEF

(Breach of Fiduciary, Wrongful Death – Medical Malpractice Against GBHWC)

16 38. Defendants incorporate by reference all foregoing responses in response
17 to the allegations contained in this paragraph that "Plaintiff re-alleges and
18 incorporates by reference all preceding paragraphs."

19 | 39. Admit.

20 | 40. Denied.

21 41. As to Paragraphs 41, 42, 43, 44, 45, 46, 47, 48, 49 Defendants lack
22 knowledge or information sufficient to formulate a belief as to the allegations
23 contained therein, and therefore Deny all allegations in Paragraphs 41, 42, 43, 44,
24 45, 46, 47, 48, 49.

**(PLAINTIFF'S SECOND CLAIM FOR RELIEF
(Breach of Fiduciary, Wrongful Death – Medical Malpractice Against GMH)**

50. Defendants incorporate by reference all foregoing responses in response to the allegations contained in this paragraph that "Plaintiff re-alleges and incorporates by reference all preceding paragraphs."

51. As to Paragraphs 51, 52, 53, 54, 55, 56, 57, Defendants lack knowledge or information sufficient to formulate a belief as to the allegations contained therein, and therefore Deny all allegations in Paragraphs 51, 52, 53, 54, 55, 56, 57.

(PLAINTIFF'S) PRAYER FOR RELIEF

12 As to Paragraphs 1, 2, 3, 4, 5, 6, 7, these are not allegations but are instead
13 prayers for relief or comments about what Plaintiff is seeking and are thus incapable of
14 admission or denial, whether in whole or in part. Nevertheless, Defendants deny that
15 Plaintiff is entitled to any relief from this Court or any court at law.

DEFENDANTS' AFFIRMATIVE DEFENSES

1. Plaintiff's complaint and this action are barred by the sovereign immunity of Defendants.
2. Plaintiff failed to exhaust his administrative remedies or Plaintiff's remedies are administrative rather than judicial.
3. Defendants have appropriately, completely and fully performed and discharged any and all obligations and legal duties arising out of the matters alleged by the

1 Plaintiff.

2 4. Defendants have insufficient knowledge or information upon which to form a
3 belief as to whether there may be additional, as yet unstated, affirmative
4 defenses available and therefore reserves the right to allege other affirmative
5 defenses as they become appropriate or known through the course of discovery.
6

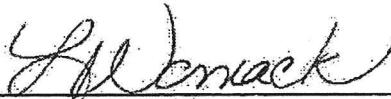
7
8 WHEREFORE, Defendants pray that the relief sought by Plaintiff herein be
9 wholly denied, and for such other and further relief to which they may show themselves
10 to be justly entitled.

11

12 Dated this 31st day of October, 2024.

13
14 **OFFICE OF THE ATTORNEY GENERAL**
Douglas B. Moylan, Attorney General

15 By:

16 
LETA J. WOMACK
17 Assistant Attorney General
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21
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23
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25