

At a Motion Term of the Supreme Court of the State of New York, held in and for the County of Oneida at the Courthouse in the City of Utica, New York, on October 17, 2018.

PRESENT: HON. ERIN P. GALL, J.S.C.

STATE OF NEW YORK
SUPREME COURT COUNTY OF ONEIDA

DOROTHY F. SAGEER, Individually, and
SELMA A. FUMAROLA, as Power of Attorney
for DOROTHY F. SAGEER,

ORDER

Plaintiffs,

-vs-

Index No.: EFCA2017-001091

URNC OPERATING, LLC,
URNC, LLC,
URNC OPERATING, LLC. d/b/a UTICA
REHABILITATION AND NURSING CENTER,
UTICA REHABILITATION AND NURSING CENTER,
UTICA REHABILITATION AND NURSING CENTER
f/k/a ST. JOSEPH NURSING HOME,
ST. JOSEPH NURSING HOME COMPANY OF UTICA, INC.
ST. JOSEPH PASTORAL CARE, INC.,

Defendants.

Defendant, St. Joseph Nursing Home Company of Utica, Inc., having moved for an Order dismissing plaintiff's complaint in its entirety; and defendant, St. Joseph's Pastoral Care, Inc., having also moved for an Order dismissing plaintiff's complaint in its entirety; and said motions having duly come on to be heard and James W. Cunningham, Esq., of counsel to Smith, Sovik, Kendrick & Sugnet, P.C., attorneys for defendant, St. Joseph's Nursing Home Company of Utica, Inc., and Matthew Larkin, Esq., of counsel to Barclay Damon LLP, attorneys for

defendant, St. Joseph's Pastoral Care, Inc., having appeared in person in support of said defendants' motions to dismiss plaintiffs' complaint, and Stephanie A. Palmer, Esq., of counsel to Robert F. Julian, P.C., attorneys for plaintiffs, and Latha Raghavan, Esq., of counsel to Goldberg Segalla, LLP, attorneys for defendants URNC Operating, LLC, URNC, LLC, URNC Operating, LLC, d/b/a Utica Rehabilitation and Nursing Center, Utica Rehabilitation & Nursing Center, Utica Rehabilitation & Nursing Center f/k/a St. Joseph's Nursing Home, having appeared in person in opposition to defendants' motions to dismiss plaintiffs' complaint,

NOW, upon reading and filing of defendant St. Joseph Nursing Home Company of Utica, Inc.'s Notice of Motion dated August 20, 2018, together with the Affirmation of James W. Cunningham, Esq., dated August 20, 2018, with Exhibits attached thereto, and the reading and filing of defendant St. Joseph's Pastoral Care, Inc.'s Notice of Motion dated September 24, 2018, together with the Affirmation of Matthew J. Larkin, Esq., dated September 24, 2018, both in support of defendants' motions to dismiss, and the Affidavit of Stephanie A. Palmer, Esq., sworn to the 10th day of October, 2018, and the Affidavit of Latha Raghavan, Esq., sworn to the 10th day of October, 2018, both in opposition to defendants' motions to dismiss, and the Reply Affirmation of James W. Cunningham, Esq. dated October 15, 2018 and the Reply Affirmation of Matthew J. Larkin, Esq. dated October 15, 2018, and upon consideration of oral arguments heard from counsel on October 17, 2018, and the Court having rendered a Decision, a copy of which is attached hereto as Exhibit "A", it is hereby,

ORDERED, that the motions of defendants St. Joseph Nursing Home Company of Utica, Inc. and St. Joseph's Pastoral Care, Inc. are hereby **GRANTED** and plaintiffs' Complaint against defendants St. Joseph Nursing Home Company of Utica, Inc. and St. Joseph's Pastoral Care, Inc. is **DISMISSED** in its entirety.

Dated: November 29, 2018


HONORABLE ERIN P. GALL, J.S.C.

ENTER

EXHIBIT “A”

STATE OF NEW YORK

FIFTH JUDICIAL DISTRICT

SUPREME COURT

COUNTY OF ONEIDA

* * * * *

DOROTHY F. SAGEER, Individually, and
SELMA A. FUMAROLA, as Power of Attorney
for DOROTHY F. SAGEER,

Plaintiffs,

RJI No. 32-18-0680

Index No. EFCA2017-001091

- vs -

URNC OPERATING, LLC d/b/a UTICA
REHABILITATION AND NURSING CENTER,
f/k/a ST. JOSEPH NURSING HOME,
ST. JOSEPH NURSING HOME COMPANY OF
UTICA, INC., ST. JOSEPH PASTORAL CARE, INC,

Defendants.

HELD BEFORE:

The Honorable Erin P. Gall, Justice of the
Supreme Court, in and for the Fifth Judicial District,
State of New York, held at the Oneida County Courthouse,
Utica, New York, on **OCTOBER 17, 2018**.

APPEARANCES:

LAW OFFICES OF ROBERT F. JULIAN
BY: STEPHANIE PALMER, ESQ.
Attorney for Plaintiff

SMITH SOVIK KENDRICK & SUGNET, P.C.
BY: JAMES CUNNINGHAM, ESQ.
Attorney for Defendant SJNH

BARCLAY DAMON, LLP
BY: MATTHEW LARKIN, ESQ.
Attorney for Defendant SJPC

GOLDBERG & SEGALLA, LLP
BY: LATHA RAGHAVAN, ESQ.
Attorney for Defendant URNC

Bridget A. Hernon,
Senior Court Reporter

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