

June 9, 2016

(505) 660-2216

## **AG Lawsuit against Nursing Home Companies Involving Deplorable Conditions Moves Forward**

*Balderas: Many vulnerable New Mexicans suffered horrifically, some even losing their lives*

*Santa Fe, NM-* Today, Attorney General Hector Balderas announced that on June 6, 2016, the First Judicial District Court entered an order sustaining the Office of the Attorney General's case against the owners and operators of a New Mexico nursing home chain: Preferred Care and Cathedral Rock. Defendants asked the court to dismiss the Office of the Attorney General's complaint, challenging the office's authority to investigate their conduct and attacking the complaint as insufficiently specific. The case is set for trial on April 16, 2018.

"Many vulnerable New Mexicans suffered horrifically, some even losing their lives," said **Attorney General Balderas**. "Our office will continue to fight for better care for New Mexicans and against corporations who place profits over people."

The Office of the Attorney General filed suit against Preferred Healthcare and Cathedral Rock in December 2014 after receiving complaints about the care provided in their New Mexico nursing homes, interviewing former employees and resident families, and reviewing New Mexico regulatory records. An amended complaint was filed in April 2015 after the state's initial complaint and brought forward new witnesses. The complaint details, over 134 pages, a pattern of omitting basic care services on a regular basis at seven New Mexico nursing homes that had an average daily census of more than 550 residents during the period covered by the complaint.

The Office of the Attorney General alleges that defendants:

- Failed to regularly provide toileting, incontinence care, and basic hygiene care, leaving dependent residents in dirty diapers, dirty clothes, and dirty beds for hours at a time.
- Failed to timely respond to call lights rung by residents. Residents were left to soil themselves while waiting for assistance; others fell while attempting to walk to the bathroom unaided.
- Failed to re-position bed-bound and immobile residents; many residents remained in the same position for hours at a time, which can and sometimes did result in painful, infection-prone pressure sores.
- Failed to assist dependent residents with meals. Without help, some residents were unable to eat or drink in the time allotted, and some of them suffered weight loss and dehydration.

Today, Judge Sarah Singleton entered an order denying the nursing homes' motions to dismiss. As the Office of the Attorney General has consistently maintained, the office has a mandate to investigate Medicaid fraud and that authority applies to nursing homes as well as other health care service providers, even though they are independently regulated and licensed by the Department of Health. Moreover, the detailed allegations of the complaint provide any reader with details of defendants' staffing levels, patient population, and numerous specific examples of care omitted and the effects of omitted care on vulnerable nursing home residents and their families.

The Attorney General filed this case to enforce state laws barring fraud against consumers and the government, which these nursing home chains violated by promising and taking payment for care that was not provided, and could not have been provided given their pattern of understaffing.

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STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO ex rel.  
HECTOR H. BALDERAS, ATTORNEY GENERAL,

Plaintiff,

v.

D-101-CV-2014-02535

PREFERRED CARE, INC., *et al.*,

and

CATHEDRAL ROCK CORPORATION, *et al.*,

Defendants.

**ORDER DENYING DEFENDANTS' MOTIONS TO DISMISS FOR  
FAILURE TO STATE A CLAIM UNDER RULE 1-012(B)(6)**

THIS MATTER, came before the Court on the Defendants' Motions to Dismiss the State's First Amended Complaint, set forth in the following briefing:

1. Cathedral Rock Defendants'<sup>1</sup> Motion to Dismiss Amended Complaint for Failure to State a Claim, filed May 15, 2015, Doc. No. 15.
2. Preferred Care Defendants'<sup>2</sup> Motion to Dismiss the First Amended Complaint and

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<sup>1</sup> Defendants Cathedral Rock Management LP, Casa Real Nursing Operations LLC, Red Rock Nursing Operations LLC, Santa Fe Nursing Operations LLC, Bloomfield Nursing Operations LLC, Espanola Valley Nursing Operations LLC, Sunshine Haven Nursing Operations LLC, Cathedral Rock Corporation, Cathedral Rock Management I, Inc., Cathedral Rock Investments, Inc., and C. Kent Harrington.

<sup>2</sup> Preferred Care Partners Management Group LP, SF Health Facilities LP d/b/a Casa Real, Gallup Health Facilities LP d/b/a Red Rocks Care Center, SF Health Facilities LP d/b/a Santa Fe Care Center, Pinnacle Health Facilities XXXIV LP d/b/a Sagecrest Nursing and Rehabilitation Center, Bloomfield Health Facilities LP d/b/a Bloomfield Nursing and Rehabilitation Center, Espanola Health Facilities LP d/b/a Espanola Valley Nursing and Rehabilitation Center, and Lordsburg Health Facilities LP d/b/a Sunshine Haven at Lordsburg.

Memorandum in Support, filed May 15, 2015, Doc. No. 27.

3. State of New Mexico's Consolidated Response in Opposition to Defendants' Motions to Dismiss for Failure to State a Claim, filed with the Court on October 21, 2015.
4. Preferred Care Defendants' Reply in Support of Motion to Dismiss the First Amended Complaint for Failure to State a Claim, filed with the Court on November 20, 2015.
5. Cathedral Rock Defendants' Reply in Support of Motion to Dismiss for Failure to State a Claim and Failure to Comply with Rule 1-009 NMRA, filed with the Court on November 24, 2015.

The Court having considered the briefing and relevant law, and having heard oral argument from counsel for all parties on January 11, 2016, and being otherwise fully advised in the premises, finds that the motions are not well-taken and should be denied.

IT IS THEREFORE ORDERED, ADJUDICATED, AND DECREED that the Motions are **DENIED**. The Defendants shall file Answers to the First Amended Complaint within thirty (30) days of the entry of this Order.

IT IS SO ORDERED.

  
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JUDGE SARAH SINGLETON

Submitted by:

/s/ Juliet M. Keene

Juliet M. Keene, Deputy Div. Director  
Medicaid Fraud & Elder Abuse Division  
Office of the New Mexico Attorney General  
111 Lomas Blvd. NW, Suite 300  
Albuquerque, New Mexico 87102  
(505) 222-9000 telephone  
jkeene@nmag.gov

Victoria S. Nugent  
Brian Bowcut  
Johanna M. Hickman  
Cohen Milstein Sellers & Toll PLLC  
1100 New York Ave. NW, Suite 500  
Washington, DC 20005  
(202) 408-4600  
vnugent@cohenmilstein.com  
bbowcut@cohenmilstein.com  
jhickman@cohenmilstein.com

*Counsel for the State of New Mexico*

Approved via e-mail by Deborah Mann 6/2/16

Stefan R. Chacon  
David H. Johnson  
Deborah E. Mann  
Montgomery & Andrews Law Firm  
P. O. Box 36210  
Albuquerque, NM 87176-6210  
djohnson@montand.com  
dmann@montand.com  
Schacon@montand.com

*Counsel for Preferred Defendants*

David D. Douglass, Esq.  
Sheppard Mullin Richter & Hampton LLP  
2099 Pennsylvania Ave. NW, Suite 100L  
Washington, D.C. 20006-6801  
(202) 747-7900  
(202) 747-1901 Fax  
DDouglass@sheppardmullin.com

Approved via e-mail by Sara Sanchez on 6/3/16

Sara N. Sanchez  
Luis Stelzner  
Stelzner Winter Warburton Flores Sanchez & Dawes PA  
P. O. Box 528  
Albuquerque, NM 87103-0528  
(505) 938-7770  
(505) 938-7781 Fax  
lgs@stelznerlaw.com  
ssanchez@stelznerlaw.com

*Counsel for Cathedral Rock Defendants*