

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS.

SUPERIOR COURT DEPARTMENT  
C.A. No.:

JAMES DUDDY, Individually and as )  
PERSONAL REPRESENTATIVE OF )  
THE ESTATE OF MARGARET DUDDY, )

Plaintiff )

VS. )

COMPLAINT AND DEMAND FOR  
JURY TRIAL

GABRIEL CARE LLC d/b/a GABRIEL )  
HOUSE ASSISTED LIVING FACILITY, )  
DENNIS A. ETZKORN and KAREN )  
ETZKORN, Individually and )  
as Trustees of the 261 Oliver Street )  
Realty Trust, and FIRE SYSTEMS, INC., )

Defendants )

**PRELIMINARY STATEMENT**

This is a civil action by the Personal Representative of the Estate of Margaret Duddy, individually and in his representative capacity, for the conscious pain and suffering and the wrongful death of his mother due to a fire that occurred at the Gabriel House Assisted Living Facility in Fall River, Bristol County, Commonwealth of Massachusetts, on July 13, 2025, due to the reckless conduct and gross negligence of the defendants, individually and in combination, the violations of statutory and regulatory duties, as well as violations of the standards of care for the operation of an assisted living facility. Said negligence and violations caused and substantially contributed to the injuries and death of the plaintiff. The plaintiff further seeks punitive damages against all defendants for the gross negligence that caused this tragedy.

## PARTIES

1. The plaintiff, James Duddy, is a resident of Manchester, New Hampshire, and the son of the decedent, Margaret Duddy, who was a 69 year old resident of the Gabriel House Assisted Living Facility located at 261 Oliver Street, Fall River, Bristol County, Commonwealth of Massachusetts. He brings his claim both individually and as the duly qualified and appointed Personal Representative of the Estate of Margaret Duddy.

2. The defendant, Gabriel Care LLC is a duly organized Massachusetts Limited Liability Company doing business as Gabriel House Assisted Living Facility (hereinafter "Gabriel House") , at 261 Oliver Street, Fall River, Bristol County, Commonwealth of Massachusetts, and with a resident agent, Dennis A. Etzkorn, with a listed address of 376 Main Street, Fall River, Bristol County, Commonwealth of Massachusetts, and records maintained at 10 Trailside Road, Medfield, Massachusetts.

3. The defendant, Dennis A. Etzkorn, is a natural person who resides at 10 Trailside Road, Medfield, Massachusetts. He is sued in his individual capacity and in his capacity as Trustee and Beneficiary of the 261 Oliver Street Realty Trust, which is the owner of the real estate located at 261 Oliver Street, Fall River, Bristol County Commonwealth of Massachusetts. On information and belief, Defendant Etzkorn was also the manager, signatory and registered agent for Gabriel Care LLC, and was responsible for the operation of Gabriel House, including the implementation of its policies, procedures, protocol, hiring, staffing, training, and maintenance.

4. The defendant Karen Etzkorn, is a natural person who resides at 10 Trailside Road, Medfield, Massachusetts. She is sued in her capacity as Trustee and Beneficiary of the 261 Oliver Street Realty Trust, which is the owner of the real estate

located at 261 Oliver Street, Fall River, Bristol County, Commonwealth of Massachusetts.

5. The defendant, Fire Systems, Inc., is a duly registered Massachusetts corporation and doing business at 955 Reed Road, North Dartmouth, Bristol County, Commonwealth of Massachusetts. On information and belief, Fire Systems, Inc. was the provider of fire alarms and life safety systems for the Gabriel House, and inspected and maintained the Gabriel House fire systems to ensure the effective operation of the fire alarm system as well as compliance with safety regulations for the benefit of the residents residing there.

6. PLAINTIFF DEMANDS TRIAL BY JURY ON ALL COUNTS HEREIN.

### **FACTS**

7. On July 13, 2025, the decedent, Margaret Duddy, resided at the Gabriel House Assisted Living Facility located at 261 Oliver Street, Fall River, Massachusetts, receiving services including daily meals, housekeeping, laundry and cable television.

8. At all times relevant hereto, the Gabriel House had approximately 70 residents who received various levels of care at the assisted living facility, many with physical infirmity or limitations and those requiring the use of oxygen for medical conditions.

9. At all times relevant hereto, the Gabriel House facility was not properly managed, staffed, maintained, or supervised; residency rules were not enforced—particularly as to smoking on the premises, staff was inadequately trained, and emergency response procedures were non-existent or inadequate.

10. On or about July 13, 2025, a fire occurred at the Gabriel House resulting in

the injury and death of multiple residents including the plaintiff's decedent, Margaret Duddy.

11. On information and belief, at the time of the fire at the Gabriel House, there were only two staff members working at the facility.

12. As a result of the fire, flames and smoke, multiple residents were trapped in their rooms physically unable to evacuate the building without assistance.

13. At the time of the fire, the staff at the Gabriel House was inadequately trained and insufficient in number to assist the number of residents to safely evacuate the burning building.

14. On information and belief, at all times relevant hereto, the fire alarm, smoke detection and fire suppression devices were inadequate to provide sufficient warning and provide life safety systems to alert residents and staff of the danger from the fire that occurred on or about July 13, 2025.

15. At the time of the fire, there were improper and insufficient manners of egress for an emergency evacuation, including, but not limited to, air conditioning units installed in windows that prevented exiting, and improper or non-existent emergency lighting and signage.

16. On July 13, 2025, as a result of the fire at the Gabriel House, the plaintiff's decedent, Margaret Duddy, sustained fatal injuries and was taken from the scene by ambulance to a hospital for treatment where she later died from her injuries.

**COUNT I – CONSCIOUS PAIN AND SUFFERING: Gabriel Care LLC**

17. The plaintiff incorporates the allegations of paragraphs one through seventeen, as if fully expressly set forth herein.

18. The defendant, Gabriel Care LLC, d/b/a Gabriel House Assisted Living

Facility, owed a duty of special care to the residents of the assisted living facility who primarily consist of elderly, disabled, physically or mentally limited individuals, in particular to the decedent, Margaret Duddy, to ensure that the living conditions were safe, that the staff was adequate in number and training to handle emergency situations such as an emergency evacuation, that the facility was properly maintained to prevent dangerous conditions from existing, and to comply with applicable federal, state and local laws, regulations and rules.

19. The defendant, Gabriel Care LLC, its agents, servants and employees, were negligent by their acts or omissions, in the management, staffing, training, supervision, and maintenance of the Gabriel House, such that dangerous conditions were present that led to the injury and death to the plaintiff's decedent, including the following:

- a. There was an insufficient number of staff to respond to an emergency evacuation;
- b. The staff was not properly trained or supervised to respond to an emergency evacuation or situation;
- c. There were residents in the facility who were physically disabled and would need assistance in the event of an evacuation;
- d. There were residents in the facility who required the use of oxygen on a regular basis;
- e. There were residents who smoked in the facility within close proximity to areas where oxygen tanks existed;
- f. There were air conditioning units in windows that could block the exit from an apartment in the case of an emergency;
- g. The facility did not have in place a sufficient emergency plan for an evacuation of physically and medically disabled residents;
- h. The fire and smoke detection and suppression systems were not in compliance with applicable safety codes and requirements;
- i. The facility failed to meet applicable accessibility standards;
- j. There were dangerous conditions in existence in the facility due to poor, irregular, inadequate or negligent maintenance; and
- k. The means of safe egress from the facility in the event of an emergency was inadequate.

20. As a direct and proximate result of the negligence of the defendant Gabriel

Care LLC, its agents, employees, or servants, the plaintiff's decedent, Margaret Duddy, sustained serious injuries, suffered conscious pain and suffering and an untimely death on July 13, 2025.

WHEREFORE, the plaintiff demands judgement against the defendant, Gabriel Care LLC, together with interest and costs of suit.

**COUNT II- WRONGFUL DEATH : Gabriel Care LLC**

21. The plaintiff incorporates paragraphs one through twenty above as if expressly set forth herein.

22. As a direct and proximate result of the aforementioned negligence of the defendant, Gabriel Care LLC, its agents, servants, and employees, the plaintiff's decedent suffered conscious pain and suffering and an untimely death on July 13, 2025.

23. As a direct and proximate result of the aforementioned negligence of the defendant, Gabriel Care LLC, its agents, servants and employees, the plaintiff has incurred great expense for medical care and funeral costs, and the persons entitled to damages pursuant to M.G.L., c 229, Section 1, have forever lost the care, comfort, society and companionship of Margaret Duddy.

24. The defendant, Gabriel Care LLC, is subject to liability for the negligent acts or omissions pursuant to M.G.L. c. 229, Section 2, the Wrongful Death Statute.

WHEREFORE, the plaintiff demands judgement against the defendant, Gabriel Care LLC, together with interest and costs of suit.

**COUNT III – PUNITIVE DAMAGES - GABRIEL CARE LLC**  
**Reckless Conduct and/or Gross Negligence**  
**(Massachusetts Wrongful Death Statute, G.L. c 229, section 2)**

25. The plaintiff incorporates paragraphs one through twenty-four above as if expressly set forth herein.

26. The aforementioned acts and omissions of the defendant Gabriel Care LLC, its agents, servants, and employees, constitute reckless conduct and gross negligence within the meaning of the Wrongful Death Statute, and showed a conscious disregard for the safety of others, including the plaintiff's decedent, Margaret Duddy, who suffered conscious pain and suffering and died as a result of those injuries.

WHEREFORE, the plaintiff demands judgment against the defendant Gabriel Care LLC, together with punitive damages, interest and costs of suit.

**COUNT IV – CONSCIOUS PAIN AND SUFFERING: Dennis A. Etzkorn**

27. The plaintiff incorporates paragraphs one through twenty-six above as if expressly set forth herein.

28. The defendant, Dennis A. Etzkorn, (hereinafter "D. Etzkorn"), at all times relevant hereto, was the Trustee and Beneficiary of the 261 Oliver Street Realty Trust which owned the real estate at that address, as well as the manager, signatory and registered agent for the defendant, Gabriel Care LLC d/b/a Gabriel House Assisted Living Facility. He was responsible for the business operations of Gabriel House, including implementing policies, procedures, protocols, staffing, training, and overseeing the maintenance of the facility.

29. The defendant D. Etzkorn, who was responsible for the day to day operations Of the facility at all times relevant hereto, knew or should have known that:

- a. There was an insufficient number of staff to respond to an emergency evacuation;
- b. The staff was not properly trained or supervised to respond to an emergency evacuation or situation;
- c. There were residents in the facility who were physically disabled and would need assistance in the event of an evacuation;
- d. There were residents in the facility who required the use of oxygen on a regular basis;

- e. There were residents who smoked in the facility within close proximity to areas where oxygen tanks existed;
- f. There were air conditioning units in windows that could block the exit from an apartment in the case of an emergency;
- g. The facility did not have in place a sufficient emergency plan for an evacuation of physically and medically disabled residents;
- h. The fire and smoke detection and suppression systems were not in compliance with applicable safety codes and requirements;
- i. The facility failed to meet applicable accessibility standards;
- j. There were dangerous conditions in existence in the facility due to poor, irregular, inadequate or negligent maintenance; and
- k. The means of safe egress from the facility in the event of an emergency was inadequate.

30. The defendant D. Etkorn owed a duty of care to the plaintiff's decedent to ensure the premises was safe and to provide adequate life safety systems to a known population of residents who were physically, medically or mentally compromised.

31. The defendant D. Etkorn breached his duty to exercise reasonable care with regard to the residents of the Gabriel House, including the plaintiff's decedent, by his failure to address the matters alleged in paragraph 29 above, which he knew or should have known in his position as the manager, signatory and person responsible for the operation of the facility.

WHEREFORE, the plaintiff demands judgement against the defendant, Dennis A. Etkorn, together with interest and costs of suit.

**COUNT V – WRONGFUL DEATH: Dennis A. Etkorn**

32. The plaintiff incorporates paragraphs one through thirty-one above as if expressly set forth herein.

33. As a direct and proximate result of the aforementioned negligence of the defendant, Dennis A. Etkorn, his agents, servants, and employees, the plaintiff's decedent suffered conscious pain and suffering and an untimely death on July 13, 2025.

34. As a direct and proximate result of the aforementioned negligence of the

defendant, Dennis A. Etzkorn, his agents, servants and employees, the plaintiff has incurred great expense for medical care and funeral costs, and the persons entitled to damages pursuant to M.G.L., c 229, Section 1, have forever lost the care, comfort, society and companionship of Margaret Duddy.

WHEREFORE, the plaintiff demands judgement against the defendant, Dennis A. Etzkorn, together with interest and costs of suit.

**COUNT VI - PUNITIVE DAMAGES – DENNIS A. ETZKORN**  
**Reckless Conduct and/or Gross Negligence**  
**(Massachusetts Wrongful Death Statute, G.L. c 229, section 2)**

35. The plaintiff incorporates paragraphs one through thirty-four above as if expressly set forth herein.

36. The aforementioned acts and omissions of the defendant D. Etzkorn, his agents, servants, and employees, constitute reckless conduct and gross negligence within the meaning of the Wrongful Death Statute, and showed a conscious disregard for the safety of others, including the plaintiff's decedent, Margaret Duddy, who suffered conscious pain and suffering and died as a result of those injuries.

WHEREFORE, the plaintiff demands judgment against the defendant D. Etzkorn, together with punitive damages, interest and costs of suit.

**COUNT VII – CONSCIOUS PAIN AND SUFFERING: KAREN ETZKORN**

37. The plaintiff incorporates paragraphs one through thirty-six above as if expressly set forth herein.

38. The defendant, Karen Etzkorn, (hereinafter “K. Etzkorn”), at all times

relevant hereto, at all times relevant hereto, was the Trustee and Beneficiary of the 261 Oliver Street Realty Trust which owned the real estate at that address, the location of the Gabriel House Assisted Living Facility.

39. As an owner of the subject property, defendant K. Etzkorn had a duty to keep the premises in a safe and habitable condition and ensure that persons lawfully on the property, particularly residents of an assisted living facility, are not subjected to dangerous conditions.

40. Defendant K. Etzkorn breached the duty to keep the premises safe and to protect residents from dangerous conditions which she knew or should have known to exist, including but not limited to, inadequate means of egress, improperly installed and maintained fire and smoke alarms and suppression systems, safety code violations, and lack of fire prevention devices.

41. As a direct and proximate result of the aforementioned negligence of the Defendant K. Etzkorn, her agents, servants, and employees, the plaintiff's decedent suffered conscious pain and suffering and an untimely death on July 13, 2025.

42. As a direct and proximate result of the aforementioned negligence of the Defendant K. Etzkorn, her agents, servants and employees, the plaintiff has incurred great expense for medical care and funeral costs, and the persons entitled to damages pursuant to M.G.L., c 229, Section 1, have forever lost the care, comfort, society and companionship of Margaret Duddy.

WHEREFORE, the plaintiff demands judgement against the defendant, Karen Etzkorn, together with interest and costs of suit.

**COUNT VIII – WRONGFUL DEATH : KAREN ETZKORN**

43. The plaintiff incorporates paragraphs one through forty-two above as if

expressly set forth herein.

44. As a direct and proximate result of the aforementioned negligence of the Defendant K. Etzkorn, her agents, servants, and employees, the plaintiff's decedent suffered conscious pain and suffering and an untimely death on July 13, 2025.

45. As a direct and proximate result of the aforementioned negligence of the Defendant K. Etzkorn, her agents, servants and employees, the plaintiff has incurred great expense for medical care and funeral costs, and the persons entitled to damages pursuant to M.G.L., c 229, Section 1, have forever lost the care, comfort, society and companionship of Margaret Duddy.

WHEREFORE, the plaintiff demands judgement against the defendant, Karen Etzkorn, together with interest and costs of suit.

**COUNT IX – PUNITIVE DAMAGES: KAREN ETZKORN**  
**Reckless Conduct and/or Gross Negligence**  
**(Massachusetts Wrongful Death Statute, G.L. c 229, section 2)**

46. The plaintiff incorporates paragraphs one through forty-five above as if expressly set forth herein.

47. The aforementioned acts and omissions of the defendant K. Etzkorn, her agents, servants, and employees, constitute reckless conduct and gross negligence within the meaning of the Wrongful Death Statute, and showed a conscious disregard for the safety of others, including the plaintiff's decedent, Margaret Duddy, who suffered conscious pain and suffering and died as a result of those injuries.

WHEREFORE, the plaintiff demands judgment against the defendant K. Etzkorn, together with punitive damages, interest and costs of suit.

**COUNT X – CONSCIOUS PAIN AND SUFFERING: Fire Systems, Inc.**

48. The plaintiff incorporates paragraphs one through forty-seven above as if

expressly set forth herein.

49. The defendant, Fire Systems, Inc. (hereinafter "Fire Systems"), was contracted by Gabriel House to install, inspect, test, and maintain the fire alarms and life safety systems at the subject property.

50. At all times relevant hereto, the equipment installed, inspected, tested, and maintained by defendant Fire Systems was meant to provide sufficient advance warning of emerging fire dangers at the Gabriel House, and give residents and staff an opportunity to seek assistance, evacuate the property, and escape the dangerous effects of fire and smoke by the activation of an alarm and/or fire suppression system, giving residents and staff time to seek available means of egress before obscured by smoke and/or fire.

51. Upon information and belief, the equipment installed, inspected, tested, and maintained by defendant Fire Systems failed to provide reasonable notice and warning of the fire on July 13, 2025.

52. Upon information and belief, defendant Fire Systems' installation, inspection, testing and maintenance of the fire and smoke alarm and/or fire suppression systems did not comply with applicable fire safety and building codes and regulations on July 13, 2025.

53. Upon information and belief, defendant Fire Systems had purported to inspect and certify in good working order the fire sprinklers and fire suppression system at the Gabriel House approximately five (5) days prior to the fire on July 13, 2025.

54. At all times relevant hereto, the fire sprinklers were improperly installed and/or maintained such that they were not operational on July 13, 2025 at the time of the fire.

55. At all times relevant hereto, the residents and staff at the Gabriel House did not have proper access to a properly installed, mounted, and/or maintained fire extinguishing device or fire suppression system.

56. The defendant Fire Systems owed a duty of care and was responsible to fulfill the terms of its contract to provide properly installed, inspected, tested, and maintained fire and smoke alarms, fire suppression systems, and life safety systems to ensure the safety of the residents and staff at the Gabriel House, including the plaintiff's decedent, to provide adequate fire and smoke warning alarms and life safety systems.

57. The defendant Fire Systems owed a duty of care to the plaintiff's decedent to ensure the premises was reasonably safe and provide adequate fire and smoke protection, prevention and warnings.

58. Defendant Fire Systems, its agents, employees, and servants, breached its duty to exercise reasonable care in the installation, inspection, testing, and maintenance of the fire and smoke alarm system and fire suppression systems at the Gabriel House.

59. Defendant Fire Systems, its agents, employees, and servants, were negligent in the installation, inspection, testing, maintenance, and certification of the fire and smoke alarm and fire suppression systems, and failed to inform or warn the residents or staff of the Gabriel House of the dangerous condition of the those fire systems and violations of applicable fire safety and building codes and regulations on or before July 13, 2025.

60. As a direct and proximate result of the aforementioned negligence of the Defendant Fire Systems, its agents, servants, and employees, the plaintiff's decedent suffered conscious pain and suffering and an untimely death on July 13, 2025.

61. As a direct and proximate result of the aforementioned negligence of the

Defendant Fire Systems, its agents, servants and employees, the plaintiff has incurred great expense for medical care and funeral costs, and the persons entitled to damages pursuant to M.G.L., c 229, Section 1, have forever lost the care, comfort, society and companionship of Margaret Duddy.

WHEREFORE, the plaintiff demands judgement against the defendant Fire Systems, Inc, together with interest and costs of suit.

**COUNT XI – WRONGFUL DEATH: Fire Systems, Inc.**

62. The plaintiff incorporates paragraphs one through sixty-one above as if expressly set forth herein.

63. As a direct and proximate result of the aforementioned negligence of the Defendant Fire Systems, its agents, servants, and employees, the plaintiff's decedent suffered conscious pain and suffering and an untimely death on July 13, 2025.

64. As a direct and proximate result of the aforementioned negligence of the Defendant Fire Systems, its agents, servants and employees, the plaintiff has incurred great expense for medical care and funeral costs, and the persons entitled to damages pursuant to M.G.L., c 229, Section 1, have forever lost the care, comfort, society and companionship of Margaret Duddy.

WHEREFORE, the plaintiff demands judgement against the defendant Fire Systems, Inc, together with interest and costs of suit.

Respectfully Submitted,

The Plaintiff,  
JAMES DUDDY, Individually and  
As Personal Representative of the  
ESTATE OF MARGARET DUDDY,

*/s/ Steven P. Sabra*

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