

UNITED STATES BANKRUPTCY COURT Northern District of Texas (Dallas Division)

PROOF OF CLAIM

Name of Debtor: **Erickson Retirement Communities, LLC**

Case Number: **09-37010**

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property):
Pauline Reece

Check this box to indicate that this claim amends a previously filed claim.

Name and address where notices should be sent:
**Gregory G. Hopper
Salsbury, Clements, Bekman, Marder and Adkins
300 W Pratt Street, Suite 450, Baltimore, MD 21201
Telephone number:
(410) 539-6633**

Court Claim Number: _____
(If known)

Filed on: _____

Name and address where payment should be sent (if different from above):

**RECEIVED
JAN 25 2010
BMC GROUP**

Telephone number:

Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

Check this box if you are the debtor or trustee in this case.

1. Amount of Claim as of Date Case Filed: \$ 1,000,000

If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.

If all or part of your claim is entitled to priority, complete item 5.

Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

Specify the priority of the claim.

Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).

Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507 (a)(4).

Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5).

Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7).

Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).

Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(____).

Amount entitled to priority:

\$ _____

*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

2. Basis for Claim: Personal Injury
(See instruction #2 on reverse side.)

3. Last four digits of any number by which creditor identifies debtor: _____

3a. Debtor may have scheduled account as: _____
(See instruction #3a on reverse side.)

4. Secured Claim (See instruction #4 on reverse side.)
Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff: Real Estate Motor Vehicle Other
Describe:

Value of Property: \$ _____ Annual Interest Rate _____ %

Amount of arrearage and other charges as of time case filed included in secured claim,

if any: \$ _____ Basis for perfection: _____

Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

Date: 1/15/10

Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

Pauline H. Reece, Pauline H. Reece, MRS.

FOR COURT USE ONLY

Erickson Ret. Comm. LLC



00578

PAULINE REECE
8810 Walther Boulevard, Apt. 1513
Baltimore, Maryland 21234

Plaintiff

v.

ERICKSON RETIREMENT
COMMUNITIES, LLC
701 Maiden Choice Lane
Baltimore, Maryland 21228

Serve On: Resident Agent
The Corporation Trust, Inc.
300 East Lombard Street
Baltimore, Maryland 21202

and

OAK CREST VILLAGE, INC.
703 Maiden Choice Lane
Baltimore, Maryland 21228

Serve On: Resident Agent
The Corporation Trust, Inc.
300 East Lombard Street
Baltimore, Maryland 21202

and

OTIS ELEVATOR COMPANY
260 11th Avenue
New York, New York 00000

Serve On: Resident Agent
The Corporation Trust, Inc.
300 East Lombard Street
Baltimore, Maryland 21202

Defendants

* * * * *

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

Case No. _____

COMPLAINT AND JURY TRIAL DEMAND

Plaintiff, Pauline Reece, by and through her attorneys, E. Dale Adkins, III, Gregory G. Hopper, and Salsbury, Clements, Bekman, Marder & Adkins, L.L.C., hereby serves this Complaint and Demand for Jury Trial and sues Defendants, Erickson Retirement Communities, LLC, Oak Crest Village, Inc., and Otis Elevator Company, and, in support thereof, states as follows:

1. Pauline Reece, an 87 year old woman, was seriously injured on October 16, 2008 when an elevator in the Broadview Terrace building in the Oak Crest Village Retirement Community malfunctioned and failed, causing her to fall.

2. At all times relevant to this action, Ms. Reece lived in the Broadview Terrace building at Oak Crest Village. She is a Maryland and Baltimore County resident. Her address is 8810 Walter Boulevard, Apartment 1513, Baltimore, Maryland, 21234.

3. Defendants, Erickson Retirement Communities, LLC and Oak Crest Village, Inc., are corporations organized and existing under the laws of the State of Maryland with their principle places of business located in Baltimore County. At all times relevant to this case, these defendants owned, operated, managed, maintained, and controlled the multi-building retirement community known as Oak Crest Village Retirement Community, the Broadview Terrace building, and the elevator at issue in this case.

4. Defendant, Otis Elevator Company, is a corporation organized and existing under the laws of the State of Delaware. At all times relevant to this case, Otis Elevator served as the agent, servant, and/or employee of Defendants, Erickson Retirement Communities and Oak Crest Village, and was responsible for inspecting, maintaining, repairing, and servicing the elevator at issue in this case, along with the other elevators in the Oak Crest Retirement Community.

5. The damages in this case exceed \$30,000 (Thirty Thousand Dollars) and subject matter jurisdiction rests exclusively with the Circuit Court. Personal jurisdiction is proper under " 6-102 and 6-103 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland.

6. Venue is proper in this Court under " 6-201 and 6-202(8) as all of the Defendants carry on regular business, are employed, and habitually engage in their respective vocations in Baltimore County and the tortious activities complained of herein were carried out, in whole or in part, in Baltimore County. Further, the cause of action complained of herein arose in Baltimore County.

COUNT ONE

Plaintiff, Pauline Reece, against all Defendants

7. At all times relevant to this case, Defendants, Erickson Retirement Communities, Oak Crest Village, and Otis Elevator, held the Broadview Terrace building and the elevator at issue out to Pauline Reece and the general public as safe and free from latent, dangerous defects. As such, the defendants owed Ms. Reece and the general public the highest degree of care under the circumstances in the inspection, maintenance, and repair of the premises and elevator. This duty of care also included the duty to discover known and knowable defects.

8. Defendants, Erickson Retirement Communities, Oak Crest Village, and Otis Elevator, by and through their agents, servants, and/or employees, were negligent and careless in that they:

- a. failed to maintain the premises in a safe condition;
- b. failed to keep the premises in proper repair;
- c. allowed the defective condition described herein to exist on the premises;

d. failed to adequately and periodically inspect and test the elevator in order to determine whether it was working properly and safely;

e. failed to warn Ms. Reece and others who were lawfully on the premises of the dangerous and hazardous condition of the elevator;

f. failed to take reasonable and adequate measures to prevent the defective condition from causing Ms. Reece serious injury;

g. failed to inspect and effectuate repairs as necessary based upon prior malfunctions and/or the elevator=s repair history;

h. failed to discharge the obligations existing under the contracts between the defendants;

i. failed to properly hire and supervise competent personnel to service, repair, and maintain the elevator;

j. failed to exercise that degree of care required for the safety of Ms. Reece, an invitee, under the circumstances presented; and

k. failed to timely recommend essential inspection, maintenance, and testing procedures to minimize or alleviate the risk of an uncontrolled and/or unexpected dropping of the elevator; and

l. failed to comply with the applicable standards of care in the circumstances presented and were otherwise negligent and careless.

9. As a result of the negligence of Erickson Retirement Communities, Oak Crest Village, and Otis Elevator, Plaintiff, Pauline Reece, was forced to undergo unnecessary surgery, treatment, recovery, and rehabilitation and has suffered and will continue to suffer severe, painful, and permanent bodily and emotional injury, fright, mental anguish, and other related

injuries. In addition, Plaintiff has forced to suffer significant economic losses.

10. All of the injuries and damages suffered by Plaintiff, Pauline Reece, were directly and proximately caused by the acts or omissions of Defendants, Erickson Retirement Communities, Oak Crest Village, and Otis Elevator, without any negligence on the part of Plaintiff contributing thereto.

WHEREFORE, Plaintiff, Pauline Reece, claims damages against Defendants, Erickson Retirement Communities, Oak Crest Village, and Otis Elevator, jointly and severally, in an amount in excess of \$1,000,000.00 (One Million Dollars) together with all the costs of this action.

Respectfully submitted,

E. Dale Adkins III
Gregory G. Hopper
Salisbury, Clements, Bekman,
Marder & Adkins, L.L.C.
300 West Pratt Street, Suite 450
Baltimore, Maryland 21201
410-539-6633

Attorneys for Plaintiff

PAULINE REECE

Plaintiff

v.

**ERICKSON RETIREMENT
COMMUNITIES, LLC, et al.**

Defendants

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**IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY**

Case No. _____

* * * * *

DEMAND FOR JURY TRIAL

Plaintiff, Pauline Reece, by and through her attorneys, E. Dale Adkins, III, Gregory G. Hopper, and Salisbury, Clements, Bekman, Marder & Adkins, L.L.C., hereby demands a jury trial in the above-captioned case.

Respectfully submitted,

E. Dale Adkins III
Gregory G. Hopper
Salisbury, Clements, Bekman,
Marder & Adkins, L.L.C.
300 West Pratt Street, Suite 450
Baltimore, Maryland 21201
410-539-6633

Attorneys for Plaintiff