

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS

**FILED**

JUL 11 2007 *PK*

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_  
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TERESA McDANIEL, Individually §  
and as Independent Executrix §  
of the Estate of DENNIS G. §  
McDANIEL, Deceased; SAMUEL §  
McDANIEL, Individually; and §  
LOUIS McDANIEL, Individually, §

Plaintiffs, §

v. §

No. SA-06-CA-920-H

GREGORY L. HAAG, TOSCA HAAG, §  
and VIVIAN VIRGINIA VETRANO, §  
Individually and Jointly d/b/a §  
REST OF YOUR LIFE (ROYL) §  
RETREAT, §

Defendants. §

ORDER REGARDING DEFENDANT VETRANO'S MOTION FOR SUMMARY JUDGMENT

This is a civil action for damages for wrongful death, with jurisdiction in this Court founded upon diversity of citizenship and jurisdictional amount. The Plaintiffs, Florida citizens, are the widow and children of Dennis G. McDaniel, deceased. They are suing the Defendants, all Texas citizens, for damages based on theories including negligence, gross negligence, medical malpractice, and fraud. One of the Defendants, Vivian Virginia Vetrano, has filed

a motion for summary judgment.<sup>1</sup> The Plaintiffs have never fully answered Vetrano's motion for summary judgment due to extenuating circumstances. On May 8, 2007, Plaintiffs' counsel of record, Les Mendelsohn, requested an extension of time until June 22, 2007 to respond to the motion for summary judgment. On May 25, 2007, Plaintiffs' counsel filed an affidavit executed by one of the Plaintiffs, Teresa McDaniel, in partial response to the motion for summary judgment. On May 30, 2007, Attorney Mendelsohn died unexpectedly. Apparently at the time of his death, there was no backup plan to continue the representation of the Plaintiffs in this case. On June 13, 2007, an attorney named Paul Huckabay who was not a member of the Bar of this Court, filed a motion for leave to appear pro hac vice. Judge Rodriguez granted Huckabay's motion and then transferred the case to this Court. As of this date, nothing more has been filed in support of or in opposition to Vetrano's motion for summary judgment.

The Plaintiffs' complaint in this case paints a lurid picture; so much so that if they can produce evidence to support their

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<sup>1</sup>The attorneys who filed the motion for summary judgment on behalf of Vetrano also filed the original answer on behalf of all Defendants. Whether representing Vetrano and the Haags at the same time poses a conflict of interest is a matter to be determined as the case progresses.

allegations, a jury is likely to hold someone accountable. The question presented in the motion for summary judgment is whether Defendant Vetrano falls within the category of those who are potentially exposed to liability.

The Plaintiffs' complaint alleges that the Defendants own and operate a facility in Wilson County, Texas called the Rest of Your Life Retreat (ROYL), which they hold out as a "natural hygiene healthcare facility." The complaint further alleges that the Plaintiffs' decedent, Dennis McDaniel, checked into ROYL in August 2005 to participate in a program of fasting and diet. By inference, Mr. McDaniel was extremely overweight. After a few weeks of "natural hygiene healthcare," Mr. McDaniel became severely ill. He was taken to a hospital, but his condition continued to deteriorate, and he died on September 24, 2005. As noted, the Plaintiffs blame the Defendants for his death.

In her motion for summary judgment, Defendant Vetrano makes the following assertions: that Tosca Haag is her daughter and Gregory Haag is her son-in-law; that they are the sole owners and operators of ROYL; that she is not involved in the ownership or operation of ROYL; that strictly by coincidence, she was visiting her daughter at the facility in August 2005 when Dennis McDaniel was enrolled in the program; that she owed him no legal duty, because she never

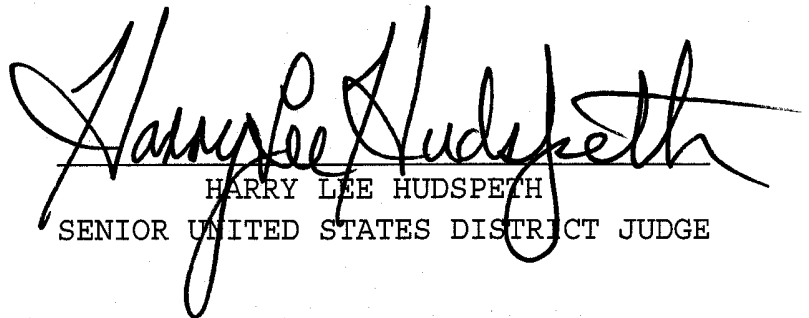
treated him nor promised to treat him; and that she made no representations to him upon which he could have relied, reasonably or otherwise. For these reasons, she contends that she is entitled to judgment as a matter of law.

In response to the motion, Teresa McDaniel has attached to her affidavit several pieces of advertising material dated prior to Dennis McDaniel's arrival at ROYL on August 13, 2005. Only a few of the voluminous pages seem material to the issue at hand. One is a four-page piece of material headed "Rest of Your Life: A Retreat Where Your Health is Re-Built with a Foundation to Last." Directly under that title appear three names: Dr. Gregory Haag, Dr. Tosca Haag, and Dr. Virginia Vetrano. A separate one-page piece of material is headed "The ROYL® Retreat," and features a picture of three people with the caption "Dr. Virginia Vetrano, Drs. Greg and Tosca Haag 2001." Finally, a page with the heading "ROYL Contact Sheet" provides the telephone number of the Retreat, as well as telephone numbers for "Dr. Tosca," "Dr. Greg," and "Dr. V.V. Vetrano." Of course, none of these items is dispositive, but when taken together, they strongly suggest a direct connection between the Haags and ROYL and Defendant Vetrano. Further investigation and discovery might lead the Plaintiffs to other credible evidence of Vetrano's involvement. At this stage of the case, the Court is

unable to find that there are no genuine issues of material fact. Defendant Vetrano is not entitled to judgment in her favor as a matter of law.

It is therefore ORDERED that the motion of Defendant Vetrano for summary judgment in the above-styled and numbered cause be, and it is hereby, DENIED.

SIGNED AND ENTERED this 10<sup>th</sup> day of July, 2007.

  
HARRY LEE HUDSPETH  
SENIOR UNITED STATES DISTRICT JUDGE