

# The County Press

IN OUR 179<sup>TH</sup> YEAR

Locally Owned — Locally Connected — Locally Committed

## County medical facility hit with wrongful death suit over 'stress ball'

BY ANDREW DIETDERICH  
810-452-2609 • adietderich@  
mihomepaper.com

**MAYFIELD TWP.** — A former patient who allegedly choked to death on a promotional "stress ball" at Lapeer County Medical Care Facility is at the center of a lawsuit set to have attorneys back in court Monday.

Phillip Del Grosso filed a wrongful death suit claiming five counts of negligence and medical malpractice against Lapeer County Medical Care Facility (aka Suncrest Nursing Home), Heart to Heart Hospice of Flint LLC, and Dr. Hisham Ahmed. All have denied the claims through court filings.

Del Grosso, of Detroit and identified as a personal representative of the former patient who died, Timothy Del Grosso, filed the suit Dec. 16.

A flurry of legal filings in Lapeer Circuit Court have followed since, with a hearing regarding discovery set for Monday.

Phillip Del Grosso is represented by attorneys Robert P. Roth, of Southfield-based Roth Law P.C., and Geoffrey N. Fieger, of Southfield-based Fieger, Fieger, Kenney & Harrington P.C. The suit seeks an undisclosed amount in reimbursement for treatment and damages.

"This tragedy was entirely avoidable and due (to) the negligence of numerous parties as outlined in the complaint," said Roth, who told The County Press he works with Fieger on certain cases.

Gary Easton, administrator, Lapeer County Medical Care Facility (LCMCF), said he could not comment on pending litigation.

Easton referred The County Press to LCMCF attorneys, Maureen Adkins and Lauren Studley, from Bloomfield Hills-based Plunkett Cooney P.C. Adkins also said they had no comment on the case.

The suit involves the Sept.



Photo by Andrew Dietderich

Lapeer County Medical Care Facility is involved in a wrongful death lawsuit centered on a patient who choked on a promotional "stress ball," according to court filings.

14, 2014 death of Timothy Del Grosso, then 55 and a resident at LCMCF. The facility is a 202-bed skilled nursing facility serving residents who need long-term care and extensive rehabilitation, according to its website. It's operated by the Lapeer County Human Services Board, a component unit of the county.

According to the lawsuit, Del Grosso had a history of impairments that put him at risk for aspiration. The suit claims Del Grosso required staff supervision when eating "because he was known to engage in unsafe behavior, including putting large quantities of food in his mouth, resulting in the risk for gagging, choking or aspiration."

The suit claims Heart to Heart Hospice of Flint sees patients at LCMCF and occasionally visits the building to provide residents and families with promotional materials, "including but not limited to red foam balls described as 'stress squeeze balls.'"

Del Grosso's underlying cognitive issues prevented him from understanding that a red foam ball from Heart to Heart was not food, and that he began eating it sometime during the morning of Sept. 14, 2014, the

suit claims.

Del Grosso is believed to have died when a large piece of red foam ball became lodged in his airway and he was unable to breathe, "suffered respiratory distress, and he died."

Dr. Hisham Ahmed pronounced Del Grosso dead at 9:10 a.m., more than three hours since he was last seen alive, the lawsuit claims. The complaint further states that an autopsy revealed that he "died of asphyxia due to squeeze ball in upper airways." The death was ruled accidental by a medical examiner.

The suit claims LCMCF and Heart to Heart Hospice representatives were negligent and reckless in allowing Del Grosso to have the ball without staff present, allowing Heart to Heart Hospice to distribute the balls without verifying safety, and failing to exercise "ordinary and reasonable care" to prevent him from ingesting the ball.

In an answer to the complaint filed by attorneys on behalf of LCMCF, all claims related to negligence and malpractice are denied.

Among other things, it's noted that there wasn't an order in place, nor was it required, calling for continuous super-

vision of Del Grosso. Further, LCMCF's answer claims Del Grosso "recognized the ball as a ball, not food."

The answer asks the court to enter a judgment of "no cause of action" along with costs and fees.

An affidavit of merit filed with the court by Shannon Snelgrove, a Hazel Park-based nurse, for LCMCF, provides background on Del Grosso and LCMCF's handling of the situation. (Such filings are required in suits involving allegations of malpractice.)

Her affidavit indicates Del Grosso became a resident at LCMCF in 2007 and that he had impaired cognition and physical limitations as a result of a drug overdose that caused brain damage.

Snelgrove further states that while Del Grosso needed assistance with activities of daily living, "there is nothing in his chart reflecting any history of pica (eating non-food items)."

Heart to Heart Hospice of Flint is a location of Plano, Texas-based Heart to Heart Hospice, which bills itself in press releases as "one of the largest private providers of hospice care in the United States."

The Flint location is one of nearly 30 locations throughout Texas, Michigan, and Indiana. The company provides various services, ranging from nursing care to physical, occupational and speech therapy.

A call to Heart to Heart's public relations department was not returned by press time.

In an answer to the complaint filed on behalf of Heart to Heart, the organization denies it provided residents and their families with promotional materials, including the "stress squeeze balls."

Further, Heart to Heart denies any breach of duty, along with "any form of negligence and/or proximate cause relative to the death of" Timothy Del Grosso. The answer asks the court to dismiss the case and

award Heart to Heart costs and fees.

Loretta Subhi, Ahmed's attorney, said she could not comment on pending litigation. She referred The County Press to court filings filed on behalf of Ahmed.

In an answer to the complaint, Subhi denies "each and every allegation of negligence and/or malpractice," and claims they are untrue. The answer asks the court to dismiss the case and award Ahmed costs and attorney fees.

An affidavit of merit filed with the court on behalf of Ahmed by Novi-based Dr. Bruce Terrio claims Ahmed's involvement with Del Grosso's death to be limited.

The document, based on information from patient records and witnesses, claims a nurse's aide observed Del Grosso's feet at 7:20 a.m. on Sept. 14, 2014, but did not open the curtain to avoid potentially waking him.

At 9 a.m., another nurse's aide allegedly claims to have gone into the room to give Del Grosso breakfast. She pulled the curtain back "and saw a ball stuck in his mouth." Nurses responded immediately and confirmed Del Grosso had died. They contacted Ahmed, who pronounced him dead at 9:10 a.m.

Terrio states that he has been advised that Ahmed isn't a director or assistant director, nor has any other administrative position at Suncrest Nursing Home.

"Therefore, he has no responsibility for the nursing home's global safety policies and procedures or the supervision of the nursing home staff. This patient's death does not involve a medical issue applicable to Dr. Ahmed," Terrio states.

A hearing regarding discovery is set to be in front of Lapeer County Circuit Court Judge Nick Holowka at 9 a.m., Monday, May 8.