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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

JOSEPH CARMEN et al.,

Petitioners,

v.

THE SUPERIOR COURT OF
RIVERSIDE COUNTY,

Respondent;

EMERITUS CORPORATION et al.,

Real Parties in Interest.

E062542

(Super.Ct.No. PSC1401279)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. John G. Evans, Judge.

Petition granted.

Garcia, Artigliere & Medby, Stephen M. Garcia, William M. Artigliere, and David M. Medby, for Petitioners.

No appearance for Respondent.

Morris Polich & Purdy, Michael P. West, Richard H. Nakamura Jr., Sue S. Junn, and Diana T. Chao, for Real Parties in Interest.

In this matter we have reviewed the petition and the opposition filed by real parties in interest. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

DISCUSSION

In reviewing a demurrer, we give the complaint a liberal construction and draw all reasonable inferences in favor of the allegations. (*Rickley v. Goodfriend* (2013) 212 Cal.App.4th 1136, 1141-1142.) We recognize that simply characterizing conduct as “fraudulent” or “oppressive” is not enough to state a claim for the enhanced remedies of the Elder Abuse and Dependent Adult Civil Protection Act (Welf. & Inst. Code, §§ 15600 et seq.), but particular facts must be alleged. (*Carter v. Prime Healthcare Paradise Valley LLC* (2011) 198 Cal.App.4th 396.) However, general allegations of willful understaffing with awareness of the probable consequences have been accepted. (See *Marron v. Superior Court* (2003) 108 Cal.App.4th 1049.) In this case petitioners have also alleged concealment of decedent’s injury with malicious intent.

In light of the policy favoring resolution of disputes on the merits (*CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4th 1141) and given that the

litigation will necessarily proceed on the causes of action not affected by the demurrer, we have determined to grant the relief requested.

DISPOSITION

Let a peremptory writ of mandate issue, directing the Superior Court of Riverside County to vacate its order sustaining real parties in interest's demurrer to the first cause of action, and to enter a new order overruling the demurrer.

Petitioners are directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties. Petitioners to recover their costs.

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HOLLENHORST
Acting P. J.

We concur:

KING
J.

MILLER
J.