

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION

CASE NO.: 1.00cv81mmp

SARA DELL, individually, and as  
Executrix of the Estate of  
PAUL M. DELL, deceased,

Plaintiff,

vs.

UNITED STATES OF AMERICA,  
CRISTINA A. VARDI, M.D., and  
JOSEPHA A. CHEONG, M.D.,

Defendants.

---

**COMPLAINT**

COMES NOW the Plaintiff, SARA DELL, individually, and as Executrix of the Estate of PAUL M. DELL, deceased, by and through her undersigned attorneys, and sues the Defendants, UNITED STATES OF AMERICA, CRISTINA A. VARDI, M.D., and JOSEPHA A. CHEONG, M.D., and for cause of action alleges and avers as follows:

**ALLEGATIONS COMMON TO ALL COUNTS**

1) This is an action for medical malpractice cognizable under the Federal Tort Claims Act, 28 USC §§1346(b) and 2671, et. seq., as more particularly set forth

hereinafter. The amount in controversy exceeds \$75,000.00. Jurisdiction of the Court over the individual Defendants is based upon their acts and omissions as employees of the Government, as further set forth hereinafter, and/or based upon diversity of citizenship under 28 USC §1332.

2) That on or about January 20, 1998 and February 18, 1998, more than six months before this action was instituted, the claims set forth herein were initially presented to the Department of Veterans Affairs, in writing, and Forms 95 submitted, all in accordance with the provisions of 28 USC §2675. Copies of the transmittal letters, Forms 95, and return receipts for certified mail are attached hereto as composite Exhibit "A". Subsequently, following the death of Plaintiff's decedent, PAUL M. DELL, on August 11, 1999, but before administrative disposition of the previously-filed claims for personal injury, a separate Form 95 was also submitted on August 12, 1999, asserting a claim for the wrongful death of PAUL M. DELL. A copy of this Form 95 is attached as Exhibit "B". On or about January 4, 2000, the Department of Veterans Affairs, through its counsel, denied Plaintiff's claims in writing, per 28 USC §2675. A copy of the letter from E. Douglas Bradshaw, Jr. denying the claims is attached hereto as Exhibit "C".

3) That the Plaintiff has otherwise performed all conditions precedent to the bringing of this action, or the same have been waived by the Defendants.

4) That the Plaintiff currently resides at 2310 Spurgeon Street, Waycross, Ware County, Georgia 31501. The acts and omissions giving rise to this Complaint

occurred at the Malcolm Randall VA Medical Center (hereinafter "Randall VAMC") in Gainesville, Florida, making venue appropriate as prescribed by 28 USC §1402(b).

5) That at all times material hereto, the Defendant, CRISTINA A. VARDI, M.D., was and is a resident and citizen of the State of Florida, currently residing in Venice, Florida.

6) That at all times material hereto, the Defendant, JOSEPHA A. CHEONG, M.D., was and is a resident and citizen of the State of Florida, currently residing in Gainesville, Florida.

7) That at all times material hereto, the Plaintiff's decedent, PAUL M. DELL, and the Plaintiff, SARA DELL, were husband and wife, enjoying a family relationship.

8) That the Plaintiff, SARA DELL, has been appointed as Executrix of the Estate of PAUL M. DELL, deceased, by the Probate Court in and for Ware County, Georgia, and is lawfully empowered to bring this action. A copy of the Order of Appointment is attached hereto as Exhibit "D".

9) That upon information and belief, the Defendant, CRISTINA A. VARDI, M.D., was a resident physician in training at the Randall VAMC at all times material hereto, and was duly appointed as such by the Secretary of Veterans Affairs under the auspices of 38 USC §§7405 and 7406. In this capacity, the Defendant, VARDI, was an agent or employee of the Department of Veterans Affairs, an agency of the Defendant, UNITED STATES OF AMERICA, at all times material hereto, and was acting within the express, implied, or apparent course and scope of her agency or employment.

Plaintiff specifically requests that the Defendant, UNITED STATES OF AMERICA, certify that the Defendant, CRISTINA A. VARDI, M.D., was an employee of the United States at all times material hereto, in accordance with the provisions of 28 USC §2679(d).

10) That upon information and belief, the Defendant, JOSEPHA A. CHEONG, M.D., was an agent or employee of the United States Department of Veterans Affairs, an agency of the Defendant, UNITED STATES OF AMERICA, at all times material hereto, and was acting within the express, implied, or apparent course and scope of her agency or employment. Plaintiff specifically requests that the Defendant, UNITED STATES OF AMERICA, certify that the Defendant, JOSEPHA A. CHEONG, M.D., was an employee of the United States at all times material hereto, in accordance with the provisions of 28 USC §2679(d).

11) That from on or about March 16, 1996 to on or about July 29, 1996, the Plaintiff's decedent, PAUL M. DELL, was hospitalized at the Randall VAMC in Gainesville, Florida, under the care of the Defendants, CRISTINA A. VARDI, M.D. and JOSEPHA A. CHEONG, M.D.

12) That the Defendants, individually, and through their agents and employees acting within the express or implied course and scope of their agency or employment, failed to properly treat PAUL M. DELL's medical condition, to wit: bi-polar disorder with a pertinent medical history including prior mild cerebrovascular accident (stroke), thereby directly and proximately causing the death of PAUL M. DELL as more particularly described hereinafter.

13) That the identity of the potential beneficiaries of the decedent, PAUL M. DELL, as required by Florida Statute §768.21, are: (a) The Plaintiff, SARA DELL, the spouse of the decedent and a survivor as defined by Florida Statute §768.18(1); and (b) the estate of the decedent.

**COUNT I**  
**WRONGFUL DEATH CLAIM**

14) That the Plaintiff, SARA DELL, as Executrix of the Estate of PAUL M. DELL, deceased, adopts, reallages, and reavers the allegations contained in paragraphs 1 through 13 preceding, and for further cause of action alleges and avers as follows:

15) That the Defendant, UNITED STATES OF AMERICA, acting by and through its agents and employees, including the Defendants, CRISTINA A. VARDI , M.D. and JOSEPHA A. CHEONG, M.D., exercising ordinary skills, learning, and reasonable care and medical practices appropriate for a medical facility such as the Randall VAMC, should have recognized, identified, diagnosed and appropriately treated the aforesaid medical condition of the decedent, PAUL M. DELL, and avoided permanent and irreversible injury to him resulting in his death.

16) That contrary to the standard of care required of medical practitioners in local and/or similar communities and/or such applicable standards of care as set forth in §766.102, Florida Statutes, the diagnosis and the performance of medical procedures and care and treatment of the decedent, PAUL M. DELL, were negligently performed by the aforesaid Defendant, its agents and employees.

17) That the Defendant, UNITED STATES OF AMERICA, acting by and

through its agents and employees, including the Defendants, CRISTINA A. VARDI , M.D. and JOSEPHA A. CHEONG, M.D., rendered such care and treatment in a negligent manner by, among other things:

- A) The defendant negligently failed to appropriately consider PAUL M. DELL's prior medical history of cerebrovascular accident (stroke) in developing a clinical care plan, including a plan for appropriate pharmaceutical management of his bi-polar disorder;
- B) The Defendant negligently failed to adequately assess PAUL M. DELL's medical condition at the time of his admission to the Randall VAMC, including appropriate laboratory assessment of renal function and therapeutic drug levels;
- C) The Defendant negligently failed to monitor, or inadequately monitored, PAUL M. DELL's evolving medical condition by way of appropriate serial laboratory studies of renal function and therapeutic drug levels, thereby failing to detect and correct acute lithium overdose and resulting lithium toxicity;
- D) The Defendant negligently failed to confirm the existence of therapeutic drug levels of Valproic acid and negligently failed to adequately manage PAUL M. DELL's medical condition with this medication before discontinuing it and beginning the administration of lithium;
- E) The Defendant negligently prescribed lithium in dosages that were toxic

to PAUL M. DELL, and which were contraindicated given his prior medical history of cerebrovascular accident (stroke) and his clinical signs and symptoms, including acute dehydration;

F) The Defendant negligently failed to recognize and appropriately treat the clinical signs and symptoms of acute lithium overdose and resulting lithium toxicity in a timely manner.

18) That as a direct and proximate result of the negligence of the Defendant, UNITED STATES OF AMERICA, acting by and through its agents and employees, as aforesaid, PAUL M. DELL suffered a severe overdose of the prescription medication lithium, resulting in acute lithium toxicity and causing permanent and irreversible brain injury, overall deterioration of bodily functions, and death.

19) That the Plaintiff, SARA DELL, individually, and as Executrix of the Estate of PAUL M. DELL, deceased, seeks the following damages for the beneficiaries of the decedent's estate identified in paragraph 11 above, as their interests may appear, pursuant to the provisions of Florida Statute §768.21:

(a) The value of lost support and services of the decedent from the date of the decedent's injury to his death, with interest, and future loss of support and services from the date of death and reduced to present value;

(b) The loss of the decedent's companionship and protection and for mental pain and suffering from the date of injury to his death, and future loss of companionship and protection and future mental pain and suffering;

(c) Loss of the prospective net accumulations of the decedent's estate, which might reasonably have been expected but for the wrongful death, reduced to present money value; and

(d) Medical and funeral expenses due to the decedent's injury and death.

WHEREFORE, the Plaintiff, SARA DELL, as Executrix of the Estate of PAUL M. DELL, deceased, demands judgment for the foregoing damages against the Defendant, UNITED STATES OF AMERICA, in the amount of \$5,000,000.00, together with her costs in and about this suit expended.

**COUNT II**  
**SURVIVAL CLAIM UNDER FLORIDA STATUTE §46.021**

18) That the Plaintiff, SARA DELL, as Executrix of the Estate of PAUL M. DELL, deceased, adopts, reallages, and reavers the allegations contained in paragraphs 1 through 11 and 15 through 17 preceding, and for further cause of action alleges and avers as follows:

19) This is a Survival Action pursuant to Florida Statute §46.021.

20) That as a direct and proximate result of the negligence of the Defendant, acting thorough its agents and employees, including the Defendants CRISTINA A. VARDI, M.D. and JOSEPHA A. CHEONG, M.D., the decedent, PAUL M. DELL, sustained bodily injury and resulting pain and suffering, including permanent and irreversible brain damage and overall deterioration of his health, was embarrassed, sustained disability, mental anguish, and loss of the capacity for the enjoyment of life, was forced to undergo extensive medical treatment and incur expenses of hospitalization,

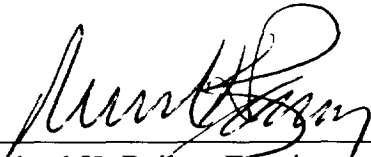


medical and nursing care and treatment, suffered loss of dignity, and aggravation of a pre-existing condition, and was otherwise injured and damaged.

21) That as a further direct and proximate result of the negligence of the Defendant, acting thorough its agents and employees, including the Defendants CRISTINA A. VARDI, M.D. and JOSEPHA A. CHEONG, M.D., the Plaintiff, SARA DELL, lost the services, comfort, companionship, society and consortium of her husband from the time of his injury at the Randall VAMC until the time of his death on August 11, 1999.

WHEREFORE, the Plaintiff, SARA DELL, as Executrix of the Estate of PAUL M. DELL, deceased, demands judgment for the foregoing damages against the Defendant, UNITED STATES OF AMERICA, in the amount of \$5,000,000.00, together with her costs in and about this suit expended.

Dated this 17<sup>th</sup> day of May, 2000.

  
Michael K. Bailey, Esquire  
BAILEY & MYERS, P.A.  
100 East Sybelia Avenue, Suite 375  
Maitland, Florida 32751  
(407) 628-2929  
(407) 628-3909 (Fax)  
Florida Bar No.: 326232  
Attorneys for Plaintiff

*Jeanne Anne Steffin*

ATTORNEY AT LAW

Pasadena Livery Building  
101 East Green Street, Suite 12  
Pasadena, California 91105  
Telephone (818) 793-6969

January 20, 1998

**Ms. Sue Meyer, Regional Counsel (02)**  
**Department of Veterans Affairs Office of Regional Counsel**  
**PO Box 5005**  
**Bay Pines, FL 33744**

**Re: Two (2) Administrative Tort Claims of Paul and Sara Dell**  
**SSN: 257-52-9444 (Paul M.)**

**Dear Ms. Meyer:**

**Enclosed please find one (1) executed Standard Form 95 claim in the amount of \$5,000,000.00 filed on behalf of Mrs. Sara Dell, wife of Paul Dell. An executed Standard Form 95 Claim for personal injuries for Paul Dell was filed by Sara Dell in her capacity as guardian/conservator of her husband, and acknowledged as received by your office on October 20, 1997.**

**Moreover, documentation of this initial administrative tort claim was likewise provided to you concurrently with the filing. Please note that both of these claims arise from and involve the same issues, to wit, negligence in the diagnosis and medical care and treatment of Paul Dell by Department of Veterans Affairs Medical Centers, Gainesville, and Lake City, Florida, on or about March, 1996 and continuing through the present.**

**We would anticipate providing you with all relevant documentation to substantiate these two administrative tort claims within the next ninety days. If you require anything in an earlier time table, please feel free to call me to discuss this.**

**Sincerely,**

**JEANNE ANNE STEFFIN**  
**Attorney at Law**  
**JAS:ajd**

**Enclosures: Executed Standard Form 95 claim on behalf of Sara Dell**  
**cc: Paul and Sara Dell**

**CLAIM FOR DAMAGE, INJURY, OR DEATH**

**INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED  
OMB NO.  
1105-0008  
EXPIRES 4-30-88

1. Submit To Appropriate Federal Agency:  
OFFICE OF REGIONAL COUNSEL (02)  
DEPARTMENT OF VETERANS AFFAIRS  
PO Box 5002  
Bay Pines, FL 33744

2. Name, Address of claimant and claimant's personal representative, if any.  
(See instructions on reverse.) (Number, street, city, State and Zip Code)  
Mrs. Sara Dell  
c/o JEANNE A. STEFFIN, ATTORNEY AT LAW  
101 E. Green Street, Suite 12  
Pasadena, CA 91105 Re: Paul M. Dell  
SSN: 257-52-9449

3. TYPE OF EMPLOYMENT O MILITARY X CIVILIAN	4. DATE OF BIRTH 4-18-41	5. MARITAL STATUS Married	6. DATE AND DAY OF ACCIDENT Approx. March, 1996 and continuing	7. TIME (A.M. OR P.M.) N/A
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8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.)  
Claimant is the wife of veteran Paul Dell who sought and remained under the care of VAMC Gainesville, FL during the period March, 1996 and continuing through his subsequent transfer/admission to VA nursing home in Lake City, FL NHCU where he remains a patient through the present. VA negligently failed to properly care for, diagnose, monitor, prescribe appropriate medication/therapies, and otherwise treat veteran, so as to cause him to develop lithium toxicity and other complications. VA negligently failed to properly follow-up, supervise staff, and physicians in training, with resulting neurological and other permanent injuries and damages being created and allowed to become permanent, impacting negatively on this veteran, his spouse, and their family.

9. **PROPERTY DAMAGE**  
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)  
Not applicable  
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.)  
Not applicable

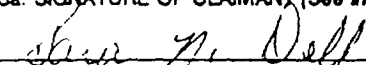
10. **PERSONAL INJURY/WRONGFUL DEATH**  
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT.  
Claimant has sustained injuries and loss, both economic and non economic, including, pain, emotional distress, loss of comfort, society, support and consortium, as well as incurred and anticipated damages and loss including a ~~attendance, nursing care, and expenses, all relating to VA negligence, and negligent care of Paul Dell, etc.~~ **WITNESSES**

NAME	ADDRESS (Number, street, city, State, and Zip Code)
STAFF	VAMC Gainesville, FL and Lake City, FL

12. (See instructions on reverse) **AMOUNT OF CLAIM (In dollars)**

12a. PROPERTY DAMAGE Not applicable	12b. PERSONAL INJURY \$5,000,000.00	12c. WRONGFUL DEATH Not applicable	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$5,000,000.00
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I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) 	13b. Phone number of signatory Sara Dell c/o (818) 793-6969	14. DATE OF CLAIM 1-20-98
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**CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM**  
The claimant shall forfeit and pay to the United States the sum of \$2,000, plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS**  
Fine of not more than \$10,000 or imprisonment for not more than 5 years; or both. (See 18 U.S.C. 287, 1001.)



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METHOD OF PAYMENT:

Express Mail Corporate Acct No

Federal Agency Acct No. or Postal Service Acct No

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FRANKIE ANNE STEFFAN  
4111 NORTY ST LANE  
101 E. GREEN STREET #12  
TAMPA FL 33610

TO: PLEASE PRINT

175 Sue Meyer  
Regional Counsel (02)  
Department of Veterans  
Affairs Office of Regional Counsel  
P.O. Box 5065  
Riverview FL 33744

WAIVER OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested.  
 (Wish delivery to be made without obtaining signature of addressee or addressee's agent. (Delivery employee judges that article can be left in secure location and) signature of delivery employee a signature (certified mail) proof of delivery.)  
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EXHIBIT A

Customer Copy

*Jeanne Anne Steffin*

ATTORNEY AT LAW  
Pasadena Livery Building  
101 East Green Street, Suite 12  
Pasadena, California 91105  
Telephone (626) 793-6969

**February 20, 1998**

**Ms. Sue Meyer, Regional Counsel (02)  
Department of Veterans Affairs Office of Regional Counsel  
PO Box 5005  
Bay Pines, FL 33744**

**Re: Two (2) Administrative Tort Claims of Paul and Sara Dell  
SSN: 257-52-9444 (Paul M.)**

**Dear Ms. Meyer:**

**Enclosed please find one (1) executed Amended Standard Form 95 claim in the amount of \$5,000,000.00 filed on behalf of Paul Dell, and signed by Sara Dell, his wife, pursuant to a Power of Attorney. Please note that this Amended Claim incorporates the same issues/contentions of the original tort claim filed by Mrs. Dell on behalf of her husband, and acknowledged by you, but it further clarifies, we feel, the fact that this Amended Claim involves Mr. Dell's claim for damages/injury/loss, while the claim filed in January, 1998 by this office on behalf of Mrs. Dell, specifically relates to the damages/injuries/loss sustained by his wife.**

**Also, for your records, I enclose a copy of the Power of Attorney executed to Mrs. Dell to act on behalf of her husband.**

**As we mentioned in our earlier correspondence to you dated January 20, 1998, "... documentation of this initial administrative tort claim was likewise provided to you concurrently with the filing. Please note that both of these claims arise from and involve the same issues, to wit, negligence in the diagnosis and medical care and treatment of Paul Dell by Department of Veterans Affairs Medical Centers, Gainesville, and Lake City, Florida, on or about March, 1996 and continuing through the present.**

**We would anticipate providing you with all relevant documentation to substantiate these two administrative tort claims within the next ninety days. If you require**

*anything in an earlier time table, please feel free to call me to discuss this..."*

*Sincerely,*

**JEANNE ANNE STEFFIN**

**Attorney at Law**

**JAS:ajd**

**Enclosures: Executed Amended Standard Form 95 claim on behalf of Paul Dell**

**cc: Paul and Sara Dell**

CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED OMB NO. 1105-0008 EXPIRES 4-30-88

1. Submit To Appropriate Federal Agency: OFFICE OF REGIONAL COUNSEL (02) DEPARTMENT OF VETERANS AFFAIRS 3000 E. 3002 Bay Pines, FL 33744

2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code) MR. PAUL M. DELL c/o JEANNE A. STEFFIN, ATTORNEY AT LAW 101 E. Green Street, Suite 12 Pasadena, CA 91105

3. TYPE OF EMPLOYMENT: 3.1. MILITARY 3.2. CIVILIAN 4. DATE OF BIRTH: 12-16-35 5. MARITAL STATUS: Married 6. DATE AND DAY OF ACCIDENT: Approx. March, 1996 and continuing N/A 7. TIME (A.M. OR P.M.):

8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.) PAUL M. DELL is an honorably discharged veteran who sought and remained under the care of VAMC Gainesville, FL during the period March, 1996 and continuing through his subsequent transfer/admission to VA nursing home in Lake City, FL NHCU where he remains a patient through the present. VA negligently failed to properly care for, diagnose, monitor, prescribe appropriate medication/therapies, and otherwise treat veteran, so as to cause him to develop lithium toxicity and other complications. VA negligently failed to properly follow-up, supervise staff, and physicians in training, with resulting neurological and other permanent injuries and damages being created and allowed to become permanent, impacting negatively on this veteran, his spouse, and their family.

9. PROPERTY DAMAGE NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)

Not applicable

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.)

Not applicable

10. PERSONAL INJURY/WRONGFUL DEATH

STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. Claimant has sustained injuries and loss, both economic and non economic, including, pain, emotional distress, loss of comfort, society, support and consortium, as well as incurred and anticipated damages and loss including aid attendance, nursing care, and expenses, all relating to VA negligence, and re: negligent care of Paul Dell, etc. WITNESSES

NAME ADDRESS (Number, street, city, State, and Zip Code)

STAFF VAMC Gainesville, FL and Lake City, FL

Table with 4 columns: 12a. PROPERTY DAMAGE, 12b. PERSONAL INJURY, 12c. WRONGFUL DEATH, 12d. TOTAL. Values: Not applicable, \$5,000,000.00, Not applicable, \$5,000,000.00

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) PAUL M. DELL by Sara Dell via Power of Attorney. 13b. Phone number of signatory: c/o (818) 793-6969 14. DATE OF CLAIM: 2-18-98

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

The claimant shall forfeit and pay to the United States the sum of \$2,000. Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)

COPY

STATE OF GEORGIA

COUNTY OF WARE

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That, I, PAUL M. DELL, a resident of Ware County, Georgia being desirous of arranging for the transaction of my business through an attorney, in fact, have appointed, named and constituted, and by these presents do name, constitute and appoint my wife, SARA F. DELL, a resident of Georgia, as my true and lawful attorney in fact, and do authorize said attorney in fact, for me and in my name, place and stead:

(a) To sell, mortgage, encumber, convey, rent, lease, pledge, or otherwise dispose of, by deed with or without warranty, bill of sale, contract or otherwise, any property, real or personal, which I may own or in which I may have an interest, or which I may hereafter acquire, located in the State of Georgia or any other place, for cash or upon such terms as said attorneys in fact may deem advisable, and to execute appropriate deeds, conveyances or other instruments including contracts for that purpose;

(b) To sign, endorse, receive, deposit, or issue checks, bonds, notes, stocks or other obligations or instruments, and to borrow money and secure the same in any manner;

(c) To collect, sue for, settle, adjust or compromise any claim for money arising by contract or tort, to execute release, cancellations or satisfactions, and

(d) To do any other thing or perform any other act, not limited to the foregoing, which I might do in person, it being intended that this shall be a general Power of Attorney.

This Power of Attorney shall not be affected by my subsequent disability or incapacity, and shall remain effective until the same is revoked by written instrument recorded in the office of the Clerk of the Superior Court of Ware County, Georgia.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this the 10th day of February, 1992.

Signed, sealed and delivered in the presence of:

Paul M. Dell  
PAUL M. DELL

Deane D. Deane  
Notary Public:

William A. Parker  
WITNESS

Notary Public, Ware County, Georgia  
My Commission Expires April 21, 1992

PAKES  
IT LAW  
14400  
134  
13:202



Is your RETURN ADDRESS completed on the reverse side?  
PS Fo

6. Sig  X  
PS Fo

5. Received By: (Print Name)  
MS Sue Meyer  
Regional Counsel (RM)  
PO Box 5005  
Bay Pines FL 33744

**SENDER:**  
 Complete items 1 and/or 2 for additional services.  
 Complete items 3, 4a, and 4b.  
 Print your name and address on the reverse of this form so that we can return this card to you.  
 Attach this form to the front of the mailpiece, or on the back if space does not permit.  
 Write "Return Receipt Requested" on the mailpiece below the article number.  
 The Return Receipt will show to whom the article was delivered and the date delivered.  
 3. Article Addressed to:  
 P.O. Box 5005  
 Bay Pines FL 33744

4a. Article Number  
P 503 150 501  
 4b. Service Type  
 Registered  
 Express Mail  
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 7. Date of Delivery  
1-23-98  
 Certified  
 Insured  
 COD  
 8. Addressee's Address (Only if requested and fee is paid)

I also wish to receive the following services (for an extra fee):  
 1.  Addressee's Address  
 2.  Restricted Delivery  
 Consult postmaster for fee.

Return Receipt

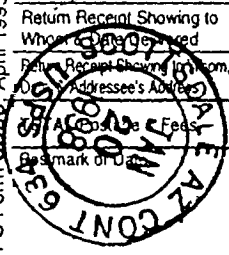
Thank you for using Return Receipt Service.

P 503 150 501

US Postal Service  
**Receipt for Certified Mail**  
 No Insurance Coverage Provided.

Do not use for International Mail (See reverse)  
 Sent to: MS Sue Meyer, Regional  
 Street & Number  
 PO Box 5005  
 Post Office, State, & ZIP Code  
 Bay Pines FL 33744  
 Postage \$ 32  
 Certified Fee 135  
 Special Delivery Fee

Restricted Delivery Fee  
 Return Receipt Showing to Whom Delivered 110  
 Return Receipt Showing to Whom Delivered (Addressee's Address)  
 \$ 277  
 PS Form 3800, April 1995



**CLAIM FOR DAMAGE,  
INJURY, OR DEATH**

**INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED  
OMB NO.  
1105-0008  
EXPIRES 4-30-88

1. Submit To Appropriate Federal Agency:  
OFFICE OF REGIONAL COUNSEL (02)  
DEPARTMENT OF VETERANS AFFAIRS  
PO BOX 5002  
Bay Pines, FL 33744

2. Name, Address of claimant and claimant's personal representative, if any  
(See instructions on reverse.) (Number, street, city, State and Zip Code)  
Mrs. Sara Dell, Widow and Administrator of Estate of Paul Dell  
c/o JEANNE A. STEFFIN, ATTORNEY AT LAW  
101 E. Green Street, Suite 12  
Pasadena, CA 91105

3 TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 4-18-41	5 MARITAL STATUS Widowed	6. DATE AND DAY OF ACCIDENT Beginning approx. 3-'96 and continuing thru death on 8-11-99.	7. TIME (A.M. OR P.M.)
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8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.)  
Claimant is the widow and administrator of Estate of Paul Dell (veteran) who sought medical care and treatment by VA and VA facilities at VAMC Gainesville, FL and Lake City, FL. Paul Dell was admitted to VAMC Gainesville in March, '96 and continued and remained under the exclusive care and control of VA in Gainesville and later at Lake City where he remained a patient through his death at VA Lake City, FL on 8-11-99. VA negligently failed to properly care for, diagnose, monitor, prescribe appropriate medication/therapies, and otherwise treat Paul Dell, so as to cause him to develop lithium toxicity and then negligently failed to identify, respond, treat such complication in a prompt and appropriate manner, causing him to sustain permanent and disabling neurological and other injuries and sequelae, which were the cause in fact and related directly to pain, suffering, damages, loss during his lifetime, and were the direct cause of his death on 8-11-99.

9. **PROPERTY DAMAGE**

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)

Not applicable

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED (See instructions on reverse side.)

Not applicable

10. **PERSONAL INJURY/WRONGFUL DEATH**

STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM IF OTHER THAN CLAIMANT. STATE NAME OF INJURED PERSON OR DECEDENT. This is a FICA claim for wrongful death and survivorship arising from VA negligence. Claimant is the widow and Administrator of the Estate of Paul Dell. Both as surviving widow, and as representative, Administrator of the Estate of Paul Dell, Claimant has sustained injuries and loss, both economic and non economic, including pain, emotional distress, loss of comfort, society, support and consortium, economic damages including loss of income, costs for travel/expenses related to medical situation of Paul Dell, funeral expenses, and all other relevant costs/charges/expenses pertaining to the negligent care of Paul Dell by VA which led to his injuries during the period

11. 3-'96 thru 8-11-'99 and to his premature death. **WITNESSES**

NAME	ADDRESS (Number, street, city, State, and Zip Code)
STAFF	VAMC Gainesville, FL and Lake City, FL

12. (See instructions on reverse) **AMOUNT OF CLAIM (In dollars)**

12a PROPERTY DAMAGE Not applicable	12b PERSONAL INJURY Not applicable	12c. WRONGFUL DEATH \$5,000,000.00	12d TOTAL (Failure to specify may cause forfeiture of your rights) \$5,000,000.00
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I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) <i>Sara H. Dell</i> Sara Dell, Widow & Administrator of Estate of Paul Dell	13b. Phone number of signatory c/o (626) 793-6969	14 DATE OF CLAIM 8-12-99
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**CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM**  
The claimant shall forfeit and pay to the United States the sum of \$2,000, plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS**  
Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001)

OFFICE of VITAL STATISTICS  
CERTIFIED COPY

TYPE OR  
PRINT IN  
PERMANENT  
BLACK INK

CERTIFICATE OF DEATH  
FLORIDA

LOCAL FILE NO. 7881393

1 DECEDENT'S NAME: PAUL MORRISON DELL

2 DATE OF DEATH: AUGUST 11, 1999

3 SOCIAL SECURITY NUMBER: 257-52-9449

4 AGE: 63

5 DATE OF BIRTH: DECEMBER 16, 1935

6 PLACE OF BIRTH: WAYCROSS, GEORGIA

7 HOSPITAL: VA MEDICAL CENTER

8 CITY/TOWN: LAKE CITY

9 COUNTY: COLUMBIA

10 OCCUPATION: Laborer

11 BUSINESS INDUSTRY: Water Department

12 MARITAL STATUS: MARRIED

13 SURVIVING SPOUSE: SARA NELL BOSKEY

14 RESIDENCE: GEORGIA, WAYCROSS, 2310 SPURGEON STREET

15 DECEDENT'S EDUCATION: High School Graduate

16 FATHER: OMAR CLARENCE DELL, SR.

17 MOTHER: MARY LOU BOWLES

18 INFORMANT: Sara N. Dell

19 MAILING ADDRESS: 2310 Spurgeon St. Waycross, Ga. 31501

20 METHOD OF DISPOSITION: Greenlaw Cemetery, Waycross, Georgia

21 SIGNATURE OF FUNERAL SERVICE: [Signature]

22 LICENSE NUMBER: 3002

23 NAME AND ADDRESS OF FACILITY: MUSIC FUNERAL HOME, POST OFFICE BOX 716, WAYCROSS, GEORGIA 31502

24 NAME AND ADDRESS OF CERTIFIER: PARVATHAMMA RAJASEKHAR, M.D., VA MEDICAL CENTER, LAKE CITY, FLORIDA 32025

25 SUBREGISTRAR: [Signature]

26 PART I: IMMEDIATE CAUSE: RESPIRATORY FAILURE SECONDARY TO ASPIRATION PNEUMONIA

27 PART II: OTHER SIGNIFICANT FINDINGS: BIPOLAR DISORDER, RECURRENT UTI, HTN, CHRONIC ANEMIA, CT

28 CASE REPORTED TO MEDICAL EXAMINER: YES

29 PHOENIX MANNER OF DEATH: NATURAL

30 PLACE OF INJURY: At home, farm

31 LOCATION: [Address]

THIS IS A CERTIFIED TRUE AND CORRECT COPY OF THE OFFICIAL RECORD ON FILE IN THIS OFFICE

BY

*Willie Dean Mayo*

State Registrar



WARNING: 7881393

THIS DOCUMENT IS PRINTED OR PHOTOCOPIED ON SECURITY PAPER WITH A WATERMARK OF THE GREAT SEAL OF THE STATE OF FLORIDA. DO NOT ACCEPT WITHOUT VERIFYING THE PRESENCE OF THE WATERMARK.

THIS DOCUMENT PAGE CONTAINS A WATERMARKED BACKGROUND AND GOLD EMBOSSED SEAL THE BACK CONTAINS SPECIAL INK WITH TESTS AND BEATS IN THE DARK (PHOSPHORESCENT).

FLORIDA DEPARTMENT OF HEALTH

CERTIFICATION OF VITAL RECORD



DEPARTMENT OF VETERANS AFFAIRS  
Office of the General Counsel  
Washington DC 20420

JAN 04 2000

In Reply Refer To:  
021:CFB

CERTIFIED MAIL

Ms. Jeanne Anne Steffin  
Attorney at Law  
Pasadena Livery Building  
101 East Green Street, Suite 12  
Pasadena, California 91105

Subject: Administrative Tort Claim - Request for Reconsideration  
Sara Dell, Executrix of the Estate of Paul M. Dell

Dear Ms. Steffin:

This is to advise you that we have completed our review of the claims of your client, Sara N. Dell, Executrix of the Estate of Paul M. Dell. Following careful consideration of all available evidence in the case, including the complete medical record and the opinions of medical experts, we have determined that the claims must be denied.

Our review revealed no evidence of a negligent or wrongful act on the part of an employee of the Department of Veterans Affairs (VA) acting within the scope of his or her employment. The medical care given to Mr. Dell, the treatment recommendations, and the referrals were all within the applicable standard of care. There is no evidence that any of the treatment was inappropriate or in any way caused or aggravated his disabilities or led to his death. Therefore, the claims are hereby denied.

If you are dissatisfied with the action taken on your claim, you may, in accordance with the provisions of the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b) and 2671-2680, file suit in an appropriate Federal district court. Such a suit must be initiated within 6 months after the date of mailing the notice of final denial as shown by the date of this letter. 28 U.S.C. § 2401(b). If you decide to file such a suit, please note that the proper party defendant would be the United States of America, not VA.

Sincerely yours,

A handwritten signature in black ink, appearing to read "E. Douglas Bradshaw, Jr.", is written over a horizontal line.

E. Douglas Bradshaw, Jr.  
Assistant General Counsel

EXHIBIT "C"

IN THE PROBATE COURT OF WARE COUNTY.

STATE OF GEORGIA

IN RE: Estate of PAUL MORRISON DELL, Deceased )  
PETITION TO PROBATE WILL IN SOLEMN FORM )

LETTERS TESTAMENTARY

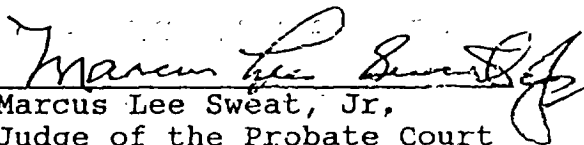
By Marcus Lee Sweat, Jr., Judge of the Probate Court.

KNOW ALL WHOM IT MAY CONCERN:

That on the 12 day of October, 1999, at a regular term of the Probate Court, the last Will and Testament dated February 10, 1992, of PAUL MORRISON DELL, deceased, at the time of his death a resident of said County, was legally proven in solemn form and was admitted to record by order, and it was further ordered that SARA F. DELL, named as Executrix in said Will, be allowed to qualify, and that upon so doing, Letters Testamentary be issued to such Executrix.

NOW, THEREFORE, the said SARA F. DELL having taken the oath of office and complied with all the necessary prerequisites of the law, is legally authorized to discharge all the duties and exercise all the powers of Executrix under the Will of said deceased, according to the Will and the law.

Given under my hand and official seal, the 12 day of October, 1999.

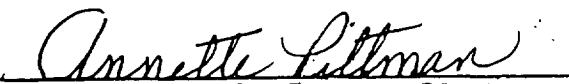
  
\_\_\_\_\_  
Marcus Lee Sweat, Jr.,  
Judge of the Probate Court  
Ware County, Georgia

**GEORGIA, WARE COUNTY**

**I, ANNETTE PITTMAN, SR. DEPUTY CLERK of the Probate Court of said County, do hereby certify that the above foregoing attached one page contains a full, true, and complete photo copy of, the LETTERS TESTAMENTARY for PAUL MORRISON DELL deceased, as the same appears of file in this office.**

**I futher certify that, SARA F. DELL, is the duly qualified and acting EXECUTRIX, of said estate.**

**Witness my hand and the seal of said court at Waycross, Georgia, the 12th day of November, 1999.**

  
**Annette Pittman, Sr. Deputy Clerk**

**Ware County Probate Court**