

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Charleston County
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Appellate Case No. 2020-001643
Circuit Court Case No. 2016-CP-10-05379

The Estate of Delila Parrott,

Respondent

v.

Sandpiper Independent and Assisted Living-Delaware, LLC,

Appellant.

AMENDED RECORD ON APPEAL
VOLUME 1
001-434

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) IN THE COURT OF COMMON PLEAS
)
) NINTH JUDICIAL CIRCUIT
)
) CASE NO. 2016-CP-10-5379

VS.

**CONSENT ORDER TO TRANSFER CASE
TO NON-JURY ROSTER**

Further, the Court having been advised that all parties to this matter have agreed to waive their right to a jury trial and further have agreed that any defenses available to the Defendant, including objections to personal jurisdiction, are expressly preserved and not waived by entering this consent order. However, by entering into this Consent Order, defendants and plaintiffs expressly waive and withdraw, with prejudice, their right to a jury trial and hereby waive any right or claim that they may have had to compel arbitration in this matter. It therefore is ORDERED that this matter be transferred to the non-jury trial roster.

AND IT IS SO ORDERED.

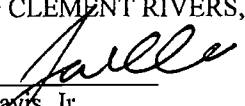
Presiding Judge, Ninth Judicial Circuit

November____, 2017

Charleston, South Carolina

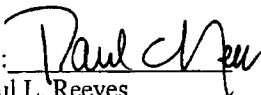
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	CA#: 2016-CP-10-5379
THE ESTATE OF DELILA PARROTT,	)	
	)	
Plaintiff,	)	
vs	)	ORDER
	)	
SANDPIPER INDEPENDENT AND	)	
ASSISTED LIVING-DELAWARE,	)	
LLC	)	
Defendant.	)	
	)	
	)	

This matter is before the court pursuant to a non-jury trial in the Charleston County Courthouse that began on September 8, 2020 and concluded on September 10, 2020. Paul Reeves, Esq., John Boswell, Esq. and Todd Lyle, Esq. appeared for and were present for the Plaintiff and Donald Jay Davis, Jr., Esq. and Matthew Riddle, Esq. appeared for and were present for the Defendant.

This wrongful death and survival case arises from a three-day period in which Delila Parrott, laid neglected on the floor after falling and suffering broken hip in her apartment at Sandpiper Independent and Assisted Living-Delaware, LLC (hereinafter referred to as the "Sandpiper"), located in Mt. Pleasant, South Carolina. Ms. Parrott died on February 9, 2015. This matter comes before the court for trial on claims alleging negligence arising out of Sandpiper's failure to follow their policy of providing daily wellness checks on all residents, seeking relief for a survival action for her conscious pain and suffering and a claim for wrongful death.¹ By agreement of the parties and memorialized in a consent order, entered January 25, 2018, arbitration

¹¹ At trial, the Plaintiff dropped her separate cause of action for violation of the S. C. Unfair Trade Practices Act.

and a jury trial have been waived, and this matter is presented for verdict and judgment by this court with direct appeal to the South Carolina Court of Appeals.

Background

This case arises from injuries sustained by Ms. Parrott after she fell in her apartment at the independent living facility and suffered a broken hip. Plaintiff alleges Ms. Parrott laid on the floor for three days in her apartment unable to call for help or get off the floor. Plaintiff alleges Sandpiper staff never tried to check on her during that three-day period resulting in: pain and suffering, exacerbation of her pre-existing mental health conditions, trauma (the lingering effects of which remained with her for the rest of her life), loss of the will to live (which shortened her life by approximately 9 years). The main claim of negligence by the Plaintiff is that Sandpiper had an official policy to check on its residents and confirm their wellbeing at least once every 24 hours, either visually or by telephone contact, and Sandpiper failed to follow that policy. The survivor action seeks damages for her pain and suffering while on the floor and the lingering effects of that trauma during the eight months she lived thereafter, and the wrongful death cause of action seeks damages on allegation that the trauma of lying undiscovered for three days contributed to her subsequent death.

In its pleadings, discovery responses and throughout trial, Sandpiper denied the existence of a policy and contended that its practice of checking on its residents every day is merely a "courtesy". Sandpiper also denied that Ms. Parrott was on the ground for three days and alleged that she had been seen the day previous to her discovery by a staff member. Sandpiper's final position is that the extended time she lay on the floor with a broken hip did not lead to her exacerbated mental health conditions or her untimely death.

Plaintiff presented testimony from Joan Acosta, the Personal Representative of Ms. Parrott's Estate and three of Sandpiper's present or former staff Corrine Carrington, Rebecca Munoz, and Beth Auld. She also offered expert testimony through her treating physician, Richard Mills, M.D., and Lawrence Bergmann, Ph.D. She also introduced into evidence various exhibits including medical records, telephone records and evidence related to her active lifestyle prior to the fall. At the close of the Plaintiff's case, Sandpiper moved for a directed verdict which I denied. The defense presented testimony from three experts, Dr. Davidson, a physician and Mark Wagner, Ph.D., a neuropsychologist, and Brian Lacenese, an expert in assisted living facilities. Sandpiper offered other evidence that included medical records and records from Sandpiper related to Plaintiff's activities while a resident at Sandpiper. At the end of Sandpiper's case, it renewed its earlier motions for directed verdict. I denied these motions.

At the conclusion of the trial, this court reached its verdict for the Plaintiff on September 10, 2020, as announced to counsel from the bench, awarding the Plaintiff damages of \$500,000 on the survival cause of action, and \$500,000 on the wrongful death action. This order now follows with the pertinent findings of fact and conclusions of law.

FINDINGS OF FACT

The Court has reviewed the documentary evidence and heard the testimony of each of the witnesses, including expert witnesses by both parties, giving such weight to the evidence as it deemed appropriate. The Court has also heard and considered the arguments of counsel. Based on the stipulations of the parties, testimony, the evidence and documents presented, this Court finds the following facts by a preponderance of the evidence based upon the record as a whole:

1. Sandpiper is in Mt. Pleasant, South Carolina and offers an independent living lifestyle to the senior residents who lease the apartments. Under the lease agreement, Sandpiper promised each resident two meals per day, resident activities, transportation to and from the facility and social events. Delila Parrott signed a lease for an independent living apartment on April 26, 2013.

2. Ms. Parrott was born on April 20, 1934. At the time she signed the lease with Sandpiper, she was a 79-year-old widow who had lived alone after the death of her second husband. She had enjoyed a 35-year career as a nurse anesthetist before she retired. She had three children. Her daughters were Joan Acosta and June Connor, and she had a son, Bert Christopher. Joan testified that all the children were close to Ms. Parrott, how much they loved each other, and describe how **Ms. Parrott's death impacted them**. As testified to by her attending physician, she was in excellent physical health for her age. According to the actuary tables, she had a life expectancy of eighty-nine years. While she had a prior history of mental health issues five years previous to her fall, those conditions were well under control, allowing her to live a healthy, active and normal live. By all accounts, she lived a normal life as an active and healthy senior.

3. Prior to signing the lease with Sandpiper, Ms. Parrott and her daughter (Joan Acosta) met with the Executive Director of Sandpiper, Corrine Carrington, more than once to gain information about **Sandpiper's apartments and amenities**. During one of those meetings, Carrington told Ms. Parrott and Acosta prior to Ms. Parrott signing the lease, that Sandpiper had a policy to check on each resident daily. After hearing about the policy, Ms. Parrott signed the lease. Ms. Parrott relied on the representations of Carrington regarding the Policy in making the decision to enter into the lease agreement at Sandpiper because she wanted to live independently but also wanted a place where she would be checked on regularly. The existence of the policy, the details of the

policy and its implementation, together with Sandpiper's breach of that policy are each discussed in more detail below.

4. On the evening of June 3, 2014, while hanging a curtain in her apartment, Ms. Parrott fell and broke her hip. She was rendered immobile, unable to reach her phone. No one on Sandpiper's staff checked on Ms. Parrott at any time the next day on June 4th. No one checked on her on June 5th. No one checked on her until approximately 8 p.m. on June 6th, when she was found by a staffer and another resident, Lila Waters.

5. After Ms. Parrott was finally discovered on the evening of June 6th, emergency services were called and she was transported by ambulance to a hospital. The medical record describes Parrott's condition upon admission by noting that she was thirsty, had a comminuted fracture to the hip. In addition to the broken hip, she was soaked in urine and caked in feces; she was dehydrated with dry mucosa, her skin showed signs of dehydration, and she had cracked lips. She also had developed a vaginal infection and a urinary infection. Ms. Parrott had spent days in these conditions.

6. Ms. Parrott never returned to her prior good health and she was never able to live independently again. Ms. Parrott spent four days in the hospital for repair of the fractured hip and treatment of her conditions, and upon discharge, she went to a rehabilitation facility. The medical record credibly supports that Ms. Parrott never returned to independent living after she was rescued; instead, she had to move to assisted living facility. Ms. Parrott was subsequently re-hospitalized in October 2014 for issues related to her psychiatric condition and altered mental status. Then she was hospitalized yet again in January 2015, for her altered mental status and significant decline. The medical record credibly supports that she entered hospice care on January 31, 2015 and passed away on February 9, 2015.

7. The medical record credibly supports Ms. Parrott's decline after she was rescued. Ms. Parrott's health was managed by her treating physician, Richard Mills, M.D. who had treated her for over twenty years prior to the fall. Dr. Mills and her daughter both testified about Ms. Parrott's physical, mental, and emotional decline after the fall and long lie. Dr. Mills testified that Parrott recovered completely from her broken hip and there was no physiological reason she should not have completely recovered simply from the broken hip; however, Ms. Parrott's preexisting mental conditions had been aggravated by the physical and emotional/mental trauma she endured during the long time that she laid on her apartment floor, and that the "long lie"² impacted her from the date of the fall until she died. In addition to the medical evidence, Joan Acosta, Ms. Parrott's daughter, testified that based upon her observations, her mother never recovered from the long lie as evidenced by the facts that she suffered nightmares, was fearful, was tormented and never trusted anyone again.

I find, based on the totality of the medical evidence, the medical expert opinions, and the lay evidence, that after her rescue, Ms. Parrott declined over time and she never returned to her previous level of activity and independence. Based on the expert testimony, I find that Ms. Parrott endured significant, constant, and unmitigated pain for the time she was on the floor from June 3rd until the night of June 6th, when EMS began to provide fentanyl to reduce the pain. I further find that the conditions endured by Parrott during the long lie also were a cause of her emotional and psychological trauma including loss of enjoyment of life, loss of quality of life, fear that she would not be found, fear that she would die alone, anxiety, mental anguish, trauma from urinating on herself, trauma from defecating on herself, emotional injury, psychological injury.

² "Long lie" is the term used by the medical experts to denote the time that Ms. Parrott laid on the floor after her fall.

9. Ms. Parrott died on February 9, 2015. One of the causes of death listed on her death certificate was “failure to thrive.” Defendant’s expert, Dr. Davidson, testified that Ms. Parrott recovered completely from the broken hip and that the ultimate cause of Ms. Parrott’s death was her loss of will to live. Her attending physician, Dr. Mills, testified that in his expert medical opinion, Ms. Parrott’s pain and suffering while on the floor (as opposed to the broken hip itself) was a cause of her loss of will to live and a cause of both her loss of quality of life during the remaining eight months of her life and led to her death. The evidence and medical record shows, and I find, that the long lie aggravated, caused and/or contributed to her death on February 9, 2015.

10. As referenced above, the Plaintiff asserted that Sandpiper had a policy of daily wellness checks as represented by Sandpiper’s Senior Living Director, Corrine Carrington during her initial contacts with the facility before Ms. Parrott signed the lease. Sandpiper denied the existence of the Policy in its pleadings. Sandpiper denied the existence of the Policy in its discovery responses to interrogatories and in its responses to Parrott’s Request to Admit. In addition, Mr. Hadley, the Regional Director of Sandpiper denied the existence of any such policy in his sworn deposition testimony. However, on September 4, 2020, four days before the trial, Sandpiper produced a written document that memorialized the Policy as alleged by Ms. Parrott and Acosta. The policy as produced on the eve of trial, evidences that it was, in fact, consistently followed by employees of Sandpiper who had denied its existence.

11. The wellness check policy existed during the time that Parrott became a resident of Sandpiper. The Policy was in writing and was known to all staff and all residents. The policy required that the Sandpiper staff confirm each resident’s wellbeing once every 24 hours.³ The

³ It appears, that as a general procedure, these checks were conducted during the afternoon/evening.

Policy required staff to mark or initial each resident's name on a list once the resident was seen by staff. If the resident had not been seen, then staff was to call the resident's apartment and confirm the resident's wellbeing if the resident answered the telephone. If the resident did not answer the telephone, then staff was to go to the resident's apartment and knock on the door. If the door knock was not answered, staff would then use a duplicate key and enter the apartment to check on the resident. At previous times, these wellness check records were maintained by Sandpiper. However, Sandpiper never produced any record of the wellness check sheets for the three days in issue.

12. The testimony establishes that Sandpiper did not follow the Policy. Although there is no evidence as to Tuesday, June 3rd, the Plaintiff does not contend that Sandpiper breached its duty to check on that day. However, the Plaintiff alleges and proved by a preponderance of evidence that Sandpiper breached its duty on Wednesday, June 4th. On June 4th, Ms. Parrott had not been seen by staff, so a staff member (Munoz) called her, then receiving no answer, Munoz went to Ms. Parrott's apartment to check on her. When Ms. Parrott failed to answer the door, Munoz attempted to open the door but had realized she did not have the correct key. The correct key was in the possession of Sandpiper at the time Parrott fell and was accessible to Sandpiper the entire time Parrott was on the floor. However, when Munoz determined that she had the wrong key, she did not return the very short distance⁴ to retrieve the correct key from the office. Even though Ms. Parrott had not been checked on as required by the policy, Munoz simply completed her shift and went home. I find that Sandpiper did not conduct a wellness check of Ms. Parrott on June 4th.

⁴ Ms. Parrott's apartment was situated within about a thirty second walk from where the Sandpiper's office was located.

13. Sandpiper introduced evidence through the testimony of Beth Auld that Ms. Parrott was checked off as having been seen on Thursday June 5th by Auld. However, at trial, Ms. Auld testified that she could not truthfully testify that she remembered seeing Ms. Parrott on Thursday or whether another staff member told Auld they had seen Parrott. Executive Director Carrington testified that when she investigated the incident after the fact, no other staff members, including the kitchen and cafeteria staff and the activities director, reported having seen Ms. Parrott on Thursday June 5th. I find that Sandpiper did not check on Ms. Parrott on June 5th. Lila Waters, a resident of Sandpiper, testified about her meal and activity routines with Ms. Parrott. She said she ate with Ms. Parrott each day, but that she did not see Ms. Parrott on Wednesday, Thursday, or Friday, until Waters and the staff found Ms. Parrott in her apartment at or about 8 p.m. While Ms. Waters may have been confused as to certain details, I find her testimony credible as it relates to her routine with Ms. Parrott to eat meals together and her testimony that she did not see Ms. Parrott for any meals on the days in question.

15. Plaintiff introduced the telephone records for Ms. Parrott's cell phone and her landline for the week that she fell and for the three months previous. These records show that Ms. Parrott made no outgoing calls, nor did she answer any incoming calls to either line during the three days she was on the floor. This evidence further supports my finding that Ms. Parrott fell on June 3rd and laid there until she was found.

16. Both Plaintiff's and Defendant's experts testified as to the medical evidence that spoke to how long Ms. Parrott laid on the floor. Both experts referenced her BUN⁵ value which is a test that measures the amount of nitrogen in the blood which comes from the waste product urea. In

⁵ BUN is an acronym for blood urea nitrogen, a normal waste product the body creates after you eat and drink.

this context it was introduced to show Parrott's level of dehydration and how long she had gone without food or water. I find the BUN lab values taken at the hospital from June 6 through June 10 more likely than not show Ms. Parrott to have been on the floor for three days, beginning on June 3, 2014. There were additional lab values and objective medical evidence that showed Ms. Parrott to have endured a "long lie," the term used by the experts, including Ms. Parrott's own statements to EMS that she fell on Tuesday evening, the decubitus ulcers on her hip, her creatinine level and the ratio between the creatinine and BUN, her CPK⁶ reading, her dehydration and her skin condition upon admission. I find the cumulative medical evidence to be proof of a long lie and that the long lie more likely than not began on June 3, 2014.

CONCLUSIONS OF LAW

To prove a cause of action for negligence, a plaintiff must prove by a preponderance of the evidence that: (1) the defendant owes a duty of care to the plaintiff; (2) the defendant breached that duty by a negligent act or omission; (3) the defendant's breach was the actual and proximate cause of the plaintiff's injury; and (4) the plaintiff suffered an injury or damages. *Madison ex rel. Bryant v. Babcock Ctr., Inc.*, 371 S.C. 123, 135, 638 S.E.2d 650, 656 (2006); *Roddey v. Wal-Mart Stores E., LP*, 415 S.C. 580, 590, 784 S.E.2d 670, 675 (2016).

I. Duty – Sandpiper owed a duty of care to Ms. Parrott to conduct a wellness check once every 24 hours.

A legal duty of care owed by the defendant to the plaintiff must exist to maintain an action for negligence. *Bishop v. S.C. Dep't of Mental Health*, 331 S.C. 79, 86, 502 S.E.2d 78, 81 (1998). Duty is generally defined as "the obligation to conform to a particular standard of conduct toward

⁶ CPK stands for Creatine Phosphokinase and this test determines the level of enzymes in the blood stream to assess damage to the heart or muscle tissue.

another.” *Shipes v. Piggly Wiggly St. Andrews, Inc.*, 269 S.C. 479, 483, 238 S.E.2d 167, 168 (1977). While the common law ordinarily imposes no duty on a person to act, once an act is undertaken, the actor assumes the duty to use due care. *Miller v. City of Camden*, 329 S.C. 310, 314, 494 S.E.2d 813, 815 (1997).

In determining the standard of care, the court may look to the common law, statutes, administrative regulations, industry standards, or a defendant's own policies and guidelines. *Madison ex rel. Bryant v. Babcock Ctr., Inc.*, 371 S.C. 123, 140, 638 S.E.2d 650, 659 (2006). Additionally, an affirmative legal duty to act may be created “by statute, contract, relationship, status, property interest, or some other special circumstance.” *Carson v. Adgar*, 326 S.C. 212, 217, 486 S.E.2d 3, 5 (1997); *Wyatt v. Fowler*, 326 S.C. 97, 101, 484 S.E.2d 590, 592 (1997).

Here, the preponderance of the evidence presented in this case is more than sufficient to convince me and support my conclusion that that Defendant Sandpiper had a policy of providing daily wellness checks and that this policy created a duty to follow the protocol established in its own policy. Simply put, the Sandpiper had a duty to exercise reasonable care in utilizing the system/protocols it put in place for checking on the well-being of every resident at least once every 24 hours. The policy was in writing, every relevant staff member and every resident was aware of the policy, and the policy had been carried out for several years prior to Ms. Parrott taking up residence at Sandpiper’s facility. In addition, Ms. Parrott relied on that policy as a significant/decisive factor in selecting Sandpiper as a residence. Both the existence of the policy and the special relationship between Sandpiper and the resident, Ms. Parrott, created a duty owed by Sandpiper to follow its own policy.

II. Breach – Sandpiper breached its duty by failing to conduct a wellness check of Ms. Parrott on June 4th and June 5th.

In South Carolina, the courts have recognized the use of a defendant's internal policies to determine duty and the failure to follow those policies to determine a breach. *Peterson v. Nat'l R.R. Passenger Corp.*, 365 S.C. 391, 397, 618 S.E2d 903, 906 (2005). Specifically, the Peterson Court stated that "evidence of a company's deviation from its own internal policies is relevant to show the company deviated from the standard of care and is properly admitted to show the element of breach," *Id.* Moreover, a defendant's internal policies or "self-imposed rules are often admissible as relevant on the issue of failure to exercise due care." *Caldwell v. K-Mart Corp.*, 306 S.C. 27, 31, 410 S.E.2d 21, 24 (Ct. App.1991).

Here, the Sandpiper policy to check the well-being of each resident was clear. This policy was in writing and was made clear to the Sandpiper employees, agents or servants that were tasked with carrying out this policy to check on the well-being of each resident, including Ms. Parrott. Sandpiper breached its duty when it failed to check on the well-being of Ms. Parrott on June 4th. Sandpiper breach its duty again when it failed to check on the well-being of Ms. Parrott on June 5th. Sandpiper did not check on her until the evening of June 6th —well beyond the 24-hour period contained in the Defendant's own policy.

Sandpiper breached the policy when the staffer did not make the minimal effort to obtain the correct key to check on Ms. Parrott on June 4th. Sandpiper further breached the policy when no staffer checked on her on June 5th. At the time Sandpiper finally checked on her on June 6th at approximately 8 p.m., it had been approximately 68 hours since Ms. Parrott that been seen by anyone. Simply put, I find and conclude that the Sandpiper's failure to follow its own policy resulted in the Defendant breaching its duty owed to Ms. Parrott.

III. Proximate Cause/Foreseeability - The failure to follow the Policy was a proximate cause of Ms. Parrott's injuries and damages.

“For an act to be a proximate cause of an injury, the injury must be a foreseeable consequence of the act.” *Wallace v. Owens-Illinois, Inc.*, 300 S.C. 518, 520, 389 S.E.2d 155, 156 (Ct.App.1989). “The test of foreseeability is whether some injury to another is the natural and probable consequence of the complained of act.” *Id.* “The defendant’s negligence does not have to be the sole proximate cause of the plaintiff’s injury; instead, the plaintiff must prove the defendant’s negligence was at least one of the proximate causes of the injury.” *Hughes v. Children’s Clinic, P.A.*, 269 S.C. 389, 398, 237 S.E.2d 753, 757 (1977). “The question of proximate cause ordinarily is one of fact for the jury, and it may be resolved either by direct or circumstantial evidence.” *Childers v. Gas Lines, Inc.*, 248 S.C. 316, 325, 149 S.E.2d 761, 765 (1966). See also *McNair v. Rainsford*, 330 S.C. 332, 349, 499 S.E.2d 488, 497 (Ct.App.1998).

Based on the preponderance of the evidence, I find and conclude that Sandpiper’s failure to follow its policy of checking on the well-being of each resident was a proximate cause of injury to Ms. Parrott. If Sandpiper had followed its own policy, then one of the Sandpiper employees, agents or servants would have checked on the well-being of Ms. Parrott on Wednesday evening June 4th; or if Sandpiper had followed its own policy the next day, then one of the Sandpiper staffers would have checked on her on June 5th. Instead, as a result of Sandpiper’s failures to check on her well-being, Ms. Parrott experienced a long lie of over three days before she was discovered. To the extent that Ms. Parrott had some degree of pre-existing mental health conditions, it was certainly foreseeable that those pre-existing conditions would be exacerbated by the pain and agony from that long lie.

Based on the preponderance of the evidence, I find and conclude that breach of the duty to conduct daily wellness checks was a cause of Ms. Parrott’s long lie. I further find and conclude that a natural and proximate result of lying with a broken hip for so long that decubitus ulcers

formed on her skin and dehydration set in contributed to and exacerbated both her physical pain and mental anguish during the long lie, and after her initial treatment and recovery period, and during the follow-up rehabilitation. I further find and conclude that the long lie was a cause of Ms. Parrott's mental, emotional, and physical decline even after her hip healed that continued through the months prior to her death. I also find and conclude that the long lie was a cause of her loss of a will to live and the failure to thrive that led to her death.

IV. Damages – Plaintiff has proven and is entitled to nonpecuniary damages for both the survival and wrongful death cause of actions.

A plaintiff is “entitled to recover all damages proximately resulting from the negligent acts of the defendant, including the aggravation of his [or her] pre-existing condition.” *Watson v. Wilkinson Trucking Co.*, 244 S.C. 217, 228, 136 S.E.2d 286, 291 (1964) (quoting 15 Am.Jur., *Damages*, §§ 80 and 81). “The defendant takes the plaintiff as he [or she] is found and the plaintiff is entitled to recover damages resulting from the aggravation of a pre-existing condition.” *Id.* “As a general rule, liability for the consequences of one's tortious act is not lessened by reason of the fact that the injuries were aggravated by the plaintiff's unhealthy conditions.....” 22 Am.Jur.2d *Damages* § 282 (1988); *Raino v. Goodyear Tire and Rubber Co.*, 309 S.C. 255, 259, 422 S.E.2d 98, 100 (1992).

In a survival action, “actual damages . . . are awarded for the benefit of the decedent's estate.” *Scott v. Porter*, 340 S.C. 158, 170, 530 S.E.2d 389, 396 (Ct.App.2000). These damages “include those for medical, surgical, and hospital bills, conscious pain, suffering, and mental distress of the deceased.” *Id.*

In a wrongful death case, the issue of damages is not directed toward the value of the human life that was lost, but rather the damages sustained by the beneficiaries as a result of the death.

Zorn v. Crawford, 252 S.C. 127, 136, 165 S.E.2d 640, 645 (1969); *Self v. Goodrich*, 300 S.C. 349, 351, 387 S.E.2d 713, 714 (Ct.App.1989). Damages recoverable in a wrongful death action include: (1) pecuniary loss; (2) mental shock and suffering; (3) wounded feelings; (4) grief and sorrow; (5) loss of companionship; and (6) deprivation of the use and comfort of the intestate's society, including the loss of his experience, knowledge, and judgment in managing the affairs of himself and of his beneficiaries.” *Smith v. Wells*, 258 S.C. 316, 188 S.E.2d 470 (1972); *Welch v. Epstein*, 342 S.C. 279, 304, 536 S.E.2d 408, 421 (Ct. App. 2000).

The Plaintiff does not seek any damages in the survival claim for pecuniary loss or medical bills, only for Ms. Parrott’s conscious pain, suffering, and mental distress in the survival action, and her children’s mental shock and suffering, wounded feelings, grief and sorrow, and loss of companionship. “Pain and suffering have no market price. They are not capable of being exactly and accurately determined, and there is no fixed rule or standard whereby damages for them can be measured.” *Harper v. Bolton*, 239 S.C. 541, 548, 124 S.E.2d 54, 57 (1962). Likewise, damages for these nonpecuniary damages are unliquidated and indeterminate in character. The assessment of these unliquidated damages is left for the sound discretion of the factfinder, in this case the court. *Edwards v. Lawton*, 244 S.C. 276, 281, 136 S.E.2d 708, 710 (1964).

I find that the evidence is overwhelming that Ms. Parrott experienced enormous conscious pain and suffering, and mental distress during the long lie that resulted from Sandpiper’s failure to conduct timely wellness checks on June 4th and on June 5th. I further find the preponderance of the evidence also proves that Ms. Parrott continued to suffer pain and to experience mental anguish and loss of enjoyment of life even after the broken hip healed. Accordingly, I award \$500,000 on Ms. Parrott’s survival cause of action. In addition, the testimony and evidence at trial regarding

the family's grief and sorrow are more than sufficient to support a verdict on the wrongful death cause of action and I award an additional \$500,000 to Ms. Parrott's family.

CONCLUSION

The Defendant Sandpiper owed a duty to Ms. Parrott to use reasonable care in implementing and applying its policy to check on the well-being of its residents. The Defendant Sandpiper breached that duty when it failed to check on Ms. Parrott on June 4 and 5, 2014 and did not discover Ms. Parrott until the evening of June 6, 2014. As a direct and proximate cause of the Defendant's breach, Ms. Parrott experienced extensive injuries and sustained serious damages and this Court finds for the Plaintiff and hereby awards actual damages in the amount of \$500,000.00 for the survivor cause of action and \$500,000.00 for Ms. Parrott's wrongful death.

IT IS HEREBY ORDERED that the issues have been tried and heard and a verdict rendered and that Defendant Sandpiper Independent and Assisted Living-Delaware, LLC is liable to the Plaintiff, the estate of Delila Parrott, for the causes of action of wrongful death and survival action and this Court orders that judgment be entered in favor of Plaintiff against the Defendant in the amount of \$1,000,000.

AND IT IS SO ORDERED

Bentley Price, Circuit Judge
Charleston County Court of Common Pleas

September __, 2020
Charleston, South Carolina



Charleston Common Pleas

Case Caption: Delila Parrott , plaintiff, et al VS Premier Senior Living LLC ,
defendant, et al
Case Number: 2016CP1005379
Type: Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-10-06 10:32:01 page 17 of 17

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016 CP-5379

The Estate of Delilah Parrott

Sandpiper Independent and Assisted
Living – Delaware, LLC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Paul Reeves

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
The Estate of Delilah Parrott	Sandpiper Independent and Assisted Living – Delaware, LLC	\$1,000,000.00
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.
Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)	ATTORNEY(S) FOR THE DEFENDANT(S)
	CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON
PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no text or other markings on the paper.

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The "Information for the Judgment Index" section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the "Judgment in Favor of" column, enter the name of the party to whom the judgment is awarded. In the "Judgment Against" column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the "Judgment Amount" column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate "N/A" in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section "For the Clerk of Court Office Use Only" should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through "Circuit Court Judge" and indicate "Arbitrator" in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Charleston Common Pleas

Case Caption: Delila Parrott , plaintiff, et al VS Premier Senior Living LLC ,
defendant, et al
Case Number: 2016CP1005379
Type: Order/Judgment and Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-10-15 14:29:04 page 6 of 6

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	CA#: 2016-CP-10-5379
THE ESTATE OF DELILA PARROTT,	)	
	)	
Plaintiff,	)	ORDER DENYING DEFENDANT'S
vs	)	POST-TRIAL/JUDGMENT
	)	MOTION FOR RELIEF
SANDPIPER INDEPENDENT AND	)	
ASSISTED LIVING-DELAWARE,	)	
LLC	)	
Defendant.	)	
	)	
	)	

This matter is before the court upon the Defendant Sandpiper Independent and Assisted Living-Delaware, LLC's (hereinafter "Sandpiper") motion for relief pursuant to Rules 52 and/or 59, SCRCP and /or to the extent applicable, Rules 41 and/or 50, SCRCP. By consent of the parties, this negligence action came before this Court for a bench trial, and at the conclusion of the three-day trial, on September 10, 2020, I rendered a verdict from the bench in favor of the Plaintiff and awarded actual damages of \$500,000 on the survival cause of action and \$500,000 on the wrongful death action. Thereafter, my formal written Order containing my findings of fact and conclusions of law was filed and entered on October 16, 2020. On October 26, 2020, Sandpiper filed its posttrial motion and on November 4, 2020, this Court held a hearing on Sandpiper's motion. Paul Reeves, Esq and Todd Lyle, Esq. appeared for and were present for the Plaintiff, and Donald Jay Davis, Jr., Esq., Matthew Riddle, Esq. and Russell G. Hines, Esq. appeared for and were present for the Defendant.

This Court has carefully reviewed the entire record in this matter to include the recent submissions by Sandpiper for the November 4 hearing as well as arguments made by both parties at this same hearing. After reviewing each and every argument made by Sandpiper in its motion

and memorandum of law as well as oral arguments made at the hearing, this Court denies Sandpiper's motion to alter the verdict or grant a new trial.

As to the argument that this Court's order fails to comply with Rule 52(a), SCRCP, I have confidence that I have articulated my findings of fact specially and separately stated my conclusions of law to substantially comply with the Rule and adequately state the basis for my verdict so that the Appellate Court can conduct an appropriate review on appeal. In re Treatment and Care of Luckabaugh, 351 S.C. 122, 131, 568 S.E.2d 338, 342 (2002); Mathis v. Brown & Brown of S.C., Inc., 389 S.C. 299, 320, 698 S.E.2d 773, 784 (2010).

As to the arguments that I failed to consider and address all the asserted defenses, I considered and rejected each of those defenses in rendering my verdict for the Plaintiff. In addition to the detailed factual findings and legal conclusion set forth in my prior order, I offer these further explications of my verdict.

First, I found overwhelming evidence that Sandpiper had a wellness check policy. Ms. Carrington, an employee of Sandpiper's, testified that the Wellness Check Policy was well known by all of Sandpiper's staff and residents and the Policy was adhered to on a daily basis. Furthermore, despite the fact that Sandpiper either intentionally or recklessly tried to deny the existence of the wellness policy throughout discovery, the written policy finally was produced by the Defendant on the eve of trial¹ which policy irrefutably establishes the existence of a wellness policy. Under the precedent of Miller v. City of Camden, 329 S.C. 310, 314, 494 S.E.2d 813, 815 (1997) and related caselaw, that Policy created a duty on behalf of Sandpiper and that duty was

¹ I found that the delay in producing the policy before the trial is extremely telling of Sandpiper's desire to hide the Policy's existence.

breached when Sandpiper failed to check on the well-being of Ms. Parrott on June 4th and June 5th.

In addition, I did take into account the Defendant's arguments that there was only a landlord-tenant relationship between the parties and that Sandpiper's wellness check policy did not create a legal duty to the deceased Ms. Parrott, but I rejected those arguments in making the findings of fact and conclusions of law as stated in my prior order. To reaffirm my findings, irrespective that the policy was not explicitly mentioned in the lease agreement, the existence of the policy was established by the written document and Ms. Carrington's testimony. In addition, I found the testimony of the deceased's daughter, Joan Acosta credible and extremely compelling. Ms. Acosta's testimony was clear that they knew of Sandpiper's Policy regarding wellness checks and the policy was influential and compelling towards Ms. Parrott and Ms. Acosta's decision to select Sandpiper over other similar living facilities.

As to the Defendant's argument about the evidentiary support for my finding of proximate cause, I offer these additional comments that I placed a lot of emphasis on Dr. Mills' testimony concerning the wrongful death claim and almost completely dismissed the testimony of Dr. Wagner as it shocked the conscience of this Court that Dr. Wagner would opine that Ms. Parrott did not suffer any form of trauma from this event and that Ms. Parrott's death was probably caused by her immobility from her fractured hip.

Finally, as to the Defendant's argument that amount of the damages awarded were speculative and excessive, the trial record contains evidence more than sufficient to support this Court's verdict as well as to determine the appropriate damages in this matter. Edwards v. Lawton, 244 S.C. 276, 281, 136 S.E.2d 708, 710 (1964) (The assessment of unliquidated damages is left

for the sound discretion of the factfinder.). This Court further affirms that I reached my verdict while analyzing and rejecting Sandpiper's argument that Ms. Parrott was contributorily negligent.

IT IS HEREBY ORDERED that the Defendant's Motion for Relief Pursuant to Rules 52 and/or 59, SCRCP and /or to the Extent Applicable, Rules 41 and/or 50, SCRCP is DENIED.

AND IT IS SO ORDERED

Bentley Price, Circuit Judge
Charleston County Court of Common Pleas

November __, 2020
Charleston, South Carolina



Charleston Common Pleas

Case Caption: Delila Parrott , plaintiff, et al VS Premier Senior Living LLC ,
defendant, et al
Case Number: 2016CP1005379
Type: Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-11-18 10:12:47 page 5 of 5

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
THE ESTATE OF DELILA PARROTT,
Plaintiff,
vs
PREMIER SENIOR LIVING, LLC,
Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

16-CP-10-5379

SUMMONS
(JURY TRIAL REQUESTED)

FILED
2016 OCT 11 PM 3:23
JULIE J. ARMSTRONG
CLERK OF COURT

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer thereto upon the attorney for the Plaintiff at his office, Post Office Box 11126, Columbia, South Carolina, 29211, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within such time, judgement will be rendered against you for the relief demanded in the Complaint.

Respectfully Submitted,

REEVES AND LYLE, LLC



Paul L. Reeves
1527 Blanding Street
Post Office Box 11126
Columbia, South Carolina 29211
(803)929-0001
(803)929-0927 Facsimile
Paul@ReevesandLyle.com

ATTORNEY FOR THE PLAINTIFF

Columbia, South Carolina
This 10th day of October, 2016.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

16-00-10-5379

THE ESTATE OF DELILA PARROTT,)

Plaintiff,)

vs)

PREMIER SENIOR LIVING, LLC,)

Defendant.)

COMPLAINT
(JURY TRIAL REQUESTED)

FILED
2016 OCT 11 PM 3:23
JULIE J. ARMSTRONG
CLERK OF COURT

To: The Defendant above named:

The Plaintiff by and through her Personal Representative and her undersigned counsel
does hereby respectfully allege the following:

FACTS/BACKGROUND

1. The Plaintiff is the Estate of Delila Parrott, represented by the Personal Representative, Joan Acosta. Joan Acosta is the dully appointed Personal Representative of the estate having been appointed as such by the Probate Court of Charleston County, as the personal representative of the estate of Delila Parrott.

2. Upon information and belief, the defendant, Premier Senior Living, LLC (hereinafter referred to as "Premier") is a limited liability corporation existing under the laws of the state of South Carolina and is an assisted living provider that does business in and has its principal place of business in Charleston County, South Carolina.

3. Premier offered services the opportunity to mostly an advanced age population for up-scale living in its premises, with the promise that the resident/client would be accounted for by sight by Defendant's staff at least once during a 24 hour period.

4. Plaintiff became a resident/client of Defendant on May 23, 2013. Plaintiff became a client of Defendant because of and due to Defendant's promise to visually confirm Plaintiff's well-being at least once during every 24 hour period.

5. Defendant assured Plaintiff and Plaintiff's Personal Representative that Plaintiff would be accounted for once per 24 hour period.

6. On June 4, 2014, Delila attended lunch on the premises of Defendant and met with her friends at the Defendant's premises cafeteria. She was last seen by her friend and co-resident, Lila Watters.

7. On information and belief, Delila returned to her residence for the evening. At some time that evening, she attempted to hang a curtain rod on an existing bracket. As she made this attempt, she fell and fractured her hip.

8. Due to her injury, Delila was unable to move or remove herself from the floor. She used a shoe to strike a piece of furniture in order to use noise to draw attention to her predicament.

9. Delila remained on the floor, unable to move. She remained immobile until she was discovered by Lila Watters on the evening of June 7, 2014, over sixty hours after being notified by a concerned resident of potential harm to Delila. Ms. Watters had consistently complained to Defendant's agents, servants, employees and staff to check on Delila's well-being. Defendant's agents, servants, employees and staff refused to confirm the well-being or perform a wellness check for Delila. Ms. Watters requested on multiple times that Defendant's agents, servants, employees and staff provide to her a key so that she could confirm the well-being of Delila. Defendant's agents, servants, employees and staff refused to do so.

10. Initially, when Ms. Watters made request of Defendant's agents, servants, employees and staff for a key to enter Delila's residence, Defendant's agents, servants, employees and staff denied having possession of a key. On Friday, after repeated request by Ms. Watters to access Delila's residence, Ms. Watters told Defendant's agents, servants, employees and staff that she was going to hire a locksmith to access Delila's room. At this point, Defendant's agents, servants, employees and staff provided an access key to Delila's residence.

At all times during this debacle, Defendant's agents, servants, employees and staff had possession of a key to Delila's residence, in complete contradiction to their earlier representations.

11. Ms. Watters immediately went to Delila's residence and found her in a horrible and unbearable condition. Defendant's agents, servants, employees and staff refused to accompany Ms. Watters to Delila's residence.

12. Defendant's agents, servants, employees and staff did not make visual contact with Delila from Tuesday until she was found by Ms. Watters on Friday.

13. Defendant's agents, servants, employees and staff would not have found Delila on Friday evening, except for the persistence of Ms. Watters, who badgered and complained to Defendant's agents, servants, employees and staff over and over about the safety of Delila. Defendant's staff made excuses as to why the staff had done nothing to confirm the safety of Delila. Finally, Ms. Watters demanded staff investigate the matter or she would retain a locksmith to open Delila's door. At that time, Defendant's agents, servants, employees and staff provided Ms. Watters a key. Ms. Watters found Delila lying in her own excrement, injured from attempting to take her own life due to her suffering for nearly four days, injured from the fall and suffering from infection, all due to or complicated by Defendant's complete disregard for Delila's safety and well-being.

14. Upon discovering Delila, who was severely dehydrated, injured and near death, EMS was called and she was transported to Roper Mt. Pleasant Hospital for treatment of a fractured hip, infection, multiple wounds to the wrist and other medical needs.

15. Delila suffered a fractured hip, infections, incurred medical expenses, suffered from permanent disability, suffered from pain, anxiety, depression, fear, and suffered loss of enjoyment of life and quality of life.

FOR A FIRST CAUSE OF ACTION

(SURVIVAL ACTION)

16. Plaintiffs would re-allege their previous allegations as if fully set forth herein.

17. Delila was under the care and control of Defendant to the extent that Defendant had promised to make visual contact with her every 24 hours to insure her safety and well-being. Notwithstanding this promise, Defendant failed to maintain visual contact with Delila at least once per 24-hour period; therefore, Defendant was negligent, careless, grossly negligent, reckless, willful and wanton in violating their duties owed to Delila. The Defendant is liable for one or more of the following acts of omission or commission, any and all of which are departures from the prevailing and acceptable duty:

- a. In failing to maintain visual contact with Delila every 24 hours;
- b. In failing to properly train its employees, agents, servants in how to visually account for Delila's well-being;
- c. In failing to supervise its employees, agents, servants in how to safely accomplish a wellness check for Delila in any given 24-hour period;
- d. In failing to confirm the well-being of Delila in a timely fashion during a twenty-four hour period;
- e. In failing to confirm the well-being of Delila in a timely fashion, even after being put on notice of potential harm to her by a concerned resident;
- f. In failing to heed the request of other residents to check on Delila's residence since she had been missing for multiple days.
- g. In failing to properly monitor Delila;
- g. In failing to properly perform appropriate inspections to insure the safety of Delila;
- h. In failing to notify Delila's next of kin of her absence from the meal times and functions provided by Defendants;
- i. In failing to provide Delila's next of kin with correct information about her absence from sight;

- j. In failing to warn Delila and her next of kin that Defendant had no reliable mechanisms in place to account for visual confirmation of a resident's well-being;
- g. In failing to properly train the Defendants' personnel and agents and servants so as to allow them to have adequate and current training, credentials and skills to properly assess, monitor, and account for Delila;
- i. In failing to have in place proper and adequate policies, procedures, protocols, rules and regulations regarding the well-being and safety of Defendant's residents;
- k. In failing to properly educate and train its agents, servants and employees, or if properly trained and educated in failing to allow its employees to exercise skill and judgment so as to account for Defendant's residents.
- l. By ignoring and discounting the complaints and warnings for more than three days, regarding Delila's whereabouts provided to them by Ms. Watters;
- m. For such other and further acts of negligence of the Defendant as may be shown by discovery of this matter;

All of which were the cause of the injuries and damages suffered by Delila.

18. As a direct and proximate result of the negligence, carelessness, gross negligence, recklessness, willfulness and departure from its duty by Defendant, Delila suffered an agonizing four days without help or sustenance. Her plight was exacerbated by a fractured hip, lying prone in her own excrement, enduring such emotional harm and stress so as to cause her to attempt to take her own life as she laid immobile for days, suffered from infections and damage to health, lost quality of life, lost enjoyment of life, suffered severe pain and injury, suffered extreme emotional distress, anxiety, grief and sorrow, permanent disability, medical expenses and permanent impairment for which the Plaintiff is entitled to recover actual and punitive damages.

FOR A SECOND CAUSE OF ACTION
(WRONGFUL DEATH)

19. Plaintiffs would re-allege their previous allegations as if fully set forth herein.

20. Delila was under the care and control of Defendant to the extent that Defendant had promised to make visual contact with her to insure her safety and because a resident had given notice to Defendant's agents, servants, employees and staff that Delila was missing from the functions she usually attended, thereby raising concern for Delila's safety and well-being.

21. Notwithstanding this promise, Defendant departed from the prevailing and acceptable standards of care and their it's duty by failing to maintain visual contact with Delila at least once per 24 hour period.

22. Defendant and Defendant's agents, servants, employees and staff ignored the pleas, demands and cries for help from Lila Watters who begged Defendant's agents, servants, employees and staff to investigate the whereabouts and well-being of Delila. At all times before Friday evening, June 7, 2014, Defendant's agents, servants, employees and staff refused to assist Ms. Watters in any manner and upon her further demands, refused to accompany her to Delila's residence. At all times relevant, Defendant's agents, servants, employees and staff consciously disregarded the safety and well-being of Delila.

23. But for the heroic efforts of Ms. Watters, Delila would most probably died of her injuries before Defendant's agents, servants, employees and staff would have discovered her.

24. The Defendant was thereby negligent, careless, grossly negligent, reckless, wilful and wanton in violating their duties owed to Delila. The Defendants is liable for one or more of the following acts of omission or commission, any and all of which are departures from the prevailing and acceptable professional standard of care:

- a. In failing to maintain visual contact with Delila every 24 hours;
- b. In failing to properly train its employees, agents, servants in how to visually account for Delila's well-being;
- c. In failing to supervise its employees, agents, servants in how to safely accomplish a wellness check for Delila in any given 24-hour period;

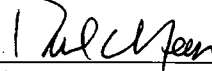
- d. In failing to confirm the well-being of Delila in a timely fashion during a twenty-four hour period;
- e. In failing to confirm the well-being of Delila in a timely fashion, even after being put on notice of potential harm to her by a concerned resident;
- f. In failing to heed the request of other residents to check on Delila's residence since she had been missing for multiple days.
- g. In failing to properly monitor Delila;
- g. In failing to properly perform appropriate inspections to insure the safety of Delila;
- h. In failing to notify Delila's next of kin of her absence from the meal times and functions provided by Defendants;
- i. In failing to provide Delila's next of kin with correct information about her absence from sight;
- j. In failing to warn Delila and her next of kin that Defendant had no reliable mechanisms in place to account for visual confirmation of a resident's well-being;
- g. In failing to properly train the Defendants' personnel and agents and servants so as to allow them to have adequate and current training, credentials and skills to properly assess, monitor, and account for Delila;
- i. In failing to have in place proper and adequate policies, procedures, protocols, rules and regulations regarding the well-being and safety of Defendant's residents;
- k. In failing to properly educate and train its agents, servants and employees, or if properly trained and educated in failing to allow its employees to exercise skill and judgment so as to account for Defendant's residents.
- l. By ignoring and discounting the complaints and warnings for more than three days, regarding Delila's whereabouts provided to them by Ms. Watters;
- m. For such other and further acts of negligence of the Defendant as may be shown by discovery of this matter;

All of which were the cause of the death of Delila on February 9, 2015.

25. As a direct and proximate result of the negligence, carelessness, gross negligence, recklessness, willfulness and departure from its duty by Defendant, Delila died. Her estate and beneficiaries are entitled to actual and punitive damages from the Defendant.

WHEREFORE, Plaintiff respectfully prays for judgment against the Defendant for her for actual damages, punitive damages, special damages and consequential damages, in an amount to be determined by a jury at the trial of this action, for fees, costs and for such other and further reliefs as this court may deem just and proper.

Respectfully Submitted:
REEVES & LYLE, LLC


Paul L. Reeves
PO Box 11126
Columbia, South Carolina 29211
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paul@plrlawfirm.com
Attorney for Plaintiff

Columbia SC
October 10, 2016

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
THE ESTATE OF DELILA PARROTT,
Plaintiff,
vs
SANDPIPER INDEPENDENT AND
ASSISTED LIVING-DELAWARE, LLC
Defendant.

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CA#: 2016-CP-10-5379

)
)
)
) SUMMONS FOR AMENDED COMPLAINT
) (JURY TRIAL REQUESTED)
)
)
)
)

2016 DEC 21 PM 1:28
JULIE J. ARMSTRONG
CLERK OF COURT

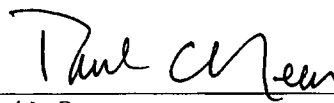
FILED

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer thereto upon the attorney for the Plaintiff at his office, Post Office Box 11126, Columbia, South Carolina, 29211, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within such time, judgement will be rendered against you for the relief demanded in the Complaint.

Respectfully Submitted,

REEVES AND LYLE, LLC



Paul L. Reeves
1527 Blanding Street
Post Office Box 11126
Columbia, South Carolina 29211
(803)929-0001
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ATTORNEY FOR THE PLAINTIFF

Columbia, South Carolina
December 19, 2016

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CA#: 2016-CP-10-5379

AMENDED COMPLAINT
(JURY TRIAL REQUEST)

2016 DEC 21 PM 1:29
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

The Plaintiff by and through her Personal Representative and her undersigned counsel does hereby respectfully allege the following:

FACTS/BACKGROUND

1. The Plaintiff is the Estate of Delila Parrott, represented by the Personal Representative, Joan Acosta. Joan Acosta is the dully appointed Personal Representative of the estate having been appointed as such by the Probate Court of Charleston County, as the personal representative of the estate of Delila Parrott.
2. Upon information and belief, the defendant, Sandpiper Independent and Assisted Living –Delaware, LLC, (hereinafter referred to as "Sandpiper") is a limited liability corporation existing under the laws of the one of the states of the United States and owns property and conducts business in Charleston County, South Carolina, by providing services and care to adult and elderly clients and patients.
3. Sandpiper offered services and opportunities to mostly an advanced age population for up-scale living in its premises, with the promise that the resident/client would be accounted for by sight by Defendant's staff at least once during a 24 hour period.

4. Plaintiff became a resident/client of Defendant on May 23, 2013. Plaintiff became a client of Defendant because of and due to Defendant's promise to visually confirm Plaintiff's well-being at least once during every 24 hour period.

5. Defendant assured Plaintiff and Plaintiff's Personal Representative that Plaintiff would be accounted for once per 24 hour period.

6. On June 4, 2014, Delila attended lunch on the premises of Defendant and met with her friends at the Defendant's premises cafeteria. She was last seen by her friend and co-resident, Lila Watters.

7. On information and belief, Delila returned to her residence for the evening. At some time that evening, she attempted to hang a curtain rod on an existing bracket. As she made this attempt, she fell and fractured her hip.

8. Due to her injury, Delila was unable to move or remove herself from the floor. She used a shoe to strike a piece of furniture in order to use noise to draw attention to her predicament.

9. Delila remained on the floor, unable to move. She remained immobile until she was discovered by Lila Watters on the evening of June 7, 2014, over sixty hours after Sandpiper was notified by Watters of potential harm to Delila. Ms. Watters had consistently complained to Defendant's agents, servants, employees and staff to check on Delila's well-being. Defendant's agents, servants, employees and staff refused to confirm the well-being or perform a wellness check for Delila. Ms. Watters requested on multiple times that Defendant's agents, servants, employees and staff provide to her a key so that she could confirm the well-being of Delila. Defendant's agents, servants, employees and staff refused to do so.

10. Initially, when Ms. Watters made request of Defendant's agents, servants, employees and staff for a key to enter Delila's residence, Defendant's agents, servants, employees and staff denied having possession of a key. On Friday, after repeated request by Ms.

Watters to access Delila's residence, Ms. Watters told Defendant's agents, servants, employees and staff that she was going to hire a locksmith to access Delila's room. At this point, Defendant's agents, servants, employees and staff provided an access key to Delila's residence. At all times during this debacle, Defendant's agents, servants, employees and staff had possession of a key to Delila's resident, in complete contradiction to their earlier representations.

11. Ms. Watters immediately went to Delila's residence and found her in a horrible and unbearable condition. Defendant's agents, servants, employees and staff refused to accompany Ms. Watters to Delila's residence.

12. Defendant's agents, servants, employees and staff did not make visual contact with Delila from Tuesday until she was found by Ms. Watters on Friday.

13. Defendant's agents, servants, employees and staff would not have found Delila on Friday evening, except for the persistence of Ms. Watters, who badgered and complained to Defendant's agents, servants, employees and staff over and over about the safety of Delila. Defendant's staff made excuses as to why the staff had done nothing to confirm the safety of Delila. Finally, Ms. Watters demanded staff investigate the matter or she would retain a locksmith to open Delila's door. At that time, Defendant's agents, servants, employees and staff provided Ms. Watters a key. Ms. Watters found Delila lying in her own excrement, injured from attempting to take her own life due to her suffering for nearly four days, injured from the fall and suffering from infection, all due to or complicated by Defendant's complete disregard for Delila's safety and well-being.

14. Upon discovering Delila, who was severely dehydrated, injured and near death, EMS was called and she was transported to Roper Mt. Pleasant Hospital for treatment of a fractured hip, infection, multiple wounds to the wrist and other medical needs.

15. Delila suffered a fractured hip, infections, incurred medical expenses, suffered from permanent disability, suffered from pain, anxiety, depression, fear, and suffered loss of enjoyment of life and quality of life.

FOR A FIRST CAUSE OF ACTION
(SURVIVAL ACTION)

16. Plaintiffs would re-allege their previous allegations as if fully set forth herein.

17. Delila was under the care and control of Defendant to the extent that Defendant had promised to make visual contact with her every 24 hours to insure her safety and well-being. Notwithstanding this promise, Defendant failed to maintain visual contact with Delila at least once per 24-hour period; therefore, Defendant was negligent, careless, grossly negligent, reckless, willful and wanton in violating their duties owed to Delila. The Defendant is liable for one or more of the following acts of omission or commission, any and all of which are departures from the prevailing and acceptable duty:

- a. In failing to maintain visual contact with Delila every 24 hours;
- b. In failing to properly train its employees, agents, servants in how to visually account for Delila's well-being;
- c. In failing to supervise its employees, agents, servants in how to safely accomplish a wellness check for Delila in any given 24-hour period;
- d. In failing to confirm the well-being of Delila in a timely fashion during a twenty-four hour period;
- e. In failing to confirm the well-being of Delila in a timely fashion, even after being put on notice of potential harm to her by a concerned resident;
- f. In failing to heed the request of other residents to check on Delila's residence since she had been missing for multiple days.
- g. In failing to properly monitor Delila;
- g. In failing to properly perform appropriate inspections to insure the safety of Delila;

- h. In failing to notify Delila's next of kin of her absence from the meal times and functions provided by Defendants;
- i. In failing to provide Delila's next of kin with correct information about her absence from sight;
- j. In failing to warn Delila and her next of kin that Defendant had no reliable mechanisms in place to account for visual confirmation of a resident's well-being;
- g. In failing to properly train the Defendants' personnel and agents and servants so as to allow them to have adequate and current training, credentials and skills to properly assess, monitor, and account for Delila;
- i. In failing to have in place proper and adequate policies, procedures, protocols, rules and regulations regarding the well-being and safety of Defendant's residents;
- k. In failing to properly educate and train its agents, servants and employees, or if properly trained and educated in failing to allow its employees to exercise skill and judgment so as to account for Defendant's residents.
- l. By ignoring and discounting the complaints and warnings for more than three days, regarding Delila's whereabouts provided to them by Ms. Watters;
- m. For such other and further acts of negligence of the Defendant as may be shown by discovery of this matter;

All of which were the cause of the injuries and damages suffered by Delila.

18. As a direct and proximate result of the negligence, carelessness, gross negligence, recklessness, willfulness and departure from its duty by Defendant, Delila suffered an agonizing sixty or more hours without help or sustenance. Her plight was exacerbated by a fractured hip, lying prone in her own excrement, enduring such emotional harm and stress so as to cause her to attempt to take her own life as she laid immobile for days, suffered from infections and damage to health, lost quality of life, lost enjoyment of life, suffered severe pain and injury, suffered extreme emotional distress, anxiety, grief and sorrow, permanent disability, medical expenses and permanent impairment for which the Plaintiff is entitled to recover actual and punitive damages.

FOR A SECOND CAUSE OF ACTION
(WRONGFUL DEATH)

19. Plaintiffs would re-allege their previous allegations as if fully set forth herein.

20. Delila was under the care and control of Defendant to the extent that Defendant had promised to make visual contact with her to insure her safety and because a resident had given notice to Defendant's agents, servants, employees and staff that Delila was missing from the functions she usually attended, thereby raising concern for Delila's safety and well-being.

21. Notwithstanding this promise, Defendant departed from the prevailing and acceptable standards of care and their it's duty by failing to maintain visual contact with Delila at least once per 24 hour period.

22. Defendant and Defendant's agents, servants, employees and staff ignored the pleas, demands and cries for help from Lila Watters who begged Defendant's agents, servants, employees and staff to investigate the whereabouts and well-being of Delila. At all times before Friday evening, June 7, 2014, Defendant's agents, servants, employees and staff refused to assist Ms. Watters in any manner and upon her further demands, refused to accompany her to Delila's residence. At all times relevant, Defendant's agents, servants, employees and staff consciously disregarded the safety and well-being of Delila.

23. But for the heroic efforts of Ms. Watters, Delila would most probably died of her injuries before Defendant's agents, servants, employees and staff would have discovered her.

24. The Defendant was thereby negligent, careless, grossly negligent, reckless, wilful and wanton in violating their duties owed to Delila. The Defendants is liable for one or more of the following acts of omission or commission, any and all of which are departures from the prevailing and acceptable professional standard of care:

- a. In failing to maintain visual contact with Delila every 24 hours;
- b. In failing to properly train its employees, agents, servants in how to visually account for Delila's well-being;

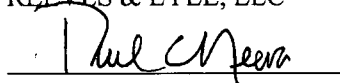
- c. In failing to supervise its employees, agents, servants in how to safely accomplish a wellness check for Delila in any given 24-hour period;
- d. In failing to confirm the well-being of Delila in a timely fashion during a twenty-four hour period;
- e. In failing to confirm the well-being of Delila in a timely fashion, even after being put on notice of potential harm to her by a concerned resident;
- f. In failing to heed the request of other residents to check on Delila's residence since she had been missing for multiple days.
- g. In failing to properly monitor Delila;
- g. In failing to properly perform appropriate inspections to insure the safety of Delila;
- h. In failing to notify Delila's next of kin of her absence from the meal times and functions provided by Defendants;
- i. In failing to provide Delila's next of kin with correct information about her absence from sight;
- j. In failing to warn Delila and her next of kin that Defendant had no reliable mechanisms in place to account for visual confirmation of a resident's well-being;
- g. In failing to properly train the Defendants' personnel and agents and servants so as to allow them to have adequate and current training, credentials and skills to properly assess, monitor, and account for Delila;
- i. In failing to have in place proper and adequate policies, procedures, protocols, rules and regulations regarding the well-being and safety of Defendant's residents;
- k. In failing to properly educate and train its agents, servants and employees, or if properly trained and educated in failing to allow its employees to exercise skill and judgment so as to account for Defendant's residents.
- l. By ignoring and discounting the complaints and warnings for more than three days, regarding Delila's whereabouts provided to them by Ms. Watters;
- m. For such other and further acts of negligence of the Defendant as may be shown by discovery of this matter;

All of which were the cause of the death of Delila on February 9, 2015.

25. As a direct and proximate result of the negligence, carelessness, gross negligence, recklessness, willfulness and departure from its duty by Defendant, Delila died. Her estate and beneficiaries are entitled to actual and punitive damages from the Defendant.

WHEREFORE, Plaintiff respectfully prays for judgment against the Defendant for her for actual damages, punitive damages, special damages and consequential damages, in an amount to be determined by a jury at the trial of this action, for fees, costs and for such other and further reliefs as this court may deem just and proper.

Respectfully Submitted:
REEVES & LYLE, LLC



Paul L. Reeves
PO Box 11126
Columbia, South Carolina 29211
Office: 803-929-0001
Facsimile: 803-929-0927
paul@plrlawfirm.com
Attorney for Plaintiff

Columbia, South Carolina
December 19, 2016

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
THE ESTATE OF DELILA PARROTT,

PLAINTIFF,

vs.

SANDPIPER INDEPENDENT AND
ASSISTED LIVING-DELAWARE, LLC,

DEFENDANT.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO. 2016-CP-10-5379

**ANSWER TO AMENDED COMPLAINT
BY DEFENDANT SANDPIPER
INDEPENDENT & ASSISTED LIVING-
DELAWARE, LLC (MISIDENTIFIED IN
PLAINTIFF'S AMENDED COMPLAINT
AS "SANDPIPER INDEPENDENT AND
ASSISTED LIVING-DELAWARE, LLC**

FILED
2017 JAN 18 PM 4:48
JULIE J. ARMSTRONG
CLERK OF COURT

TO: PAUL L. REEVES, ATTORNEY FOR THE PLAINTIFF:

The Defendant, Sandpiper Independent & Assisted Living-Delaware, LLC (misidentified in Plaintiff's Complaint as "Sandpiper Independent and Assisted Living-Delaware, LLC" and hereinafter referred to as "Defendant" or "this Defendant"), by and through its undersigned counsel and subject to and without waiving its right to compel this matter to arbitration, hereby responds to the Plaintiff's Amended Complaint as follows:

1. Any and all allegations set forth in Plaintiff's Amended Complaint not hereinafter admitted, denied, qualified, or otherwise explained are hereby expressly denied and strict proof is demanded thereof.

2. The Defendants are without sufficient knowledge or information to respond to the allegations set forth in Paragraph 1 of Plaintiff's Amended Complaint and therefore denies the same and demands strict proof thereof.

3. This Defendant admits the allegations set forth in Paragraph 2 of Plaintiff's Amended Complaint only insofar as it is alleged that this Defendant is a Delaware limited liability company conducting business in Charleston County, South Carolina. This Defendant

denies the remaining allegations set forth in Paragraph 2 of Plaintiff's Amended Complaint and would further assert that this Defendant does not offer or provide any form of nursing or medical services or care as it does not have any patients. Further answering, this Defendant does not offer any services whatsoever except those which are set forth in the written lease applicable to this case.

3. This Defendant denies the allegations set forth in Paragraph 3 of Plaintiff's Amended Complaint as stated. This Defendant would further assert that it does not offer or provide any services or opportunities except those which are set forth in the written lease executed by Plaintiff's decedent. Further answering, this Defendant denies any promise made to Plaintiff or Plaintiff's decedent regarding monitoring or supervision.

4. This Defendant admits the allegations set forth in Paragraph 4 of Plaintiff's Amended Complaint only insofar as it is alleged that Plaintiff's decedent was a resident of Sandpiper Village. Any and all remaining allegations, including the alleged date when Plaintiff's decedent's residency began, is denied and strict proof is demanded thereof. This Defendant denies having any "clients" and denies any promise made to Plaintiff or Plaintiff's decedent regarding monitoring or supervision.

5. This Defendant denies the allegations set forth in Paragraph 5 of Plaintiff's Amended Complaint.

6. This Defendant is without sufficient knowledge and information to respond to the allegations set forth in Paragraph 6 of Plaintiff's Amended Complaint and therefore denies the same and demands strict proof thereof.

7. Upon information and belief, this Defendant admits the allegations set forth in Paragraph 7 of Plaintiff's Amended Complaint insofar as it is alleged that Plaintiff's decedent

did in fact suffer a hip fracture as result of hanging curtains in her apartment. Defendant denies however that such incident occurred on the evening of June 4, 2014 as alleged. This Defendant is without sufficient knowledge and information to respond to the allegations set forth in Paragraph 7 of Plaintiff's Amended Complaint regarding when Plaintiff's decedent returned to her apartment on June 4, 2014 and therefore these allegations are denied and strict proof is demanded thereof.

8. This Defendant is without sufficient knowledge and information to respond to the allegations set forth in Paragraph 8 of Plaintiff's Amended Complaint and therefore denies the same and demands strict proof thereof.

9. This Defendant denies the allegations set forth in Paragraphs 9, 10, 11, 12, and 13 of Plaintiff's Amended Complaint.

10. This Defendant admits the allegations set forth in Paragraph 14 of Plaintiff's Amended Complaint only insofar as it is alleged that this Defendant's employees accessed Plaintiff's decedent's apartment and called EMS to provide assistance. This Defendant denies any and all allegations inconsistent with the above limited admission. As to any and all remaining allegations set forth in Paragraph 14 of Plaintiff's Amended Complaint regarding the nature of Plaintiff's decedent's injuries and where she was transported, this Defendant is without sufficient knowledge and information to respond to these allegations and therefore these allegations are denied and strict proof is demanded thereof.

11. This Defendant is without sufficient knowledge and information to respond to the allegations set forth in Paragraph 15 of Plaintiff's Amended Complaint and therefore denies the same and demands strict proof thereof.

12. In answering the allegations set forth in Paragraph 16 of Plaintiff's Amended Complaint, Defendant would restate its answers set forth in the above paragraphs as if stated verbatim herein.

13. This Defendant denies the allegations set forth in Paragraphs 17 and 18 of Plaintiff's Amended Complaint.

14. In answering the allegations set forth in Paragraph 19 of Plaintiff's Amended Complaint, Defendant would restate its answers set forth in the above paragraphs as if stated verbatim herein.

15. This Defendant denies the allegations set forth in Paragraphs 20, 21, 22, 23, 24, and 25 of Plaintiff's Amended Complaint.

16. This Defendant denies the allegations and assertions set forth in Plaintiff's prayer for relief, including the request for a jury trial.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

17. This Court lacks jurisdiction over this matter because Plaintiff's claims as to this Defendant are subject to arbitration pursuant to a valid arbitration agreement entered into between the parties hereto, and therefore this matter should be dismissed and compelled to arbitration.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

18. This action must be stayed until the validity of the binding Arbitration Agreement signed by the parties is determined by a court of proper jurisdiction. Defendant hereby provides notice that a Motion to Compel Arbitration and associated Motion to Stay is forthcoming.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

19. The Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action and fails to state a claim upon which relief can be granted against these Defendants and should be dismissed pursuant to Rule 12(b)(6) of South Carolina Rules of Civil Procedure or Rule 12(b)(6) of the Federal Rules of Civil Procedure.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

20. A claim for punitive damages and an award of punitive damages would violate those clauses of the Constitutions of the United States and South Carolina related to privileges and immunities, due process and equal protection and Defendants would further assert the protections, defenses, and statutory rights set forth in S.C. Code Ann. § 15-32-510, et. seq.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

21. To the extent Defendant is required to raise the affirmative defense of comparative negligence under applicable South Carolina law in order to avoid an argument of waiver by Plaintiff, Defendant would assert Plaintiff's damages, if any, should be proportionately barred or reduced under the doctrine of comparative fault if such evidence is found as the case proceeds.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

22. Plaintiff's claims should be barred as a result of Plaintiff's release of the Defendant as to some or all of the liability concerning or arising from the injuries and claims cited by the Plaintiff in Plaintiff's Amended Complaint.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

23. The Defendants would affirmatively plead entitlement to any and all contractual limitations of liability applicable to this matter.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

24. The Plaintiff expressly and implicitly assumed the risk of the dangers alleged in the Amended Complaint.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

25. The Defendant would further affirmatively plead that some or all of Plaintiff's claims fail because the Defendant's duty to Plaintiff's decedent did not extend to the protection or prevention of the injuries alleged. Further, no consideration was contained in the lease for such services.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

26. The Defendant would affirmatively assert that it would be entitled to any and all benefits, joint and several liability protections, emergency situations limitations on liability, any and all monetary limitations or caps of liability and/or damages under the Economic Development, Citizen and Small Business Protection Act including, but not limited to §15-38-15, et seq., §15-36-100, et seq. and any other applicable provisions under the act.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

27. This Defendant would affirmatively assert that the Plaintiff's injuries were not proximately caused by any action or inaction of this Defendant as a defense to this action.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

28. Defendant hereby raises the doctrine of election of remedies as a defense to Plaintiff's claims.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

29. Defendant hereby affirmatively raises the doctrine of economic loss as a full or partial bar to the Plaintiff's claims in this matter.

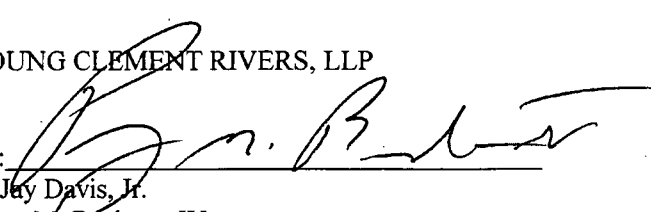
**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

30. Defendant hereby affirmatively raises mistake as a defense to the Plaintiff's claims in this matter.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

31. Defendant hereby reserves the right to raise additional affirmative defenses as discovery proceeds and new information is gathered.

YOUNG CLEMENT RIVERS, LLP

By: 

D. Jay Davis, Jr.

Perry M. Buckner, IV

P.O. Box 993, Charleston, SC 29402

(843) 720-5415; pbuckner@ycrlaw.com

Attorneys for the Defendant Sandpiper Independent
& Assisted Living-Delaware, LLC

Charleston, South Carolina

Dated: 1/18/17

CERTIFICATE OF MAILING

I hereby certify that a copy of the foregoing pleading was mailed to all counsel of record in this proceeding this 18th day of January, 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CA#: 2016-CP-10-5379
THE ESTATE OF DELILA PARROTT,	)	
	)	
Plaintiff,	)	
vs	)	AMENDED SUMMONS
	)	(JURY TRIAL REQUESTED)
SANPIPER INDEPENDENT AND	)	
ASSISTED LIVING-DELAWARE,	)	
LLC	)	
Defendant.	)	
	)	

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Amended Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer thereto upon the attorney for the Plaintiff at his office, Post Office Box 11126, Columbia, South Carolina, 29211, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Amended Complaint within such time, judgement will be rendered against you for the relief demanded in the Amended Complaint.

Respectfully Submitted,

REEVES AND LYLE, LLC

s/Paul L. Reeves
Paul L. Reeves (SC Bar 4671)
1527 Blanding Street
Post Office Box 11126
Columbia, South Carolina 29211
(803)929-0001
(803)929-0927 Facsimile
Paul@ReevesandLyle.com

ATTORNEY FOR THE PLAINTIFF

Columbia, South Carolina
December 11, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CA#: 2016-CP-10-5379
THE ESTATE OF DELILA PARROTT,	)	
	)	
Plaintiff,	)	
vs	)	AMENDED COMPLAINT
	)	(JURY TRIAL REQUESTED)
SANPIPER INDEPENDENT AND	)	
ASSISTED LIVING-DELAWARE,	)	
LLC	)	
Defendant.	)	
	)	

To: The Defendant above named:

The Plaintiff by and through her Personal Representative and her undersigned counsel does hereby respectfully allege the following:

FACTS/BACKGROUND

1. The Plaintiff is the Estate of Delila Parrott, represented by the Personal Representative, Joan Acosta. Joan Acosta is the dully appointed Personal Representative of the estate having been appointed as such by the Probate Court of Charleston County, as the personal representative of the estate of Delila Parrott.

2. Upon information and belief, the defendant, Sandpiper Independent and Assisted Living –Delaware, LLC, (hereinafter referred to as "Sandpiper") is a limited liability corporation existing under the laws of the one of the states of the United States and owns property and conducts business in Charleston County, South Carolina, by providing services and care to adult and elderly clients and patients.

3. Sandpiper offered services and opportunities to mostly an advanced age population for up-scale living in its premises, with the promise that the resident/client would be accounted for by sight by Defendant's staff at least once during a 24 hour period.

4. Plaintiff became a resident/client of Defendant on May 23, 2013. Plaintiff became a client of Defendant because of and due to Defendant's promise to visually confirm Plaintiff's well-being at least once during every 24 hour period.

5. Defendant assured Plaintiff and Plaintiff's Personal Representative that Plaintiff would be accounted for once per 24 hour period.

6. On June 3, 2014, Delila attended lunch on the premises of Defendant and met with her friends at the Defendant's premises cafeteria. She was last seen by her friend and co-resident, Lila Watters.

7. On information and belief, Delila returned to her residence for the evening. At some time that evening, she attempted to hang a curtain rod on an existing bracket. As she made this attempt, she fell and fractured her hip.

8. Due to her injury, Delila was unable to move or remove herself from the floor. She used a shoe to strike a piece of furniture in order to use noise to draw attention to her predicament.

9. On Wednesday June 4, 2014, Defendant's staff person, Rebecca Munoz was unable to account for Delila, as she had not been seen by any staff person. Munoz then followed the policy of affirming Delila's well being by telephoning Delila's apartment. When she received no answer, she continued to follow the policy and knocked on Delila's apartment door. She received no answer or response. She then, per the policy, attempted to open the door to Delila's apartment. She discovered she had the wrong key. She then returned to the officer where the keys were housed. She failed to return to Delila's apartment with the correct key. She decided then to ignore the policy and failed to return to Delila's apartment. She failed to notify the next of kin or her supervisor as required by the policy.

10. Delila remained on the floor, unable to move. She remained immobile until she was discovered by Lila Watters on the evening of June 6, 2014, hours after Sandpiper was notified by Watters of potential harm to Delila. Ms. Watters had consistently complained to Defendant's

agents, servants, employees and staff to check on Delila's well-being. Defendant's agents, servants, employees and staff refused to confirm the well-being or perform a wellness check for Delila. Ms. Watters requested on multiple times that Defendant's agents, servants, employees and staff provide to her a key so that she could confirm the well-being of Delila. Defendant's agents, servants, employees and staff refused to do so.

11. Initially, when Ms. Watters made request of Defendant's agents, servants, employees and staff for a key to enter Delila's residence, Defendant's agents, servants, employees and staff denied having possession of a key. On Friday, after repeated request by Ms. Watters to access Delila's residence, Ms. Watters told Defendant's agents, servants, employees and staff that she was going to hire a locksmith to access Delila's room. At this point, Defendant's agents, servants, employees and staff provided an access key to Delila's residence. At all times during this debacle, Defendant's agents, servants, employees and staff had possession of a key to Delila's resident, in complete contradiction to their earlier representations.

12. Ms. Watters immediately went to Delila's residence and found her in a horrible and unbearable condition. Defendant's agents, servants, employees and staff refused to accompany Ms. Watters to Delila's residence.

13. Defendant's agents, servants, employees and staff did not make visual contact with Delila from Tuesday until she was found by Ms. Watters on Friday.

14. Defendant's agents, servants, employees and staff would not have found Delila on Friday evening, except for the persistence of Ms. Watters, who badgered and complained to Defendant's agents, servants, employees and staff over and over about the safety of Delila. Defendant's staff made excuses as to why the staff had done nothing to confirm the safety of Delila. Finally, Ms. Watters demanded staff investigate the matter or she would retain a locksmith to open Delila's door. At that time, Defendant's agents, servants, employees and staff provided Ms. Watters a key. Ms. Watters found Delila lying in her own excrement, injured from attempting

to take her own life due to her suffering for nearly four days, injured from the fall and suffering from infection, all due to or complicated by Defendant's complete disregard for Delila's safety and well-being.

15. Upon discovering Delila, who was severely dehydrated, injured and near death, EMS was called, and she was transported to Roper Mt. Pleasant Hospital for treatment of a fractured hip, infection, multiple wounds to the wrist and other medical needs.

16. Delila suffered a fractured hip, infections, incurred medical expenses, suffered from permanent disability, suffered from pain, anxiety, depression, fear, and suffered loss of enjoyment of life and quality of life.

FOR A FIRST CAUSE OF ACTION
(SURVIVAL ACTION)

17. Plaintiffs would re-allege their previous allegations as if fully set forth herein.

18. Delila was under the care and control of Defendant to the extent that Defendant had promised to make visual contact with her every 24 hours to ensure her safety and well-being. Notwithstanding this promise, Defendant failed to maintain visual contact with Delila at least once per 24-hour period; therefore, Defendant was negligent, careless, grossly negligent, reckless, willful and wanton in violating their duties owed to Delila. The Defendant is liable for one or more of the following acts of omission or commission, any and all of which are departures from the prevailing and acceptable duty:

- a. In failing to maintain visual contact with Delila every 24 hours;
- b. In failing to properly train its employees, agents, servants in how to visually account for Delila's well-being;
- c. In failing to supervise its employees, agents, servants in how to safely accomplish a wellness check for Delila in any given 24-hour period;
- d. In failing to confirm the well-being of Delila in a timely fashion during a twenty-four hour period;

- e. In failing to confirm the well-being of Delila in a timely fashion, even after being put on notice of potential harm to her by a concerned resident;
- f. In failing to heed the request of other residents to check on Delila's residence since she had been missing for multiple days.
- g. In failing to properly monitor Delila;
- g. In failing to properly perform appropriate inspections to insure the safety of Delila;
- h. In failing to notify Delila's next of kin of her absence from the meal times and functions provided by Defendants;
- i. In failing to provide Delila's next of kin with correct information about her absence from sight;
- j. In failing to warn Delila and her next of kin that Defendant had no reliable mechanisms in place to account for visual confirmation of a resident's well-being;
- g. In failing to properly train the Defendants' personnel and agents and servants so as to allow them to have adequate and current training, credentials and skills to properly assess, monitor, and account for Delila;
- i. In failing to have in place proper and adequate policies, procedures, protocols, rules and regulations regarding the well-being and safety of Defendant's residents;
- k. In failing to properly educate and train its agents, servants and employees, or if properly trained and educated in failing to allow its employees to exercise skill and judgment so as to account for Defendant's residents.
- l. By ignoring and discounting the complaints and warnings for more than three days, regarding Delila's whereabouts provided to them by Ms. Watters;
- m. For such other and further acts of negligence of the Defendant as may be shown by discovery of this matter;

All of which were the cause of the injuries and damages suffered by Delila.

19. As a direct and proximate result of the negligence, carelessness, gross negligence, recklessness, willfulness and departure from its duty by Defendant, Delila suffered an agonizing sixty or more hours without help or sustenance. Her plight was exacerbated by a fractured hip, lying prone in her own excrement, enduring such emotional harm and stress so as to cause her to attempt to take her own life as she laid immobile for days, suffered from infections and damage to health, lost quality of life, lost enjoyment of life, suffered severe pain and injury, suffered extreme

emotional distress, anxiety, grief and sorrow, permanent disability, medical expenses and permanent impairment for which the Plaintiff is entitled to recover actual and punitive damages.

FOR A SECOND CAUSE OF ACTION
(WRONGFUL DEATH)

20. Plaintiffs would re-allege their previous allegations as if fully set forth herein.

21. Delila was under the care and control of Defendant to the extent that Defendant had promised to make visual contact with her to insure her safety and because a resident had given notice to Defendant's agents, servants, employees and staff that Delila was missing from the functions she usually attended, thereby raising concern for Delila's safety and well-being.

22. Notwithstanding this promise, Defendant departed from the prevailing and acceptable standards of care and their it's duty by failing to maintain visual contact with Delila at least once per 24-hour period.

23. Defendant and Defendant's agents, servants, employees and staff ignored the pleas, demands and cries for help from Lila Watters who begged Defendant's agents, servants, employees and staff to investigate the whereabouts and well-being of Delila. At all times before Friday evening, June 7, 2014, Defendant's agents, servants, employees and staff refused to assist Ms. Watters in any manner and upon her further demands, refused to accompany her to Delila's residence. At all times relevant, Defendant's agents, servants, employees and staff consciously disregarded the safety and well-being of Delila.

24. But for the heroic efforts of Ms. Watters, Delila would most probably died of her injuries before Defendant's agents, servants, employees and staff would have discovered her.

25. The Defendant was thereby negligent, careless, grossly negligent, reckless, willful and wanton in violating their duties owed to Delila. The Defendants is liable for one or more of the following acts of omission or commission, any and all of which are departures from the prevailing and acceptable professional standard of care:

- a. In failing to maintain visual contact with Delila every 24 hours;
- b. In failing to properly train its employees, agents, servants in how to visually account for Delila's well-being;
- c. In failing to supervise its employees, agents, servants in how to safely accomplish a wellness check for Delila in any given 24-hour period;
- d. In failing to confirm the well-being of Delila in a timely fashion during a twenty-four hour period;
- e. In failing to confirm the well-being of Delila in a timely fashion, even after being put on notice of potential harm to her by a concerned resident;
- f. In failing to heed the request of other residents to check on Delila's residence since she had been missing for multiple days.
- g. In failing to properly monitor Delila;
- h. In failing to properly perform appropriate inspections to insure the safety of Delila;
- i. In failing to notify Delila's next of kin of her absence from the meal times and functions provided by Defendants;
- j. In failing to provide Delila's next of kin with correct information about her absence from sight;
- k. In failing to warn Delila and her next of kin that Defendant had no reliable mechanisms in place to account for visual confirmation of a resident's well-being;
- l. In failing to properly train the Defendants' personnel and agents and servants so as to allow them to have adequate and current training, credentials and skills to properly assess, monitor, and account for Delila;
- m. In failing to have in place proper and adequate policies, procedures, protocols, rules and regulations regarding the well-being and safety of Defendant's residents;
- n. In failing to properly educate and train its agents, servants and employees, or if properly trained and educated in failing to allow its employees to exercise skill and judgment so as to account for Defendant's residents.
- o. By ignoring and discounting the complaints and warnings for more than three days, regarding Delila's whereabouts provided to them by Ms. Watters;
- p. For such other and further acts of negligence of the Defendant as may be shown by discovery of this matter;

All of which were the cause of the death of Delila on February 9, 2015.

26. As a direct and proximate result of the negligence, carelessness, gross negligence, recklessness, willfulness and departure from its duty by Defendant, Delila died. Her estate and beneficiaries are entitled to actual and punitive damages from the Defendant.

FOR A THIRD CAUSE OF ACTION
(Violation of the South Carolina Unfair Trade Practices Act)

27. The Plaintiff would reallege her previous allegations as if fully set forth herein.

28. The General Assembly of the State of South Carolina has passed legislation codified and commonly known as Unfair Trade Practices Act as contained in the code of laws of the State of South Carolina at S.C. Code Ann. §39-5-10 and other sections.

29. Defendant is engaged in the business of renting and leasing dwelling places to senior adults with the benefit of offering additional services in the form of assisted living and nursing home care on the same property.

30. Defendant represented to Plaintiff and others that it provided services to Plaintiff and others similar situated that were above and beyond the usual senior living complex amenities, including but not limited to a visual affirmation by Defendant's staff of each resident's presence at least once every twenty-four-hour period.

31. Defendant instructed its staff to visually confirm the residents' presence and then record the affirmation on a written form created for such purposes.

32. Defendant maintained a written policy that dictated the steps each staff person was to accomplish in visually confirming the residents' presence and provided a record for the staff to report their findings.

33. Plaintiff fell in her apartment on or about June 3, 2014. She was unable to get up from the floor. She was without care and attention until she was found by a co-resident on June 6, 2014. Staff never confirmed the status of Plaintiff between June 3, 2014 and June 6, 2014.

34. Defendant did not comply with its policy of visually affirming the presence of each resident, including the presence of Plaintiff.

35. Defendant failed to maintain, lost or destroyed any records of the written policy and procedure set forth above.

36. Defendant failed to maintain, lost and or destroyed the record were staff initialed each residents' name who had been visually confirmed on each day, including any records from June 3, 2014 through June 6, 2014. Defendants have been unable to locate any previous records that affirms Defendants compliance with its written policy.

37. Defendant and its agents and servants were either unqualified to do perform the policy and its requirements or completely failed to perform the policy in a manner consistent with the Defendants' representations.

38. Defendant then lost or intentionally destroyed the critical records of the policy and procedure and the record where staff confirmed their visual confirmation of each resident.

39. The aforementioned acts and practices of Defendants were unfair and deceptive.

40. The aforementioned acts of the Defendant were intentional or rise to the level of conscience indifference.

41. That the aforementioned acts and practices of Defendants affected trade and/or commerce and have the potential of being repeated by Defendant and have been repeated by Defendant.

42. As a result of Defendants' deceptive acts and practices, Plaintiff has been damaged in that she was left unattended, without medical care, food and water for days. She paid to Defendant monies each month for rent and the amenities she was promised by Defendant. Defendant deceived her and her family by failing to comply with Defendants policies and procedures.

43. Plaintiff is entitled to three times her actual damages on each cause of action and a reasonable award of attorney fees under S.C. Code Ann §39-5-140 (2006) (“The South Carolina Unfair Trade Practices Act.”)

WHEREFORE, Plaintiff respectfully prays for judgment against the Defendant for her for actual damages, punitive damages, special damages and consequential damages, in an amount to be determined by a jury at the trial of this action, for treble damages per the SCUTA, for attorney’s fees, costs and expenses, and other and further reliefs as this court may deem just and proper.

Respectfully Submitted:
REEVES & LYLE, LLC

S/Paul L. Reeves
Paul L. Reeves (SC Bar 4671)
PO Box 11126
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Attorney for Plaintiff

Columbia, South Carolina
December 11, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
THE ESTATE OF DELILA PARROTT,	)	CASE NO. 2016-CP-10-5379
	)	
	)	ANSWER TO AMENDED COMPLAINT
PLAINTIFF,	)	BY DEFENDANT SANDPIPER
	)	INDEPENDENT & ASSISTED LIVING-
vs.	)	DELAWARE, LLC (MISIDENTIFIED IN
	)	PLAINTIFF'S AMENDED COMPLAINT
SANDPIPER INDEPENDENT AND	)	AS "SANDPIPER INDEPENDENT AND
ASSISTED LIVING-DELAWARE, LLC,	)	ASSISTED LIVING-DELAWARE, LLC
	)	
DEFENDANT.	)	
	)	

TO: PAUL L. REEVES, ATTORNEY FOR THE PLAINTIFF:

The Defendant, Sandpiper Independent & Assisted Living-Delaware, LLC (misidentified in Plaintiff's Complaint as "Sandpiper Independent and Assisted Living-Delaware, LLC" and hereinafter referred to as "Defendant" or "this Defendant"), by and through its undersigned counsel and subject to and without waiving its right to compel this matter to arbitration, hereby responds to the Plaintiff's Amended Complaint as follows:

1. Any and all allegations set forth in Plaintiff's Amended Complaint not hereinafter admitted, denied, qualified, or otherwise explained are hereby expressly denied and strict proof is demanded thereof.

2. The Defendants are without sufficient knowledge or information to respond to the allegations set forth in Paragraph 1 of Plaintiff's Amended Complaint and therefore denies the same and demands strict proof thereof.

3. This Defendant admits the allegations set forth in Paragraph 2 of Plaintiff's Amended Complaint only insofar as it is alleged that this Defendant is a Delaware limited liability company conducting business in Charleston County, South Carolina. This Defendant denies the

remaining allegations set forth in Paragraph 2 of Plaintiff's Amended Complaint and would further assert that this Defendant does not offer or provide any form of nursing or medical services or care as it does not have any patients. Further answering, this Defendant does not offer any services whatsoever except those which are set forth in the written lease applicable to this case.

3. This Defendant denies the allegations set forth in Paragraph 3 of Plaintiff's Amended Complaint as stated. This Defendant would further assert that it does not offer or provide any services or opportunities except those which are set forth in the written lease executed by Plaintiff's decedent. Further answering, this Defendant denies any promise made to Plaintiff or Plaintiff's decedent regarding monitoring or supervision.

4. This Defendant admits the allegations set forth in Paragraph 4 of Plaintiff's Amended Complaint only insofar as it is alleged that Plaintiff's decedent was a resident of Sandpiper Village. Any and all remaining allegations, including the alleged date when Plaintiff's decedent's residency began, is denied and strict proof is demanded thereof. This Defendant denies having any "clients" and denies any promise made to Plaintiff or Plaintiff's decedent regarding monitoring or supervision.

5. This Defendant denies the allegations set forth in Paragraph 5 of Plaintiff's Amended Complaint.

6. This Defendant is without sufficient knowledge and information to respond to the allegations set forth in Paragraph 6 of Plaintiff's Amended Complaint and therefore denies the same and demands strict proof thereof.

7. Upon information and belief, this Defendant admits the allegations set forth in Paragraph 7 of Plaintiff's Amended Complaint insofar as it is alleged that Plaintiff's decedent did in fact suffer a hip fracture as result of hanging curtains in her apartment. Defendant denies

however that such incident occurred on the evening of June 4, 2014 as alleged. This Defendant is without sufficient knowledge and information to respond to the allegations set forth in Paragraph 7 of Plaintiff's Amended Complaint regarding when Plaintiff's decedent returned to her apartment on June 4, 2014 and therefore these allegations are denied and strict proof is demanded thereof.

8. This Defendant is without sufficient knowledge and information to respond to the allegations set forth in Paragraph 8 of Plaintiff's Amended Complaint and therefore denies the same and demands strict proof thereof.

9. This Defendant denies the allegations set forth in Paragraphs 9, 10, 11, 12, 13, and 14 of Plaintiff's Amended Complaint as written.

10. This Defendant admits the allegations set forth in Paragraph 15 of Plaintiff's Amended Complaint only insofar as it is alleged that this Defendant's employees accessed Plaintiff's decedent's apartment and called EMS to provide assistance. This Defendant denies any and all allegations inconsistent with the above limited admission. As to any and all remaining allegations set forth in Paragraph 14 of Plaintiff's Amended Complaint regarding the nature of Plaintiff's decedent's injuries and where she was transported, this Defendant is without sufficient knowledge and information to respond to these allegations and therefore these allegations are denied and strict proof is demanded thereof.

11. This Defendant is without sufficient knowledge and information to respond to the allegations set forth in Paragraph 16 of Plaintiff's Amended Complaint and therefore denies the same and demands strict proof thereof.

12. In answering the allegations set forth in Paragraph 17 of Plaintiff's Amended Complaint, Defendant would restate its answers set forth in the above paragraphs as if stated verbatim herein.

13. This Defendant denies the allegations set forth in Paragraphs 18 and 19 of Plaintiff's Amended Complaint.

14. In answering the allegations set forth in Paragraph 20 of Plaintiff's Amended Complaint, Defendant would restate its answers set forth in the above paragraphs as if stated verbatim herein.

15. This Defendant denies the allegations set forth in Paragraphs 21, 22, 23, 24, 25, and 26 of Plaintiff's Amended Complaint.

16. In answering the allegations set forth in Paragraph 27 of Plaintiff's Amended Complaint, this Defendant would restate its answers set forth in the above paragraphs as if stated verbatim herein.

17. The allegations set forth in Paragraph 28 of Plaintiff's Complaint call for legal conclusions and therefore no response is required. To the extent a response is required, this Defendant would crave reference to the S.C. Code sections referenced therein.

18. This Defendant admits the allegations set forth in paragraph 29 of the Plaintiff's Complaint.

19. This Defendant denies the allegations set forth in paragraphs 30, 31, 32, 33, 34, 335, 36, 37, 38, 39, 40, 41, 42, and 43 of Plaintiff's Complaint as written, and would crave reference to the S.C. Code sections referenced therein.

20. This Defendant denies the allegations and assertions set forth in Plaintiff's prayer for relief, including the request for a jury trial.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

21. This Court lacks jurisdiction over this matter because Plaintiff's claims as to this Defendant are subject to arbitration pursuant to a valid arbitration agreement entered into between the parties hereto, and therefore this matter should be dismissed and compelled to arbitration.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

22. This action must be stayed until the validity of the binding Arbitration Agreement signed by the parties is determined by a court of proper jurisdiction. Defendant hereby provides notice that a Motion to Compel Arbitration and associated Motion to Stay is forthcoming.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

23. The Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action and fails to state a claim upon which relief can be granted against these Defendants and should be dismissed pursuant to Rule 12(b)(6) of South Carolina Rules of Civil Procedure or Rule 12(b)(6) of the Federal Rules of Civil Procedure.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

24. A claim for punitive damages and an award of punitive damages would violate those clauses of the Constitutions of the United States and South Carolina related to privileges and immunities, due process and equal protection and Defendants would further assert the protections, defenses, and statutory rights set forth in S.C. Code Ann. § 15-32-510, et. seq.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

25. To the extent Defendant is required to raise the affirmative defense of comparative negligence under applicable South Carolina law in order to avoid an argument of waiver by

Plaintiff, Defendant would assert Plaintiff's damages, if any, should be proportionately barred or reduced under the doctrine of comparative fault if such evidence is found as the case proceeds.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

26. Plaintiff's claims should be barred as a result of Plaintiff's release of the Defendant as to some or all of the liability concerning or arising from the injuries and claims cited by the Plaintiff in Plaintiff's Amended Complaint.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

27. The Defendants would affirmatively plead entitlement to any and all contractual limitations of liability applicable to this matter.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

28. The Plaintiff expressly and implicitly assumed the risk of the dangers alleged in the Amended Complaint.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

29. The Defendant would further affirmatively plead that some or all of Plaintiff's claims fail because the Defendant's duty to Plaintiff's decedent did not extend to the protection or prevention of the injuries alleged. Further, no consideration was contained in the lease for such services.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

30. The Defendant would affirmatively assert that it would be entitled to any and all benefits, joint and several liability protections, emergency situations limitations on liability, any and all monetary limitations or caps of liability and/or damages under the Economic Development,

Citizen and Small Business Protection Act including, but not limited to §15-38-15, et seq., §15-36-100, et seq. and any other applicable provisions under the act.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

31. This Defendant would affirmatively assert that the Plaintiff's injuries were not proximately caused by any action or inaction of this Defendant as a defense to this action.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

32. Defendant hereby raises the doctrine of election of remedies as a defense to Plaintiff's claims.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

33. Defendant hereby affirmatively raises the doctrine of economic loss as a full or partial bar to the Plaintiff's claims in this matter.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

34. Defendant hereby affirmatively raises mistake as a defense to the Plaintiff's claims in this matter.

**FURTHER ANSWERING AND
FOR A FURTHER AFFIRMATIVE DEFENSE**

35. Defendant hereby reserves the right to raise additional affirmative defenses as discovery proceeds and new information is gathered.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

YOUNG CLEMENT RIVERS, LLP

By: s/ D. Jay Davis, Jr.

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Attorneys for the Defendant Sandpiper Independent

& Assisted Living-Delaware, LLC

Charleston, South Carolina

Dated: December 26, 2019

1 STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT
 2 COUNTY OF CHARLESTON) OF COMMON PLEAS
 3) NINTH JUDICIAL CIRCUIT
 4 THE ESTATE OF DELILA) CASE NO.
 PARROTT,) 2016-CP-10-5379
 5)
 6) Transcript of Record
 Plaintiff,) Non-Jury Trial Day 1
 7 vs.) Date: Sept. 8, 2020
 8 SANDPIPER INDEPENDENT AND)
 ASSISTED LIVING-DELAWARE,)
 9 LLC,)
 10)
 Defendant.

11 * * * * *

12
13 B E F O R E:

14 The Honorable Bentley Price

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17 Krista Nicole Carney, Stenographic
 18 Court Reporter, transcribed by a
 19 Stenographic Court Reporter

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1 A P P E A R A N C E S

2

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4 REPRESENTING THE PLAINTIFF:

5 PAUL REEVES, ESQUIRE

6 and TODD LYLE, ESQUIRE

7 and JOHN BOSWELL (of Counsel)

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10 Columbia, SC 29201

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13 REPRESENTING THE DEFENDANT:

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15 and JAY DAVIS, ESQUIRE

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18 Charleston, SC 29402

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EXHIBITS

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ALL EXHIBITS WERE MARKED BEFORE TRIAL STARTED

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1 (The following proceedings were held
2 9/8/2020, Charleston General Session Trial, Judge
3 Price)

4 THE COURT: All right. Are y'all ready
5 to go, Mr. Reeves?

6 MR. REEVES: Yes, sir, Your Honor.

7 THE COURT: If you just want to come up
8 here and I'll go ahead and swear you in.

9 MR. REEVES: Can we do just a brief
10 statement?

11 THE COURT: I thought your briefs were
12 enough. So that's fine.

13 MR. REEVES: It's up to you, Judge.

14 THE COURT: As I told y'all back there,
15 this is y'all's trial, this is y'all's courtroom.
16 I'm just hear to listen. Whatever y'all would like
17 to do.

18 MR. REEVES: I'll do it however you
19 would like to do it.

20 THE COURT: For the record, obviously,
21 if you want to keep it complete, just make a quick
22 opening statement. Mr. Reeves, I'll be happy to
23 hear from you.

24 OPENING STATEMENT

25 MR. REEVES: Your Honor, if it please

1 the Court, I, along with John Boswell and Todd
2 Lyle, have had the privilege to represent the
3 Estate of Delila Parrott.

4 This morning before you, this a case
5 where we allege conscious pain and suffering, and
6 wrongful death.

7 Your Honor, I will be brief with the
8 facts, but I do think that some of these facts are
9 important. And also the context of these facts are
10 important.

11 Ms. Parrott, was a 79-, 80-year-old
12 vibrant, active widow. She had spent 40 years in
13 the health care industry as a nurse anesthetist.
14 She had been married twice. And, as you would
15 expect, good momma, good sister, and good
16 grandmother.

17 Your Honor, in 2012 and 2013 she and
18 her daughters started to talk about, after she lost
19 her second husband, about an environment where she
20 could remain relevant and an environment where she
21 could, to some degree be safe.

22 And they came across this Defendant,
23 which is Sandpiper Senior Living. And after -- or
24 during a couple of meetings with Corrine
25 Carrington, who was the director at Sandpiper at

1 the time, Corrine Carrington told Ms. Parrott and
2 her daughter that Sandpiper had a policy. And the
3 policy was to visually confirm the wellbeing of its
4 residences daily.

5 And, Your Honor, that policy was pretty
6 simple and Ms. Carrington testified about records,
7 about the policies, the policies in writing. And
8 the business to keep those records related to this
9 policy.

10 And the policy was as follows: The
11 staff had an alphabetical sheet with all the
12 residents. And when they would see a resident,
13 they would mark it off. If they didn't see a
14 resident, then the staff was to, per the policy,
15 call the resident's apartment, get them on the
16 phone. If they were okay, then they were marked
17 off. If they were not able to get them on the
18 phone, then they would go to the apartment and
19 knock on the door.

20 If they couldn't get them at the door,
21 the staff had a duplicate key to actually go into
22 the apartment and put their eyes on the resident to
23 make sure everything was okay. Who wouldn't want
24 that?

25 Your Honor, the reason that policy is

1 important is, generally speaking, a landlord is not
2 required. No duty to rescue one of its tenants.
3 However, if a landlord undertakes through a policy
4 or procedure protocol steps to ensure the safety of
5 a resident or to follow the policy, then they're
6 required to follow that policy in a reasonable
7 manner.

8 And if they don't follow the policy,
9 then the policy itself creates the duty and then
10 this Court can then decide, did you adhere to the
11 duty or did you breach the duty. In this case,
12 you'll hear they breached the duty.

13 Because what happened is Ms. Parrott
14 fell on June 3rd. That was a Tuesday evening,
15 early Wednesday morning, June 4th. She shattered
16 her hip and was rendered unable to move.

17 You'll also will hear, Your Honor, that
18 that particular injury is excruciatingly painful.

19 Everybody in this room, Your Honor,
20 agrees that on Wednesday, June 4th, nobody saw
21 Ms. Parrott. She was missing.

22 Now, you will also hear that Sandpiper
23 followed the policy on June 4th. A staff person
24 named Rebecca didn't see Ms. Parrott. So she
25 called her apartment and got no answer. She

1 followed the policy and went to Ms. Parrott's
2 apartment, knocked on the door and got no response.

3 Rebecca had a key, Your Honor, to
4 Ms. Parrott's apartment. And when she inserted the
5 key in the door, she noticed she didn't have the
6 right key. And rather than walk about 60 paces
7 back to her office and get the right key, which was
8 in the office, in the key box clearly marked. She
9 just called her mom, Beth. Beth also works for
10 Sandpiper. After making the telephone call,
11 Rebecca went home. Nobody confirmed visually of
12 Ms. Parrott's wellbeing on Wednesday.

13 On Thursday, Lila Watters, who is
14 Ms. Parrott's good friend -- and they ate their
15 meals together. She told the staff, you know, I
16 haven't seen Ms. Parrott at lunch and I didn't see
17 her at dinner; would you go check on her.

18 The staff said, no, I'm not going to do
19 that. Ms. Lila knew there was something was wrong.
20 On Friday, she didn't see Ms. Parrott at lunch.
21 That's Friday, June 6th.

22 She goes to the staff and says, can I
23 get the key to Ms. Parrott's apartment. I think
24 there's something wrong. I want to go check it
25 out. We don't have a key, was the response.

1 Later that afternoon, Ms. Watters, her
2 friend, in essence, gave them an ultimatum and
3 said, either you do something or I'm going to do
4 something. And Rebecca, the same woman who had not
5 checked her on, gave Ms. Watters a key, and said,
6 you can go check it out.

7 Ms. Watters found Ms. Parrott on the
8 floor in a horrible position, in a horrible
9 condition. And, Your Honor, part of this case will
10 simply be this, if Rebecca had done on Wednesday
11 what she did on Friday, we wouldn't be here today.

12 Now, in fairness, Your Honor, you will
13 hear from the Defendant, oh, we have a record of
14 her, Ms. Parrott, being checked off on Thursday.
15 That record is missing. Never been produced.

16 Now, according to the director, who
17 looked into this whole situation -- and here's what
18 she did; she called the kitchen staff on Saturday,
19 when she investigated. And she said, hey, did any
20 of you folks see Ms. Parrott on Thursday, June 5th?
21 No, ma'am.

22 She called the activity director, Tina.
23 And said, hey Tina, did you see Ms. Parrott, June
24 5th? No, ma'am. Lila Watters said, I told you she
25 was missing. I told you there was something wrong

1 and nobody would go check on her.

2 Your Honor, you will hear evidence that
3 the fractured hip was a very, very serious injury.
4 It shattered the hip. Your Honor, you will see
5 from the evidence that the medical record indicates
6 she recovered beautifully from the shattered hip.

7 But what she didn't recover from was
8 being on the floor for days without food, without
9 water. She defecated on herself. She peed on
10 herself. She had two decubitus ulcers. One of
11 which was almost 21 centimeters long. Those don't
12 come up in a day. She was dehydrated. She was on
13 the verge of kidney failure.

14 And when she found -- Your Honor, there
15 was EMS. There was this exchange; ma'am, how long
16 have you been down? Tuesday. Then the EMS
17 gentleman said, no, you mean Thursday, yesterday?
18 She says, no, I don't know Thursday.

19 Your Honor, you will have sufficient
20 evidence than more likely than not Ms. Parrott fell
21 Tuesday evening, Wednesday morning. And she was
22 not seen on Wednesday when she should have been
23 accounted for. She was not accounted for on
24 Thursday. She not accounted for until on Friday at
25 8 p.m. when Lila Watters gave them an ultimatum to

1 do something. And because the policy requires them
2 to do something.

3 Now, Your Honor, you will hear that
4 Ms. Parrott, like all people who are 79 years of
5 age, had some other issues, health issues. None
6 were terminal and none were serious. She took very
7 good care of herself, Your Honor, both diet and
8 hydration. She was very intentional about that.

9 In fact, her medical records indicate
10 that prior to this failure, it was just maintenance
11 for her. Your Honor, you will hear that what
12 happened to Ms. Parrott is called a long lie. And
13 that's been defined by the literature is when an
14 elderly falls and can't get up for over an hour,
15 that's defined as a long lie. And Your Honor, you
16 can use your common sense. A long lie is really,
17 really defined by the person who is enduring it,
18 not the person describing it.

19 Because this is much like something you
20 might write in a war story. I can talk all day
21 long about the courage and the bravery. And it
22 never will come home to you until you actually
23 experience it.

24 Your Honor, what happened with the long
25 lie is it look the life out of her. While she

1 recovered from the hip, she never recovered from
2 the long lie. And there will be medical testimony
3 that will be consistent with that.

4 Your Honor, we will be asking for
5 actual damages and a substantial amount for
6 conscious pain and suffering.

7 But you'll also hear from her physician
8 and from a trauma expert that this contributed to
9 her death. And it cut eight years off of her life
10 expectancy, at the time of this event.

11 Your Honor, I would ask the Court that
12 in this particular matter, the facts lead to one
13 conclusion. And that conclusion is that
14 Ms. Parrott was down for days and no one took the
15 very, very short steps to find her.

16 And, Your Honor, finally I would close
17 with this. That key that I was talking about on
18 Wednesday that Rebecca didn't have, somehow
19 spontaneously she found that key on Friday and gave
20 it to Ms. Watters.

21 Again, I would ask the Court to focus
22 on this. If she would have simply done it the way
23 it should have been done, we wouldn't be here.
24 Thank you very much.

25 THE COURT: All right. Thank you very

1 much.

2 Ms. Davis.

3 OPENING STATEMENT

4 MR. DAVIS: Yes. Thank you, Judge. I
5 want to first introduce some folks that are with me
6 to you first, Judge. Matt Riddle, my law partner.
7 And behind him is Eric Hadley. Eric is kind of
8 over the Sandpiper locations over there.

9 You may be familiar with Sandpiper,
10 Judge. And want to introduce you a little bit to
11 the facility. It's over in Mount Pleasant.

12 And it is -- it's really a group or a
13 campus of services. And they have three different
14 types. And I think what's important about what
15 understanding this is this case -- there's
16 Sandpiper skills, which is like your classic
17 nursing home. There's Sandpiper assisted, which is
18 a little bit level below, but you still need
19 medical help in your day-to-day activities and
20 activities of daily living. And then there's
21 Independent. And this case is about Independent.
22 But what you're going to see, as the case proceeds,
23 is they're going to try to make Sandpiper
24 Independent more like our assisted living facility.

25 But what overlies this case -- and I

1 think one of the reasons we're here is because this
2 is an independent living center. And the people
3 that go there sign a lease. And the lease sets
4 forth what the responsibilities are between the
5 folks and the legal relationship is one of
6 landlord/tenant. That's what it is. And the scope
7 and duties are set forth in the lease.

8 Now, you'll see the lease in this case.
9 And it actually -- because there are elderly people
10 living there -- and actually, Judge, it's not only
11 elderly. You can rent one. You can Vrbo it. You
12 can go rent these apartments. But the vast
13 majority of folks are elderly people that live
14 there.

15 Now, in this case, the lease talks
16 about -- and it's important. Look, when you move
17 in here you've got freedom. But with that freedom
18 comes a risk, because you are elderly. And we're
19 going to respect your ability to come and go, to
20 travel, do whatever it is that you want to do. But
21 they're making clear with that comes responsibility
22 and comes risk. And you'll see -- I'll take you
23 through the provisions.

24 Now, Mr. Reeves has done a great job in
25 this case. And he hasn't sued us for breach of

1 contract. Nobody is saying that breached the
2 lease. What he sued us for is saying we assumed
3 you were implementing the daily checklist. But
4 what their actual duty that they we assume was,
5 keep people safe daily. And this was the system
6 duty.

7 We assume that duty. I think everybody
8 in the courtroom would agree that duty is not
9 contained in the lease. So it's clearly -- he has
10 to convince you -- that we assumed the duty to keep
11 people safe daily.

12 We dispute that, Judge. We dispute
13 that we assume that duty. We don't dispute the
14 existence of the check-in system, if we were doing
15 it, or we were doing it reasonably. We're not
16 saying that's not the case.

17 But what we are saying is we don't
18 think the checklist system that has been
19 implemented in this case rose to the level to keep
20 people safe daily.

21 Now, the other thing that's important
22 about that, Judge, is the moment that you step into
23 those waters, you're moving in independent living;
24 right? You're saying, okay guys, you're taking
25 them, we have a duty to keep them safe.

1 But that's not what this facility is.
2 The other two buildings, I might agree with that.
3 So you're going to hear a couple of things about
4 the check-in system and our approach to help others
5 be safe.

6 One of the big things that you didn't
7 hear anything about is our emergency response
8 system. Now, what that is, Judge, is it's a
9 wireless system that we give residents, when they
10 come into the apartments. It's a little a pendent.
11 You may have seen one. They can wear it around
12 their wrist. They can wear it around their neck.

13 And if something happens, any kind of
14 emergency; if they fall or they hurt themselves,
15 like Ms. Parrott did in this case, all they have to
16 do is hit that button.

17 And it tells the staff somebody's down,
18 we need to respond. That's the system that we put
19 in place to respond to residents who have fallen,
20 like Ms. Parrott.

21 Now, in this case, what's
22 interesting -- and this is why I think about this
23 case. The word independent living has to -- that's
24 the frank word that you look at the case in.

25 Ms. Parrott was free to make the

1 decision not to wear that. That didn't happen.
2 That's her choice. We can't make her. We don't
3 try to make her. It's a choice that she made.
4 She's free to make whatever decisions that she
5 wants.

6 She was free -- in this instance, how
7 she got hurt was getting on a stair -- I mean, a
8 chair at age 80. And she didn't wear her button.
9 She didn't call us and say, would you come and help
10 me.

11 And those are decisions she's free to
12 make. I'm not in anyway blaming her for that. But
13 it's just like you or I make decisions. I probably
14 shouldn't have gotten on a ladder to clean out my
15 gutters. But I made the decision to do that. And
16 I'm free to do that.

17 The important factor in this case
18 you'll see as witnesses testify, Judge,
19 Ms. Parrott, while living independently, had the
20 ability to do that and her family wanted her living
21 independently.

22 And, as part of that, she had a real
23 desire for privacy. And you'll hear our staff talk
24 about some specific statements that she made about
25 not coming into her unit. She actually said, no

1 one is allowed in my apartment, don't come into the
2 unit without me in there at all. And our staff
3 said, well look, we have to be able to get into
4 your unit in case of an emergency. And she said,
5 look, I don't care. Oh well.

6 Now, I'm not up here saying in anyway
7 that -- you know, if the unit is on fire we're not
8 going to run in there, smoke coming in there, and
9 not do something about it. That's not it.

10 But what's important in this case,
11 Judge -- you'll hear it in the evidence, when an
12 apartment lessor tells you, I don't want anybody in
13 my unit, that's factored into your thought
14 processes. And it did in this case.

15 So, you may hear a bunch of talk about
16 whether this was a policy or it wasn't a policy,
17 was it a procedure. I think all of those things
18 had legal meaning. In other words, the overall
19 question in this case is, were we negligent?

20 And I'm sure the Plaintiffs wanted to
21 see the policy so they can argue, you violated the
22 policy so therefore you are negligent.

23 From our prospective, it was not an
24 official policy. It was a practice. We were doing
25 it. And we need to do it reasonably. We dispute

1 that at all. We dispute what the goal of it was;
2 keeping people safe daily.

3 But we don't say we weren't doing. We
4 were doing it. We didn't have an obligation to do
5 it, reasonably.

6 I'll touch briefly, Judge, on the date
7 of evidence. I agree with Mr. Reeves, that on
8 Wednesday, when Rebecca, she earlier testified,
9 went over to the unit and she did not access the
10 unit.

11 The reason she didn't access the unit
12 is Ms. Parrott had changed the locks. And we did
13 have a spare key. But when she went her master key
14 didn't work. So she couldn't get in.

15 Now, this is independent living. This
16 is a resident who wanted her privacy. And so she
17 makes the decision, after speaking to her mother,
18 who, by the way, has been there for 25 years
19 working and doing this exact job. And they say,
20 well, you know what, let's just check on her in the
21 morning. It factors into their decision to her
22 desire for privacy.

23 The other thing that's important about
24 that, too, I think, Judge, there's no indication
25 that Ms. Parrott has fallen, that there's an

1 emergency going on, that she's screaming, that she
2 has hit the panic button.

3 None of that happens. They make the
4 decision, which we believe in this context was
5 reasonable; let's check on her in the morning.

6 Now, the two days are really where your
7 factual questions are going to pop up. On
8 Thursday, there's no doubt our physician that she
9 seen Thursday. We are going to try to prove that
10 to you. And there's no doubt, we believe -- and
11 just like Ms. Reeves said, Friday works perfectly
12 in terms of the way they see the system. We get to
13 the end of the day. We go to see Ms. Parrott. We
14 go to her unit and find her on the ground. We
15 believe that's the safety mechanism. We did that
16 that particular day.

17 So where the dispute will be a lot of
18 it is going to come from Ms. Watters. Because you
19 heard him say Ms. Watters, Lila Watters. And she
20 allegedly went to the staff at least two times on
21 Thursday. I believe two times on Friday.

22 And the ladies you're going to hear
23 from will testify -- they said, we didn't check on
24 her. We are going to. That's going to be a
25 credibility thing for you, Judge, honestly.

1 I think at the end of the day, what
2 you're going to see is there's so many
3 inconsistencies. You are going to have to evaluate
4 that logically.

5 So, I think at the end of the day, I
6 think this case for you, Your Honor, respectfully,
7 the issues that you'll be facing, really is, one,
8 did Ms. Parrott fall on Tuesday. Because that's
9 the key to the whole thing.

10 And from their complaint, they, it's
11 been Tuesday. It couldn't have been Wednesday. I
12 couldn't have been Thursday. It couldn't have been
13 Friday. I mean, they have been committed to that.
14 So they have to prove that to you.

15 We're going to challenge two ways,
16 Judge. One, is we are going to put up some medical
17 evidence that we think objectively when she
18 presents in the emergency room. It ain't
19 consistent. Another is going to inconsistencies
20 with Ms. Parrott's statement that she fell on
21 Tuesday.

22 We're also going to try to convince you
23 that the -- for a reason I've already talked about,
24 the decision on Wednesday let's check on her the
25 next day reason.

1 And the last thing, Judge, you know, in
2 terms of whether we choose these ladies that you're
3 going to hear from just chose to see more of Lila
4 Watters. That will be up to you, Judge. We think
5 when you hear all the evidence you can find out how
6 that's to be done on a credible obligation.

7 Lastly, I want to talk a little bit
8 about damages, just briefly, Judge. If you take
9 the check-in system, the daily check-in system --
10 and this is an important fact, I think. The way
11 they articulate it, that you have to seen once a
12 day. So if you were seen at 8 a.m. on Tuesday and
13 8 p.m. on Thursday, 36 hours. It ain't 24 hours.
14 It's 36 hours.

15 So if you take their case and you
16 believe a hundred percent of it, that means zero to
17 36 hours, under their safety system, is an
18 acceptable time when they make the rounds, first of
19 all.

20 And then, secondly, the time period
21 from 36 to 72 that's when you're outside the
22 acceptable daily check-in time period. That 36 to
23 72 time period, which is what caused all of the
24 problems.

25 I think when it comes to the medical

1 bills, what you're seeing is she fell and fractured
2 her hip, and nobody says that's our fault.

3 So everything that's happened
4 medically; surgery, rehab, all of that stuff, that
5 has nothing to do with the fractured hip. And then
6 the ultimatum of death, is there's going to be
7 testimony saying -- really what you're going to
8 hear is speculative testimony by a physician that
9 said, well, I think because she spent 36 hours on
10 the ground, longer that she was allowed -- she died
11 eight months later. And we are going to try to
12 prove to you that's entirely speculative and
13 doesn't meet the standard.

14 If I ran too long, thank for your
15 patience, Judge.

16 THE COURT: Absolutely. I'm here for
17 y'all.

18 All right. Mr. Reeves, do you want to
19 call your first witness.

20 MR. REEVES: We would call Joan Acosta
21 to the stand.

22 THE COURT: Spell the last name.

23 MR. REEVES: A-C-O-S-T-A.

24 THE COURT: Please raise your right
25 hand.

1 Do you swear or affirm that the
2 testimony you are about to give will be the truth,
3 the whole truth and nothing but the truth?

4 MS. ACOSTA: I do.

5 THE COURT: Okay. Have a seat. And
6 just speak up so the court reporter can hear you.

7 DIRECT EXAMINATION

8 BY MR. REEVES:

9 Q. Good morning.

10 A. Good morning.

11 Q. You're going to have to speak up really
12 loud.

13 A. Okay.

14 Q. Joan, would you state your name,
15 please.

16 A. Joan Acosta.

17 Q. And what relation are you to Delila
18 Parrott?

19 A. I am her daughter.

20 Q. And are you also the personal
21 representative of her estate?

22 A. I am.

23 Q. And did you bring this lawsuit to this
24 Court today?

25 A. I did.

1 Q. What do you do?

2 A. I'm a registered nurse.

3 Q. And where do you work?

4 A. I work for a company called the
5 Directions Group, that has been acquired by a
6 company called EK Health in California. But we
7 still go by the Directions Group.

8 Q. What do you do for them?

9 A. I'm a supervisor over field case
10 managers. We are consultants to the workers' comp
11 insurance industry. We provide field nurses to get
12 injured workers to appointments, to be an
13 injured-worker advocate to assist them, and return
14 to work when possible.

15 Q. And are you married?

16 A. I am.

17 Q. Where do you live?

18 A. I live in Murrells Inlet, South
19 Carolina.

20 Q. Tell me this, what did your mother,
21 Ms. Parrott, do for a living?

22 A. My mother was a certified registered
23 nurse anesthetist.

24 Q. Where did she work?

25 A. Her last employment was in Mount

1 Pleasant. And she gave anesthesia at East Cooper
2 Hospital. And she worked for a group of
3 anesthesiologists, who worked at East Cooper
4 Hospital.

5 Q. Approximately, when did she retire?

6 A. She was 65 years old.

7 Q. And so that would have been about
8 roughly 14 to 15 years, prior to this event, at the
9 Defendant's complex?

10 A. Correct.

11 Q. How many times was your mother married?

12 A. My mother was married twice.

13 Q. And I know her second husband was Jacob
14 Parrott; is that right?

15 A. Jake Parrott.

16 Q. Approximately, when did he pass away?

17 A. 2005.

18 Q. And what did your mother do after he
19 passed away?

20 Well, first of all, was she working at
21 that time?

22 A. No, she was not working at that time.

23 Q. When he passed away, did they live in
24 Mount Pleasant?

25 A. They did. They lived in a townhouse in

1 1989 when they moved to Mount Pleasant. And they
2 lived in that townhouse -- and mother continued in
3 that townhouse until she went to Sandpiper.

4 Q. Now, tell me a little bit about your
5 mother's health at the time that she entered the
6 defendant's facility.

7 A. Mother was in excellent health and took
8 really good care of herself. She and I are the
9 same body build and in size. I haven't watched my
10 weight, as well as she did. You know, she was --
11 she had her regular preventative-type checkups with
12 her physician. But other than that, she was in
13 very good health.

14 Q. Now, the Defendants have asked you a
15 lot of questions about your mother's preexisting
16 conditions. And I want to go over that briefly.
17 Tell the Court what happened to your mother in
18 2009, about four or five years before she moved
19 into Sandpiper?

20 A. One of the things that I needed to
21 mention before is she had senile macular
22 degeneration, and had lost the central vision in
23 one of her eyes.

24 In 2009 -- you're talking about her
25 admission to Baptist Hospital?

1 Q. Yes.

2 A. She had been on our family farm near
3 Fair Bluff, North Carolina. And she had gotten
4 some bug bites on her leg. And one of my aunts had
5 mentioned that they thought it might have been
6 mites or something like that, from where she had
7 been in the chicken coop or out in the garden,
8 something like that.

9 And it started to become worrisome to
10 her. And as I called her, she would talk about it.
11 And she was talking about getting exterminating
12 companies to the house. And the first time, you
13 know, I thought that was the normal thing to do.
14 But then when she talked about it again and she
15 seemed more worried about it, I got concerned.

16 So I made a surprise visit. I just
17 turned up at her townhouse. And something just
18 didn't seem right about her. She was very anxious.
19 The house didn't appear in the orderly fashion that
20 it normally was in.

21 And so I felt like I needed to do
22 something. So I took her to her doctor, which was
23 Dr. Mills in Mount Pleasant. Dr. Mills was not
24 available. But I saw, what I believe, was a
25 physician's assistant or a nurse practitioner who

1 examined her and determined that it was a
2 psychological problem that she was having.

3 MR. DAVIS: Your Honor, I would be
4 objecting in regarding hearsay and medical
5 opinions. So she can tell, I think, what her
6 mother's condition was.

7 THE COURT: All right. What he's
8 saying is don't say what somebody else told you.
9 Just stick to the information which you got
10 first-hand knowledge of. Okay?

11 THE WITNESS: Okay.

12 BY MR. REEVES:

13 Q. As a result of the conversations that
14 you had before the medical provider, what did you
15 do?

16 A. I took mother with me to my home in
17 Columbia, South Carolina, and took her straight to
18 Baptist Hospital, where I knew that they had a
19 geriatric psychiatric unit. And we were seen in
20 the emergency room and they admitted to her to the
21 geriatric psych. unit.

22 Q. You've explained long ago this medical
23 terminology, which you've had experience in. What
24 did she suffer from?

25 A. It's a disease called delusional

1 parasitosis.

2 Q. All right. What does that mean for
3 those of us who don't have a clue what that is?

4 A. Mother believed that there were
5 no-see-um type -- that they were very tiny bugs
6 that were biting her skin.

7 And part of that was complicated by her
8 vision. She wasn't able to see that they were not
9 there. Her close-up vision -- while her distant
10 was very good, and she could still drive her
11 close-up vision was not good. And she wasn't
12 actually able to discern that bugs were not biting
13 her. It's actually a tactile hallucination.

14 Q. After the hospitalization, did she get
15 better, get worse, or stayed the same?

16 A. She got much better.

17 Q. And did you observe her -- after she
18 left the hospital, where did you take her?

19 A. I took her home with me.

20 Q. How long did she stay with you?

21 A. She stayed with me -- we brought her
22 home in April. And she stayed with me through
23 October.

24 Q. At the end of October, did she move
25 somewhere else?

1 A. We took her back home in October. She
2 was stabilized during that time. And I was
3 convinced that she was able to go home and go back
4 to her previous level of functioning.

5 Q. Now, since that time in 2009, did that
6 help -- based on your observations, did it ever
7 become a problem after that?

8 A. She was never seen by a physician or
9 she wasn't hospitalized for it. Now, do I think it
10 went completely away, I don't think so. But I
11 think she was very stable. She was very
12 functional. She wasn't talking about it. Her home
13 was in order. She wasn't seeking medical treatment
14 for it. And she seemed to resume to her previous
15 level of functioning.

16 Q. Okay. In 2012, 2013, without telling
17 me what your mother may have said, did you have
18 discussions with her about her moving to a
19 senior-living type place?

20 A. I did.

21 Q. And what were your reasons -- or what
22 was your thoughts about why it would be a good idea
23 for her?

24 A. Well, mother was very active in her
25 church and with her friends. And, you know, she

1 was still independent. She was still driving.

2 But I wanted to be proactive, because
3 she had had that sudden loss of her central vision.
4 It had been stable for many years, but we had no
5 guarantee of how long it was going to be stable.

6 And so I wanted to get her in a
7 situation where there would be transportation
8 available, where she would have activities
9 available, where she was checked everyday.

10 Because of the situation that she was
11 currently in, with me in Columbia, she was in a
12 townhouse. She was not reporting to work everyday
13 or going to someplace everyday, where she would be
14 missed, if something happened and she got really
15 sick or if she fell.

16 Q. Did you meet with Corrine Carrington at
17 any time to live prior to your mother deciding to
18 live at the Defendant's facility?

19 A. I'm not sure I understand. I met
20 Corrine Carrington at the same time that my mother
21 was with me. And we went there together.

22 Q. All right. And who did Ms. Carrington
23 identify herself -- what did she identify herself
24 to you as being?

25 A. I understood her to be in the

1 administrative position over the Sandpiper Village.

2 Q. And that's where your mother was
3 thinking about living?

4 A. Correct.

5 Q. Tell the Court what, if anything,
6 Ms. Carrington said about the policy.

7 A. About the policies, specifically?

8 Q. Yes.

9 A. They had a 24-hour visualization of
10 every resident policy. Now, they did not
11 necessarily see every resident every 24 hours.
12 They would call the ones that were not visualized
13 during that day. They had a sign-off sheet, and
14 every resident was to be checked off everyday at
15 the time you've been seen or checked.

16 Q. Was that policy important to you?

17 A. It was paramount to me, absolutely. I
18 was in Columbia. I was counting on that 24-hour
19 check policy.

20 Q. And Ms. Carrington told your mother at
21 the same time that she told you about this policy?

22 A. Yes. I mean, it was very much part of
23 our first meeting.

24 Q. After that conversation, did your
25 mother sign a lease with Sandpiper?

1 A. Not that day, but at a later visit.

2 Q. And was there any exceptions to the
3 policy mentioned to you by Ms. Carrington during
4 those first conversations, when you met with her
5 once or more than once?

6 A. Exceptions to the policy?

7 Q. Other than what you've told the Court,
8 was there any caveats? Were there any conditions,
9 exceptions?

10 A. No. No. Absolutely not.

11 Q. Now, during the time that your
12 mother --

13 First of all, did you help your mother
14 move in?

15 A. I was the one that arranged for the
16 movers and moved her in and placed her furniture
17 and put her things away and organized her
18 apartment.

19 Q. Without telling me what she said,
20 describe her demeanor when she moved in.

21 A. Well, it was a life change for her.
22 Downsizing from three bedroom, two bath townhouse
23 to a one-bedroom apartment.

24 She was excited about the opportunities
25 ahead, living at Sandpiper Village. She was, you

1 know, embracing the life that she was hoping to
2 live there.

3 Q. Did she come to meet any people that
4 she described to you as being close friends at
5 Sandpiper?

6 A. She did. She had someone that she knew
7 already that was there. But she made a very good
8 friend while she was there, Ms. Lila Watters. And
9 they became, what I would call, best friends.

10 Q. How would you describe their
11 relationship, based on what you saw?

12 A. They talked everyday. I understood
13 that they ate lunch everyday at the same table.

14 After mom stopped driving, Ms. Watters
15 became her shopping partner and drove her, you
16 know, to different places where they would go
17 shopping. They were both big thrift store
18 shoppers. They played bingo together at the
19 facility on bingo nights. They usually talked
20 everyday about their plan for the day, was my
21 understanding.

22 Q. And did your -- if you would describe
23 for the Court before -- tell the Court about your
24 mother's activities. Let's just take it on a
25 weekly basis. What did she normally do during a

1 normal week at Sandpiper?

2 A. At Sandpiper or in general?

3 Q. Well, in general. We'll start with
4 that.

5 A. I mean, she went to CVS once a week,
6 sometimes twice a week. Her second husband, my
7 stepfather, Jake Parrott, was a pharmacist for CVS.
8 She had a discount there. So she liked to do a lot
9 of her shopping there. She liked to go to Belk.
10 She liked to go to thrift stores.

11 And she did those things with Ms.
12 Watters. I know she played bingo, whenever it was
13 available. And I think that was Tuesday and Friday
14 nights at Sandpiper. She participated in their
15 birthday parties and their activities, anything
16 that they had going on, she would generally
17 participate in.

18 Q. Before the long lie, did your mother
19 manage her own financial affairs?

20 A. Very much so. Mother was completely in
21 charge of her checking account, her savings
22 account, her money. She traded stocks. She had a
23 Charles Schwab account.

24 One of her favorite things was penny
25 stocks. She would read about them, and she would

1 like to pick them, and buy them, and watched them.
2 She watched CNBC. She watched the tickers. She
3 was always listening for opportunities in the stock
4 market. She was on her computer, monitoring her
5 accounts. Keeping up with those kinds of things.
6 She did that completely independently.

7 Q. Did she -- did you or her buy her
8 groceries?

9 A. She bought whatever she wanted.

10 Q. When did she stop driving an
11 automobile?

12 A. She went to Sandpiper toward the end of
13 May of 2013. And I believe we had her leased car
14 picked up in October.

15 Q. After that, if she needed to go
16 somewhere, she would make those arrangements with
17 Watters and she would take her somewhere?

18 A. Exactly. And they had a little, you
19 know, bus kind of van that did some shopping trips
20 weekly that were planned. But she liked going with
21 Ms. Watters best.

22 Q. How would you describe your mother as
23 far as her privacy is concerned?

24 A. Mother was a private person, in the
25 sense that she didn't talk about her financial

1 business with anyone. She didn't want anybody
2 plundering through her things. But she certainly
3 had a cute little -- in her apartment to visit, she
4 certainly had family in there to visit. She
5 certainly had her housekeeper in there every Friday
6 to take care of her housekeeping. She wanted to be
7 there.

8 Q. Tell the Court about -- you know the
9 key to her apartment is a crucial issue in this
10 case. You understand that?

11 A. Yes, sir.

12 Q. Tell the Court about what you know
13 about the key issue where your mother changed her
14 locks to her apartment about four months before she
15 fell.

16 A. Well, I found out about it when Corrine
17 Carrington called me and told me that mother had
18 changed the locks on her apartment. And she was
19 upset about it. I was upset about it.

20 Q. Why were you upset about it?

21 A. Because, you know, she didn't talk to
22 me about it ahead of time. And she didn't explain
23 to me why she did that.

24 And so the most important thing -- you
25 know, I have a tendency to be pragmatic. I'm like,

1 well, what do we need to do about it. Do I need to
2 get it changed back. And she needed a key.

3 Q. Who needed the key?

4 A. Corrine Carrington needed a key.

5 And, so, once I found out that mother
6 complied and gave Ms. Carrington a key, I felt the
7 issue was resolved. I was never called about that
8 again.

9 Q. Now, you saw some of the notes that
10 Sandpiper produced where Ms. Carrington said your
11 mother said, I don't want anybody in here?

12 A. When she wasn't there.

13 Q. Did that particular event, based on
14 what you observed, change your mother's outlook
15 about the policy and what the policy was to do for
16 her, as far as being checked on daily?

17 A. Mother understood that she was to be
18 visualized and checked on daily. And she had had
19 the experience where they had checked on her when
20 she didn't come to lunch. They checked on her that
21 day to make sure that she was okay.

22 Q. And she was?

23 A. She was.

24 Q. So four months before Sandpiper might
25 allege that somehow this lock issue was

1 Ms. Parrott's fault, Sandpiper had the key to
2 access her apartment, if they needed to?

3 A. They did.

4 Q. Any doubt in your mind about that?

5 A. None.

6 Q. Did your mother, at one point, report
7 something suspicious about a van near her
8 apartment?

9 A. Ms. Carrington called me to tell me
10 that mother was concerned about this van that she
11 had seen circling about the driveway area of the
12 campus. And, you know, that mother was thinking
13 that she was being stalked.

14 She saw it, you know, kind being
15 sinister in nature and in purpose. And, you know,
16 Ms. Carrington tried to convince her that it was
17 the newspaper van. And that was a normal thing
18 that happened. And that was my understanding of
19 the conversation.

20 Q. Any complaints after that, from your
21 mom, prior to anybody stalking her?

22 A. From Ms. Carrington?

23 Q. Right.

24 A. No. She never called me again about
25 that.

1 Q. Also, there was -- I think when she
2 first moved in or at some point shortly after, your
3 mom complained of some coins that were missing in
4 her apartment?

5 A. Ms. Carrington called me about that,
6 that momma complained that there was some missing
7 coins. And, you know, so we talked about where the
8 coins were. And she had evidently moved them to
9 her closet. And I moved her in and put things
10 away. So I put them in a different place than she
11 remembered.

12 I really felt like that it had been
13 that I had put them someplace different than she
14 remembered. But I also told Ms. Carrington, you
15 know, I'm not concerned about coins. Anything
16 that's missing, I'll replace. It's safety that's
17 the issue here.

18 Q. Now, there was a phone call about the
19 coins from Ms. Carrington, there was a phone call
20 about the van, and there was a phone call about the
21 lock?

22 A. Correct.

23 Q. Now, your mother moved in in May of
24 2013, and then she is -- she falls and injuries
25 herself June 3rd, 2014; is that right?

1 A. That's correct.

2 Q. So in those, roughly, 400 days of being
3 on the campus at Sandpiper, was there three
4 instances where you were called about your mother's
5 circumstances?

6 A. That's what I recall, yes.

7 Q. All right. And each of those times
8 somebody called to discuss the problem with you; is
9 that correct?

10 A. Yes.

11 Q. Did anybody call you from Sandpiper on
12 June 3rd about your mother?

13 A. No.

14 Q. Did anybody from Sandpiper call you on
15 June 4th, when they couldn't get into her
16 apartment?

17 A. No.

18 Q. Did anybody call you on Thursday,
19 June 5th, when she had not been seen at all?

20 A. No.

21 Q. Did anybody call you on Friday from
22 anytime from the morning until 8 p.m., when EMS
23 showed up about your mother being missing or
24 unaccounted for those past three days?

25 A. The first call I got was that Friday

1 night when EMS was there.

2 Q. And who called you? .

3 A. I'm not positive. But I think I
4 remember it was Rebecca Williams.

5 Q. She was a staff member?

6 A. Correct. She called me from my
7 mother's cell phone.

8 Q. And is it your understanding that that
9 call came about the same time that Ms. Parrott had
10 been found?

11 A. That's my understanding.

12 Q. All right. Now, at any time -- let's
13 go back to the three phone calls: The van, the
14 coins, and the lock.

15 Did anybody at Sandpiper expressing
16 concerns to you that your mother, because of those
17 circumstances, was not fit to live in senior living
18 at all?

19 A. No.

20 Q. Did Ms. Carrington talk to you about
21 her position concerning Ms. Parrott's fitness to
22 live at Sandpiper after those three events?

23 A. No.

24 Q. Did anybody suggest that you move her?

25 A. No.

1 Q. Did anybody suggest that she get a
2 different location or a different level of care?

3 A. No.

4 Q. Ms. Acosta, when did you find out that
5 Ms. Watters had said that she had tried to get
6 Sandpiper's people to check on your mother on
7 Thursday and Friday?

8 A. I found out at the visitation at
9 McAllister Funeral Home. Ms. Watters came and
10 talked with me that night.

11 Q. Now, she's going to testify, so you
12 don't need to tell me what she said.

13 But had you heard any of that
14 information before Ms. Watters told you?

15 A. No.

16 Q. Joan, tell me and tell the Court the
17 children of your mother, their names.

18 A. I have an older brother, Burt
19 Christopher. I have a younger sister who's a year
20 younger than me, June Christopher Conner, and then
21 I have a stepbrother, Leon Parrott.

22 Q. Now, Ms. Parrott was the mother of you,
23 June, and Burt?

24 A. Correct.

25 Q. Before this fall, could you tell the

1 Court about what Burt's relationship was with your
2 mother before she passed away.

3 A. My brother and my mom, she was kind of
4 his confident. He, at the time, wasn't married and
5 had never married or had children.

6 And, so, you know, mother was his
7 sounding board for pretty much any kind of problem
8 or difficulty or issue or life decision he was
9 trying to make. She was the person that he went to
10 talk to about it.

11 Q. How would you describe the relationship
12 with June?

13 A. She and June were close. June was her
14 baby, her youngest child. And she was close to
15 mother. And June was in the Charleston area and
16 her son was in the Charleston area. So mother had
17 been very involved in their lives in raising that
18 grandchild.

19 Q. What was your relationship with your
20 mother?

21 A. I was the middle child and the oldest
22 daughter. And I had the oldest-daughter
23 relationship with her. She and I talked on a
24 regular basis. She was at all of my kid's events.
25 You know, she was part of every celebration, every

1 special event, part of my life everyday. I mean,
2 my mother was a big influence in my life.

3 Q. Is that why you became a nurse?

4 A. You know, it's funny when I was growing
5 up I wanted to be the opposite. I didn't want to
6 be a nurse. But after growing up and after my son
7 was born, I very much wanted to be a nurse like my
8 mom.

9 Q. Did Ms. Carrington tell you, given her
10 understanding of the facts for the week of
11 June 2nd, that Sandpiper should have called you?

12 A. Yes. I mean, she made the statement to
13 me that we failed your mother.

14 MR. DAVIS: Objection, Your Honor;
15 unresponsive.

16 THE COURT: It's all right. I will
17 sustain the objection.

18 I already indicated, Ms. Acosta, that
19 you can't say what someone else said.

20 THE WITNESS: I'm sorry.

21 THE COURT: It's okay. It's very
22 relaxed. It's not a jury trial. So I understand
23 what he's saying. He's just making a record for
24 himself.

25 THE WITNESS: I'm sorry.

1 MR. DAVIS: Your Honor, for the record
2 Ms. Carrington's statement was a statement against
3 the defendant. I understand the objection, but I
4 want to place that on the record.

5 BY MR. REEVES:

6 Q. Joan, before you got to the hospital
7 and saw your mother on June 6th, did anyone
8 describe for you, from Sandpiper, about your
9 mother's condition?

10 A. On the telephone before I left when EMS
11 was there, I understood that she had been found on
12 the floor. She was injured. And they thought it
13 was a hip fractured. I was concerned about which
14 hospital they were taking her to, was my primary
15 concern so I could get there.

16 Q. And when did you get to the hospital?

17 A. We threw clothes in a bag and left
18 Columbia immediately. So it would have been
19 somewhere around 10:00 or so that night.

20 Q. Do you remember what time the telephone
21 call came in informing you that your mother had
22 been found?

23 A. Somewhere between, you know, the 7 to 8
24 period of time.

25 Q. And when you got to the hospital, did

1 you see your mother?

2 A. I did.

3 Q. And would you describe to the Court --
4 not anything that she said. But what were your
5 observations about her condition?

6 A. She was still in the emergency room.
7 She had on a hospital gown. She was holding a cup
8 and drinking from a straw. And I started crying
9 when her saw. And I just told her I was so sorry
10 that she got hurt.

11 Q. At the time, do you know how long she
12 had been on the floor?

13 A. No.

14 Q. Did you observe her before they took
15 whatever clothes she had on at the time she was on
16 the floor before she was in hospital gown? Did you
17 see those?

18 A. No. The nurse talked about them, but I
19 didn't see them.

20 Q. And did she describe the condition that
21 they were?

22 A. Not what she said. They had to dispose
23 of them, because they were covered in urine and
24 feces. They were not salvageable.

25 Q. What, if anything, did your mother tell

1 you about how she became to be on the floor?

2 A. What she was doing?

3 Q. Yes.

4 A. I understood that she was trying to
5 hang a curtain. She was standing in a chair trying
6 to hang a curtain over a window in her bedroom.

7 Q. Was your mother physically able to
8 climb on a chair?

9 A. She was. She was very strong. She was
10 150 pounds, built very much like me.

11 Q. Not a wise idea, but certainly
12 something she accomplished?

13 A. Sure. I mean, when you think about
14 it --

15 Can I stand up?

16 Q. Sure.

17 A. She had to put one leg in the chair and
18 pull the other leg up and stand up, and then grab a
19 bar with a curtain on it and lift it over her head
20 and put it in the brackets. The problem was, you
21 know, it was a big cushy chair and it rocked.

22 Q. The medical record, which is -- is or
23 will be admitted, indicated that she was
24 dehydrated.

25 A. Yes.

1 Q. Did you see any manifestations on your
2 mother that would reflect that?

3 MR. DAVIS: Your Honor, I think as we
4 start getting into, like medical diagnosis,
5 dehydration --

6 THE COURT: That's all right. She can
7 describe what she observed of her mother's
8 appearance.

9 MR. DAVIS: That's fair.

10 BY MR. REEVES:

11 Q. Just describe what you saw.

12 A. Her lips were dry. Her, you know, eyes
13 were sunken some. Her coloring was not good. I
14 could see the IV running in. You know, I could see
15 her drinking, you know, to try to get fluids in.

16 Q. Did you observe any ulcerations or skin
17 damage to your mother?

18 A. Not in the emergency room.

19 Q. Did you observe that later while she
20 was in the hospital?

21 A. When they admitted her to a hospital
22 room, a nurse came in and did a nursing assessment.
23 And one of the things on the nurse's assessment is
24 checking all of the skin and marking off onto
25 documentation everywhere where there are any types

1 skin breakdown or injury.

2 Q. What did you observe, personally?

3 A. She had decubitus on -- which are large
4 blisters on her right leg on the side. She, of
5 course -- she had had a scratch on her left arm
6 that they wrote down. I don't remember seeing the
7 left-fractured side.

8 Q. So there were two ulcers?

9 A. Very large blisters.

10 Q. And the nurse made a notation of both
11 of those in the medical record; is that correct?

12 A. Correct.

13 Q. Was your mother -- was there a surgical
14 intervention with your mother's shattered hip on
15 Saturday, June the 7th?

16 A. Yes.

17 Q. Tell the Court, again, not in what you
18 were told, but just what were your observations,
19 given your medical background, about your mother's
20 response to -- or how she faired after she had the
21 hip surgery.

22 A. She had the surgery, went to recovery,
23 was put back in a hospital room, where we could be
24 with her.

25 Q. Tracing that on, after she was released

1 from -- well, what hospital was she in when was
2 taken there on June 6th?

3 A. She was at Mount Pleasant Roper
4 Hospital, the newer one.

5 Q. After the surgery, was she ultimately
6 moved to another surgery?

7 A. She was. She was moved to Sandpiper
8 Rehab and Nursing.

9 Q. All right. And was that to help her
10 rehab the hip?

11 A. Right. That was rehab from the hip
12 fracture.

13 Q. And how did that go, based on your
14 observations?

15 A. For the hip fracture?

16 Q. Yes, ma'am.

17 A. They had her ambulating 175 feet with a
18 walker, with a standby -- well, what we would call
19 a standby is this, which means that somebody was
20 standing there in case she had problems.

21 Q. Based on your observations, were there
22 any complications to the hip fracture?

23 A. No.

24 Q. Now, hip fractures for older people can
25 be very complicated.

1 Did she have any symptoms that you
2 observed that were risk fractures associated with
3 the hip surgery, or the hip repair?

4 A. They did not call me to tell me that
5 she had a fever. They did not call me that she
6 needed antibiotics for an infection. They did not
7 tell me that she was having congestion. They did
8 call me to tell me about the wound infection. They
9 did not call me to tell me she had a blood clot or
10 needed to be checked for that.

11 She had -- they did not call me with
12 any complications related to the hip fracture.

13 Q. When she left rehab, were there any
14 conditions about her hip that were problematic,
15 based on your observations?

16 A. No.

17 Q. How did she leave rehab, as far as what
18 you observed about her ambulation?

19 A. She was still using her wheelchair.
20 She was using her walker. I drove her from rehab
21 to her new home at Ashley River Plantation.

22 Q. And what kind of a complex or facility
23 is Ashley River Plantation?

24 A. Assisted living.

25 Q. Joan, from the time that she was found

1 on June 6th at 8 p.m., did your mother ever return
2 to independent living?

3 A. She did not.

4 Q. Would you describe for the Court what
5 you observed with your mother's emotional and
6 psychological state, after the long lie?

7 A. Without being able to say what she said
8 to me, I can tell you that she had no interest in
9 her financial situation. She never wrote another
10 check. She never bought another thing. She never
11 traded another stock. She never even turned on her
12 computer. It never even got plugged in again. She
13 enjoyed Lifetime movies. She did not watch those
14 anymore. She was never herself again.

15 Q. Did she complain to you about her
16 psychological and emotional condition?

17 A. Yes.

18 Q. The medical record reflects that your
19 mother said that she was ready to die or wanted to
20 die. Do you recall that?

21 MR. DAVIS: Your Honor, I just want to
22 note my objection about what somebody put in a
23 medical record and what she said is third-party --

24 MR. REEVES: The medical records are
25 in.

1 THE COURT: All right.

2 MR. DAVIS: I understand that. But
3 what he's really asking for is trying to use her,
4 as a nurse, to talk about medical facts. And the
5 statements made is fine. But her thoughts are
6 irrelevant in this case.

7 MR. REEVES: I'll rephrase.

8 THE COURT: Easy enough.

9 BY MR. REEVES:

10 Q. Does the medical record reflect that
11 your mother, on occasion, told people she wanted to
12 die?

13 A. I did read that in the medical record.

14 Q. Did she tell you that?

15 A. I can't remember a specific instance on
16 this particular day where she said that. I did
17 hear her tell Dr. Mills that she --

18 MR. DAVIS: Your Honor, I hate to keep
19 interrupting, but --

20 THE WITNESS: I'm sorry.

21 MR. DAVIS: I know that she doesn't
22 mean to at all.

23 BY MR. REEVES:

24 Q. From the time that she got to the
25 assisted living place, was she hospitalized in

1 October of 2014?

2 A. She was.

3 Q. And who put her in the hospital? Or
4 referred her to the hospital?

5 A. They sent her from assisted living to
6 the hospital because of her psychiatric status.

7 Q. All right. And did that improve during
8 the hospitalization in October of 2014?

9 A. She was better. I understood that she
10 was better than she was when she went in. They
11 stabilized her and sent her back to assisted
12 living.

13 Q. And does the medical record reflect
14 that that particular visit or stay at the hospital
15 was about, what, three to four days?

16 A. When she went in on the 10th or 11th
17 and came out on the 14th.

18 Q. Did you visit her then?

19 A. I believe I did.

20 Q. Did you see her before and after that
21 visit to Roper?

22 A. Yes.

23 Q. Would you describe for the Court her
24 demeanor? You don't have to say what she said.
25 Just describe for the Court her demeanor that you

1 observed after she went to the assisted living.

2 A. It's hard to describe without saying
3 the things that she said. Because she was so upset
4 and anxious and telling me about things that she
5 believed were happening to her.

6 Q. Were those things really happening to
7 her?

8 A. No.

9 Q. Had she expressed that kind of behavior
10 before?

11 A. Not before the fall.

12 Q. Would you describe her as happy?

13 A. No.

14 Q. Would you describe her as unhappy?

15 A. Yes. Actually, I would describe her as
16 tormented.

17 Q. There was a second hospitalization at
18 Roper in January of 2015?

19 A. Yes.

20 Q. And was that hospitalization for the
21 same reasons as the October 2014 hospitalization?

22 A. She had had a tremendous and very
23 sudden decline. And we were very concerned and
24 sent her to the hospital to try to figure out what
25 was going on.

1 Q. Was it determined --

2 First of all, did you observe anything
3 that was physically bothering your mother?

4 A. I could see that she was like this in
5 the wheelchair and couldn't identify why.

6 Q. Had she presented like that before she
7 fell?

8 A. No.

9 Q. How would you describe -- after the
10 October hospitalization and the January
11 hospitalization, how would you describe the
12 evidence of her will to live?

13 A. Mother lost her will to live.

14 Q. Why?

15 A. You know, I don't want to say the wrong
16 thing. I mean, from the day that she fell -- I
17 mean, you know, after we got her to Sandpiper Rehab
18 Nursing and into rehab, you know, she was not the
19 same. She was just not the same. And she had
20 talked about things that were very alarming.

21 Q. How did that make you feel?

22 A. Very worried and wanting to try to help
23 her get better.

24 Q. Were you able to help her get better?

25 A. No.

1 Q. Did she get better?

2 A. No. She -- her mental status steadily
3 declined.

4 Q. Now, the hospitalization in October and
5 the hospitalization in January, were those in any
6 way related to the hip?

7 A. No.

8 Q. Did she ever see a physician about the
9 hip after she was released?

10 A. She had four follow-up -- appropriate
11 follow-up visits, with x-rays with her orthopedic
12 surgeon. And she was released by her orthopedic
13 surgeon.

14 Q. You described before the long lie that
15 your mother was active in shopping and she was
16 health conscious and she was vibrant, she traded
17 stocks and she managed her own affairs and wrote
18 her own checks and paid her own bills, and bought
19 her own groceries, and just took care of herself?

20 A. Yes.

21 Q. Did any of those things happen after
22 the long lie?

23 A. No, not one.

24 Q. After your mother was hospitalized in
25 January of 2015, where did she go then?

1 A. She went to the in-patient Hospice in
2 Mount Pleasant.

3 Q. Who made the recommendation for her to
4 enter Hospice?

5 A. She said she wanted to go to Hospice.
6 And I agreed to go to Hospice to get her pain
7 situation under control, with the goal of taking
8 her to Columbia and putting her at National
9 HealthCare, which was a skilled nursing facility
10 near my home. And that was the plan.

11 Q. Did that plan happen?

12 A. No.

13 Q. When did your mom pass away?

14 A. February 9th, 2015.

15 Q. What do you think killed your mother?

16 MR. DAVIS: Objection, Your Honor.

17 That calls for a medical diagnosis.

18 If she wants to know the cause of death
19 of her mother, she is not qualified and also not
20 named to give a cause of death.

21 MR. REEVES: I'll rephrase.

22 THE COURT: Okay.

23 BY MR. REEVES:

24 Q. Ms. Acosta, given what you came to know
25 what happened to your mother between June 3rd and

1 June 6th, is it your testimony today that your
2 mother's demeanor and her presence changed?

3 A. Yes.

4 Q. Did that change -- was it the change
5 for the better or the change for the worse?

6 A. It was a change for the worse. She was
7 completely gone. The mother that I knew was no
8 longer there.

9 Q. Joan, were you -- I don't know how else
10 to put this. Were you in denial about your
11 mother's condition when she entered Hospice?

12 A. I was going to take her from Hospice to
13 a nursing home. That was my plan. You know, there
14 was not a plan for her to stay there. I don't know
15 if I can tell you what the doctor said to me.

16 Q. Don't do that.

17 A. Okay.

18 Q. Dr. Mills was your mother's treating
19 physician; is that correct?

20 A. Yes. He had taken care of my mother
21 and Jake the entire time they lived in Mount
22 Pleasant.

23 Q. Did he follow her up until she passed
24 away?

25 A. Yes. I mean, the Hospice doctor was

1 there at the Hospice, but they were in touch with
2 him.

3 Q. Joan, I'm going to ask you to talk
4 about something that's common sense, but you need
5 to put this before the Court. How did watching
6 your mother's decline affect you before she passed
7 away?

8 A. It was horrible. And I couldn't fix
9 it. And I couldn't get her to anybody who could
10 fix it. She was broken in her mind, in a way that
11 she had not been before she spent that time on the
12 floor.

13 Q. How did your mother's -- first of all,
14 I know that losing a mother or father is an
15 emotional experience.

16 But after your mother had passed away
17 and you were able to regroup a little bit, what
18 impact did your mother's death have on you?

19 A. I mean, it still impacts me. I mean,
20 it was just -- it was a horrible thing to watch. I
21 mean, she was a tormented person in her mind. And
22 the things that she said, that she believed that
23 were happening to her were horrible.

24 Q. Do you miss your mother's
25 companionship?

1 A. Yes. My mother earned -- she worked so
2 hard and she earned those last years that were
3 supposed to be good at Sandpiper, where she didn't
4 have to worry, where she was going to be checked
5 everyday, where they were going to have meals and
6 birthday parties and crafts and bingo, and friends.

7 And she earned those years that were
8 supposed to be good. And that was what I wanted
9 for her so much.

10 You know, when I was a teenager I
11 didn't really appreciate how hard my mother really
12 worked. And as I got older and became a nurse and
13 worked, I became to appreciate her more and more.

14 And I really wanted those last years to
15 be worry free. And in those last months of her
16 life were absolutely horrible. And it had nothing
17 to do with that hip. She never trusted another
18 human being again.

19 Q. Did her death affect your sister, just
20 based on what you observed?

21 A. My sister lost her husband in November,
22 right before mom died in February. And my sister
23 needed her mother.

24 Q. Did your mother's death affect your
25 brother?

1 A. It did. It did. I mean, she was his
2 sounding board for everything.

3 MR. REEVES: Your Honor, may I have
4 just a minute, please?

5 THE COURT: Sure.

6 BY MR. REEVES:

7 Q. Ms. Acosta, in the exhibits'
8 notebook -- I'm not going to go through those
9 documents. But in the exhibit's in the notebook,
10 did you produce your mother's credit card statement
11 before the long lie?

12 A. Yes.

13 Q. And those statements would show
14 whatever activity she did?

15 A. Yes.

16 Q. And did those statements reflect any
17 activity after the long lie?

18 A. No.

19 Q. Did you also put in the record the
20 telephone records for your mother for the three
21 months prior to this event, on June 3rd, 2014?

22 A. I don't remember the dates, but there
23 were telephone records.

24 Q. I counted 28 phone calls to your
25 mother's landline or cell phone for the week of

1 June 2nd. Are you familiar with those records?

2 A. I didn't count the calls.

3 Q. Do those calls -- those records
4 demonstrate that your mother ever answered the
5 telephone during those three days?

6 A. The week that she was on the floor?

7 Q. Yes.

8 A. No.

9 Q. And you provided both the landline and
10 the cell phone line?

11 A. Yes.

12 Q. In fact, that cell phone was first used
13 that week when somebody called you and 911 to
14 report her predicament?

15 A. Yes.

16 Q. Did you talk to your mother during the
17 week of June 2nd, before you were called on Friday
18 at 8 p.m.?

19 A. No.

20 Q. Did you know what condition she was in?

21 A. No.

22 Q. Nobody from Sandpiper called you for
23 any instructions about your mother's whereabouts on
24 June 2nd?

25 A. No.

1 Q. You also placed in the record that the
2 credit card bills, telephone records, and also the
3 investigation reports from Sandpiper about this
4 event; is that correct?

5 A. I'm sorry. Say that again.

6 Q. Telephone records, the credit card
7 records, and other records of your mother's
8 activities are in the exhibit before the Court; is
9 that correct?

10 A. Yes.

11 MR. REEVES: Joan, thank you very much.
12 Would you please answer any questions that
13 Mr. Davis has.

14 THE COURT: All right. Ms. Acosta, we
15 are going to take a quick break, okay. It gives
16 everybody a chance to stretch their legs, use the
17 restroom, whatever we need to do, and allow
18 Mr. Davis to get ready to give you a quick break.

19 You are still under oath, so just don't
20 discuss your case with your attorneys, okay. But
21 feel free to take a break, as well.

22 (A short recess was taken at 11:41
23 a.m.)

24 (The proceedings continued at 11:54
25 a.m.)

1 MR. DAVIS: May it please the Court,
2 Your Honor.

3 THE COURT: All right. Ms. Acosta,
4 you're still under oath, okay.

5 THE WITNESS: Yes.

6 CROSS-EXAMINATION

7 BY MR. DAVIS:

8 Q. Good morning, Ms. Acosta. How are you?

9 A. Good.

10 Q. I want to go back a little bit to when
11 you first picked Sandpiper. When you went to
12 Sandpiper, you went because your mom had some
13 friends there; correct?

14 A. Yes.

15 Q. And I think she said this, that she
16 wanted independent living, there's no question
17 about that; right?

18 A. Yes.

19 Q. And access to activities, those type of
20 things, bingo and food, and that kind of stuff;
21 correct?

22 A. Yes.

23 Q. All right. In the time that you and
24 your mother picked Sandpiper, you believed that she
25 was appropriate for independent living; correct?

1 A. Yes.

2 Q. And ultimately the decisions at the
3 time that your mom was picking the place, and where
4 she wanted to go and live there, she was making
5 those decisions herself; correct?

6 A. Yes.

7 Q. She was of sound mind and all of that
8 kind of thing?

9 A. Yes.

10 Q. Now, when you brought your mom, you
11 remember them talking to her about an emergency
12 response, a panic button?

13 A. Yes.

14 Q. And you knew that they had that system
15 there?

16 A. Yes.

17 Q. And you knew that system, panic button
18 system, it was basically a button you would wear
19 around your neck or your wrist; right?

20 A. Yes.

21 Q. And then if you fell, you would hit
22 that button and somebody would come help --

23 A. Yes.

24 Q. -- at that point?

25 You were aware that's how it worked?

1 A. Yes.

2 Q. And I'm sure you were glad they had
3 that system?

4 A. Yes.

5 Q. Now, your mother was given an option to
6 wear it; true?

7 A. Yes.

8 Q. And a lot of times she choose not to
9 wear it; right?

10 A. She carried it with her.

11 Q. Did she carry it with her all the time?

12 A. I don't know that.

13 Q. But at the time that she fell,
14 unfortunately, she did not have it; correct?

15 A. She did not have it on her person.

16 Q. Now, I want to ask you about something
17 that you may have said in this case. Do you
18 recall -- you were asked some questions about your
19 conversations with Corrine Carrington. Do you
20 remember that?

21 A. Today?

22 Q. Yes. Your lawyers asked you some
23 questions about those conversations?

24 A. Yes.

25 Q. Do you remember Corrine calling and

1 telling you that your mother had not been signed
2 off on Wednesday on the check sheet?

3 A. She told me that, but it was after
4 mother had had surgery for the hip.

5 Q. And did she also tell you in that same
6 call that she had been checked off for Thursday?

7 A. She did tell me that.

8 Q. And there is no doubt that you believe
9 that your mother fell on Tuesday night; correct?

10 A. I do believe she fell sometime Tuesday
11 night.

12 Q. And I think you told me you live in
13 Columbia, so you might see your mom once or twice a
14 month?

15 A. That would be fair. Generally, twice a
16 month, every other week.

17 Q. Now, we were provided some photographs
18 of some furniture, which I think are in evidence;
19 correct?

20 MR. REEVES: That's correct.

21 BY MR. DAVIS:

22 Q. Do you remember providing Mr. Reeves
23 pictures of some furniture?

24 A. I remember some pictures of the chest
25 of drawers that she was in front of when she was on

1 the floor.

2 Q. And I am going to safely stand 6 feet
3 away from you and show you -- these are the same
4 pictures?

5 A. Yes.

6 MR. BOSWELL: She has them in front of
7 her.

8 THE COURT: It's in there. It's tabbed
9 as bureau photos.

10 MR. DAVIS: Thank you, Judge.

11 THE WITNESS: They look like the ones I
12 set up.

13 BY MR. DAVIS:

14 Q. And you provided these to Mr.
15 Reeves in conjunction with your believe that your
16 mother took a shoe and banged on that furniture;
17 correct?

18 A. Yes.

19 Q. And she did that in an effort to be
20 heard by people; correct?

21 A. Yes.

22 Q. Now, you agree that your mother did not
23 want anybody inside her apartment when she was not
24 there; that's true?

25 A. Yes.

1 Q. And I think in this case your mother
2 may have mentioned to you that one of the awful
3 things for her was that she heard people knocking,
4 but couldn't get them to hear her?

5 A. That's my understanding.

6 Q. I think actually your recollection was,
7 she heard Ms. Watters outside knocking, she heard
8 Brenda outside knocking. She was screaming out.
9 And they could not hear her and it was awful. Is
10 that what you recall?

11 A. That sounds correct.

12 Q. Now, you mentioned delusional
13 parasitosis, I think, earlier?

14 A. Yes.

15 Q. And that's really a symptom a paranoia
16 issue; is that what I understood you to say when
17 you were talking about that? Or am I wrong about
18 that?

19 A. I don't remember talking about
20 specifically being a paranoia issue.

21 Q. Now, you don't in any way blame
22 Sandpiper for the fall itself; correct, the
23 fractured hip?

24 A. No.

25 Q. And any of the treatment or things that

1 was undertaken, whether it's the surgeries or
2 rehab, that was fully expected just from falling
3 and breaking your hip; right?

4 A. Yes.

5 Q. We're going to hear later in the week
6 from Dr. Bergmann, who's an expert in this case.
7 You know him; correct?

8 A. I do.

9 Q. And you actually called him and asked
10 to be a witness in this case; isn't that correct?

11 A. I believe I emailed him first and then
12 we talked on the phone.

13 Q. And you kind of gave him your overview
14 of the case and the things that you thought about
15 it; correct?

16 A. Yes. I just very briefly told him what
17 happened.

18 Q. And you picked him as an expert in the
19 case because he has experience with post-traumatic
20 stress and trauma events?

21 A. Yes.

22 Q. And I think in your work, you referred
23 somewhere around 10 patients to him?

24 A. I don't know how many, but less than 10
25 would be fair.

1 Q. Somewhere around 10, give or take?

2 A. That would be fair.

3 MR. DAVIS: You know what, I don't have
4 any more questions.

5 THE COURT: Anything further,
6 Mr. Reeves?

7 MR. REEVES: Yes, sir.

8 REDIRECT EXAMINATION

9 BY MR. REEVES:

10 Q. Dr. Bergmann, the psychologist who is
11 going to testify in this trial -- I think what the
12 Defendant wants to know, did you have a prior
13 relationship with him?

14 A. I took injured workers who exhibited
15 symptoms appropriate to see him to him.

16 Q. Did you in any way attempt to influence
17 his opinions or testimony in this case?

18 A. No.

19 MR. DAVIS: Thank you.

20 THE COURT: All right. Ms. Acosta, you
21 may step down.

22 MR. DAVIS: I actually have a
23 follow-up, Judge. Sorry.

24 RECROSS EXAMINATION

25 BY MR. DAVIS:

1 Q. I'm going to show you and ask you, did
2 you prepare these notes?

3 A. These appear to be some questions that
4 I gave, perhaps, rephrased or partial to my
5 attorney.

6 Q. And to help you, I got these from
7 Dr. Bergmann. These are questions that, from my
8 understanding, is that these are what you prepared?

9 A. I cannot recall. I know that I gave
10 questions similar to my attorney. I did not give
11 any questions to Dr. Bergmann.

12 Q. And the questions that, at least, are
13 in here -- and there's more of them.

14 MR. DAVIS: I'm trying to pull them up,
15 Judge, so I can see.

16 THE COURT: I believe you can show them
17 right there on the ELMO.

18 Doesn't it come up right there?

19 COURT REPORTER: Yes, sir.

20 BY MR. DAVIS:

21 Q. But I'll just share them with you.

22 A. I can say that's my handwriting right
23 there.

24 Q. So, really, there's no doubt that you
25 prepared some questions that you felt were of

1 assistance, at least to Dr. Bergmann, or at least
2 they were provided to use in this case to help with
3 his medical opinion; isn't that true?

4 A. I don't know anything about that.
5 These are ones that I gave to my attorney.

6 Q. And they made it into Dr. Bermann's
7 hands and specifically questions about this case;
8 correct?

9 Questions about deposition testimony,
10 questions about medical records and --

11 A. I have no knowledge of that at all.

12 Q. You don't have any knowledge of that?

13 A. None.

14 Q. There's no question but that document
15 in front of you contains your analysis of medical
16 records in depositions, really, as the case
17 proceeded that were provided to Mr. Bergmann to
18 influence his opinion; isn't that true?

19 A. I gave these, whatever conglomeration
20 they might be in, to my attorney only.

21 Q. Would it be fair to say you spent a lot
22 of time going into the records, doing the analysis
23 looking at the issues of the case, because you felt
24 passionately about the case; right?

25 A. Yes.

1 Q. You read the depositions, you read
2 medical records?

3 A. I did.

4 Q. You did an analysis of all of that;
5 correct?

6 A. I did read all of that.

7 Q. Because you wanted to try to prove this
8 case; correct? That's why you did all of that?

9 A. To prove a case I -- I did that because
10 they wanted my mother's medical records.

11 Q. And do you remember me asking you in
12 your deposition if you looked at any records and
13 you told us you had skimmed a few?

14 A. I read all of them, but I skimmed them
15 before I did the deposition. But I had read them
16 in the past.

17 Q. Would it be fair to say you identified
18 Mr. Bergmann; true?

19 A. Did I identify him?

20 Q. That's who you wanted to be an expert
21 in the case?

22 A. That's who I suggested, yes.

23 Q. And you called and talked to him about
24 the case; correct?

25 A. I did talk to him about the case.

1 Q. And you called and talked to him and
2 shared your opinions about the case with him before
3 he testified; correct?

4 A. I don't know about sharing my opinions
5 about it. I told him what happened.

6 MR. DAVIS: Fair enough. Thank you. I
7 appreciate it.

8 THE COURT: All right. Ms. Acosta, you
9 may step down.

10 MR. REEVES: Hold on.

11 Your Honor, may it please the Court.

12 FURTHER DIRECT EXAMINATION

13 BY MR. REEVES:

14 Q. Ms. Acosta, you don't know how these
15 got in the hands of Dr. Bergmann; do you?

16 A. No, sir.

17 Q. Well, that's because your attorney is
18 an idiot because I sent these to him, by mistake,
19 and they were produced, as they should have been;
20 is that -- do you know that?

21 A. No, sir.

22 Q. You know it now.

23 You didn't send these documents?

24 A. No, sir.

25 Q. I sent them to him.

1 A. I don't know what happened.

2 MR. REEVES: Your Honor, let the record
3 reflect I spoke to Mr. Riddle, told him that these
4 had been inadvertently sent to Dr. Bergmann by
5 mistake. But since they've been sent, they were
6 properly produced, pursuant to a subpoena that they
7 served on Dr. Bergmann. This witness would have
8 had no knowledge of this information.

9 THE COURT: All right. The record will
10 reflect that. Ms. Acosta, you may --

11 MR. DAVIS: Your Honor, there's one
12 thing I would like to add. I didn't ask about that
13 of her on cross. I only asked her while the door
14 was open that there was reference that she wasn't
15 trying to influence anything.

16 MR. REEVES: Fair enough.

17 THE COURT: The record will reflect.

18 All right. Ms. Acosta, you may step
19 down.

20 How long do you think the next witness
21 will take?

22 MR. REEVES: Your Honor, my next
23 witness is Corrine Carrington. And I would expect
24 that she would be on the stand for about an hour.

25 THE COURT: Okay. We probably need to

1 go ahead and take a lunch break. It's already
2 after 12.

3 How long do y'all need for lunch?
4 Because y'all are not familiar with all the place
5 from around here. We'll see you back here, let's
6 say, 1:20, 1:30.

7 MR. DAVIS: 1:30.

8 THE COURT: We'll see you back here,
9 let's say, at 1:30.

10 (A lunch recess was taken at 12:12
11 p.m.)

12 (Court resumed at 1:38 p.m.)

13 MR. DAVIS: Yes, Your Honor --

14 Amiee, would you mute -- make sure that
15 everybody is muted. There is a Lisa Chapman who is
16 unmuted. I don't know who that is. We are just
17 getting a little feedback.

18 THE COURT: That's the clerk.

19 Go ahead.

20 (An off-the-record discussion was had.)

21 (Ms. Carrington appeared via WebEx.)

22 THE COURT: All right.

23 Good afternoon, Ms. Carrington. How
24 are you?

25 MR. CARRINGTON: Fine. Thank you. How

1 are you?

2 THE COURT: I'm fine. Thank you.

3 If you'll raise your right hand for me.

4 Do you swear or affirm that the
5 testimony you are about to give will be the truth,
6 the whole truth, and nothing but the truth?

7 MS. CARRINGTON: I do.

8 THE COURT: All right.

9 DIRECT EXAMINATION

10 BY MR. REEVES:

11 Q. Ms. Carrington, this is Paul Reeves.
12 Can you hear me? Ms. Carrington, can you hear me?

13 A. Yes, I can.

14 Q. Ms. Carrington, could you provide for
15 the Court your name, please.

16 A. Corrine Carrington.

17 Q. And, Ms. Carrington, where are you
18 testifying from?

19 A. 144 Van Der Horst Drive, Columbia,
20 South Carolina 29229. It is my home.

21 Q. Ms. Carrington, what do you do today,
22 if anything?

23 A. I work every other weekend as a nurse.

24 Q. And where do you work?

25 A. I'm sorry, I think you asked where.

1 Wildwood Downs.

2 Q. And what type of complex is that?

3 A. It is a retirement community. I work
4 in the long-term care unit.

5 Q. Ms. Carrington, in 2013, were you
6 employed by Sandpiper Senior Living Complex?

7 A. I believe so. Yes, I believe so.

8 Q. Do you recall how long that you worked
9 at Sandpiper Senior Living?

10 A. I believe it was around seven years.

11 Q. Do you recall, approximately, when you
12 started?

13 A. I would have to refer to my resume. It
14 was awhile.

15 Q. Okay. Do you know when you left
16 Sandpiper?

17 A. I want to say it was 2015.

18 Q. What was your job at the Defendant's
19 facility?

20 A. I was the executive director of the
21 independent living.

22 Q. And what were your duties, briefly,
23 that you were responsible for as the director of
24 the senior living?

25 A. It varied day-to-day. But mostly I did

1 census, preparing apartments for move-ins, and
2 transfers to the assisted living rehab and nursing,
3 getting them over, if need be. I would also make
4 sure that I made maintenance and housekeeping and
5 dietary.

6 Q. Would you describe for the Court how
7 the complex was set up. And I'm specifically
8 asking you about there's a senior living place,
9 there's an assisted living place, and there's a
10 nursing home; is that's correct?

11 A. That is correct. There were one of
12 each.

13 Q. And would residents transfer among
14 those different complexes, based on their needs or
15 lack thereof?

16 A. Yes. Sometimes they were transferred
17 to another facility, though. Not necessarily stay
18 at Sandpiper.

19 Q. And the folks in the senior living part
20 of the complex were to -- would live independently
21 without any skilled or semi-skilled nursing care;
22 is that correct?

23 A. Correct.

24 Q. Ms. Carrington, when you met with Joan
25 Acosta and her mother, Delilah Parrott, before

1 Ms. Parrott became a resident there, do you recall
2 discussing with them a policy that Sandpiper had
3 regarding the visual confirmation of the wellbeing
4 or presence of each resident on a daily basis?

5 A. I believe it was with just
6 Ms. Acosta -- and I could be wrong, but I think she
7 toured first by herself and then brought
8 Ms. Parrott over later.

9 Q. Could you tell the Court what the
10 policy was in regards to what Sandpiper promised to
11 do for each of the residents on a daily basis?

12 A. We check the residents daily, make sure
13 we saw them. If we hadn't seen the residents by a
14 certain time at night, we were to be calling them.
15 If they didn't answer their phone, we should be
16 going to the units to check on them, to make sure
17 we saw them.

18 Q. And when the staff went to the unit, if
19 the resident, who was at issue, did not answer the
20 door, would staff take a key and go into the
21 apartment?

22 A. Yes.

23 Q. And there were duplicate keys for all
24 of the apartments for each resident; isn't that
25 correct?

1 A. Correct. And there was also a master
2 key.

3 Q. Now, you told me in your deposition,
4 Ms. Carrington, that, you know, the key issue was
5 sometimes an issue, because people would move out
6 and you wouldn't have the right key and the locks
7 would have to be changed. And that was an
8 occurrence that occurred on some occasion; is that
9 correct?

10 A. Yes, it had -- we had several -- I had
11 several times where somebody would move out and we
12 would go over there to check the unit. And the
13 master key didn't fit or the keys that we had, the
14 duplicate keys. That happened, not often, but it
15 did happen several times.

16 Q. Right. In a perfect world, the keys
17 that Sandpiper had, the duplicate keys, would be
18 matched with a number or some identification for
19 each resident and those keys would be maintained in
20 the office; is that right?

21 A. Yes, sir.

22 Q. And it was the purpose to have a
23 duplicate key for each resident; is that correct?

24 A. Yes.

25 Q. And those keys were clearly marked and

1 housed in an office in a key box; is that correct?

2 A. Yes.

3 Q. Ms. Carrington, after Ms. Parrott had
4 been at Sandpiper for a little while, do you recall
5 about four months before she was injured, having a
6 conversation with her about her having changed her
7 locks to her apartment?

8 A. Yes, sir.

9 Q. Would you tell the Court about that.
10 Well, let me ask you this: Did
11 Ms. Parrott change her locks?

12 A. Yes.

13 Q. And, initially, did you know about
14 that?

15 A. No.

16 Q. It is my understanding, from your
17 deposition, that you came upon Ms. Parrott and she
18 was fumbling or trying to get into her apartment,
19 and that's when she told you that she had changed
20 the locks; is that correct?

21 A. Yes, sir.

22 Q. And when you had the conversation with
23 her initially, she wasn't keen on giving you her --
24 a duplicate key; was she?

25 A. No, she was not.

1 Q. Now, after you had a conversation with
2 her, though, she did give you a duplicate key to
3 her apartment; is that correct?

4 A. Yes, sir.

5 Q. Now, this happened in February or so of
6 2014; is that your recollection? Or do you recall?

7 A. I recall because I remember seeing it
8 on the statements, yes.

9 Q. You went to -- there was some notes you
10 made -- and I think we might just refer to them as
11 an incident report or some report where you made a
12 notation about Ms. Parrott changing the lock; is
13 that correct?

14 A. Yes. And it was a record concern, yes,
15 sir.

16 Q. And I believe that you also called her
17 daughter, Joan Acosta, about the lock and key
18 issue; is that correct?

19 A. No, I did not.

20 Q. When you -- Ms. Parrott gave you the
21 key and then you placed the key where all the other
22 keys were housed; is that correct?

23 A. On her key ring for her unit, yes, sir.

24 Q. Now, the -- you told Beth, who was on
25 staff there, that Ms. Parrott had changed her lock;

1 is that correct?

2 A. Yes, sir.

3 Q. And do you recall if you told Rebecca
4 about the key or the lock being changed?

5 A. I don't recall that. I just don't
6 recall it.

7 Q. Okay. Do you recall if you asked Beth
8 to tell Rebecca about the change of the key -- or
9 the lock, I'm sorry?

10 A. Yes, sir. Because I think we talked
11 about that and security.

12 Q. Were you comfortable that the staff had
13 been informed that Ms. Parrott had changed the
14 locks on her door and that Sandpiper had a key to
15 that lock?

16 A. I was comfortable we had the lock,
17 yes -- the key. And I believe at the time that
18 everybody had been informed.

19 Q. Ms. Carrington, Ms. Parrott's unit or
20 apartment number was referred to as S6. Do you
21 recall that?

22 A. It's been a while. I would say S6.
23 That sounds about right.

24 Q. Was that particular apartment close to
25 the office, if you will, where those keys were

1 housed?

2 A. Yes, sir. I believe one of the closer
3 units.

4 Q. And, in fact, you would come out of
5 the, I guess, community center where the office was
6 housed, and you walked a very short distance to
7 Ms. Parrott's apartment; is that correct?

8 A. Yes, sir.

9 Q. Now, how would you -- did you meet
10 Ms. Parrott before she had the fall and was on the
11 floor for a couple of days? Did you meet her
12 before that?

13 A. I'm not sure I understand the question.
14 That week?

15 Q. I'm sorry. You had a chance to meet
16 and get to know Ms. Parrott as a resident there?

17 A. Yes, sir.

18 Q. And how would you describe her?

19 A. She was a pleasant lady, enjoyed bingo
20 and Elvis. She also had some concerns for her
21 safety. But generally a very pleasant lady to be
22 around.

23 Q. Ms. Carrington, was she in any way more
24 the usual or unique than any other resident you
25 might have had at Sandpiper Senior Living?

1 A. I think she was probably concerned
2 about her privacy, more than any other resident.
3 I'm not saying that other residents were, as well.
4 But she was in a little group that were more
5 concerned about her privacy.

6 Q. All right. When, in fact, when you
7 exchanged or when she gave you the key, she
8 initially told you that only you could come into
9 the apartment; is that correct?

10 A. At that point, yes.

11 Q. And I think you discussed with her the
12 problems with that particular circumstance, that
13 other people might need to come into the apartment
14 as well; is that correct?

15 A. Yes. I think we used the example of a
16 fire.

17 Q. Ms. Carrington, based on the policy, in
18 your experience while working at the defendant's
19 complex, would a resident's privacy ever trump
20 Sandpiper doing what it could to keep people safe?

21 A. Not in my opinion. I would have -- no.
22 I think -- yeah, they should have gone in. I would
23 have gone in. That's all I can say.

24 Q. Ms. Carrington, in reference to the
25 policy that you described earlier, the end process

1 or the goal of that policy was not necessarily to
2 secure the resident's safety, but, in fact, it was
3 to secure a visual confirmation of where they were
4 and how they were; is that correct?

5 A. Yes, sir.

6 Q. And even though -- let's talk about the
7 policy for just a minute. Ms. Carrington, you
8 testified about the policy in your deposition
9 several years ago; is that correct?

10 A. Yes, sir.

11 Q. And were you aware as to the fact that
12 Beth Hall and Rebecca Munoz testified as to the
13 existence of its policy in their deposition, if you
14 know?

15 A. No, I don't think I know that they
16 testified. I don't know what the testimony was.

17 Q. Okay. But you would agree that both
18 Beth and Rebecca both knew about the policy, and,
19 based on your knowledge, carried out the policy
20 when they were supposed to; is that correct?

21 A. Yes, sir.

22 Q. Now, Ms. Carrington, as far as this
23 policy is concerned, if the staff were not able to
24 put eyeballs on a resident after going in the
25 apartment and there's no one there, what was staff

1 supposed to do at that point?

2 A. To follow the policy.

3 Q. And then they were told to contact you
4 if they had issues with a resident not be accounted
5 for?

6 A. No. The contact was to contact the
7 family on that policy, on the final thing, is that
8 they've gone in, the resident wasn't there, to
9 contact the family.

10 I didn't want a delay in making sure
11 that people were safe. I believe the family would
12 know more than I on the location of a resident.

13 Q. On Wednesday, June 4th, Rebecca
14 indicated that she complied with the policy up to
15 the point where she inserted the key and found out
16 that the key did not work.

17 At that point, is it your opinion that
18 she should have returned to the office, a very
19 short distance away, and looked for the right key?

20 A. Yes, sir.

21 Q. Is it your opinion that she should have
22 gone into the apartment on Wednesday, June, 4th, to
23 confirm the wellbeing of Ms. Parrott with her own
24 eyes?

25 A. Yes, sir.

1 Q. Is it your opinion, based on the policy
2 and your experience, that Rebecca should have, at
3 the very least, called the next of kin for
4 Ms. Parrott to alert them that there was an issue
5 with getting Ms. Parrott to the door?

6 A. Yes, sir.

7 Q. Based on your investigation of this
8 event, after it took place -- and I believe you did
9 that on Saturday June 7th; is that correct?

10 A. Yes. Yes.

11 Q. Based on your investigation, did anyone
12 from Sandpiper call Ms. Parrott's next of kin on
13 Wednesday, June 4th?

14 A. Not that I'm aware of.

15 Q. Now, Ms. Carrington, I don't think
16 anybody disputes that Ms. Parrott was not seen on
17 Wednesday, June 4th. However, on June 5th,
18 Thursday, in response to these circumstances, did
19 you call the kitchen staff and ask them about
20 whether or not the kitchen staff had seen
21 Ms. Parrott at lunch or dinner on Thursday,
22 June 6th?

23 A. I went to the dining room that day,
24 like Saturday. And I asked someone. And they said
25 they had not seen her. I think it was Friday or

1 Thursday, but I can't recall who that was.

2 Q. I think in your deposition you
3 indicated that you also contacted Tina, the
4 activity's director, about whether she had seen
5 Ms. Parrott on Thursday, June 6th?

6 A. Yes. And she said no.

7 Q. Did you speak with Lila Watters about
8 her experiences with the staff on Thursday and
9 Friday, at any point, after Friday, June 6th?

10 A. On Saturday Ms. Watters came to me.

11 Q. What did Ms. Watters tell you?

12 A. She told me -- she came by and she
13 said, did you hear about Ms. Parrott, she fell and
14 she was down for a long time? And I had to go
15 check her and I saw her foot through a window.
16 Then she came back and got Rebecca.

17 Q. I believe in your report -- do you have
18 that in front of you?

19 A. I do not, no. I couldn't get my
20 printer to work this morning.

21 Q. Oh, you don't know about the technology
22 problems we've had this morning.

23 Ms. Carrington, in the report you
24 indicated that Ms. Watters asked for the key on
25 Friday, June 6th, and while she went to check on

1 Ms. Parrott, Rebecca tried to call Ms. Parrott on
2 the phone. Does that refresh your memory?

3 A. It does a little bit. I don't think
4 Rebecca gave her a key.

5 Q. Do you know where she would have gotten
6 a key from if is she had a key?

7 A. I'm sorry, I didn't hear that whole
8 question.

9 Q. If Ms. Watters had a key to get into
10 the apartment, that would have had to have come
11 from Sandpiper; wouldn't it?

12 A. Unless Ms. Parrott gave her one. I'm
13 not aware of that.

14 Q. Ms. Watters was there, though, when
15 Ms. Parrott was found; is that correct?

16 A. I'm sorry, you broke up a little bit
17 again.

18 Q. I'm sorry, I'll slow down.

19 A. It's okay.

20 Q. Ms. Watters was in Ms. Parrott's room
21 when she was found and EMS was called; is that
22 correct?

23 A. I don't know if she went in at the same
24 time as Rebecca. I did not ask that question.

25 Q. Now, Ms. Carrington, if Ms. Watters had

1 raised concerns with the staff about Ms. Parrott's
2 whereabouts on Thursday, should staff have
3 responded to those concerns by going to Ms.
4 Parrott's apartment and checking on her?

5 A. Yes. Or calling, at the least.

6 Q. And if there could be no answer gained,
7 then staff should have gone into the apartment to
8 confirm her wellbeing?

9 A. Yes, sir.

10 Q. Now, do you -- are you aware that the
11 relationship between Ms. Watters and Ms. Parrott
12 was one of close friends; is that correct?

13 A. I don't know how close, but they were
14 very friendly, yes.

15 Q. Were you made aware by Ms. Watters that
16 she would eat at the same table with Ms. Parrott at
17 Sandpiper?

18 A. I think they had assigned seating at
19 lunch. So they may have sat together.

20 Q. And if Ms. Watters had noticed that
21 Ms. Parrott was not at lunch and not at dinner on
22 Thursday, June 6th, and raised those concerned with
23 staff, should staff have responded to those
24 concerns by checking on Ms. Parrott?

25 A. I think it depends on the staff.

1 Housekeeper or dining services, I don't think they
2 would. They have no access to the apartment. So I
3 don't think that would have been the case.

4 Q. If she had expressed those concerns to
5 Rebecca or Beth, should one or both of them checked
6 on Ms. Parrott's wellbeing?

7 A. Or let me know, yes.

8 Q. If Ms. Watters had expressed concerns
9 to you on Thursday or Friday, or both that Ms.
10 Parrott had not been seen, what would you have
11 done?

12 A. Knowing me, I probably would just go
13 over there, instead of calling.

14 Q. But the goal of the policy not only
15 generally, but on Thursday and Friday was to
16 confirm visually the wellbeing of Ms. Parrott; is
17 that correct?

18 A. Yes, sir.

19 Q. Ms. Carrington, as I said earlier,
20 there's been a lot of dispute about this policy.
21 But in your deposition you told me that the policy
22 to check on the residents daily, with the steps
23 that we've already discussed in your testimony, was
24 in writing; is that correct?

25 A. Yes, sir.

1 Q. And at the time that you were there,
2 that writing was in a policy or procedure handbook
3 or some form of written format in your office; is
4 that correct?

5 A. It was in a binder, yes, sir.

6 Q. And the daily checkoff sheets contained
7 the alphabetized names of the residents so the
8 staff could mark them accordingly if and when they
9 were seen; correct?

10 A. Truthfully, I don't remember if it was
11 alphabetized or done by apartment. But I want to
12 say it was done alphabetized.

13 Q. All right. But without question, the
14 staff was to mark that sign-off and check off if
15 and when they saw a resident; correct?

16 A. With their initials, yes, sir.

17 Q. Now, the check-off sheets were used for
18 a month, then they were collected and filed away;
19 is that right?

20 A. Yes, sir.

21 Q. And were those files housed in your
22 office, as well?

23 A. No.

24 Q. Where were those files housed, if you
25 know?

1 A. Last time I recall seeing them, they
2 were at the front desk, in a drawer at the front
3 desk.

4 Q. Was it the responsibility of Rebecca,
5 and Beth to file those check-off sheets at the end
6 of each month?

7 A. Yes.

8 Q. At some point, did Beth come to you and
9 ask whether or not these documents could be
10 destroyed?

11 A. She did at one point. It was not in
12 relationship to this case. It was just a random
13 question one day. And I told her that we ought to
14 keep those.

15 Q. And, again, the point though is, is we
16 should keep those records; is that correct?

17 A. I thought so, yes, sir.

18 Q. Ms. Carrington, would you agree that if
19 there was a written record of Ms. Parrott having
20 been seen on Thursday, June 6th, by staff, that
21 that particular record would be a very critical
22 piece of information to help us understand what
23 happened on Thursday, June 6th?

24 A. Yes, I would think so.

25 Q. Did you review the check-off sheet?

1 A. I did.

2 Q. And did the check-off sheets -- were
3 those maintained by you -- after you did your
4 investigation, did you keep a copy of the check-off
5 sheet?

6 A. I did not keep a copy. And because
7 those were monthly they were still at the front
8 desk.

9 Q. And Sandpiper maintains that someone
10 checked off Ms. Parrott on Thursday, June 6th; is
11 that correct?

12 A. Yes, sir.

13 Q. But that record does not exist anymore;
14 is that correct?

15 A. Not that I'm aware of. That's what
16 I've been told.

17 Q. And as far as June 6th, the people that
18 you spoke with, the kitchen staff, Tina, and
19 Ms. Watters, no one saw Ms. Parrott on Thursday; is
20 that correct?

21 A. That's correct. I did talk with Beth
22 Auld on that Saturday.

23 Q. And Beth Hall said to you that if I
24 checked her off, I saw her; is that correct?

25 A. Yes. She was adamant that she had seen

1 her.

2 Q. And is it fair to say that Ms. Auld is
3 the only who said she saw her on Thursday, June
4 6th?

5 A. Yes. That's the only one that I have.

6 Q. Now, Beth is Rebecca's momma; is that
7 correct?

8 A. Yes.

9 Q. And did Beth tell you during your
10 review or investigation of this matter that her
11 daughter had called her on Wednesday to report that
12 her daughter had the wrong key and couldn't get in
13 Ms. Parrott's apartment?

14 A. No.

15 Q. She did not tell you that?

16 A. No.

17 Q. Ms. Carrington, during your tenure at
18 Sandpiper and before this event occurred, did you
19 talk about the policy with Eric Hadley?

20 A. Eric Hadley?

21 Q. Yes.

22 A. We talked about it, yes.

23 Q. And what did you tell Mr. Hadley about
24 the policy?

25 A. Well, there were a couple of occasions

1 of when we were at a conference and the insurance
2 company for Sandpiper was speaking, they
3 recommended.

4 MR. DAVIS: Your Honor, she's talking
5 about something that was had in a conference. It's
6 hearsay.

7 MR. REEVES: That is an admission and
8 statement of interest. If Mr. Hadley knew about
9 the policy -- but his statements are admissions.

10 MR. DAVIS: And my objection is not to
11 him, Judge. I agree with what he just said.

12 She started talking about something
13 that happened in a conference and what people said
14 at a conference.

15 THE COURT: I thought she was about to
16 say what Mr. Hadley said.

17 MR. DAVIS: As long as she doesn't say
18 what happened in the conference. That's really
19 hearsay.

20 THE COURT: Just instruct her to say
21 what Mr. Hadley said and not what anyone else said,
22 and then just rephrase the question.

23 MR. DAVIS: And don't repeat what --

24 BY MR. REEVES:

25 Q. Ms. Carrington, there was an objection

1 about what you were about to say. That doesn't
2 mean that you found something wrong. Let me
3 explain what I'm going to ask you.

4 I'm going to ask you what Eric Hadley
5 said to you --

6 Let me rephrase that. What I want you
7 to do first is tell the Court what you said to
8 Mr. Eric Hadley about the policy, if anything, and
9 then tell the Court what Mr. Hadley said to you,
10 okay, not anybody else. Do you understand that?

11 A. Yes.

12 Q. Let's start over again. Whenever this
13 conversation or these conversations took place,
14 what did you tell Mr. Hadley about the policy?

15 A. I asked Mr. Hadley if we needed to have
16 a policy. And he said yes.

17 Q. And he said yes. What policy were you
18 referring to?

19 A. To a daily check system for the
20 residents.

21 Q. Did that conversation with Mr. Hadley
22 take place before Ms. Parrott was injured?

23 A. Yes.

24 Q. Do you know how long before Ms. Parrott
25 was injured did this conversation take place about

1 the policy?

2 A. Early on in my employment, like in the
3 first three months, I would say.

4 Q. All right. Did the policy that you
5 discussed with Mr. Hadley become the policy that
6 was in force and in place the entire time that you
7 were there?

8 A. Yes, sir.

9 Q. Now, Ms. Carrington, I received from
10 the Defendant on this past Friday a document that
11 had been found. And it referenced the policy that
12 you just talked about; didn't it?

13 A. Yes, sir.

14 Q. Did I send you a copy of those six or
15 seven pages that were produced Friday, by the
16 Defendant?

17 A. Yes, sir. Yes, sir. Somebody did.
18 I'm not sure if it was you or the other attorney.
19 But, yes, somebody did.

20 Q. Okay. The reference to the policy in
21 that document, in fact, is the same policy that you
22 have been talking about today; is that correct?

23 A. Yes, sir.

24 Q. Is this the same policy document that
25 you recall as being the policy that you referenced

1 as being in writing?

2 A. I'm not sure I understand that
3 question.

4 Q. It was really a bad question.

5 Let me ask it again. Is the policy
6 that you saw on Friday, that reference to the
7 policy, is that the same document that you were
8 talking about that was housed in your office and
9 that reflected the written policy that you were
10 aware of?

11 A. No.

12 Q. So the policy that you referenced as
13 being in writing was a different policy, but they
14 contained the same protocols and procedures; is
15 that correct?

16 A. Correct. It was still -- I mean, when
17 you put it in, the check system, you have to have
18 the steps to which you are to process it or it's
19 all willy-nilly.

20 Q. Ms. Carrington, did anyone ever express
21 any confusion about whether there was a policy or
22 not, while you were the director at Sandpiper?

23 A. Not that I recall.

24 Q. In fact, in your deposition you told me
25 that the staff and all of the residents knew about

1 the policy; is that correct?

2 A. Yes.

3 Q. Ms. Carrington, was the policy helpful
4 in you maintaining the census at Sandpiper?

5 A. No.

6 Q. Did the policy give the residents some
7 sense that while it might not have guaranteed their
8 safety it would certainly help them to understand
9 that somebody would come looking for them
10 eventually?

11 A. I'm sure some residents thought that.
12 I'm not sure all of them processed it like that.
13 I'm not sure 100 percent.

14 Q. Ms. Carrington, you had some folks on
15 at Sandpiper who -- I think Rebecca described it as
16 hermits that really never ever came out of their
17 apartments; isn't that true?

18 A. Yes, that's correct.

19 Q. And those people were terribly private
20 people; weren't they?

21 A. Yes.

22 Q. But everyday Sandpiper would call those
23 people to confirm their wellbeing; didn't they?

24 A. Yes. Or they would ask dining service
25 if they had a meal delivery.

1 Q. Either way that was an ability to
2 confirm that resident's wellbeing; correct?

3 A. Yes, sir.

4 Q. So Ms. Parrott's privacy issues and
5 maybe a little paranoia did not disqualify her from
6 receiving the benefit of the policy, which was to
7 visually confirm her wellbeing; correct?

8 A. Correct.

9 Q. At any time during your tenure at
10 Sandpiper, did anyone from management ever tell you
11 to stop the policy?

12 A. No.

13 Q. Ms. Parrott allowed Brenda, a very nice
14 staff person, to come in her house each Friday and
15 clean her apartment; isn't that true?

16 A. Yes. I believe it was every Friday,
17 yes, sir.

18 Q. Ms. Carrington, I want to speak with
19 you for a few minutes about the panic buttons or
20 the emergency buttons that were in place at
21 Sandpiper during your tenure there. Okay?

22 A. Yes, sir.

23 Q. Was Sandpiper aware that some of the
24 residents didn't wear the panic button?

25 A. Yes.

1 Q. Was it unusual for a resident not to
2 wear the panic button?

3 A. I would say that the majority probably
4 wore their panic button. But it was not uncommon
5 for some of them not to wear it.

6 Q. And certainly the panic button would
7 have offered an alarm to anyone who was monitoring
8 that system, if the panic button was activated;
9 correct?

10 A. Correct.

11 Q. Ms. Carrington, in this circumstance,
12 given your understanding of the policy, though,
13 Rebecca Munoz going to the apartment on Wednesday
14 afternoon with the ability to get in that apartment
15 obviously gave -- obviously was based on her
16 knowledge that Ms. Parrott was missing that day; is
17 that correct?

18 A. Well, or that she hadn't seen her.

19 Q. I'm sorry. She had not been accounted
20 for that day?

21 A. Yes.

22 Q. And if Ms. Parrott had fallen on
23 June 3rd -- that's the dispute. But if she had
24 fallen on June 3rd Rebecca had the right key on
25 June 4th and had gone in the apartment, she would

1 have discovered Ms. Parrott and been able to rescue
2 her; is that correct?

3 A. Yes, sir.

4 Q. When Rebecca found -- or determined
5 that Ms. Parrott was unaccounted for, then her
6 response was the same as if Ms. Parrott had
7 activated her panic button; isn't it? She went to
8 the apartment to get in?

9 A. I'm not sure I understand the question.
10 You mean on Wednesday?

11 Q. Yes, ma'am.

12 A. So she went to the apartment and she
13 tried to get in; is that what you're saying?

14 Q. Yes, ma'am.

15 A. That's what we would have done if the
16 panic button had gone off, yes, sir.

17 Q. If the panic alarm had gone off and
18 Rebecca took the wrong key, then she still couldn't
19 get into the apartment; could she?

20 A. Yes.

21 Q. Ms. Carrington, in this matter
22 everybody's credibility is at issue. Can you
23 describe Lila Watters for me?

24 A. I've actually seen Lila Watters since
25 she moved out of Sandpiper. She now lives where my

1 sister lives, in the assisted living. And
2 Ms. Watters was a very pleasant lady, did have some
3 very hard hearing problems. But other than that, I
4 don't have too much more to say on Lila Watters.
5 I'm trying to keep her separated now from what I
6 had seen then.

7 Q. I understanding. She's going to
8 testify by video tape. And that video tape was
9 taken about three years ago, maybe a little longer.

10 But would you have -- knowing
11 Ms. Watters would you have determined that if
12 Ms. Watters had complaints or concerns about
13 Ms. Parrott's wellbeing, then you would have taken
14 those as credibility statements?

15 A. Yes, sir.

16 Q. Ms. Carrington, would you agree that
17 Mr. Parrott would have been in the best position to
18 know when she fell?

19 A. Yes.

20 Q. Now, I understand that Ms. Parrott had
21 told you, at some point later, that she fell on
22 Tuesday; is that correct?

23 A. Yes, sir. I had visited her in the
24 rehab center.

25 Q. And how would you describe her when you

1 saw her in the rehab center?

2 A. She was angry. She was angry. She was
3 sitting on the side of the bed, very angry, but
4 alert.

5 Q. What was she angry about?

6 A. About being on the floor for so long.

7 Q. Do you believe being on the floor for
8 so long affected Ms. Parrott?

9 MR. DAVIS: Objection, Your Honor.

10 THE WITNESS: I can't answer that. I
11 don't have access to her records. I can't answer
12 that.

13 BY MR. REEVES:

14 Q. Would you agree that, generally
15 speaking, someone being on the floor for several
16 days would not be an optimal solution?

17 A. Yes, sir.

18 Q. Ms. Carrington, a couple of last
19 questions, and, mercifully, I'll be through.

20 Sandpiper held itself out to be a
21 community that nurtured its residents; is that
22 correct?

23 A. Yes.

24 Q. If Rebecca went to that apartment on
25 Wednesday, like she said she did, and had the

1 opportunity to get the right key, but did not do
2 that, that actions or those actions are not
3 nurturing as far as Ms. Parrott was concerned;
4 would it?

5 A. No. I mean, I don't think so.

6 Q. In fact, if Rebecca had done on
7 Wednesday what she did on Friday when she found
8 that key, we wouldn't be here today; would we?

9 A. Correct.

10 Q. Ms. Carrington, I want you to hold on
11 for just one minute. I think I'm through. But I
12 want to check with Mr. Bosswell. Can you wait just
13 a second, please?

14 A. Yes, sir.

15 MR. REEVES: Thank you for your
16 testimony. Someone from the Defendant is going to
17 have a few questions for you.

18 THE WITNESS: Yes, sir.

19 CROSS EXAMINATION

20 BY MR. DAVIS:

21 Q. Ms. Carrington, can you hear me okay?

22 A. I can.

23 Q. Let's try to do this.

24 All right. Ms. Carrington, you've
25 worked at a bunch of places. Give me a little bit

1 of background on some of the places you've worked,
2 other places you've worked.

3 A. I worked for Circle Terrace Hospital
4 for seven years --

5 THE COURT REPORTER: I'm sorry. I
6 didn't hear her.

7 THE WITNESS: -- in the ICU and the ER.
8 Worked for an emergency room for (unintelligible)
9 for seven years, and have worked at several
10 different long-term care facilities.

11 BY MR. DAVIS:

12 Q. And in the long-term care world, in
13 particular, there are lots of policies and
14 procedures; is that true?

15 A. Yes, sir.

16 Q. And that's very different than the
17 independent world; is that also true?

18 A. Yes, sir.

19 Q. Now, I'm going to try to show you --
20 I'm going to pull up what is called front desk
21 procedures. I'm going to try and share this.

22 MR. DAVIS: Matt, this is Sandpiper
23 122.

24 BY MR. DAVIS:

25 Q. Can you see that okay, Ms. Carrington?

1 A. Let me see. Oh, boy, these old eyes.

2 But, yes, I can see it now.

3 Q. I will try to zoom in.

4 A. Okay. Yeah, that's much better.

5 Q. So this is a document, you were just
6 asked a question about it a minute about by Mr.
7 Reeves. And it's labeled front desk procedures and
8 duties and procedures.

9 MR. DAVIS: Matt, can you follow along
10 with this.

11 BY MR. DAVIS:

12 Q. And this is the document that was sent
13 to you last week, I guess, by both sides now;
14 correct?

15 A. Yes, sir.

16 Q. Now, what I'm going to do -- are you
17 familiar with this document? Have you ever seen
18 this before?

19 A. I believe I saw it once before.

20 Q. And do you know whether or not this was
21 something that was used by Rebecca and Beth in
22 terms of setting forth what the receptionist duties
23 and responsibilities were at work?

24 A. Yes, sir.

25 I don't know about Rebecca, but I think

1 Beth, yes.

2 Q. Beth prepared this or made this?

3 A. I believe so. And I think we did
4 before the new orientee was hired.

5 Q. Okay. So can you see on this document,
6 which was Sandpiper 123, there is a section called
7 daily check sheet. Do you see that?

8 A. Yes. Down at the bottom, yes.

9 Q. Yes, ma'am. And I'll just read to you
10 for ease. It says, all residents must be seen by
11 staff, initialled everyday. If you do not see
12 someone, call them. If you can't get them on the
13 phone, go to the apartment and check on them; is
14 that correct?

15 A. Yes, sir.

16 Q. Now, you don't believe this is the
17 procedure that you wrote; is that correct?

18 A. Correct.

19 Q. And you don't know what happened to the
20 one that you wrote presently? You don't know where
21 that is; correct?

22 A. No, I don't.

23 Q. Now, I'm going to try to stop sharing
24 my screen, I hope.

25 A. Okay.

1 Q. Now, you were asked some questions. Is
2 it accurate to say that the primary fall response
3 or emergency response system at Sandpiper was, what
4 I'm going to call the panic button?

5 A. Yes, sir.

6 Q. And, in your experience, would it be
7 fair to say approximately 95 percent of all falls
8 were identified using that system?

9 A. Yes, sir.

10 Q. And do you recall whether or not that
11 system was, in fact, in the materials provided to
12 the residents? It was in the receptionist's
13 duties. But it was actually advertised and put in
14 the materials; is that correct?

15 A. Yes, sir.

16 Q. I'm going to try and share my screen
17 with you again. Do you remember each resident
18 getting a handbook when they moved in?

19 A. Boy, I don't really recall that.

20 Q. I'm going to show you something. This
21 came to Ms. Parrott. This says, welcome to
22 Sandpiper. Do you see that there?

23 A. Yes, sir.

24 Q. And it says, this handbook is designed
25 to help familiarize yourself with all services;

1 recreational activities, transportation, and all of
2 that stuff?

3 A. Yes.

4 Q. Does that refresh your recollection
5 about whether or not residents would receive those?

6 A. Yes.

7 Q. Now, I'm going to skip to the next page
8 and direct your attention, if I can, to the section
9 called emergency communication system. Do you see
10 that?

11 A. Yes, sir.

12 Q. And I'm going to read it to you, just
13 to facilitate things.

14 It says, each resident is provided with
15 a pendent or bracelet to be used in case of an
16 emergency. Simply press the button in the middle
17 of the blue line to alert the front desk during the
18 day and security from 9 p.m. to 7 a.m. The button
19 will work anywhere on campus. And should you push
20 the button this is considered an emergency, and a
21 staff member will enter your apartment to determine
22 the cause; is that correct?

23 A. Yes, sir.

24 Q. Is that your understanding of how the
25 emergency communication system was supposed to

1 work?

2 A. Yes, sir.

3 Q. And this policy reflects, we're telling
4 you we will enter your apartment if you hit that
5 button, whether you like it or not?

6 A. Yes, sir.

7 Q. Now, you were asked a bunch of
8 questions about one of the goals of the check-in
9 policy. I'm going to try and turn this off again.
10 One of the goals of the check-in policy was to
11 confirm wellbeing. Do you recall that question?

12 A. Yeah. I think -- and I don't want to
13 imply to confirm that they were helpless. But it
14 was to confirm that they were there and on campus,
15 at least at some point during the day.

16 Q. And it was an informal process; is that
17 correct?

18 By that I mean, you might see them or
19 Rebecca might see them, or Rebecca might tell you
20 she saw them. You didn't have to specifically say,
21 oh my gosh, I saw him. I can't leave until I see
22 somebody. We just needed to confirm that they had
23 been seen at some point in that day?

24 A. Yes. It was the responsibility of the
25 receptionist to make sure to check off. But she

1 could have asked -- and they did ask me on several
2 occasions if I had seen someone.

3 Q. And if you said I have, then that was
4 enough to kind of say, all right, they must be
5 here?

6 A. Yes.

7 Q. Now, I want to dig back into a little
8 bit of Mrs. Parrott's -- and you mentioned this.
9 Her privacy and her concerns about access to her
10 apartment.

11 I'm going to bring up -- it should be,
12 I hope, the records of concern, okay. And I'm just
13 going to ask you to take us through these fairly
14 quickly, I believe. I have a lot of things that I
15 need to mess with. This is Sandpiper 67.

16 I'm going to share my screen, I hope.
17 I hope you can see that. Is that correct?

18 A. Yes, I can.

19 Q. And that's your signature on this
20 document; is that correct?

21 A. Yes, sir.

22 Q. And what's the date of the document?

23 A. 6/6/13.

24 Q. And I believe this references what
25 Mr. Reeves was talking to you about, about she had

1 lost some coins and she was concerned about that;
2 is that correct?

3 A. Yes, sir.

4 Q. So I want to -- I would like to direct
5 your attention -- you wrote this note; correct?

6 A. Yes, sir.

7 Q. About halfway down where it begins,
8 Mrs. Parrott is fearful. Do you see that?

9 A. Yes.

10 Q. Would you read that to the Court,
11 please.

12 A. Mrs. Parrott is fearful of people
13 coming in without her knowledge. Assured her that
14 we would not, and to be -- and for her to be
15 present in the apartment (unintelligible) --

16 COURT REPORTER: I can't hear her.

17 THE WITNESS: -- no one is allowed in
18 without her being present.

19 BY MR. DAVIS:

20 Q. So with respect to housekeeping, if
21 they were going to be there, she needed to be there
22 while they were there; is that correct?

23 A. Yes.

24 Q. And this was information that she
25 communicated to you? What did it tell you?

1 A. She was -- how can I say it? It was of
2 upmost concern for her.

3 Q. And there's really no doubt that that
4 was well known, at least, amongst the staff, you,
5 Rebecca, and Beth; is that true?

6 A. I can't answer for Rebecca. But for
7 me, yes.

8 Q. Fair enough. I'm going to one more
9 record of concern, which I think you prepared. Can
10 you see that there?

11 MR. DAVIS: And, Matt, this is going to
12 be 65 and 66.

13 THE WITNESS: Yes, sir.

14 BY MR. DAVIS:

15 Q. And this goes to the -- to when she
16 changed her locks because she didn't want anybody
17 going into the apartment; is that correct?

18 A. Yes, sir.

19 Q. So, I'm going to do the same drill with
20 you, if I can get this off my screen. I'm going to
21 direct your attention really to the last line where
22 it says, I explained to her. Do you see that?

23 A. Let's see.

24 Q. I explained to her that we needed a
25 key.

1 A. I explained to her that we needed a key
2 and she said that she did not want anyone --

3 Q. And the rest of the note, would you
4 read that to the Court, please.

5 A. To have access to her apartment. Asked
6 her what she -- we are going to do. She said no
7 one is to go into her apartment ever. I asked her
8 what if there's a fire. And she said, oh well.

9 I went on to explain that having a key
10 with the staff and I was able to open the door for
11 her. I also explained to her that I did not refer
12 to the locked (unintelligible) that that would also
13 be an issue to get in and to shut the door.

14 Q. And, of course, you were asked a
15 question about whether privacy trumped safety. Do
16 you recall that question?

17 A. Yes, sir.

18 Q. And what, if anything, in terms of
19 privacy versus safety, like in this context, is
20 there a question of degree for you in terms of how
21 you balance that with a resident who's told you
22 very expressly she does not want you in the unit if
23 she's not there?

24 A. I think I personally could take the
25 risk and check on her.

1 Q. And I understand that. And I guess
2 other folks, if you have a resident who has
3 concerns about privacy, right, you have to use some
4 judgment or some discretion about when to go in and
5 maybe the level of possible emergencies; would that
6 be reasonable for somebody else?

7 A. For --

8 MR. REEVES: Object to what somebody
9 else may be thinking.

10 THE COURT: Well, if it helps, I didn't
11 hear her response. I'll sustain the objection.

12 Meaning whatever her response is going
13 to your question that he objected to, she was
14 talking while he was talking. So it doesn't matter
15 what she said, because I didn't hear it.

16 BY MR. DAVIS:

17 Q. Let me ask it to you this way. Would
18 you agree, though, that if privacy is taken into
19 account by the person making the decision, given
20 Ms. Parrott's wishes, it might be -- and I
21 understand you would go in. But it might be
22 reasonable for somebody else to give some credence
23 to those wishes of privacy. Would that be
24 reasonable?

25 A. Could be, yes, sir.

1 Q. Now, I want to switch, if I can -- can
2 you see this document?

3 A. Yes, sir.

4 Q. And what is this document? This is
5 Sandpiper 36.

6 A. This is the document from when I began
7 to investigate a fall for Ms. Parrott.

8 Q. And I'm going to go to the bottom of
9 this and ask you, is that your signature?

10 A. Yes, sir.

11 Q. And what's the date of your signature?

12 A. 6/7/14.

13 Q. And was that the day after all these
14 events had transpired?

15 A. I believe that was a Saturday.

16 Q. And you recall she was found on Friday;
17 is that correct?

18 A. Yes, sir.

19 Q. And as far as your investigation, you
20 were asked some questions about who you spoke to.
21 And I want to make sure that I had that straight in
22 my mind. You spoke with Beth Auld; is that
23 correct?

24 A. Yes, sir.

25 Q. You spoke with Rebecca; is that

1 correct?

2 A. Yes.

3 Q. And you spoke with activities, I think
4 Tina you said; correct?

5 A. Yes.

6 Q. And you spoke with the folks with the
7 dining room; is that correct?

8 A. Not everybody in dining services, but
9 some.

10 Q. I might have misheard you. I thought
11 you said, in answering the question, that dining
12 didn't see her. Is it that they didn't see her or
13 they didn't remember one way or the other?

14 A. I don't think they could recall.

15 Q. One way or the other?

16 A. The other, yes, sir.

17 Q. Okay. So I want to break down a little
18 bit of what you learned in your investigation, what
19 you documented for us. All right, ma'am?

20 A. Yes, sir.

21 Q. So on 6/7 -- and I'm going to read it
22 just to speed us along. But on 6/7/2014, you
23 received a call from Rebecca stating that Ms.
24 Parrott fell at some point and she found her where
25 she fell and broke her hip. You got that

1 information from Rebecca?

2 A. Yes.

3 Q. And then it states that she fell
4 hanging curtains, standing on a rocking chair, she
5 was not wearing her panic alarm. I was told that
6 she was down since Tuesday. Is that the
7 information that you learned the day after this
8 event?

9 A. Yes, sir.

10 Q. And you were asked this question, as
11 well. But with respect to Ms. Parrott saying this
12 Tuesday comment, when you met with her later, she
13 actually told you she fell Wednesday; is that
14 correct?

15 A. Yes, sir.

16 Q. And you don't, of course, have any idea
17 when she actually fell or the reason for that
18 inconsistency; do you?

19 A. No, I do not know.

20 Q. All right. I'm going to skip down to
21 the next paragraph. And I'm going to ask you to
22 read that to us. All right.

23 A. Wednesday Ms. Watters stated that she
24 received a call from Ms. Parrott to wish her a
25 happy birthday. And she stated she told mother

1 that she saw her Thursday. Beth Auld had signed
2 her in on 6/5/14. Called Beth Auld and she was
3 adamant that she would not sign off anyone if she
4 hadn't seen them.

5 Q. So I want to break that down a little
6 bit. The first sentence, Wednesday Ms. Watters
7 stated she received a call from Ms. Parrott to wish
8 her a happy birthday. Would you have that
9 information from Ms. Watters?

10 A. From Ms. Watters.

11 Q. And then you indicate a couple of
12 things about the sign-in sheet, the check-off
13 sheet, which we don't have anymore. But you would
14 have -- I think you told us earlier, you would have
15 looked at that sheet that day; correct?

16 A. Yes, sir.

17 Q. And when you looked at it, you
18 determined that she had not been signed off on
19 Wednesday by our staff member; correct?

20 A. Correct.

21 Q. But the Thursday check-off was there;
22 is that correct?

23 A. Yes.

24 Q. Now, while we may not have a document
25 or the check-in sheet, we have a document you

1 prepared the next day confirming that she was seen
2 Thursday; is that accurate?

3 A. Yes, sir.

4 Q. Now, I want to ask you -- there's been
5 a bunch of noise about the absence of this
6 check-off sheet. Did you in any way get rid of
7 this check-off sheet, because you were trying to
8 hide something?

9 A. No, sir.

10 Q. All right. And you just put it back
11 wherever it was normally stored; is that correct?

12 A. Well, it was probably still being used
13 for the rest of the month.

14 Q. All right. Would it be fair to say
15 that that document had one piece of information
16 that would not be perfectly helpful, as far as the
17 check off is concerned and that we did not check
18 her off? It would also have a piece of information
19 that is very helpful -- is that fair?

20 A. Yes, sir. Yes, sir.

21 Q. Now, you indicate that you called Beth
22 and she was adamant that she would not sign anyone
23 off unless she had seen her. Do you recall that?

24 A. Yes, sir.

25 Q. And was she indeed adamant about that

1 when you spoke with her?

2 A. Yes. Yes.

3 Q. Did you actually speak with her a
4 second time about that just to confirm that her
5 memory was accurate at that particular time?

6 A. Yes, I did.

7 Q. All right. Tell us the circumstances
8 of that conversation, please.

9 A. We were at the front desk and I went
10 back to her when she was at work. Then I said,
11 Beth, are you sure that you saw Ms. Parrott. And
12 then she got a little annoyed with me. And she
13 said, yes, Corrine, I saw her. She was standing
14 right there -- good morning, Beth.

15 Q. You broke up a little bit. So she said
16 I saw her, she was standing right in front of me,
17 good morning, Beth, while she was looking at the
18 lunch menu?

19 A. Or a menu. I don't know if it was
20 lunch or dinner.

21 Q. Fair enough. I'm going to ask you a
22 question. Would you ever expect your staff to a
23 give a key to a resident to go into a private
24 residence to check on somebody?

25 A. No. Never had that experience.

1 Q. And that, of course, wouldn't make any
2 sense to give out a key to a private apartment to
3 another resident to go fishing around in someone
4 else's apartment?

5 A. No.

6 Q. Now, as far as keeping records, there
7 was no specific policy or requirement that this
8 check sheet be kept for any period of time;
9 correct?

10 A. No. That was not addressed.

11 Q. And at some point in the regular course
12 of business, those records might just be simply
13 tossed as you kind of reloaded, I guess, the file
14 cabinet?

15 A. You would have to ask the front desk.

16 Q. But as far as your requirements or your
17 role as executive director, you didn't have a rule
18 in place, we have to keep these records all the
19 time; right?

20 A. I did not.

21 Q. Would you agree that if they were
22 thrown away a couple of years later and we didn't
23 have any indication of a problem that would be okay
24 with you as an executive director?

25 A. I don't know how to answer that.

1 Q. That's fair.

2 A. Yeah, I don't know how to answer that.

3 Yeah, I don't know how to answer that.

4 Q. That's fair.

5 A. That's a hard one.

6 Q. So I do need to ask you some more
7 questions about Ms. Watters. Okay?

8 A. Yes, sir.

9 Q. On Wednesday, Ms. Watters never came to
10 you to express any concern about Ms. Parrott; is
11 that true?

12 A. That's true.

13 Q. Now, with respect to the Thursday,
14 Ms. Watters never came to you and said, I'm
15 concerned about her, let me in her apartment; is
16 that true?

17 A. That's true.

18 Q. And Friday she never came to you to
19 gain access to the apartment; is that also true?

20 A. Yes, sir.

21 Q. Now, I'm just going to ask you some --

22 MR. DAVIS: We haven't heard this
23 testimony yet, but it's coming in when it gets
24 played.

25 BY MR. DAVIS:

1 Q. So I'm going to ask you whether some
2 things happened to your recollection.

3 Would there be any -- to your
4 knowledge, any reason Rebecca Munoz would not have
5 Ms. Parrott's address and phone number?

6 A. Unless she changed her phone number
7 that day, we might not have it. But we definitely
8 know the address.

9 Q. It's a minute away; right?

10 A. Yes. Yes, sir.

11 Q. Did you at any time refuse to go in and
12 check on Corrine on Thursday?

13 A. No.

14 Q. Do you remember Rebecca and Ms. Watters
15 coming to you and saying, let's go check on her,
16 and you just said, no, ain't doing it?

17 A. No.

18 Q. Now, after this event you didn't
19 discipline Rebecca for what she did that particular
20 night, on Wednesday; right?

21 A. Correct.

22 Q. Now, I'm going to ask you some more
23 questions about whether or not certain things
24 happened on Friday, if that's okay. All right?

25 A. Yes, sir.

1 Q. You just give me the best recollection
2 of your memory. At any time on Friday afternoon,
3 did Ms. Watters come to you and ask questions about
4 Ms. Parrott where you would have said, she's
5 probably just with her family, don't worry about
6 it?

7 A. No.

8 Q. At any time, do you recall Ms. Watters
9 coming to you on Friday and saying, I didn't see
10 her on Thursday, we need to do something?

11 A. No.

12 Q. Are you aware of any reason that if
13 Ms. Watters needed your assistance to get Rebecca
14 or anybody else to respond, as the boss, Ms.
15 Watters wouldn't come to you and ask you for that
16 help?

17 A. No.

18 Q. And there's no question, but that you
19 did speak with Ms. Watters after the event;
20 correct?

21 A. Yes, sir, after the event.

22 Q. Now, we are independent living; is that
23 correct?

24 A. Yes.

25 Q. And the residents can choose or not

1 choose to wear the panic button; is that correct?

2 A. Yes.

3 Q. And we are not a guarantee of their
4 safety everyday; are we? That's not our job at
5 Independent Living?

6 A. No.

7 Q. And, to your recollection, we had
8 maintenance folks that if you needed curtain rods
9 hung or doors fixed, we had that available to them?

10 A. Yes, sir.

11 Q. Oh, you were asked this question.
12 Mr. Reeves said something to the effect that, man,
13 if we had just gotten that key and walked into
14 that, we wouldn't be here today. And you said yes.
15 Do you remember that question?

16 A. Yes, sir.

17 Q. Is it equally possible we might not be
18 here today because she would have been just fine,
19 if they had gone ahead and went in that door; isn't
20 that right?

21 A. Yes.

22 Q. You worked with Beth and Rebecca for a
23 lot of years; correct?

24 A. Yes.

25 Q. In your experience in working with

1 Beth, in particular, would she refuse to go check
2 on a resident, if something came to her and asked?

3 A. No. No. Most of the time she would
4 call me. Or she would go check herself.

5 THE COURT: And which one was that,
6 Beth or Rebecca?

7 MR. DAVIS: Beth.

8 BY MR. DAVIS:

9 Q. As far as the logistics of checking,
10 that would be about a one-minute walk, wouldn't it?

11 A. Yes, sir.

12 MR. DAVIS: Your Honor, give me one
13 minute to check with my lawyer. I'll be right
14 back.

15 THE COURT: Sure.

16 BY MR. DAVIS:

17 Q. Corrine, can you see me okay?

18 A. Yes, sir.

19 Q. You were asked a bunch of questions
20 about confirming the wellbeing, that term. And
21 wellbeing -- again, this is kind of checking, you
22 know, just making sure that they were around the
23 campus? This isn't like going around and checking
24 their blood pressure and who's alert and
25 orientated?

1 A. Correct.

2 MR. DAVIS: I appreciate your time.
3 Please answer any questions Mr. Reeves may have..
4 but thank you so much.

5 COURT REPORTER: I didn't hear the
6 first place she worked.

7 RE-DIRECT EXAMINATION

8 BY MR. REEVES:

9 Q. Ms. Carrington, this is Paul Reeves
10 again. Can you see and hear me?

11 A. Yes, sir.

12 Q. Ms. Carrington, were you at the
13 facility on Friday, June 6th?

14 A. Yes, sir.

15 Q. Nobody came to you on Friday, June 6th
16 about what happened?

17 A. Well, the only thing I heard was from
18 the housekeeper. She said Ms. Parrott wasn't --
19 she's usually there when her housekeeping was due.
20 And she wanted a key to the apartment to get in.
21 And I explained to her that I couldn't give her a
22 key.

23 Q. A moment ago Mr. Davis asked you a
24 couple of questions about whether Ms. Watters had
25 approached you with questions about Ms. Parrott's

1 wellbeing on Thursday and Friday. Do you recall
2 those questions?

3 A. Yes, sir.

4 Q. Well, actually, Ms. Watters testified
5 that she spoke with Beth and Rebecca on Thursday
6 and Friday and not you. Do you know what she said
7 to you Beth and Rebecca?

8 A. I do not.

9 Q. So it would be completely plausible
10 that Ms. Watters' concerns were expressed to staff,
11 and those concerns were not passed along to you; is
12 that correct?

13 A. Correct.

14 Q. Ms. Davis asked you some questions
15 about, you know, this is not really a policy, we're
16 not guaranteeing anyone's safety and we're not
17 doing blood pressure checks. You agree with that
18 though; don't you?

19 A. Yeah. We're not -- we're just looking
20 at them. Beth will sign on somebody and see them
21 two minutes later and be like, no, we have to get
22 this man to the hospital.

23 Q. But in this case, Ms. Carrington,
24 Rebecca saw immediately when she finally got to
25 Ms. Parrott on Friday, June 6th, that Ms. Parrott

1 was in bad shape. She made an assumption that she
2 had fractured her hip; didn't she?

3 A. Yes, sir.

4 Q. It's not your testimony today,
5 Ms. Carrington, that because Ms. Parrott didn't
6 hit her panic button, and because you didn't take
7 her blood pressure, that she was not worthy of the
8 rescue that this policy would require; is it?

9 A. No, that's not my testimony.

10 Q. And, in fact, finding Ms. Parrott on
11 the floor like she was would have required no
12 special response, evaluation, or physical, it just
13 would have required someone to call 911; correct?

14 A. Correct.

15 Q. Ms. Carrington, Mr. Davis has asked you
16 some questions about, you know, who saw who when
17 and where.

18 Let me ask you this: It was the
19 policy's requirement to visually confirm the
20 wellbeing of the resident; correct?

21 A. Yes.

22 Q. And at Sandpiper, would you agree that
23 there was a tremendous amount of white and grey
24 haired people; correct?

25 A. Say that part of the question again.

1 You cut out.

2 Q. A lot of grey and white headed people
3 at Sandpiper; weren't they?

4 A. Yes.

5 Q. And if you were looking in that dining
6 room at people who had white and grey hair, would
7 it be easy to confuse one with the other?

8 A. Potentially. You did know the
9 residents fairly well. But I could say
10 potentially, yeah.

11 Q. Ms. Carrington, there was nothing about
12 this policy to check on a resident whereby if you
13 didn't use your emergency button, we weren't going
14 to check on you?

15 A. No.

16 MR. REEVES: Thank you, Ms. Carrington.
17 I appreciate your testimony.

18 THE COURT: I want to ask her some
19 questions.

20 COURT INQUIRY

21 THE COURT: Hey, Ms. Carrington, how
22 are you?

23 THE WITNESS: Good. Thank you.

24 THE COURT: I've got one quick
25 question. So for the record, for concern, you took

1 that down, I think it was in June of 2013
2 concerning Ms. Parrott's complaint to you about her
3 privacy and the keys?

4 THE WITNESS: I don't know. I'm not
5 sure what you mean.

6 THE COURT: Well, you took the report
7 down in June of 2013, the record for concerning Ms.
8 Parrott; correct?

9 THE WITNESS: I'd have to look at it,
10 yeah.

11 THE COURT: I guess the overall
12 question is, what do you do with those? Once you
13 have your record for concern, what do you do with
14 the actual document and the concern of the actual
15 resident?

16 THE WITNESS: Yeah, I understand your
17 question now. It was really more of a tracking
18 tool. And if we saw a multitude of issues with one
19 patient or one resident, then we would have to look
20 to evaluate to see if they were still appropriate
21 for independent living.

22 So that if someone was forgetting to
23 come to meals frequently and things like that, we
24 would -- or somebody went into an apartment and
25 found that they -- something was going on. So it

1 was more of a tracking.

2 THE COURT: And these records for
3 concern, where were they kept?

4 THE WITNESS: At one point, I think I
5 had them on the computer. But then I think I took
6 those out. But I'm not positive about this, and
7 put them in the files with the rest of them
8 themselves that had their lease and stuff in it.

9 THE COURT: And as for this record for
10 concern as to Ms. Parrott that was taken in June of
11 2013, did you share that information with any of
12 the other staff members, such as Beth or Rebecca?
13 Would they be made aware of that information?

14 THE WITNESS: About the key?

15 THE COURT: Yes, ma'am.

16 THE WITNESS: Yes, sir.

17 THE COURT: And I can't recall if it
18 was your testimony that as to the check-off sheet
19 that through your investigation, did you find --
20 and I know that you said that Beth was adamant
21 about seeing Ms. Parrott on Thursday.

22 But as for Wednesday, it said it was
23 not marked off; is that accurate?

24 THE WITNESS: That is correct.

25 THE COURT: How often does that occur

1 where the policy is to check on daily, you have to
2 go through all of the procedures, and if you just
3 exhaust the procedures, you just move on with the
4 day? Like how did that happen that Wednesday never
5 got followed up?

6 THE WITNESS: Well, I didn't check the
7 rosters everyday, but I did random checks to make
8 sure that they were being completed. I just don't
9 know why Rebecca didn't follow through.

10 THE COURT: Let me ask the question a
11 little more distinctly. How often when you did the
12 random checks when someone's not accounted for,
13 when you looked at the monthly log?

14 THE WITNESS: On occasion, they would
15 be. And I would ask -- it was mostly Beth, not
16 Rebecca. And I would ask her why there was a blank
17 here or there. And she said, oh, I had security
18 check on them when they came in. That did happen
19 on occasion.

20 THE COURT: Do you have any questions
21 to the two or three questions that I had?

22 MR. REEVES: No, sir, Your Honor.

23 THE COURT: All right. Ms. Carrington,
24 you may be excused. Thank you for your
25 information. Have a wonderful day. Thanks for

1 being here.

2 How long is the next witness?

3 MR. BOSWELL: My questions are probably
4 20 or 30 minutes.

5 THE COURT: We'll just keep trucking
6 along. If you want to go ahead and call your next
7 witness, that's fine.

8 If you'll just go ahead and come up
9 here to be sworn. Put your left hand on the bible.

10 Do swear or affirm that the testimony
11 you are about to give will be the truth, the whole
12 truth, and nothing but the truth?

13 MS. AULD: Yes, sir.

14 DIRECT EXAMINATION

15 BY MR. BOSWELL:

16 Q. Good afternoon, Ms. Auld.

17 A. Hi.

18 Q. May I call you Beth?

19 A. Sure.

20 Q. Beth, I'm John Boswell. We spoke over
21 the weekend over the telephone. It's nice to put a
22 face with a voice.

23 And we spoke over the weekend about
24 this document that came to light on Friday?

25 A. Right.

1 Q. And we'll get to that in just a few
2 minutes. But first I want to get one point out of
3 the way. We talked a lot about there being a
4 policy that Sandpiper had to check on every
5 resident everyday. Did Sandpiper have such a
6 policy?

7 A. Yes.

8 Q. And that policy was in existence
9 from -- I don't know, it predates you 25 years or
10 so?

11 A. It was there when I came there.

12 Q. Right. In fact, I think you told us
13 that you trained a bunch of people on that specific
14 policy?

15 A. Yes.

16 Q. And you even sort of wrote the manual,
17 so to speak?

18 A. Yes.

19 Q. I got it. So we've heard a lot about
20 it. Just in your words, what was the policy?

21 A. That we check everybody each day.
22 There's a list of residents and the days. And you
23 just initial it when you saw the resident.

24 If you did not see them, you'd call
25 them on the telephone. If they did not answer, we

1 would go over to their apartment, knock. If they
2 didn't answer, then you go in make sure that we saw
3 them. If they weren't there, we assumed that they
4 were out with family and they were okay.

5 Q. And you would call the family if they
6 weren't there?

7 A. That wasn't the policy.

8 Q. So if Ms. Carrington said that was the
9 policy, there may be some confusion about that?

10 A. Must be. Because that was never the
11 policy, that I know of.

12 Q. All right. That's fine. Now, every
13 employee that worked there knew about this policy?

14 A. The ones at the front desk. And the
15 people that had been there a long time.

16 Q. And every staff member knew about the
17 policy, because they are the ones being checked on;
18 right?

19 A. I would assume so.

20 Q. I mean, they are the ones getting phone
21 calls and someone knocks on the doors?

22 A. I'm not sure that all of them
23 understood it completely.

24 Q. They experienced it though; right?

25 A. Yes.

1 Q. All right. So we are here today
2 because of an incident with Ms. Parrott. And it
3 was a long time ago. I understand.

4 And your involvement with this incident
5 sort of happened before anybody knew that
6 Ms. Parrott was found on the ground. So there
7 wouldn't have been any reason at the time for you
8 to be thinking, oh, I need to pay attention and
9 make sure that I remember that I saw Ms. Parrott?

10 A. Correct.

11 Q. And that makes perfect sense.

12 And I also know that you have been --
13 you've given a deposition in this case. In fact, I
14 have it right here. And had a lot of questions
15 were asked.

16 And I'm going to have to ask a lot of
17 those same questions again, because the Judge
18 hadn't heard your answers yet. Just
19 specifically -- there's a couple of things. One
20 is, the two employees that were sort of involved
21 with checking on and seeing and finding
22 Ms. Parrott, were you and your daughter; correct?

23 A. Correct.

24 Q. And your daughter, she hadn't testified
25 yet, but I think everybody's understood and agreed

1 there's going to be testimony that she went to
2 check on Ms. Parrott on Wednesday and then she
3 called you. And you don't specifically remember
4 that phone call?

5 A. I don't.

6 Q. You don't remember that phone call, and
7 you don't remember her asking you about a key?

8 A. I don't.

9 Q. And you don't also recall that she
10 asked you to check on Ms. Parrott on Thursday?

11 A. I don't. I know because I read it.

12 Q. Yeah, sure. I mean, now that we've
13 been through this case, it's hard to remember what
14 you guys remember and what you heard.

15 A. But if she asked me to, I'm sure. If
16 she said she did, she did.

17 Q. But you don't have any independent
18 recollection of any of that stuff?

19 A. Correct.

20 Q. That's fine. And you don't
21 specifically recall seeing Ms. Parrott on that
22 Thursday?

23 A. You know, I have a vision of her
24 standing at the front desk looking at a menu. But
25 I have to be honest to say if that's a true vision

1 or just because it's been talked about so much.

2 Q. Right. I got it. In fact, under the
3 policy it could be that somebody else just told you
4 they saw Ms. Parrott and you would have initialled
5 off that you saw her?

6 A. That is a possibility.

7 Q. Because that happens sometimes.

8 And you can't sit here and tell us
9 whether the person who might have told you that
10 they actually saw Ms. Parrott was mistaken?

11 A. I couldn't say.

12 Q. You don't know. Yeah, I understand.

13 Now, you and/or your daughter would
14 have been the two people who would have kept up and
15 filed the check-off sheets that were kept?

16 A. Well, it would really be more me.

17 Q. That's fine. I want to change topics
18 with you for a second. A lot of the residents at
19 Sandpiper don't wear their panic buttons?

20 A. There are some, yes.

21 Q. Well, actually -- and you maybe don't
22 remember specifically what you said before. But
23 this question was asked and you said a lot of
24 residents don't wear their panic buttons, and many
25 of them that do wouldn't even know to push them?

1 A. There are some. Not many, but there
2 are some.

3 Q. And I think you also said that you have
4 never found a resident that had fallen because they
5 pushed their panic button?

6 A. Did I say that?

7 Q. Yeah, you did. You said that you never
8 had found a resident, but they had fallen because
9 they pushed their panic button. I'll be glad to
10 show you the language. It's on page 63 of your
11 deposition.

12 Meaning that when you have found
13 people, it's been mostly because of the check
14 system, not because they pushed the panic button.

15 A. No, that's incorrect. If I said that,
16 that's incorrect.

17 Q. Well, maybe I got it wrong. Let's see.
18 Let me show you what the question and the answer
19 was. It's here on Page 63. Read 63 -- can you
20 read it all right?

21 A. Yes.

22 Q. Starting on Page 8 -- down to Line 8 to
23 line 14. Question. Okay. All right. All right.
24 Of the injured people that you would find in their
25 residence, how many of those did you get to push

1 their panic button? What percentage? What
2 ballpark percentage? I don't think I've ever found
3 one. I don't know why I would have said that,
4 because that is not true.

5 A. Oh, maybe it's because it said injured.
6 Most of the time I went they may have fallen. Most
7 of them, they're not injured. They just need
8 somebody to pick them up. That's why I said that.

9 Q. I see. That's the distinction that
10 you're making.

11 In fact, though, there were some
12 residents, I think you talked about, that never
13 really came out and you had to call them everyday
14 to check on them?

15 A. Correct.

16 Q. And when they wouldn't answer the
17 phone, you would go into their apartment and check
18 on them -- I mean, you would go knock on the door.
19 And if they didn't come to the door, you would go
20 in and check on them?

21 A. That's correct.

22 Q. And I think you told us one time about
23 going in and checking on a lady who had a stroke?

24 A. Yes.

25 Q. And sometimes somebody might be in

1 there and be injured to where they couldn't push
2 their panic button?

3 A. That's possible.

4 Q. And part of the reason that you would
5 have this visual check system would be also to
6 catch those people, you know, really were in need
7 of help, but couldn't push their panic button or
8 weren't wearing it or, you know, whatever; is that
9 right?

10 A. Yes.

11 Q. Sure. Let me change -- well, before I
12 change topics -- at Sandpiper, you don't require
13 that the residents wear their panic buttons; do
14 you?

15 A. No.

16 Q. If somebody comes to lunch and they're
17 not wearing their panic button, you say, stop, go
18 back to your apartment and put your panic button
19 on?

20 A. No.

21 Q. You don't do that?

22 A. No.

23 Q. It's not like a seatbelt where it's
24 illegal?

25 A. No.

1 Q. You don't have big a sign that says, if
2 you do not wear your panic button, you will die?
3 It doesn't say that?

4 A. No.

5 Q. No. Of course not.

6 Now, I want to talk about this
7 document --

8 MR. BOSWELL: And, Your Honor, this
9 front desk procedures document is in the exhibit.
10 Plaintiff's exhibit file that we gave you.

11 BY MR. BOSWELL:

12 Q. Beth, you wrote this; right? You typed
13 this up?

14 A. Yes.

15 Q. This is the thing that we talked about
16 over the weekend?

17 A. Correct.

18 Q. And this particular document has been
19 around, I think you said, like 10 years or so?

20 A. I'm not sure when I typed it.

21 Q. It was before Ms. Parrott was there?

22 A. Yes.

23 Q. And you used that so that when you
24 hired new people that came on board, you know, they
25 knew what to do?

1 A. Yes.

2 Q. And this document has got some names in
3 it of people who were working there now.

4 But at the time when Ms. Parrott was
5 there, those names wouldn't have been in there?

6 A. Correct.

7 Q. So what you did is you brought the
8 document up and you modify it and save it in the
9 same place?

10 A. Correct.

11 Q. And this document in the computer at
12 the front desk in your -- is the one that you use?

13 A. Yes.

14 Q. And it's the one that everybody who
15 works at the front desk uses?

16 A. Correct.

17 Q. And it was in the My Documents folder
18 in the computer?

19 A. Correct.

20 Q. Now, do you have that computer
21 encrypted so that no one else could get to it?

22 A. Well, we all have a password.

23 Q. It's not like a retina scan and thumb
24 thing?

25 A. No.

1 Q. So anybody that works there can find
2 that document?

3 A. Well, I asked them to find it Friday
4 and nobody could. But yes.

5 Q. What does that say?

6 A. Should be able to. I found it
7 Saturday.

8 Q. Actually, I think you found it Friday.
9 Because we got it on Friday.

10 A. Well, I had a copy of it. They found
11 the copy.

12 Q. So the second page of this document
13 reads, all residents must be seen by staff and
14 initialled off everyday. If you do not see
15 someone, call them. If you can't get them on the
16 phone, go to the apartment and check on them.
17 That's, in essence, the policy?

18 A. Yes.

19 Q. And the daily check-off sheets, the
20 ones are also in that computer, and every month you
21 print them off, and they have an up-to-date list of
22 all of the residents that are there?

23 A. Correct.

24 Q. And so when Ms. Parrott was there, her
25 name would have been there?

1 A. Correct.

2 Q. In this document it also talks about
3 the top desk drawer and things we need to lock up.
4 And one of the things it talks about is the key
5 box. Let me show this to you.

6 A. The keys to the key box?

7 Q. Yes, the keys to the key box. If you
8 want to look at this, it's in the last tab of that
9 big bulk folder in front of you. And really -- I
10 mean, I think I can ask the question that you'll
11 know off the top of your head.

12 But it said, there's a key box located
13 on the left of the front desk. It contains keys
14 for each apartment. So every apartment, the key is
15 right there in that key box?

16 A. Correct.

17 Q. And they're all labeled?

18 A. They are.

19 Q. Because otherwise you wouldn't know
20 what key went to which apartment?

21 A. Correct.

22 Q. So you if you're going to go to
23 somebody's apartment, you just look at the key box
24 and get the right key and boom you've got it?

25 A. Yes.

1 Q. And that was there a long time,
2 including before Ms. Parrott was there?

3 A. It was there before I was there.

4 Q. So that is the way it's been done
5 forever?

6 A. Correct.

7 Q. And if you're looking for a key for an
8 apartment, that's where you go?

9 A. Correct.

10 Q. No question about it?

11 A. No question about it.

12 Q. Now, do you know Mr. Hadley over there
13 in the corner?

14 A. Yes.

15 Q. Now, he is the person that has been
16 authorized to speak on behalf of Sandpiper in this
17 litigation. You know, he is the voice of the
18 company.

19 And about, I don't know, a couple of
20 months ago, he gave a deposition in this case.
21 Before he gave that deposition, did he come and sit
22 down with you and ask you if there was a policy
23 that Sandpiper used to check on its residents
24 everyday?

25 A. I don't recall him asking that.

1 Q. Did he come and talk to you about
2 anything?

3 A. No.

4 Q. Did he come and say, have you typed up
5 a document that references this policy?

6 A. No.

7 Q. And I'm not trying to make you like a
8 bug under a glass here, you know, with your boss'
9 boss sitting in the room.

10 But he didn't come and speak to you and
11 inquire of you as to whether there was, in fact, a
12 policy that he was going to be asked about?

13 A. No.

14 Q. Do you know if he came by just to see
15 if the check-off sheet was sitting on the desk?

16 A. No, not when I was there.

17 Q. Is it a secret that this policy exists?

18 A. No.

19 Q. Do all the employees have meetings, you
20 said, listen, no matter what we do, don't tell
21 corporate what we're doing?

22 A. No.

23 Q. Right?

24 A. No.

25 Q. If anybody at corporate asked, does

1 this policy exist, would you have said, oh,
2 absolutely?

3 A. Yes.

4 Q. If they asked any of the residents,
5 would any of the residents have said that?

6 A. I suppose.

7 Q. Yeah. Because they're the ones that
8 are experiencing it.

9 Has anybody from the corporate
10 headquarters ever told you -- or anybody else that
11 you're aware -- whatever you do, do not check on
12 the residents everyday?

13 A. No.

14 Q. No. Has anybody ever been disciplined
15 for following this policy?

16 A. No.

17 Q. Did anybody ever tell you, whatever you
18 do, don't write up this policy and file, because it
19 is not a policy of the company's?

20 A. Well, let me go back. We did have a
21 director at one point that did away with the
22 check-off sheet. And she said that, you know, she
23 didn't think it was a good idea because of
24 liability. So we did away with it, until Corrine
25 came. Corrine put it back into place.

1 Q. Right. But that was years before
2 Ms. Parrott was a resident?

3 A. Right.

4 Q. That was back in like 2008 or something
5 like that; right?

6 A. Right.

7 Q. Okay. Since then nonstop this policy
8 has been in place; right?

9 A. Yes.

10 MR. BOSWELL: Hang on one second.

11 I don't have any other questions.

12 Thank you very much.

13 THE COURT: Mr. Davis.

14 CROSS-EXAMINATION

15 BY MR. DAVIS:

16 Q. Hi Ms. Auld, how are you doing?

17 A. Fine. Thanks.

18 Q. How long have you worked at Sandpiper?

19 A. Almost 25 years, going on 25 years.

20 Q. And over those 25 years, is there
21 anybody, other than you, that has implemented this
22 check policy more than you?

23 A. Probably not.

24 Q. As far as the day-to-day check-in
25 policy, procedure, practice, whatever you want to

1 call it, you've been doing it?

2 A. I have been.

3 Q. Now, you sit at a receptionist desk.

4 Give the Judge an idea where you typically sit and
5 what you typically do for the folks, the residents,
6 there at Sandpiper Living.

7 A. I answer the phone, of course. I print
8 menus, take menus.

9 Q. You take menu orders, you help the
10 residents --

11 A. I take maintenance requests and log
12 those in. Sometimes I'm just there to talk to.
13 And there are a lot of other little duties. I've
14 even been known to unclog a toilet or two.

15 Q. Let's talk a little bit about
16 independent living. These folks are living in
17 basically apartments; is that right?

18 A. Yes.

19 Q. And do we control what they do, you
20 tell them when they can go, stay, and that kind of
21 stuff?

22 A. No.

23 Q. We don't have nurses running around?
24 We don't pass medications?

25 A. No.

1 Q. Are we required, from your prospective
2 sitting at the receptionist desk, to ensure
3 somebody's safety everyday?

4 A. Well, we need to account for them
5 everyday, but we don't do anything medically.

6 Q. Now, let's talk a little bit about -- I
7 want to -- well, you worked on Thursday?

8 A. Thursday.

9 Q. And you did not work Wednesday?

10 A. No.

11 Q. And you do not work Friday?

12 A. I did not work Friday.

13 Q. So you seemed kind of shocked when you
14 were being asked some questions about not finding a
15 resident from a panic button. You had the look of
16 shock on your face. Do the panic buttons go off,
17 in your experience?

18 A. It goes off sometimes.

19 Q. And you have found people who have
20 fallen using that?

21 A. Yes.

22 Q. Does it go off a good bit?

23 A. Not a lot.

24 Q. After being there so many years, what's
25 the primary vehicle, from your experience, really,

1 finding somebody if they've fallen? What's the
2 best vehicle for that, in your experience?

3 A. The panic button, by far.

4 Q. And that's because you can hit it and
5 you can be right there for it?

6 A. Yes.

7 Q. This is 122. Can you see that okay up
8 there?

9 A. I don't think I can read it from there.

10 Q. Let's do it this way --

11 MR. BOSWELL: If I may approach, Your
12 Honor.

13 THE COURT: Absolutely.

14 BY MR. BOSWELL:

15 Q. So, Ms. Auld, this is a document that
16 you created; is that correct?

17 A. Right.

18 Q. And what did you call it when you
19 created it?

20 A. What did I call it?

21 Q. Yes.

22 A. Front desk procedures and duties.

23 Q. And why did you create it?

24 A. Well, when I trained people I thought
25 it would make it easier for them to see what goes

1 on. And that it's always there, if they need to
2 refer to it.

3 Q. It was something that you thought would
4 be helpful?

5 A. Yes.

6 Q. And did anybody from corporate ask you
7 to do that?

8 A. No.

9 Q. Anybody tell you that you shouldn't
10 have done it?

11 A. No.

12 Q. And was it helpful to you in the
13 operation of running the receptionist desk?

14 A. Yes, I think so.

15 Q. Will you go to 123, please. Let's go
16 down to daily checklist. Do you see that on the
17 screen?

18 A. All residents must be seen by staff and
19 initialled off everyday. If you do not see
20 someone, call them. If you can get them on the
21 phone, go to the apartment and check on them.

22 Q. Now, the person that has been
23 implementing this system, the daily check system,
24 is that the system that's been in place for years
25 there?

1 A. Yes.

2 Q. And is that what you trained folks to
3 do?

4 A. Yes.

5 Q. Now, I want to ask you some questions
6 about this particular document, and this particular
7 list of items. Do these procedures that you have
8 written over the years require you to pick up a
9 phone and call the family if you can't find them?

10 A. No.

11 Q. Does that procedure require you to call
12 911 if you can't find them?

13 A. No.

14 Q. Do you know why Ms. Carrington has the
15 idea somehow that those were required under this
16 system for 25 years?

17 A. I don't.

18 Q. Do you recall ever seeing a written
19 bullet point, which required those things, that she
20 gave you to implement at any time?

21 A. No.

22 Q. I can't remember if you were asked this
23 question. It was a question about grey hair, and
24 maybe getting confused by grey hair.

25 Any question that you, somebody that

1 has been there for 25 years, where you sit at that
2 desk, would confuse Mrs. Parrott with any other
3 resident?

4 A. No. Because I would look at her face to
5 make sure.

6 Q. Does that policy, as it's been referred
7 to, does it require you to keep records for any
8 period of time?

9 A. No.

10 Q. Were you aware of any rule or
11 regulation, or requirement the records had to be
12 kept for any period of time?

13 A. No.

14 Q. Because of space, did y'all get rid of
15 records that were old?

16 A. Well, I think I asked Corrine one time
17 what we needed to keep. And I just keep everything
18 because I don't know what we keep and don't keep.

19 Q. Let me ask you this: Do you know what
20 happened to these records?

21 A. I don't. I know that we had very
22 limited space. So there was an office behind us
23 that just had some old file cabinets. So we were
24 stuffing them -- some of the records we were
25 stuffing in there.

1 And then Corrine moved her office back
2 there. So I think the maintenance men took that
3 furniture and threw it in the dumpster. So my
4 guess is the records were in there and they went in
5 the dumpster.

6 Q. There wasn't any great scheme and you
7 weren't involved to get rid of any significant
8 piece of evidence?

9 A. No.

10 Q. Did it ever occur to you to try and
11 keep this document?

12 A. Pardon me?

13 Q. Did it ever occur to you to try to keep
14 check-in sheets, for any reason?

15 A. No. I kept them, and I still do but...

16 Q. Now, let's talk a little bit about --
17 you knew Ms. Parrott; right?

18 A. Yes.

19 Q. And at times was she very confused?

20 A. She seemed to be somewhat confused.

21 Q. And do you recall some discussions
22 either with you or Beth, or you and Corrine, about
23 her having some paranoia issues, and not wanting
24 folks in her room?

25 A. Correct.

1 Q. I'll just show you something --

2 I tell you what, let's just skip to
3 Wednesday. I want to talk a little bit about what
4 happened between you and your daughter, Rebecca.

5 So, I think you said earlier that you
6 don't remember the call between you and your
7 daughter, Rebecca, on Wednesday night; right?

8 A. Right.

9 Q. And actually what you testified to was
10 you vaguely recall, but what you can't separate in
11 your mind is are you remembering it from then or
12 are you remembering from now and now you're just
13 not sure?

14 A. Correct.

15 Q. But you had a vague recollection of
16 speaking to her about the issue of not being able
17 to get in?

18 A. Correct.

19 Q. All right. We know that she didn't go
20 look for a key. So do you know whether or not you
21 would have told her about -- telling Rebecca about
22 the spare key that particular night? Do you know
23 one way or the other?

24 A. I don't know.

25 Q. That's fine. But you apparently didn't

1 go look for it?

2 A. I don't know.

3 Q. Do you vaguely recall your daughter
4 talking to you about checking on her the next
5 morning?

6 A. Vaguely.

7 Q. All right. Do you know directly from
8 memory whether or not you checked on or checked off
9 Ms. Parrott on Thursday when you came in?

10 A. Not directly. I just know I've seen
11 documents that say I said I did.

12 Q. So you don't remember today six years
13 later, but you've seen the evidence that they had?

14 A. Correct.

15 Q. Now, I want to ask you specifically
16 about one of the statements that is in
17 Ms. Carrington's investigation. So I'll pull that
18 out, if I can. This is Sandpiper 36.

19 So I want to direct your attention to a
20 specific statement from Ms. Carrington's
21 investigation, literally the day after all this
22 occurred. At first it says, Beth Auld signed her
23 as being seen June 5th. That's Thursday; right?
24 Do you see that?

25 A. Yes, sir.

1 Q. And Ms. Carrington has just testified
2 that she looked at the sheet, she saw that you had
3 checked her off.

4 A. Yes.

5 Q. Now, if that is true, that she looked
6 at it and she saw that you checked it -- and I
7 guess you don't remember. But is there any doubt
8 in your mind at all seeing that document and
9 hearing Ms. Corrine say she checked it, that you
10 would have checked off Ms. Parrott that Thursday?

11 A. Yeah. No doubt in my mind at all that
12 I checked it.

13 Q. And, in fact, she said she called you
14 and you were adamant about it.

15 Let me ask you that: Are you
16 adamant -- forget Ms. Parrott. But you put that
17 check there, like Ms. Carrington said you did, is
18 there any doubt, in your mind, that she had would
19 have been seen in accordance with the infamous
20 check-in policy?

21 A. No doubt at all.

22 Q. Now, I'm going to ask you whether or
23 not you remember a conversation. Ms. Carrington
24 has just testified that she remembered a
25 conversation with you. I just want to see if this

1 refreshes your recollection.

2 She came in either Monday or Tuesday
3 that next week and said, hey, are you sure that you
4 saw Ms. Parrott, and she said that you said she
5 came up to the desk, looked me square in the face
6 and said good morning, Beth?

7 A. Well, I have a vague recollection of
8 that. But, again, I'm not sure, because I --
9 because we've talked about it or if I actually --
10 to be honest.

11 Q. And I can't tell you how refreshing it
12 is to have that honesty, in this context. But my
13 real question to you is, seeing that and knowing
14 what you know, are you able to testify under oath
15 that you believe you saw her on Wednesday?

16 A. Yes. Well, if I told Corrine then, I
17 was telling the truth so...

18 Q. And that was within a couple of days of
19 the event?

20 A. Right. And I should have remembered a
21 couple of days after.

22 Q. Ms. Corrine told you about the change
23 in the locks; right? And the extra key? Or do you
24 remember that?

25 A. I don't remember. You mean the new

1 key?

2 Q. Yeah, when she changed the lock.

3 A. Oh, I remember that Ms. Parrott changed
4 the locks, yes.

5 Q. And do you recall whether or not in
6 that conversation you were having discussions about
7 why she was changing the locks? That's pretty
8 unusual.

9 A. She didn't want anybody in her
10 apartment, that she suffered from paranoia.

11 Q. Okay. You sat every single day at that
12 front desk and Ms. Parrott walked by you and
13 interacted with her; correct?

14 A. Some.

15 Q. She might say hello to you?

16 A. Correct.

17 Q. And is there any doubt in your mind
18 that you were aware that she had some real privacy
19 concerns?

20 A. Yes, I did.

21 Q. And do you know whether or not those
22 privacy concerns that you were aware of factored
23 into the decision on Wednesday night between you
24 know it happened, and that y'all --

25 A. I did. I had some concerns.

1 Q. And do you know whether or not those
2 privacy concerns that you were aware of factored
3 into the decision on Wednesday night, which we now
4 know happened, that we're all going to check on her
5 the next morning, that Thursday? Do you know her
6 concern of her privacy factored not to go --

7 A. Wednesday night?

8 Q. Yes, ma'am.

9 A. Oh, I definitely think it did.

10 Q. Why is that?

11 A. We trained not to invade -- you know,
12 they have rights. If a resident doesn't want you
13 in their apartment, you can't force you're way in.

14 And we train on that every year. So I
15 just feel like it probably did have a big factor on
16 that.

17 Q. With respect to -- I know that you
18 don't recall the details. But would you recall if
19 when your daughter called you she said, mom, the
20 panic button is going off, what do I do? Is that
21 something that you would remember?

22 A. Yes.

23 Q. Do you recall anything in that
24 conversation about an emergency or screaming, or
25 anything that kind of set the alarm bells off?

1 A. Well, I don't think she called me about
2 a panic button going off.

3 Q. That's fair.

4 If she would have called you and said,
5 mom, I hear screaming in there, would you have said
6 check on her in the morning?

7 A. No. I would have said call the police
8 and get them to take the door down if they have to.

9 Q. At any time Thursday, would you have
10 gone to Corrine for any reason and said, hey, we
11 have to go check on Ms. Parrott?

12 A. No.

13 Q. Now, I'm going to ask you a question.
14 Do you have any independent recollection of
15 Ms. Watters coming to you on Thursday two times and
16 saying, we have to go check on Ms. Parrott?

17 A. No.

18 Q. If she had done that, would you have
19 checked on her?

20 A. Definitely.

21 Q. If she come a second time and said,
22 now, look I'm really worried, we got to get down
23 there and check on her?

24 A. I would have gone the first time. I do
25 that now if a resident is concerned.

1 Q. Do you have any recollection of
2 Ms. Watters telling you on Thursday and beating the
3 drum, and said, we have a problem?

4 A. No. We would have gone and checked,
5 had she done that.

6 Q. How far would you have to go to do
7 that?

8 A. Probably not even a minute.

9 Q. If Ms. Watters says that she came to
10 you, or Rebecca for that matter, and said, I need
11 to call her, would you ever tell the resident say,
12 we don't have her address or phone number?

13 A. No. We have their addresses and their
14 phone numbers, unless they changed the phone number
15 and we don't know about it.

16 Q. I'm going to ask you some more
17 questions about Thursday. You did not go down and
18 knock on the door Thursday in Ms. Parrott's
19 apartment?

20 A. No.

21 Q. You didn't call her to see how she was
22 doing; correct?

23 A. Well, according to the documents, I saw
24 her. So I would have no need to do that.

25 Q. Did you at any time on Thursday go get

1 Corrine because Ms. Watters said we have to go get
2 in the apartment?

3 A. No.

4 Q. Do you recall ever telling Ms. Watters,
5 oh, she must be with her daughter, we aren't going
6 to check on her?

7 A. No.

8 Q. I'm going ask you this question
9 straight up. Let's not be unclear about this.
10 These fellows are accusing you of not responding to
11 Ms. Watters' complaints that you wouldn't go down
12 and check --

13 MR. BOSWELL: Your Honor, I object. We
14 are not accusing her of anything.

15 THE COURT: All right. Rephrase the
16 question.

17 BY MR. DAVIS:

18 Q. The evidence in this case that has been
19 offered is that Ms. Watters asked for help and you
20 refused to go down and help her on Thursday. Is
21 that accurate or not?

22 A. That would never happen.

23 Q. You didn't work on Friday. So I'm not
24 going to drag you on the Friday road.

25 Are you very comfortable sitting here

1 and testifying under oath that you believe, in
2 accordance with the documents and statements
3 referred from others, that you saw Ms. Parrott on
4 Thursday? Any doubt in your mind about that?

5 A. No doubt in my mind.

6 MR. DAVIS: I appreciate your time.

7 MR. BOSWELL: Thank you, Your Honor.
8 May it please the Court.

9 REDIRECT EXAMINATION

10 BY MR. BOSWELL:

11 Q. Beth, when I was asking you questions a
12 minute ago, we agreed that you didn't remember
13 whether you saw her or somebody told you they saw
14 her? Do you remember you just said that a few
15 minutes ago?

16 A. Yes.

17 Q. And now you just said there's no doubt
18 in my mind that I saw her?

19 A. Well, according to what Corrine said.

20 Q. Okay. Well, we're not talking about
21 what Corrine said. We're talking about what you
22 remember.

23 A. Well, I told Corrine that I saw her.
24 Two days after it happened, I'm sure I remembered
25 correctly. So I'm going by that. That's all I can

1 tell you.

2 Q. But what you're going by is what
3 Corrine wrote down that she thinks you said to her.
4 And we had your testimony earlier, where under oath
5 you testified, that you don't really know whether
6 you saw her -- just here a few minutes ago, you
7 said, I don't really know if I saw her or if I've
8 heard about it so much that I now have --

9 A. What I said is, I have a picture in my
10 mind, but that could be from talking about it.

11 Q. Yeah. I know how that goes.

12 All right. Let me ask a couple other
13 questions that were raised by Mr. Davis. In your
14 25 years how many incidences have you had of people
15 lying on the floor and when they're found they're
16 covered in their own urine and their own feces, and
17 have a broken hip? How often does that happen?

18 A. Not very often.

19 Q. Right. I mean, that's noteworthy?

20 A. Well, I can remember one other time
21 when a lady was found with a broken leg.

22 Q. Okay, so that's two. And how many
23 times, immediately upon finding the person on the
24 floor, did they make an allegation that they had
25 been there for three days?

1 A. Nobody's ever done that to me.

2 Q. Except Ms. Parrott; right?

3 A. Yes.

4 Q. So Corrine Carrington took the time to

5 write this report. And one of the issues that are

6 front and center of this who saw whom when; right?

7 A. Right.

8 Q. And one of the documents that would be

9 really important is the sign-off sheet?

10 A. Correct.

11 Q. And that document's gone?

12 A. Correct.

13 Q. But this document is still here?

14 A. Yes.

15 Q. And the policy and procedure document

16 is gone, according to what we've heard. But this

17 expression of concern regarding the key and

18 privacy, we have found that document; correct?

19 A. Say that again.

20 Q. And my point is this, there seems to be

21 selective documents that have been found and have

22 been produced, and other documents are gone. Do

23 you have any knowledge as to why that would be?

24 A. Well, I just said a little while ago, I

25 think they got thrown out in the furniture. And I

1 truly believe that.

2 Q. But this document didn't get thrown
3 out?

4 A. This?

5 Q. Yes.

6 A. I don't know where this one came from,
7 actually.

8 Q. There's one thing interestingly here.
9 So we all sort of believe that this document was
10 written most closely in time. And so what you're
11 saying is based on what you read here and you
12 believe that you were asked the question, did you
13 sign off Ms. Parrott, and you said, yes, I
14 signed off Ms. Parrott. And partly your belief
15 is because this document was created right after
16 the incident?

17 A. Also, before I leave at the end of the
18 day, I make sure everybody has been seen, to the
19 best of my knowledge, everybody.

20 Q. There is a line here that says, while
21 Rebecca called, Ms. Watters went to the unit and
22 found her on the floor. Do you see that?

23 A. I see it.

24 Q. And so that language suggests in line
25 with what we believe that your daughter called and

1 gave Ms. Watters the key, who went to the apartment
2 and found Ms. Parrott on the floor; is that how you
3 read it?

4 A. No, I don't read it like that. Because
5 we would not give her a key. We don't give
6 residents keys.

7 Q. So, one of the issues that was brought
8 up was that Ms. -- that your daughter on Wednesday
9 night brought the wrong key to the apartment. And
10 there's a question that was raised with you about
11 whether she called you and whether you had told her
12 that Ms. Parrott had changed the lock?

13 A. Well, we knew that she had changed the
14 lock.

15 Q. And you knew and your daughter knew?

16 A. Yes.

17 Q. I mean, everybody knew?

18 A. Yes.

19 Q. And is there only one place in the
20 world that that key would have been. If she
21 brought the wrong key, where would she have gone to
22 look for the right key?

23 A. I would assume in the key box.

24 Q. Right. I mean, there's no other place
25 to look?

1 A. Right.

2 Q. She would have known that the right key
3 was in the key box; correct?

4 A. Correct.

5 Q. She wouldn't have needed to call you
6 and ask you that --

7 A. Well, probably what happened is she
8 couldn't get in. And she called me, probably, to
9 see if I knew if there was another key.

10 Q. Right. But you did know there was
11 another key?

12 A. I did know. Corrine -- Corrine -- I
13 have heard Corrine told me there was another key,
14 but I do not recall that.

15 Q. If there was any other place to look
16 for another key, it would have been in that key
17 box?

18 A. Yes.

19 Q. And we do know it was there?

20 A. I don't doubt that Corrine told me
21 that. She told me that, but I don't remember.

22 Q. No. But my point is -- and I'm trying
23 not to -- I feel like I'm belaboring this point.

24 But the point is if there was any place
25 else to look it was that key box, and we know

1 ultimately that that key was there in that key box?

2 A. Right. Because she couldn't find it.

3 Q. Right. And Rebecca would have known on
4 Wednesday if there was one other place to look for
5 a key, it would be from looking in that key box?

6 A. In that key box.

7 Q. Now, Mr. Davis brought up a point,
8 which is really puzzling me. He said, was privacy
9 a concern for Ms. Parrott. Do you remember him
10 asking you about that?

11 A. Yes.

12 Q. But, honestly, privacy couldn't have
13 been a concern because your daughter brought a key
14 with the intent to open that door and check on
15 Ms. Parrott.

16 A. Well, that was because Ms. Watters was
17 concerned.

18 Q. And it was also because she had --
19 Ms. Parrott had not been seen?

20 A. Right.

21 Q. So Ms. Watters was concerned, as she
22 should have been. Because Ms. Watters would have
23 normally seen her and didn't see her?

24 A. Correct.

25 Q. And you guys hadn't checked her off.

1 So my point is really this, it doesn't
2 seem logical to say, well, we brought a key to open
3 the door and check on her, but because we brought
4 the wrong key, now we have a privacy concern, so
5 we're not going to go back and get the right key
6 and open the door that doesn't make any sense; does
7 it?

8 A. No.

9 Q. So this whole thing about, well,
10 Ms. Parrott was a very private person, but you had
11 already made the decision to go in and check on
12 her; you just didn't do it; right?

13 A. Well, I wasn't there.

14 Q. I know. But when I say you, I mean,
15 you Sandpiper. But your daughter had made a
16 decision to do it and then she just didn't do it?

17 A. Yes, I guess. We know that.

18 Q. We know that. And we know that
19 Ms. Parrott was found on Friday, that right then
20 she was saying, I have been on the ground since
21 Tuesday. You know she said that?

22 A. Yes.

23 Q. Because it's right there.

24 A. Uh-huh.

25 Q. And it's in the EMS records. And I

1 assume that was something that was discussed with
2 you and Ms. Watters and -- not Ms. Watters. But
3 your daughter and Ms. Carrington? Everybody was
4 discussing, holy cow, Ms. Parrott says she was down
5 on Tuesday.

6 And we know that your daughter didn't
7 check on her Wednesday night; right?

8 A. Right.

9 MR. BOSWELL: That's all I have.

10 RE CROSS EXAMINATION

11 BY MR. DAVIS:

12 Q. I am glad he brought that up. So
13 Wednesday night your daughter got the master key
14 and it doesn't work; right?

15 A. Yes.

16 Q. And so at that point she's made her
17 initial attempt to go in. And she calls you, what
18 should I do. That's what happens; right?

19 A. Well, as I said before, I don't
20 remember her calling me but...

21 Q. Right. But assuming she did -- I mean,
22 we just had a whole long discussion about what had
23 been done and what happened.

24 So in relation to that, assuming she
25 calls you, right, and assuming she says, mom, I

1 can't get in. Would you have told her in the
2 context, particularly of Ms. Parrott, okay, we've
3 knocked, we don't have any answer, she didn't
4 appear to be in there, we know she doesn't want us
5 to go in; right?

6 MR. BOSWELL: Objection; Your Honor,
7 this is about the most leading question I've ever
8 heard.

9 THE COURT: All right. It is somewhat
10 recross, but let's just try to see if we can
11 bifurcate it a little bit.

12 BY MR. DAVIS:

13 Q. So with respect to the decision about,
14 if we can't get in, we tried to get in, we have
15 this privacy thing in your mind. From your
16 perspective, do you think it would have been
17 reasonable to say, well, let's just check on her in
18 the morning?

19 A. I think so. I mean, it is independent
20 living. She does have a button that she controls.
21 If she's in trouble, push the button. And she
22 definitely does not want us to go in there. She
23 has her right to keep us out of there. I'm sure
24 all of that came into play.

25 Q. And that's what you testified to in

1 your deposition exactly, as a matter of fact.

2 And I'm going to ask you this question,
3 assuming everything he just said was right, every
4 single thing, now we screwed this thing up. We
5 should have gone and get the key. We didn't get
6 the key.

7 With respect to that testimony, that
8 you're sure of, and that checked-off form, it
9 didn't make any difference in this case? Because
10 you saw her Thursday; didn't you?

11 A. I did.

12 Q. Do you think she was down for that many
13 days?

14 A. I don't.

15 MR. DAVIS: I don't have any other
16 questions.

17 MR. BOSWELL: Your Honor, I just need
18 to follow up with one question.

19 FURTHER DIRECT EXAMINATION

20 BY MR. BOSWELL:

21 Q. Ms. Beth, would it change your thoughts
22 about this at all if you knew that from Tuesday at
23 4:00 until Friday at 8 p.m. she was called 29 times
24 and never answered the phone? And at no point did
25 she use her telephone from Tuesday at 4 p.m. until

1 Friday at 8 p.m. Would it concern you that maybe
2 she was down?

3 A. Well, I'd be speculating.

4 Q. No. I understand. But does that at
5 all shape your answer that you don't think she was
6 down?

7 A. I don't think she was down.

8 Q. No, I understand. But assume for me --
9 because one thing we know is the phone records, you
10 know, don't require people to remember anything.

11 If for four days she didn't answer her
12 phone and didn't use her phone, would that be some
13 evidence that she wasn't -- that she couldn't get
14 up?

15 A. Well, anything is possible.

16 Q. Right. Would it also worry you if in
17 the previous three months there was never a period
18 of time where she didn't use her phone, or either
19 received a phone call or made a phone call for more
20 than a day?

21 A. Possibly.

22 MR. BOSWELL: All right. Thanks.

23 THE COURT: If y'all don't mind, I'm
24 going to ask her just one quick question about how
25 she implemented this policy.

1 COURT INQUIRY

2 THE COURT: Let's just say not this
3 instance, not this case. But you come into work on
4 a Tuesday and you realize that on Monday somebody
5 had not been checked off, what is your normal
6 policy and procedure at that point in time?

7 THE WITNESS: If I didn't see them at
8 lunch?

9 THE COURT: No. I'm saying when you
10 came in on Tuesday and you looked at the sheet and
11 you began your daily checklist and you say, oh
12 goodness, we did not check off Mr. Jenkins
13 yesterday. What would you then do about Mr.
14 Jenkins?

15 THE WITNESS: If I had seen him
16 already --

17 THE COURT: That day. Gotcha. I'm
18 with you. Okay.

19 THE WITNESS: I would call him or I
20 would go over there.

21 THE COURT: And if you were off that
22 day, the day that he did not get checked off, would
23 you do any type of investigation, meaning, why did
24 y'all not go see him, why did we not go through the
25 procedural -- the procedure that's laid out, which

1 is to -- if we don't see someone, call him, if you
2 can't get him on the phone, go to the apartment and
3 check on him. Would you have done some type of
4 internal investigation?

5 THE WITNESS: Well, everybody kind of
6 assumes that I'm the director up there, but I'm
7 not. I mean, I may have mentioned it to Corrine.

8 THE COURT: But if somebody is not
9 checked off, you don't really do any other type of
10 investigation?

11 THE WITNESS: That's not my job, no.

12 THE COURT: Okay. Fair enough.

13 THE DAVIS: Can I ask a couple of
14 questions?

15 THE COURT: Sure.

16 FURTHER CROSS-EXAMINATION

17 BY MR. DAVIS:

18 Q. I think what he's asking you, if you
19 would look at your checklist as part of your daily
20 duties, and you see, oh my gosh, she wasn't checked
21 off on Wednesday, are you going to check on her for
22 Thursday?

23 A. Oh, I definitely would. And I would do
24 it as soon as I got a chance.

25 THE COURT: My question is: If you're

1 working that day -- but would you investigate why
2 the person was not checked off the day before,
3 because by the policy everybody should be checked
4 off everyday?

5 THE WITNESS: Probably not. Because
6 that would be something for Corrine to do.

7 THE COURT: That's fair enough. That's
8 all I needed to know. You may be excused.

9 We are going to take about a 10-minute
10 break.

11 (A short recess was taken.)

12 (The video deposition of Lila Watters
13 was played.)

14 (Court was in recess until 9/9/2020.)

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1 State of South Carolina)

2)

3 County of Charleston)

4

5 I, Krista Nicole Carney, Official Court
6 Reporter for the Ninth Judicial Circuit of the
7 State of South Carolina do hereby certify that the
8 foregoing is a true, accurate and complete
9 Transcript of Record in the Court of General
10 Sessions for Charleston County, South Carolina, on
11 the 8th of August, 2020.

12 I do further certify that I am neither of
13 kin, counsel, nor interest to any party hereto.

14

15 March 2, 2021

16

17

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Krista nicole carney

19

Krista Nicole Carney,

20

Official Stenographic Court Reporter

21

22

23

24

25

1 STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT
 2 COUNTY OF CHARLESTON) OF COMMON PLEAS
 3) NINTH JUDICIAL CIRCUIT
 4 THE ESTATE OF DELILA) CASE NO.
 PARROTT,) 2016-CP-10-5379
 5)
 6) Transcript of Record
 Plaintiff,) Non-Jury Trial Day 2
 7 vs.) Date: Sept. 9, 2020
 8 SANDPIPER INDEPENDENT AND)
 ASSISTED LIVING-DELAWARE,)
 9 LLC,)
 10)
 Defendant.

11 * * * * *

12 B E F O R E:
13

14 The Honorable Bentley Price

15 * * * * *

16

17 Krista Nicole Carney, Stenographic
 18 Court Reporter, transcribed by a
 19 Stenographic Court Reporter

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1 A P P E A R A N C E S

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1 (The following proceedings were held
2 9/9/2020, Charleston General Session Trial, Judge
3 Price)

4 THE COURT: Thank you very much.
5 Please be seated. Sorry, she forgot to start the
6 meeting.

7 MR. DAVIS: She has a software issue.
8 Whatever computer she has doesn't have the right
9 software to do WebEx. But she thinks she can do
10 Zoom. Is that a possibility?

11 (An off-the-record discussion was had.)

12 THE COURT: All right. Just let me
13 know when you're ready and I'll swear her in.

14 MR. REEVES: Ms. Munoz, can you hear
15 the judge?

16 MS MUNOZ: Yes.

17 THE COURT: All right.

18 Do you swear or affirm that the
19 testimony you give here today will be the truth,
20 the whole truth, and nothing but the truth?

21 THE WITNESS: I do.

22 (Ms. Munoz is appearing via WebEx.)

23 DIRECT EXAMINATION

24 REBECCA MUNOZ,

25 BY MR. REEVES:

1 Q. Ms. Munoz, first of all, I apologize
2 for you waiting around yesterday. And that's
3 beyond all of our control. So thank you for
4 appearing here today.

5 You are employed with Sandpiper, the
6 Defendant, in this case; is that correct?

7 A. I was.

8 Q. Are you working there today?

9 A. No.

10 Q. All right. And have you been working
11 there recently?

12 A. I worked there February and March of
13 this year.

14 Q. And in 2013 and '14, when the events
15 that we deposed you about several years ago took
16 place, were you employed with Sandpiper then?

17 A. Yes.

18 Q. And you were a receptionist?

19 A. Yes.

20 Q. And how long had you worked there,
21 before June of 2014?

22 A. I started January 2009.

23 Q. Now, your duties, as you described in
24 your deposition, were that you were the
25 receptionist; you answered the phone, you took

1 residents' information or questions or helped them
2 at the desk. And where you worked in what's called
3 the community center; is that correct?

4 A. Correct.

5 Q. And Ms. Parrott's apartment was a
6 walkway or so from where you worked or to where her
7 apartment was; is that correct?

8 A. Yeah. Probably like less than a minute
9 to get there.

10 Q. And her building was adjacent to the
11 building where you worked at the office or as the
12 receptionist; is that correct?

13 A. Well, I would say it's behind the
14 building.

15 Q. It was right next door; correct?

16 A. Yeah. Yes.

17 Q. You indicated that also one of the
18 duties that you performed was residents would call
19 in about their meals for lunch and dinner; is that
20 correct?

21 A. Yes.

22 Q. And you would take those calls so that
23 the kitchen staff would be aware as to how many
24 people were coming to dinner or lunch; is that
25 correct?

1 A. It was so that they could get their
2 meals delivered.

3 Q. And what you mean by that, is the
4 resident would call -- if they couldn't come, then
5 you or someone else would deliver those meals; is
6 that correct?

7 A. Yes.

8 Q. There were two meals offered each day
9 to the residents; is that correct?

10 A. Yes.

11 Q. Lunch was usually between 12 and 1; is
12 that correct?

13 A. Yes.

14 Q. And dinner or supper was between 5 and
15 6; right?

16 A. Yes.

17 Q. Now, in this particular circumstance,
18 on Wednesday, June 4th, you were working that day,
19 doing the duties that you just described; is that
20 correct?

21 A. Yes.

22 Q. And when I asked in your deposition
23 about what it was like on a normal day when you
24 would come in, you indicated that it was usually
25 chaos when you would get there around lunchtime,

1 because people were coming and going at lunch, the
2 meal is being delivered, and people were moving
3 about through the community center; is that
4 correct?

5 A. Yes.

6 Q. How many residents were at Sandpiper
7 when you were there in June of 2014? I don't need
8 an exact number. Just give me an estimate.

9 A. 140.

10 Q. And would all 140 or so residents have
11 the ability to eat those two meals, either lunch
12 dinner, or both?

13 A. Yes.

14 Q. And so each hour -- or within that
15 hour, if everybody came to lunch, about 140 people
16 would be coming and going to lunch; is that
17 correct?

18 A. Yes.

19 Q. Now, your direct supervisor was Corrine
20 Carrington; right?

21 A. Yes.

22 Q. And Rebecca -- do you mind if I call
23 you Rebecca?

24 A. Sure.

25 Q. There's been a lot of testimony. I

1 know that you haven't been here. I'm going to go
2 over this pretty quickly. There was a policy at
3 Sandpiper where you and other staff people would
4 visually confirm the presence or the wellbeing or
5 just the fact that a resident was there and okay on
6 a daily basis; is that right?

7 A. Yes.

8 Q. And if you did not see them, you would
9 call them?

10 A. At the end of the day, before I left,
11 yes.

12 Q. Okay. And if you didn't get them on
13 the phone, you would go to their apartment;
14 correct?

15 A. Yes.

16 Q. And if you didn't get them to the
17 phone, you would go in the apartment and confirm
18 the resident's presence; is that correct?

19 A. Yes.

20 Q. In fact, you described in your
21 deposition that some of the people that live in
22 Sandpiper, you described them as hermits?

23 A. I don't remember.

24 Q. Were there people at Sandpiper that
25 would not come out of their apartment for hardly

1 any reason at all?

2 A. Yeah, I recall some did. So I would
3 call them every night before I left.

4 Q. To confirm that they were okay or
5 confirm that they could get to the phone?

6 A. Yes.

7 Q. For the hermit-type people, if you
8 didn't get them on the phone, would you go to their
9 apartment?

10 A. If they didn't answer.

11 Q. If they didn't answer, you would go to
12 their apartment and you would confirm their
13 wellbeing?

14 A. Yes. Yes.

15 Q. The policy also required, and a few of
16 the other staff folks, would mark the residents
17 that had been seen or answered their phone or
18 answered their door; is that correct?

19 A. We would put our initial.

20 Q. And on Wednesday, June 4th you were
21 unable to confirm visually Ms. Parrott's condition;
22 is that correct?

23 A. When I tried to call her apartment she
24 did not answer.

25 Q. And when you went to her apartment you

1 knocked on the door?

2 A. Yes.

3 Q. And this happened on June 4th, when you
4 knocked on the door, no one answered your knock;
5 did they?

6 A. Yeah. Right.

7 Q. And then you took the key that you had
8 with you and you attempted to unlock the door;
9 correct?

10 A. Correct.

11 Q. And you discovered, after trying to
12 unlock the door, that the key that you had did not
13 work; is that correct?

14 A. Correct. The master key did not work.

15 Q. Now, you were aware, at the time that
16 you went to Ms. Parrott's apartment, as to where
17 all the keys were kept for the residents at
18 Sandpiper?

19 A. Yes.

20 Q. And each of those keys was marked or
21 numbered and that mark or number coincided with the
22 resident's apartment; is that correct?

23 A. Yes.

24 Q. The keys were kept nowhere else on the
25 premises, other than the office where you worked;

1 correct?

2 A. Correct.

3 Q. And on this occasion when the
4 door of -- the key would not unlock the door, you
5 did not return to the office where all the keys
6 were located to get the right key; did you?

7 A. I did not go look for another key, no.

8 Q. When you left Ms. Parrott's apartment
9 door on June 4th, did you return to her apartment
10 at any other time on June 4th?

11 A. No.

12 Q. You did not work the next day,
13 June 5th; did you?

14 A. No.

15 Q. You worked again on Friday June 6th; is
16 that correct?

17 A. Correct.

18 THE COURT: Hold on a second. What was
19 that last question? She worked on Wednesday and
20 Friday, but not Thursday?

21 MR. REEVES: That's correct.

22 BY MR. REEVES:

23 Q. You worked at Sandpiper on Wednesday,
24 June 4th and did not work on Thursday, June 5th; is
25 that correct?

1 A. Correct.

2 Q. And then you went back to work on June
3 6th; is that correct?

4 A. Correct.

5 Q. And you did your normal shifts on
6 June 4th and June 6th; is that correct?

7 A. Yes.

8 Q. Now, when you went to Ms. Parrott's
9 apartment on June 4th, Wednesday, it was your
10 intent to, if you had to, to take the key and go
11 into her apartment to confirm her wellbeing; is
12 that correct?

13 A. Yes.

14 Q. But you did not do that; is that
15 correct?

16 A. I couldn't get in.

17 Q. Right. But you had the key -- you had
18 the key, but the key was in the possession of
19 Sandpiper in the key box were the only place those
20 keys were stored; correct?

21 A. No, I don't know. She changed her
22 locks. I don't know if there was another key.

23 Q. All right. On Friday though, when you
24 came to work on June 6th, you told me that on
25 June 6th you had not spoken to Ms. Carrington about

1 Ms. Parrott's situation; do you remember that?

2 A. No, I don't remember.

3 Q. You had not spoken to Ms. Carrington
4 when you returned to work on June 6th, Friday; had
5 you?

6 A. I don't know.

7 Q. Okay. Well, let me ask you this
8 question: You told me in your deposition that you
9 were not sure why, but you just happened to go to
10 the key box on Friday and you found the right key
11 for Ms. Parrott's apartment; is that correct?

12 A. That would have been Friday night, yes.

13 Q. Well, regardless of when it was, for
14 some reason you don't remember, you went to the key
15 box and the keys that allowed you and everyone else
16 to enter Ms. Parrott's apartment was in that key
17 box; correct?

18 A. Yes.

19 Q. And there had been no further
20 instructions from anyone to you about how to get to
21 the key or where the key was located between
22 Wednesday, June 4th and Friday, June 6th?

23 A. Can you repeat that?

24 Q. Sure. There was no instructions from
25 any person or anybody else to you as to how to get

1 to the key or where the key was between June 4th
2 and June 6th; was there?

3 A. Yes. Correct.

4 Q. Now, you also told me in your
5 deposition that Lila Watters somehow ended up with
6 you as you were investigating Ms. Parrott's
7 wellbeing on Friday evening; is that correct?

8 A. Yes.

9 Q. And you told me in your deposition, you
10 didn't really recall how she came to be involved in
11 this; didn't you?

12 A. I don't remember that.

13 Q. Well, you told me in your deposition
14 that you didn't know how Ms. Watters ended up being
15 around you when you went to take the right key and
16 open Ms. Parrott's door?

17 A. No, don't remember that.

18 Q. Well, then maybe you can tell me today,
19 how did Ms. Watters end up with and going with you
20 to investigate the circumstance where Ms. Parrott
21 had not been seen by anyone?

22 A. She came to the desk after bingo was
23 over. And that's when I counted her.

24 Q. Who did you count?

25 A. Ms. Watters. She came to the desk

1 after bingo to ask about Ms. Watters (sic).

2 Q. To ask about Ms. Parrott?

3 A. Ms. Parrott, sorry.

4 Q. Just take your time. Is that when you
5 went to Ms. Parrott's apartment to check on her?

6 A. Well, I think we had a discussion about
7 not seeing her that day. So I would have looked on
8 my list and saw that she wasn't marked off. And I
9 would have called her first, and gotten no answer,
10 and then we went to her apartment together.

11 Q. Ms. Watters had told you earlier that
12 day that she had not seen Ms. Parrott on Thursday
13 or Friday and that --

14 A. No.

15 Q. Let me finish my question. Ms. Watters
16 told you on Friday that she had not seen
17 Ms. Parrott on Thursday or Friday and that she was
18 concerned about her wellbeing?

19 A. I didn't see Ms. Watters until after
20 bingo that evening and she was talking about
21 Friday, nothing about Thursday, that I remember.

22 Q. In any event, something prompted you to
23 go 30 or 45 seconds to Ms. Parrott's apartment on
24 Friday to determine if she was okay; is that right?

25 A. It's my job at the end of the day, if

1 she's not accounted for, to walk to her apartment
2 and check on her. And since I could not get her on
3 the telephone, that is what I did.

4 Q. And you didn't do that on Wednesday;
5 did you?

6 A. On Wednesday, I did.

7 Q. You did not confirm the wellbeing of
8 Ms. Parrott on Wednesday, June, 4th; did you?

9 A. On Wednesday I could not get into her
10 apartment.

11 Q. And that was your fault, not hers?

12 A. Well, I made a judgment call on
13 Wednesday to not go in her apartment.

14 Q. The fact that you could not get into
15 her apartment was your fault, not hers; correct?

16 A. Well, considering she changed the
17 locks, I thought it was her fault I couldn't get
18 into her apartment. And when I could not get into
19 her apartment, I called my mother to ask her if she
20 wanted me to walk into her apartment. And she
21 said --

22 Q. I don't want to hear what your mother
23 said.

24 MR. DAVIS: She's entitled to answer
25 the question.

1 THE COURT: I'm aware of what her
2 mother said. She already testified.

3 BY MR. REEVES:

4 Q. Rebecca, is it your testimony today
5 that the reason you couldn't find the right key and
6 the reason that you didn't take the 45 seconds to
7 walk back to your office and get the right key, is
8 somehow Delilah Parrott's fault?

9 A. Yes.

10 Q. When you found -- when you and
11 Ms. Watters found Ms. Parrott, or whoever found
12 Ms. Parrott on Friday evening, the only two people
13 in that room, other than Ms. Parrott, were you and
14 Lila Watters; is that correct?

15 A. Yes, when we found her.

16 Q. And you told me in your deposition that
17 she was in pain; is that correct? Ms. Parrott?

18 A. I don't remember.

19 Q. Well, if you said it in your deposition
20 that she was in pain, does that refresh your
21 memory?

22 A. If I said it in my deposition, then I
23 guess I said it.

24 Q. You were aware during all of these
25 events Lila Watters and Delilah Parrott ate lunch

1 and dinner together?

2 A. Yes.

3 Q. You also told me in your deposition
4 when I asked you this question -- I just want to
5 make sure I get it right -- this is the question
6 that I asked in your deposition, Ms. Munoz. Please
7 listen carefully.

8 A. Okay.

9 Q. Did anyone mention to you when you came
10 in on June 6th at 1:00 that there was an issue with
11 Ms. Parrott not having been signed off. And your
12 answer was, no; is that correct?

13 A. Yes.

14 Q. Was it normal or abnormal for you, once
15 you came onto work, for anyone to speak with you
16 about residents who might not have been signed off
17 in the past 24 hours? And you said that was not
18 normal; is that correct?

19 A. Yes.

20 Q. And then I said, question, so it's not
21 normal for no -- or no one usually told you that.
22 And your answer was, no, it didn't happen. We made
23 sure that they were signed off; is that correct?

24 A. Okay.

25 Q. Rebecca, you described in your

1 deposition going into people's apartments that had
2 not been signed off and found them asleep; is that
3 correct?

4 A. Yes.

5 Q. And they didn't even know that you were
6 there; did they?

7 A. Right.

8 Q. And you would check to see if they were
9 breathing and then you would mark them as having
10 been seen; correct?

11 A. Yes.

12 Q. Rebecca, did --

13 MR. REEVES: Hold on one second.

14 Ms. Munoz, thank you for your
15 testimony. Mr. Davis may have some questions for
16 you.

17 (An off-the-record discussion was had.)

18 CROSS-EXAMINATION

19 BY MR. DAVIS:

20 Q. Hi, Rebecca. How are you doing? You
21 okay?

22 A. Yeah.

23 Q. I know it's tough on you. You're
24 pregnant. I'm going to try to make this short, I
25 promise.

1 I want to ask you, on Wednesday, when
2 you came in, you came in actually at 5, not 1:00;
3 right?

4 A. Right.

5 Q. Now, I'm going to go straight to
6 Wednesday afternoon. And we heard the whole story
7 about you going down there. When you knocked on
8 the door there was no response; correct?

9 A. Correct.

10 Q. There was no banging sounds; is that
11 correct?

12 A. Correct.

13 Q. Panic button hadn't been pushed;
14 correct?

15 A. Correct.

16 Q. No yelling or screaming, nothing like
17 that?

18 A. Nothing.

19 Q. And you didn't hear anybody taking a
20 shoe and banging furniture so if she heard you
21 knock she could get your attention?

22 A. Correct.

23 Q. So when you called your mother about
24 not having a key -- and let me back up about this
25 key thing. Because you were asked some questions

1 just a minute ago about fault. And he was -- the
2 lawyer was kind of blaming you this, about the
3 decision to not find the key. And I want to ask --

4 MR. REEVES: Your Honor. I object.
5 This is leading. This is his former employee and I
6 object to leading.

7 MR. DAVIS: Your Honor, I'm just trying
8 to get to the point.

9 THE COURT: I understand. Let's
10 just -- it's more testimony than it is a question.
11 So let's just see if we can rephrase it, in the
12 meantime.

13 BY MR. DAVIS:

14 Q. So when you arrived on Wednesday and
15 spoke to your mother, were you aware that you
16 Mrs. Parrott -- were you ever aware that
17 Mrs. Parrott had talked to Corrine about the key
18 location?

19 A. No.

20 Q. And were you ever aware that Corrine
21 had actually spoken to your mother, Beth, about the
22 location?

23 A. No.

24 Q. And had anybody actually spoken with
25 you about where the key location was?

1 A. No.

2 Q. And so when you were asked the question
3 about fault and you commented about Ms. Parrott,
4 were you really blaming Mrs. Parrott or as opposed
5 to the fact that you just didn't know the
6 information about the key was, at the time that you
7 made the decision?

8 A. Correct.

9 Q. And, certainly, Mrs. Parrott didn't do
10 anything wrong, as far as the key is concerned?

11 A. Correct.

12 Q. What went into the decision --

13 Let me back up. What was the decision
14 that you and your mother made once you had tried to
15 go into the apartment and nothing happened? What
16 was your thought process behind that?

17 A. That Mrs. Parrott changed her locks,
18 because she didn't want anybody in there. And the
19 key --

20 MR. REEVES: Your Honor --

21 THE COURT: Tell her to stop talking.

22 MR. DAVIS: Hold on one second.

23 MR. REEVES: Objection as to what
24 Ms. Parrott thought or wanted, unless she's got
25 specific knowledge of that.

1 BY MR. DAVIS:

2 Q. Were you aware from working at the desk
3 and interacting with Ms. Parrott that she had
4 privacy concerns?

5 A. Yes.

6 Q. And did those privacy concerns in any
7 way impact the decision that you and your mother
8 made that particular evening?

9 A. Yes.

10 Q. All right. And how did it impact
11 y'all, in terms what you thought was a reasonable
12 decision at the time?

13 A. Well, when I couldn't get into her
14 apartment, I didn't hear any noises. I couldn't
15 get her on the telephone. The panic button wasn't
16 going off. It wasn't assisted living. So I
17 figured that Ms. Parrott probably went to sleep for
18 the night.

19 Q. And when you made your decision, did
20 you just say, well, I'm just not going to worry
21 about it? Or did you have a conversation with your
22 mother where you asked her to do something?

23 A. Yes. I asked my mom to make sure to
24 check on her Thursday.

25 Q. And, to your knowledge, she did that

1 and she was located; is that correct?

2 A. Correct.

3 Q. Now, I'm going to ask you some
4 questions that I'm just going to say that are going
5 to seem very weird to you. And it goes directly to
6 some testimony that the Court heard yesterday from
7 Ms. Watters about things that she did with you on
8 Thursday, okay. So just bear with me.

9 You didn't work Thursday; correct?

10 A. Correct.

11 Q. But I'm going to ask you some
12 questions. And just ask you whether or not these
13 things happened with you on Thursday. Okay?

14 A. Okay.

15 MR. DAVIS: Can you pull that up so the
16 Judge can see it. Let's go to Page 11, Line 18
17 through Page 12.

18 BY MR. DAVIS:

19 Q. Now, this is in reference to the
20 Thursday. And this is some testimony that we heard
21 yesterday from Ms. Watters, who is a very nice lady
22 who lived over at Sandpiper.

23 And I'm going to ask you whether or not
24 this happened. All right. What did you do, if
25 anything, once you see her? I called her. I went

1 down. I knocked on the door. And the lady at the
2 desk called her several times, went down and
3 knocked on the door. Do you know the name of the
4 lady at the desk? Rebecca.

5 Did you go with her on Thursday, when
6 you were not working, to go down there to check on
7 her?

8 A. No.

9 MR. DAVIS: Will you pull up Page 12
10 Lines 3 through 9.

11 BY MR. DAVIS:

12 Q. I'm going to read you this. And this
13 question is to Ms. Watters. Did you receive an
14 answer to your knowledge? She said she didn't have
15 her name and telephone number, her address and
16 telephone number. Repeat that. I'm sorry.
17 Rebecca, she did not have her address and telephone
18 number.

19 Did you, in fact, know exactly where
20 Ms. Watters (sic) lived and did you have her phone
21 number?

22 A. Yes.

23 Q. And is that how you, in fact, called
24 her when you did try to call on both Wednesday and
25 Friday?

1 A. Yes.

2 MR. DAVIS: Page 12, Lines 10 through
3 18, please.

4 BY MR. DAVIS:

5 Q. This was the testimony yesterday from
6 Ms. Watters in relation on our failure to respond.

7 What did Rebecca try to do, she just
8 tried to call her, from what you observed? Answer,
9 what did she do? Well, she went down there and she
10 knocked on the door and she rang the phone. Did
11 she get any response, to your knowledge?

12 Did any of that happen on Thursday?

13 A. No.

14 Q. But actually something similar to that
15 happened Friday evening; didn't it?

16 A. Yes.

17 MR. DAVIS: Page 16, Lines 4 through
18 Line 9, please.

19 BY MR. DAVIS:

20 Q. Okay. This was some more evidence that
21 we heard yesterday. Okay, I'm sorry. I'll speak a
22 little bit closer. Did you ask the manager or
23 Rebecca to go check on Ms. Delilah Thursday? Her
24 answer was, we both did.

25 And the manager is Corrine, which we

1 know. First, did you ask the manager to go check
2 Thursday when you were not working? I realize
3 that's a stupid question.

4 A. No.

5 Q. All right. I've already covered
6 Corrine's answer on that.

7 MR. DAVIS: Page 26, Lines 25 through
8 Page 27, Matt.

9 BY MR. DAVIS:

10 Q. Question. All right. On Thursday, did
11 you get anybody from the premises to go in the room
12 and check on Ms. Delilah? No, they just said that
13 she must be with her daughter. Again, you did not,
14 at any time since you weren't working, tell her
15 that she must be with her daughter; is that
16 correct?

17 A. Correct.

18 Q. All right.

19 MR. DAVIS: Matt, would you go to Page
20 13, Lines 8 through 17.

21 MR. RIDDLE: I do not have that on
22 here.

23 MR. DAVIS: Well, you get the gist. If
24 you want me --

25 MR. REEVES: I don't care.

1 BY MR. DAVIS:

2 Q. She testified yesterday that we did the
3 same routine as Thursday, Rebecca and I, meaning
4 Friday. Okay. So you did -- on Friday morning you
5 did not go down and try this routine a second time
6 until much later in the afternoon after bingo;
7 correct?

8 A. Correct.

9 Q. Ms. Watters testified that we called
10 and got no answer on Friday. And that was not
11 correct until again in the evening after bingo.
12 Correct?

13 A. Correct.

14 Q. But we knocked on both doors with no
15 answer and that didn't happen until the -- not at
16 all, really, because you actually went in in the
17 afternoon.

18 So then she says, Rebecca told
19 Ms. Watters that Ms. Parrott was likely with her
20 daughters, which is why you didn't get in until
21 Friday morning. That did not happen --

22 And, look, Ms. Watters is -- bless her
23 heart --

24 MR. REEVES: Objection; Your Honor.
25 Just answer the question, please.

1 THE COURT: Sustained.

2 BY MR. DAVIS:

3 Q. So with respect to her saying that you
4 said that Mrs. Parrott was likely with her
5 daughters. That did not occur to your
6 recollection?

7 A. No, it did not.

8 Q. And also with respect to what
9 happened -- and I'm not going to belabor this. And
10 I'm not sure it matters. But with respect to going
11 down there, it's your recollection that you and
12 Ms. Watters went together; is that correct?

13 A. Yes. She was following behind me.

14 Q. And would you have, for any reason,
15 given a key to another resident to allow her access
16 to an apartment, without you going there with her?
17 Would that ever happen?

18 A. No, never.

19 MR. DAVIS: You know, I appreciate your
20 patience yesterday. I appreciate you putting up
21 with us. I know it's been difficult. I know
22 you're pregnant, so I just appreciate your time.

23 THE COURT: Anything else, Ms. Reeves?

24 MR. REEVES: May it please the Court.

25 REDIRECT EXAMINATION

1 BY MR. REEVES:

2 Q. Rebecca on Wednesday, June 4th, when
3 you followed all those steps that you said that you
4 followed and grabbed the key to go to Ms. Parrott's
5 apartment, it was your intent to go open her door;
6 is that correct?

7 A. Yes.

8 MR. REEVES: Thank you.

9 THE COURT: All right.

10 MR. DAVIS: All done.

11 THE COURT: Ms. Munoz. My name is
12 Bentley Price. I'm the judge presiding over this.
13 I just want to apologize for yesterday. But that
14 was my fault, okay?

15 THE WITNESS: Okay.

16 THE COURT: Thank you for your
17 testimony and thank you for being here. And have a
18 great day.

19 THE WITNESS: Thank you.

20 THE COURT: All right. Thank you.

21 All right. Who's next?

22 MR. BOSWELL: Your Honor, the Plaintiff
23 calls Eric Hadley to the stand.

24 THE COURT: All right.

25 Mr. Hadley, put your left hand on the

1 bible.

2 Do you swear or affirm that the
3 testimony you are about to give will be the truth,
4 the whole truth, and nothing about the truth?

5 THE WITNESS: I affirm.

6 ERIC HADLEY,

7 DIRECT EXAMINATION

8 BY MR. BOSWELL:

9 Q. Good morning, Mr. Hadley.

10 A. Good morning.

11 Q. Would you state your name, please.

12 A. Eric Hadley.

13 Q. Mr. Hadley, we have not met. You gave
14 a deposition in this case that Mr. Reeves took, but
15 I haven't met you before. So it's nice to meet
16 you.

17 Would you tell us your title and your
18 position with the Defendant.

19 A. Director of Operations.

20 Q. For whom?

21 A. For Premiere Senior Living.

22 Q. And Premiere Senior Living is who
23 compared to the Defendant in this case?

24 A. Premiere Senior Living is a third-party
25 management company.

1 Q. And the Defendant in this case is
2 Sandpiper Senior Living, LLC or Independent Living,
3 LLC?

4 A. Sandpiper Independent Living, LLC.

5 Q. And you are the person who has been
6 identified to speak on behalf of that company, on
7 behalf of the Defendant?

8 A. Yes.

9 Q. Do you have management responsibilities
10 for -- I'm going to say the corporation. And when
11 I say the corporation I mean the Defendant in this
12 case. If I say the corporation, will you
13 understand that I mean the Defendant in this case?

14 A. Yes.

15 Q. And if I use the term Sandpiper, I will
16 mean the place where Ms. Parrott lived; is that
17 fair?

18 A. Yes.

19 Q. Now, do you have management
20 responsibilities over Sandpiper?

21 A. Yes.

22 Q. How long have you worked for the
23 corporation?

24 A. I came in November of 2005 as Director
25 of Operations. And at that time I was over

1 Assisted Living and Skilled Nursing. I think it
2 was about 2010, there was another lady that was my
3 counterpart that did Independent Living and some of
4 the Assisted Living.

5 She left. And then about that time, I
6 actually became the Administrator of the Skilled
7 Nursing Facility, from probably about 2011 to 2014,
8 and still had responsibilities.

9 Then I think we got an administrator
10 for the Skilled Nursing in about 2014. So after
11 that, I went back to being the Director of
12 Operations. 2016, I left the company and came back
13 in 2019.

14 Q. So from 2016 to 2019, you weren't with
15 the company?

16 A. Correct.

17 Q. Do you know who would have been the
18 person who would have spoken for the company or
19 been the representative of the company from 2016 to
20 2019 while you were gone, in relation to this
21 lawsuit?

22 A. Probably would have been a -- probably
23 depends on the scenario or the situations or
24 circumstance. More than likely it was Darryl
25 Biddix, B-I-D-D-I-X.

1 Q. And what was his role with the company?

2 A. He was the director of, I believe it
3 was called Director of Resident Services.

4 Q. Does the corporation have an in-house
5 lawyer?

6 A. Yes.

7 Q. Okay. And does the corporation have a
8 president?

9 A. Yes.

10 Q. And who is that person?

11 A. Let me think about this for a second.
12 The president and the CEO are the same person.

13 Q. Who's the top administrative person for
14 the corporation?

15 A. I think the manager of that was the
16 LLC -- well, the CEO of the corporation is Mazy
17 Sehgoshia, S-E-H-R-G-O-S-H-A.

18 Q. So, where does Mr. Sehgoshia work?

19 A. Typically -- so there's an office in
20 Littleton, California. And then he's -- until
21 Covid, he's typically on the east coast about once a
22 month.

23 Q. The headquarters in California, is that
24 organization that's headquartered in California,
25 does it own Sandpiper and several other of these

1 senior living facilities?

2 A. No. That corporation is just a
3 management company.

4 Q. Just a management company.

5 Explain to us the -- if these
6 corporations, like the one that owns the Sandpiper
7 facility, do they not have -- does it not have a
8 corporate structure itself? Or is it just a legal
9 entity and the management company runs it; is that
10 how it works?

11 A. So you say those organizations or these
12 entities, it's different from place-to-place.
13 So...

14 Q. And what other things -- I guess it
15 doesn't really matter.

16 I'm trying to understand and help the
17 Court understands who runs Sandpiper and is there
18 anybody other than this management company that
19 sets policies, understands the policies, makes the
20 policies, hires and fires people?

21 I'm not trying to play games with you.
22 I'm just trying to understand, who's in charge of
23 Sandpiper?

24 A. So Sandpiper Independent and Assisted
25 Living-Delaware, LLC, has a management contract

1 with Premiere Senior Living-Delaware, LLC, to do
2 the management services oversight.

3 But at each location there's an
4 executive director. For example, like Sandpiper
5 Village is the property manager that is in the role
6 of the daily management and operations.

7 Q. Who owns the LLC, that is Sandpiper?

8 A. That's owned by, I believe, a
9 combination of 36 different individuals that are
10 members of that LLC.

11 Q. And do those same individuals share
12 ownership in management company that manages it?

13 A. No.

14 Q. No. Well, we don't seem to be getting
15 anywhere with this.

16 So at the end of the day, for our
17 purposes, you're here to speak on behalf of the
18 corporation.

19 MR. DAVIS: I keep hearing corporation.
20 I think he's here in his role to speak on behalf of
21 Sandpiper, the Defendant in the case.

22 THE COURT: Well, he just indicated
23 earlier when he's talking about the corporation
24 he's talking the entity that owns Sandpiper. When
25 he's talking about Sandpiper, he's talking about

1 the actual facility.

2 MR. DAVIS: Then I would note my
3 objection, since Premier is not a Defendant in the
4 case anyway, Judge.

5 I understand with respect to the
6 Defendant location, understanding who's in charge,
7 that's relevant. But what happens with an alleged
8 third-party is not relevant.

9 THE COURT: Well, your last question
10 was, are you here to represent the Corporation;
11 correct?

12 THE WITNESS: The corporation is the
13 Defendant.

14 THE COURT: That's all he needs to
15 know. Make sure you understand the question and
16 understand what role and capacity is here today.

17 All right. You can continue.

18 BY MR. BOSWELL:

19 Q. And prior to you coming between 2016
20 and 2019, there was somebody else who was
21 instructing your attorneys in what to do with this
22 lawsuit from the corporation, from the defendant?

23 A. During that time, I'm assuming that
24 there was somebody, yes.

25 Q. I mean, there had to be; right?

1 A. Yes.

2 Q. Now, this question was asked and
3 answered. And I didn't write it down. Do you know
4 roughly how many residents there are at Sandpiper,
5 the Independent Living facility?

6 A. Generally speaking, over the years,
7 we've been as high as a 130-ish. It's difficult
8 because sometimes there's couples.

9 Q. So roughly a 130, that's fine.
10 So over the years that you worked for
11 the corporation, how many times were you at
12 Sandpiper? How often are you there, is a better
13 way to ask that question?

14 A. So that's wildly different, depending
15 on the time period.

16 Q. Okay.

17 A. Early on, I actually -- from probably
18 -- that November of 2008 until probably 2010 or so
19 my office was actually on that property. So I was
20 there daily.

21 After that, I started traveling more to
22 the other locations, as well. And then again, I
23 think, about 2011 through 2014, I was -- my primary
24 role was the administrator of the skilled nursing
25 facility.

1 Q. The first of everyday from 2011 to
2 2014?

3 A. So while I had the title of Director of
4 Operations I sometimes wore multiple hats.

5 Q. Right. So you were there -- from 2011
6 to 2014 you were there all the time, pretty much
7 all the time?

8 A. At the Skilled Nursing facility.

9 Q. Where is the Skilled Nursing facility
10 relative to the Independent Living facility?

11 A. So it's two buildings away, meaning
12 across the highway on the other side of Assisted
13 Living.

14 Q. So, my question was, how often were you
15 at Sandpiper where Ms. Parrott was? And you said
16 you worked there virtually everyday, but you didn't
17 mean the Independent Living Facility?

18 A. Yes, until probably about 2010, my
19 office was on that property.

20 Q. And then from 2011 to 2014 were you
21 there still fairly regularly?

22 A. It was honestly pretty sporadic,
23 dealing with a 176-bed skilled nursing facility was
24 a daily task. But I was very much in communication
25 in terms of phone, email.

1 I would sometimes intentionally go and
2 each lunch at Sandpiper Village to see people. And
3 I would also make random visits. Again, it was
4 different from time-to-time. But Sandpiper Village
5 being an independent living and having a property
6 manager did have a great deal of autonomy, in terms
7 of the daily operations.

8 Q. And my question really right now is
9 more how familiar you were with the day-to-day
10 operations there during this period of time. Were
11 you very familiar with the day-to-day operations
12 there?

13 A. I would say yes.

14 Q. Let's talk about Ms. Carrington for a
15 minute. Did you know Corrine Carrington?

16 A. Yes.

17 Q. Who hired her, do you know? Is your
18 screen on in front of you?

19 A. Oh, yes.

20 Q. Who hired Ms. Carrington, do you know?

21 A. I have to think about this, because
22 Ms. Carrington was a nurse at the Skilled Nursing
23 Facility when I was the administrator.

24 Q. Who hired her to be the executive
25 director?

1 A. She started in 2012, I believe.
2 Q. I think she may have started in 2008.
3 A. 2008?
4 Q. I think that's right, but I could be
5 wrong. It doesn't matter.
6 A. Oh, goodness.
7 Q. What was her title?
8 A. At the Village?
9 Q. At the time it's relevant to the
10 activities going on here with Mrs. Parrott was on
11 the floor, what was Corrine Carrington's title?
12 A. In this document, it's Executive
13 Director.
14 Q. But that wasn't my question. What was
15 her title?
16 A. At certain points her title, I believe,
17 was Executive Director and then we changed
18 Independent Living title to Property Manager.
19 Q. But relevant to the -- the timeframe
20 relative to Ms. Parrott being on the floor,
21 Ms. Carrington was the Executive Director; is that
22 correct?
23 A. Yes, at Sandpiper Village.
24 And real quick she started as a Hospice
25 nurse. I think she was hired by the lady that I

1 said was there at 2010.

2 Q. But there's no question at this time
3 she was the Executive Director?

4 A. Yes.

5 Q. Now, did you or anybody at the
6 corporation ever tell her not to use that title,
7 that she wasn't authorized to use that title?

8 A. No.

9 Q. Now, the corporation isn't a person and
10 can only speak and operate through its employees;
11 correct?

12 A. Correct.

13 Q. I mean, you're here to speak for the
14 corporation in this lawsuit; correct?

15 A. Yes.

16 Q. And Ms. Carrington, as the Executive
17 Director, would have spoken for the corporation in
18 her activities at Sandpiper; is that correct?

19 A. Yes.

20 Q. Now, did Ms. Carrington have the
21 authority to sign this lease?

22 A. Yes.

23 Q. Let's talk about the lease for a minute
24 here. I want to show you a section that I have
25 highlighted in yellow here. See the section

1 highlighted in yellow? Can you read that?

2 A. It has been executed on behalf of
3 Sandpiper by its duly authorized director.

4 Q. Now, this is the lease between
5 Sandpiper and Ms. Parrott. And we can show you her
6 signature on the next line, if you'd like. But
7 this is the lease between Sandpiper, the
8 corporation, the Defendant in this lawsuit and
9 Ms. Parrott.

10 And what you are saying to Ms. Parrott,
11 by this language, is that your dually authorized
12 staff is executing this lease?

13 A. Yes.

14 Q. And so the person who is executing this
15 lease is an authorized staff of Sandpiper?

16 A. Yes.

17 Q. And I may not have this exactly right,
18 but you've been here this whole time at this -- you
19 have been sitting here?

20 A. Yes.

21 Q. Do you remember in Mr. Davis' opening
22 he said something to the effect -- and I may not
23 have gotten it exactly right. But he made the
24 point that as between the corporation and
25 Ms. Parrott, there was a lease that described the

1 relationship between Ms. Parrott and the
2 corporation. Do you remember him saying that,
3 something, to that effect?

4 A. Yes.

5 Q. And is that your position -- this lease
6 is the document that controlled the relationship
7 between the corporation and Ms. Parrott and her
8 family?

9 A. Yes.

10 Q. I want you to read what is in
11 section -- that I highlighted right there in green.
12 Read that for me, please.

13 A. Sandpiper may change its posted rules
14 and regulations at any time at its sole discretion.

15 Q. And right there, read that part in
16 green.

17 A. By signing this agreement you are
18 stating and certifying that they have read and
19 understand the foregoing and agree to the terms and
20 conditions of this agreement and all posted rules
21 and regulations, which may change from
22 time-to-time.

23 Q. Now, this lease acknowledges that there
24 are other things that come into play that govern
25 the relationship having to do with the day-to-day

1 living and activities at Sandpiper.

2 So you're telling the residents by the
3 two green highlighted sections there, that there
4 really are other things that you have to pay
5 attention to and that matter, and that Sandpiper
6 can change those whenever they want to, and you
7 have to abide by them. That's pretty much what
8 that language is saying there; right?

9 A. What was the first part of that
10 question again?

11 Q. You are referring this lease that you
12 guys wrote, you're saying, in essence, this isn't
13 everything that governs the relationship because
14 there are also posted rules and regulations, which
15 Sandpiper can change whenever it chooses. And the
16 residents have to agree to abide by those things?

17 A. I don't know how to answer that
18 question. To me, I would read that as, they are
19 within the lease. They're identified as posted
20 rules and regulations and that they are now being
21 talked about inside the lease.

22 Q. They're not listed there all in the
23 lease; are they?

24 A. I don't know. We'd probably have to
25 look at the attachments and the addendums.

1 Q. Well, I got it. Look at the next to
2 the last tab in the exhibit book and tell me if you
3 see if that's attached to the lease, which you guys
4 produced to us, all the rules and regulations of
5 Sandpiper.

6 MR. BOSWELL: Your Honor, in your book
7 it is the next to the last tab.

8 THE COURT: Okay.

9 BY MR. BOSWELL:

10 Q. So there's the lease and then there's
11 the arbitration action, but there aren't any other
12 attached rules and regulations, which were attached
13 to this lease. And if they were, they weren't
14 produced to us.

15 A. Yes. There was a period of time where
16 we had a slew of attachments, but I think we might
17 have got rid of those or incorporated them with --
18 which is where these posted rules and regulations
19 are.

20 I think they're talking about things
21 like mail is delivered at 10 and that's what we
22 told you. But now, it's being delivered at 4, or
23 meal times might change.

24 Q. I got you. So you guys have reserved
25 to yourself the right to post and change rules and

1 regulations, which are -- which you're requiring
2 the residents to agree that they will abide by; is
3 that a fair statement?

4 A. Yes.

5 Q. Now, you have that lease there in front
6 of you. Read for me the language in the lease that
7 says that there are no other terms or conditions
8 that apply to the arrangement between Ms. Parrott
9 and the corporation. And that the corporation
10 disavows that any prior representations that its
11 authorized agents have made. Find that language in
12 the lease agreement.

13 A. Out of courtesy, can you give me a page
14 number?

15 Q. I tell you what, I don't want to waste
16 your time. It's not in there.

17 A. Oh, okay.

18 Q. I've read it closely.

19 A. Okay.

20 Q. So, in fact, this lease says, listen,
21 we can change our terms and conditions, there are
22 other things that apply, but it doesn't say and by
23 the way if our authorized agent has made
24 representations to you we disavow those
25 representations.

1 Now, if you feel like that is in there,
2 feel free to read it, you know, study it. But it's
3 not there.

4 A. All right.

5 Q. So do you understand the point that I'm
6 making here? That this lease, which you say
7 governs the relationship, doesn't say, this is
8 everything that governs the relationship. And, in
9 fact, it specifically references other things that
10 govern the relationship. Do you understand that?

11 A. Yes.

12 Q. Now, this lease is written by somebody
13 at the corporation; your lawyers or you hired
14 outside lawyers or you wrote it, or somebody wrote
15 it. It is your document; correct?

16 A. Yes.

17 Q. And feel free to look at one. But
18 there aren't any modifications or changes or
19 scratches out or anything like that.

20 So there wasn't a negotiated change to
21 this agreement between Ms. Carrington and
22 Ms. Parrott. Do you agree with that?

23 A. Yes.

24 Q. Now, as the executive director at
25 Sandpiper, Ms. Carrington -- and I'm going to go

1 through the list that you said, to save time, in
2 your deposition.

3 But tell me if you've changed your
4 mind. Ms. Carrington was responsible for food
5 services, staffing, hiring, activities,
6 housekeeping, maintenance, resident communication,
7 resident satisfaction, general physical plant. So
8 generally she ran Sandpiper as the Executive
9 Director; is that a fair statement?

10 A. Yeah, Sandpiper Village.

11 Q. Yes, Sandpiper. When I say Sandpiper I
12 mean the place where Ms. Parrott lived.

13 Now, one of Ms. Carrington's jobs was
14 to give tours of the facility. If somebody came in
15 and said, hey, this place looks like a nice place,
16 can I get a tour and see whether I might want to
17 live here.

18 One of Ms. Carrington's jobs would have
19 been to give those tours and explained what living
20 at Sandpiper was like; is that true?

21 A. Yes.

22 Q. And, in fact, I don't think it's in
23 question, she was the person that did give a tour
24 to Ms. Parrott and her daughter; is that right, as
25 far as you know?

1 A. I think that's what both of them have
2 stated, so yes.

3 Q. You don't have any reason to disagree
4 with that?

5 A. No.

6 Q. Now, if as part of that tour and part
7 of that explanation of what Sandpiper was like,
8 Ms. Carrington had told Ms. Parrott and her
9 daughter that there this described policy and much
10 discussed policy on checking on each resident every
11 day to ensure they're doing okay and they're safe.

12 She would -- you would not expect that
13 Ms. Parrott should question the truth of that;
14 would you?

15 A. No.

16 Q. Would you expect Ms. Parrott to say I
17 understand you say there's this policy, but could I
18 speak to someone at your corporate headquarters to
19 make sure that that policy has been adopted by the
20 Board of Directors and the executive team, would
21 you expect Ms. Parrott to say that?

22 A. No.

23 Q. Would you expect any resident to say
24 that?

25 A. No.

1 Q. Because you have, in this agreement,
2 acknowledged that Ms. Carrington is the dually
3 authorized representative of Sandpiper. You say it
4 in the lease and in her title; right?

5 A. Yes.

6 Q. So you would expect your residents to
7 rely on and believe what Ms. Carrington told them?

8 A. Yes.

9 Q. Now, do you understand in this case
10 that it is Ms. Parrott's family position that the
11 corporation, through its employees, made that
12 representation to Ms. Parrott, that she would be
13 checked on everyday and they have -- and the
14 corporation had that policy? Sandpiper had that
15 policy. Do you understand that's the allegation
16 that we're making?

17 A. Yes. And I did the same thing in my
18 deposition. I guess it's my small definition of
19 being from a regulatory role. It's my opinion that
20 Sandpiper Village did not have any policy --

21 Q. That really wasn't my question.

22 MR. DAVIS: Let him finish his answer.

23 THE WITNESS: It's undoubtably a head
24 of practice.

25 BY MR. BOSWELL:

1 Q. Are you finished with your answer?

2 A. Yes.

3 Q. And my question, though, is do you
4 understand that it is our position in this lawsuit
5 that you have the policy?

6 A. Yes.

7 Q. The policy that we've been talking
8 about.

9 Now, in Mr. Davis' opening you were
10 here. He said something to the effect that the
11 Plaintiffs were saying that Sandpiper had an
12 obligation to keep Ms. Parrott safe. Do you
13 remember him saying that in his opening, or
14 something to that effect?

15 A. Yes.

16 Q. Do you understand that our position is
17 not that. Our position is that Sandpiper had a
18 policy to check on each of their residents every
19 day to make sure that they were safe?

20 A. Yes, that's what you're saying.

21 Q. That's what we're saying.

22 And we are not saying that you have an
23 obligation to keep everyone safe. And there's a
24 difference. Do you understand the difference
25 between those two?

1 A. Yes.

2 Q. Now, from having been here -- and
3 also -- well, let me just ask it this way. From
4 having been here and heard all the testimony of all
5 its employees that actually worked there, do you
6 understand that each of the employees who's
7 testified here has agreed that that policy existed?

8 A. I think that in totality that a
9 agreement practice existed. I don't think they
10 agreed that a policy existed.

11 Q. And did any of the witnesses, when
12 asked any question, that you remember --
13 obviously -- I mean, if we had to, we could go back
14 and look through the record.

15 Did any of them say, oh wait, this was
16 a practice, but it was not a policy. Do you
17 remember anybody saying that?

18 A. I think Beth Hall said something to the
19 effect this is what we did and Corrine thought
20 there was a policy, but that Beth never saw the
21 policy.

22 Q. Okay. I'm going to leave that where it
23 is.

24 Do you understand that it is our
25 position that each, or, you know, every one of the

1 residents at Sandpiper understood that there was a
2 policy that they would be checked on every day?

3 A. Can you say that again.

4 Q. It's our position that not only did the
5 employees understand that you had this policy, but
6 all the residents experienced the policy, and
7 therefore would have understood that Sandpiper had
8 this policy, do you understand that that is our
9 position? That's my question.

10 A. Yes. If you keep using the word
11 policy, yes.

12 Q. Well, do you understand that it's our
13 position that Ms. Parrott would have relied on that
14 policy?

15 I don't want you to over think it. I'm
16 just asking if you understand that that's our
17 position?

18 A. Yes.

19 Q. Do you understand that?

20 A. Yes.

21 Q. Do you understand that Ms. Parrott's
22 daughter understood that there was a policy and she
23 relied on that policy in making a decision for
24 Ms. Parrott to move there? Do you understand
25 that's our position?

1 A. Yes.

2 Q. Now, this lawsuit was filed about four
3 years ago, in 2016. Were you there when this
4 lawsuit was filed?

5 A. Tell me again the date.

6 Q. I think it was October 2016?

7 A. That's the month after I was gone.

8 Q. A month after you were gone. Okay. So
9 you really don't know what happened from the time
10 that we filed the lawsuit until you came back in
11 2019?

12 A. I only know through looking at the
13 documents.

14 Q. Did you, however -- because you are the
15 person in power to speak for the corporation. Did
16 you do your research about sort of what had
17 happened from the time that we filed that lawsuit
18 to the day that you looked at the pleadings and the
19 filings and everything? You talked to your
20 lawyers. But I don't want to hear what you talked
21 about. But did you speak with your lawyers about
22 it?

23 A. Yes.

24 Q. Are you up to speed with everything
25 that's happened in this lawsuit for the last four

1 years, more or less?

2 A. I think so.

3 Q. I'm not going to try to --

4 MR. DAVIS: That would be impressive.

5

6 BY MR. BOSWELL:

7 Q. When this lawsuit was filed, would it
8 have been your company's practice to let the chief
9 executive officer know that you had been sued?

10 A. Yes.

11 Q. I mean, do you get sued so often that
12 it's not even something that you would bring to
13 somebody's attention?

14 A. No.

15 Q. Would all of the people -- the
16 Defendant, the Corporation, have been aware that
17 this lawsuit was filed? The people in a position
18 to make a decision, would they have known that?

19 A. At some point after it was filed. And
20 more than likely what happened is the registered
21 agent got the notice and then notified the CEO.
22 And then more than likely there were conversations
23 that started with the law firm after that.

24 Q. And, again, I don't want to ask you
25 about questions about conversations that you had

1 with your lawyers.

2 Now, would it have been the practice,
3 at your corporation, that the law firm that you
4 hired or your in-house counsel or somebody would
5 have gone over with you or the authorized
6 representative of the corporation as to what the
7 actual allegations in the lawsuit were?

8 Somebody would have sat down with
9 somebody, an authority of the corporation, and
10 said, okay, you've been sued and here's what
11 they're saying that you did wrong and here's what
12 they're saying the damages are, et cetera. Would
13 that have happened?

14 A. Yes.

15 Q. That would have happened.

16 And would your corporation have
17 understood, generally speaking, that one of the
18 allegations in this case was that you had a daily
19 check policy and that you failed to carry out that
20 policy reasonably and as a result Ms. Parrott was
21 injured, and you're responsible for those injuries?

22 Would your corporation have generally
23 understood that that was the basis of this lawsuit?

24 A. I know there was a filing and there was
25 an amended filing -- they would have known that

1 when it was filed.

2 Q. Right. And it would have been brought
3 to whoever -- one of the challenges is, as soon as
4 we filed this lawsuit, you're not there and you
5 don't come back until 2019. But they have
6 identified you as the person to speak on behalf of
7 the corporation. So I'm having to ask what a
8 common practice was. Otherwise, I would ask what
9 you did, but you weren't there. So you see my
10 challenge here?

11 A. Yes.

12 Q. When I'm asking questions -- because
13 you have been identified to speak on behalf of the
14 corporation you're going to have to tell me what
15 the common practice would have been and what you
16 believe happened. Is that fair?

17 A. Yes.

18 Q. Now, after this lawsuit was filed and
19 before the answer was filed -- because the way a
20 lawsuit works is we filed pleadings saying you did
21 something wrong. And then you file a pleading and
22 you go either I admit it or I deny it. I agree
23 with this part, and I don't agree with that part.
24 Do you understand generally how that works?

25 A. Yes.

1 Q. Before the answer was filed, would it
2 have been the corporation's common practice to
3 investigate the allegations that were made?

4 A. Yes. To investigate to know how to
5 answer the questions.

6 Q. Right. Otherwise, you can't tell your
7 lawyers what to say; can you?

8 A. Correct.

9 Q. I mean, you don't just hand them the
10 lawsuit and say, listen, make up anything you want,
11 we don't really care, just say whatever feels good
12 to you. I mean, that's not the common approach you
13 can take; is it?

14 A. Correct.

15 Q. Right. So you would do an
16 investigation and go, okay, we've looked into these
17 allegations, this is true, this isn't true, we
18 admit this, we deny that; correct?

19 A. Correct.

20 Q. Now, before -- would it have been the
21 common practice -- or do you know if this happened,
22 before you filed your answer, that the actual
23 employees working at Sandpiper would have been
24 interviewed to see what was actually happening on
25 the ground at Sandpiper? Would that have been

1 something that was done?

2 A. That would typically be done in
3 conjunction with the attorneys.

4 Q. Okay. And would that have been an
5 appropriate practice? Do you agree that that would
6 have been an appropriate practice?

7 A. Yes.

8 Q. Do you agree that that would have been
9 a responsible thing to do?

10 A. Yes.

11 Q. So in our complaint, in Paragraph 3 of
12 our complaint -- and I can show it to you, but I
13 don't think it's in controversy.

14 But in Paragraph 3 of our complaint we
15 basically say, hey, look you had a policy that
16 required you to check on people everyday. And you
17 didn't do it.

18 And would you look and read what your
19 Paragraph 3, your answer was to our complaint.

20 A. This defendant denies the allegations
21 set forth in Paragraph 3 in Plaintiff's Amended
22 Complaint, as stated. This Defendant would further
23 assert that it does not offer or provide any
24 services or opportunities, except those which are
25 set forth in the written lease executed by

1 Plaintiff's decedent further answering this
2 Defendant denies any promise made to Plaintiff or
3 Plaintiff's decedent regarding monitoring or
4 supervision.

5 Q. So your official response to our
6 complaint is, listen, the only thing that applies
7 is the lease, and we didn't promise anything?

8 I mean, those are my words. Obviously,
9 they say what they say, but generally speaking
10 you're just denying that we said there was a
11 representation made that there was this check-in
12 policy? You're just saying that didn't happen; is
13 that right?

14 MR. DAVIS: I hate to interrupt you.

15 John, is this the Amended Complaint or
16 the Complaint?

17 MR. BOSWELL: That's your defense --
18 I'm sorry --

19 MR. DAVIS: But is that the Amended
20 Complaint?

21 MR. BOSWELL: I think it is.

22 Listen, if I don't have this right,
23 I'll fix it. We'll straighten it out.

24 MR. DAVIS: I'm just trying to make
25 sure where you're at.

1 BY MR. BOSWELL:

2 Q. So the bottom line is we're saying you
3 had this policy, you're saying you didn't.

4 A. Can I --

5 Q. Sure. You can jump in.

6 A. Again, undoubtedly there was a
7 practice. But each time I use the word policy, to
8 me the definition of a policy is something that is
9 given birth to a regulation or a compliance. And
10 it was a written document and it had a purpose and
11 it has procedures. And I apologize, but that's
12 what I see as a policy.

13 Q. Well, we'll talk about that in a
14 minute. But right now, just follow along with me
15 for a second.

16 THE COURT: John, how much longer do
17 you think of this witness?

18 MR. BOSWELL: We can take a break. I
19 probably have quite some more.

20 THE COURT: Let's take a break. She's
21 been going for about an hour and a half, an hour
22 and 40 minutes, so we'll take a break.

23 MR. BOSWELL: Thank you, Your Honor.

24 (An off-the-record discussion was had.)

25 THE COURT: We'll continue with

1 Mr. Hadley.

2 MR. BOSWELL: Your Honor, I was
3 instructed by my co-counsel that I need to pick up
4 the pace. So I'm going speed up the process.

5 BY MR. BOSWELL:

6 Q. Mr. Hadley, we've all agreed to pick up
7 the pace. So on the screen now are requests to
8 admit. And requests to admit, as Your Honor knows,
9 is simply to shorten down the issues in the case.

10 And we asked Sandpiper to admit that
11 this policy existed. And you denied that the
12 policy existed. You did say that there was a
13 courtesy check-in system. But you denied that
14 policy existed.

15 And pretty much this language, however
16 Defendant denies that the courtesy system with
17 formal policy or procedure, as set forth in the
18 instant request, is restated nine times in your
19 denials from their requests to admit.

20 Were you personally here when these
21 were prepared?

22 MR. DAVIS: Judge, the process of how
23 they get prepared and who's involved, that clearly
24 implicates attorney/client privilege. He's more
25 than welcome to ask him what it says or what it

1 means to him, I understand that completely.

2 MR. BOSWELL: Your Honor, you
3 understand, so I don't need to have him read it.

4 I just wanted to note he made a point
5 earlier that he has a particular definition of
6 costs and procedure.

7 MR. BOSWELL:

8 Q. And I'm trying to understand, were you
9 here when these were answered?

10 A. With the lawsuit having been filed and
11 I was not here, I was not here when these were
12 answered.

13 Q. So your particular definition of a
14 policy and procedure, you personally would not be
15 relevant to how the corporation answered these
16 questions; is that correct?

17 A. I suppose so. But I would actually
18 have the same answer.

19 Q. We're going to move on. So you heard
20 the testimony over the last few days of witnesses.
21 Now, what they said about this policy, it was a
22 very definite course of action that they were
23 supposed to take; right?

24 A. In the front desk procedures.

25 Q. Yes. And, basically, what everybody

1 said about it. They said, it was a definite course
2 of action, we're supposed to do this and we're
3 supposed to do that; correct?

4 A. Yes.

5 Q. And when they were deciding what to do,
6 it was -- you know, there's a lot of different
7 things that you could do to check on the wellbeing
8 of a -- of people there, but you specifically
9 decided these are the things we're going to do; do
10 you agree with that?

11 You could have made them to wear a
12 monitor all the time when they lived there, but you
13 didn't do that. You had a specific course of
14 action that you followed was this check-in policy;
15 correct?

16 A. That was a practice that was done. Can
17 you go back -- you just used the word wellbeing or
18 safety. Can you ask that question again.

19 Q. Well, the purpose behind this 24-hour
20 check-in was to ensure that they laid eyes on
21 somebody to make sure that they were okay? You
22 weren't doing it to check the number of meals that
23 you were going to serve; were you?

24 A. Generally speaking, the daily check-in
25 list of independent living concerned multiple

1 purposes. It can --

2 MR. DAVIS: Judge, let him finish.

3 BY MR. BOSWELL:

4 Q. Okay.

5 A. It can be about meal count. It can be
6 about how many people are taking advantage of a
7 certain activities. It can be about how many
8 people are taking advantage of a certain amenity.

9 Q. So Ms. Parrott -- I'm sorry, go ahead
10 and finish.

11 A. It has multiple purposes.

12 Q. When Rebecca tried to go into
13 Ms. Parrott's room on Wednesday night, was it to
14 see if she bought something at the cafeteria?

15 A. No, I didn't say that.

16 Q. But one of the reasons for this policy
17 was to check on people's safety; is that right?

18 A. It was to check on essentially that
19 they were still there and still present and
20 accounted for. And if you want to say it was part
21 of the policy -- or part of the practice was
22 safety, yes.

23 Q. Okay. Now, this was done in light of
24 the given condition of who was there, elderly
25 people; right?

1 A. Yes.

2 Q. And it was -- I mean, following this
3 policy also allowed the staff to make decisions.
4 If they followed the policy and they saw somebody
5 on the ground, that would leave them to a definite
6 decision to call 911. That's what happened with
7 Ms. Parrott; right?

8 A. Can you repeat that.

9 Q. When they followed the policy, it
10 allowed them to make a specific decision, meaning,
11 you find somebody, they're safe. You made a good
12 decision, okay, good, I can go home. You find
13 somebody there on the floor covered in their own
14 urine and feces, you call 911. There are many
15 decisions that are made as a result of this course
16 of conduct; correct?

17 A. Yes.

18 Q. Now, you guys keep making a point that
19 this is a courtesy check-in system. I mean, you
20 say it over and over and over again; right?

21 A. Yes.

22 Q. Now, I want to ask you -- I actually
23 went online, but then I checked with the actual
24 book.

25 I want you to look at the definition of

1 the word policy. So from Merriam-Webster the
2 definition of policy is management or procedure
3 based primarily on material interest, a definite
4 course for method of action selected from among
5 alternative in light of giving conditions to guide
6 and to determine present and future decisions, a
7 definite course of action for the sake of
8 expediency, and facility, an action or procedure
9 conforming or considered with reference to prudence
10 or expediency.

11 Do you see that? The definition is
12 from Merriam Webster and Dictionary.com?

13 A. Yes.

14 Q. All right. Do you see anything there
15 that says, but specifically excludes anything that
16 you're doing as a courtesy?

17 A. No.

18 Q. Do you disagree with the definition of
19 policy? It's written there.

20 A. No.

21 Q. What is -- according to Merriam
22 Webster, what is a synonym for policy?

23 A. A course online, a methodology, a
24 procedure.

25 Q. Now, up until a year ago -- from the

1 time that this lawsuit was filed until a year ago,
2 when you actually wrote down the policy and did
3 whatever you're doing now in 2019, I guess about a
4 year ago, you actually acknowledged the policy and
5 wrote it down and everything.

6 So from 2016 until 2019 for those three
7 years, did you at any time send a notification to
8 each of the residents at Sandpiper and say, you may
9 have been told that there's a 24-hour safety check,
10 but you may not rely on that policy to keep you
11 safe?

12 A. I did not.

13 Q. Did the corporation --

14 MR. DAVIS: Are you talking about --

15 MR. BOSWELL: I'm talking from 2014
16 until 2019, when the policy that now exists was put
17 in place.

18 BY MR. BOSWELL:

19 Q. I mean, 2016 to 2019, during that
20 three-year period of time, did you tell any of the
21 residents at Sandpiper you may not rely on this
22 policy to keep you safe?

23 A. No.

24 Q. At any time, did you send a
25 notification to the residents at Sandpiper and say,

1 listen, despite the fact that there's a daily check
2 sheet, and you are in fact being checked every day,
3 being called when you don't answer, walking into
4 your apartment if you don't come to the door --
5 despite all of that was actually happening, did you
6 say to these residents, you may not rely on this
7 policy to keep you safe?

8 A. No.

9 Q. Did you, at any point, tell the
10 residents that our employees are apparently
11 implementing a system that is not an authorized
12 policy of our company, so, therefore, you may not
13 rely on it?

14 A. No.

15 Q. From the time that you got notice of
16 this lawsuit, your corporation got notice of this
17 lawsuit, where we say, look, you have a policy,
18 you're violating the policy, and we got hurt as a
19 result, at any point in time, did you tell your
20 employees that they're misrepresenting a policy of
21 our corporation?

22 A. No.

23 Q. Did you ever fire anybody for what they
24 were doing?

25 A. No.

1 Q. Did you ever, in anyway, have a
2 negative employment action against any employee for
3 following this policy?

4 A. No.

5 Q. All right. About two months ago, in
6 June, you gave a deposition in this matter. Do you
7 remember that?

8 A. Yes.

9 Q. Prior to that deposition, did you go
10 and meet with the employees at Sandpiper to ask
11 them what was actually happening?

12 A. I went to Sandpiper Village to look for
13 a policy.

14 Q. You did. Did you talk to Ms. Hall?

15 A. No. I talked to Tina Strickland, the
16 Executive Director.

17 Q. Do you know who Beth Hall is?

18 A. Yes.

19 Q. Do you know that she's worked there
20 going on 25 years?

21 A. Yes.

22 Q. Would you agree that's she's got a lot
23 of institutional knowledge about what's actually
24 happening?

25 A. Yes.

1 Q. Did you sit down with her and ask her
2 if she had created any training manuals about this
3 policy? Or anything like that? Did you ask her
4 those questions?

5 A. No.

6 Q. Did you ask any employee -- when you
7 were there, did you say, hey, wait a minute, what
8 are these check sheets doing on the front desk
9 where we're checking off every resident? Did you
10 ask them what those sheets were?

11 A. I would not have seen those sheets,
12 because those sheets were kept behind a corridor
13 wall. They wouldn't be out for everybody to see
14 the names.

15 Q. Would you have been authorized to walk
16 around behind that desk and look for checklists or
17 policy? When somebody said, oh, no, no, no, you
18 can't come in there?

19 A. I looked for this policy, because there
20 was a conversation about a policy that I didn't
21 think existed. And I never found the policy.

22 Q. Do you remember that Ms. Hall testified
23 that she's been there for 25 years? Do you
24 remember her testimony about that?

25 A. Yes.

1 Q. And do you remember her saying that
2 this policy has been in place from before she got
3 there?

4 A. Yes.

5 Q. And ever since Ms. Corrine Carrington
6 was there, it's been in place everyday since then?

7 A. I think the testimony was that it
8 stopped and then Corrine started it back.

9 Q. Ever since Corrine became the Executive
10 Director, that policy had been in place nonstop?

11 A. That's not how I understood it. I
12 thought that Corrine said that she -- not right
13 when she was hired, but sometime later.

14 Q. I'm not trying to quibble with you.
15 Did you hear the testimony that the check-in sheet
16 was in place, like, in 2010, but well before that
17 this policy was in place?

18 A. That this practice was happening, yes.

19 Q. And so now you see that this document,
20 which we got for the very first time on Friday,
21 after being in this litigation for four years, this
22 thing shows up on Friday.

23 A. Yes.

24 Q. Did you know that?

25 A. Yes.

1 Q. Do you know how that came to be?

2 A. I remember -- I went twice. I called
3 Tina, I think, two or three times. Most recently
4 calling Tina. And I believe she asked Beth. And
5 she asked Beth, is there anything that speaks to
6 the daily check. And then this document was
7 produced by Beth, I think, on Thursday or Friday.

8 Q. On Friday, because she was preparing
9 for her testimony. Do you have any explanation for
10 how a policy that is known and understood by every
11 employee and every resident somehow is not known or
12 understood or made aware by the corporation itself?
13 Can you come up with any reason that that could
14 possibly be true?

15 A. Because in about 2008 or 2009 we had a
16 daily check system that was stopped. And then at
17 some point, it seems like, approximately, around
18 2012 it had started back.

19 Q. So it's been going on for eight years.
20 And everybody knows about it, except the Defendant,
21 the Corporation; is that right?

22 A. Well, as I understand -- and please
23 correct me if I'm wrong -- the answers in legal
24 documents are only asking questions about the
25 period of Mrs. Parrott's residency; right? And the

1 company for 2000.

2 Q. '14.

3 A. '13 and '14 did not have a policy for a
4 daily check system.

5 Q. And that's your position now still,
6 that when Ms. Parrott was here the company didn't
7 have a policy for a daily check system?

8 A. Correct.

9 Q. Did you understand that everyone of
10 these employees who have testified here today said
11 that it did exist?

12 MR. DAVIS: Objection; that's not the
13 actual testimony, Your Honor.

14 THE COURT: All I'm concerned about is
15 he has indicated that Ms. Corrine said she had
16 permitted the system in 2012, and Ms. Parrott
17 signed up in 2013. I got it.

18 BY MR. BOSWELL:

19 Q. So I'm going to move through this
20 quickly. In your deposition, your own lawyer asked
21 you those questions?

22 A. Correct.

23 Q. It's true that there was no company
24 policy and procedure about these residents' checks
25 at the time of Ms. Parrott's residency, and you

1 said correct. And this is just two months ago;
2 right?

3 A. Yes.

4 Q. And then these questions were asked and
5 answered. Your testimony was, no, that Sandpiper
6 as a company was not aware of its employees were
7 implementing this policy? And your answer is
8 correct. And that during the time period of
9 Ms. Parrott's residency Sandpiper was not aware of
10 its employees doing a check-in system. And your
11 answer is correct. Is that how you read that?

12 A. Yes.

13 Q. Did you know that you had an obligation
14 to actually investigate and try to figure this
15 stuff out before you answered these questions?

16 A. Yes, I did. And, again, I went to
17 Sandpiper Village at least two times in 2020. I
18 met with the Executive Director at that time, Tina,
19 and physically looked for a policy.

20 Because policies are typically printed
21 out in a manual that people can get quick access
22 to. And I did not find one.

23 Q. I'm going to leave that. Let me ask
24 you about Ms. Carrington again. As an employee,
25 could Ms. Carrington -- I'm sorry, as the Executive

1 Director, if Ms. Carrington had hired somebody to
2 work as a receptionist, and they came and worked
3 there and --

4 Do you pay people weekly, monthly,
5 biweekly?

6 A. Biweekly.

7 Q. So they work there for a couple of
8 weeks, and it was time to get paid, and the
9 employee -- and Ms. Carrington had failed to
10 forward the paperwork to accounts payable, your
11 payroll system. And that employee said, well, I
12 want my pay.

13 And could you tell that employee that
14 Ms. Carrington failed to forward the information so
15 we don't owe you for the work that you did? Could
16 you take that position with an employee?

17 A. No.

18 Q. Because you can't make it an employee's
19 problem if you failed to do what you're supposed to
20 do; right?

21 A. That person has to be paid by law in
22 South Carolina.

23 Q. Not by law, it's just the right thing
24 to do; right?

25 A. Correct.

1 Q. How about if you were a vendor, your
2 food, delivered food, and you made it, served it,
3 and everybody ate, it was delicious. And then they
4 sent you an invoice to pay for the food and
5 Ms. Carrington failed to forward the invoice to
6 accounts payable, could you tell that vendor we
7 don't owe because internally we didn't do what we
8 were supposed to do?

9 A. No.

10 Q. How about if the power company, or the
11 cable company, or the water company, if you didn't
12 pay those bills, could you say, listen, you can't
13 turn off our service because we internally didn't
14 do what we were supposed to do?

15 A. No.

16 Q. But what you are saying is that the
17 residents, the people who pay your salaries through
18 their payments, are not entitled to rely on the
19 representations that your authorized
20 representatives make, because you're saying that
21 they can't -- that you didn't internally interpret
22 what they were doing as the policy, so therefore
23 they are not allowed to rely on that policy?

24 A. I don't think we are saying that. I
25 don't think we ever said that. The practice

1 existed --

2 Q. Why are you -- I'm sorry.

3 A. The practice exited. And it was
4 apparently represented from Corrine to Ms. Acosta.
5 And that practice was done.

6 I'm simply saying it was not a policy.
7 And, again, it may be my close-minded definition of
8 a policy. But in my world a policy is a written
9 document. And it has a purpose. And it has who's
10 responsible, it has a date on it.

11 Q. I'm going to -- now, Mr. Reeves tells
12 me I made my point and I need to move on, so I'm
13 going to do that. We are going to leave that for
14 now.

15 On the second issue, Sandpiper, in this
16 lawsuit, seems to be taking the position that
17 whether or not there's a policy, it really doesn't
18 matter because Mrs. Parrott was seen on Thursday.
19 So even if -- no matter what happened with the
20 policy, she was seen on Thursday, so therefore she
21 couldn't have been down more than 24 hours; is that
22 one of the positions that you are taking in this
23 lawsuit?

24 A. Yes.

25 Q. Can you think of a reason that

1 Ms. Watters would just decide to make all this
2 stuff up?

3 MR. DAVIS: Objection. He can't
4 speculate as to Ms. Watter's state of mind.

5 THE COURT: All right. I'll sustain
6 the objection.

7 BY MR. BOSWELL:

8 Q. Have you looked at the AT&T records
9 that were subpoenaed and were submitted for Ms.
10 Parrott's, both her landline and her cell phone for
11 the three months before -- or April, May, and June
12 that we shared?

13 A. I have not.

14 Q. Are you aware that those records --

15 MR. DAVIS: Your Honor, first of all,
16 he hadn't looked at the records, so actually that's
17 irrelevant and improper. Second of all, the
18 records are not in evidence. So I don't think it's
19 proper to ask assumptions about the records.

20 MR. REEVES: There is an agreement
21 among the parties, by email, that any documents
22 exchanged during discovery was admissible.
23 Authenticity was not an issue. I'll get the email.

24 THE COURT: What record did you ask him
25 about?

1 MR. BOSWELL: The AT&T records for
2 Ms. Parrott's cell phone and --

3 THE COURT: That you discussed with Ms.
4 Hall?

5 MR. BOSWELL: Yes. The cell phone and
6 landline records for the three months.

7 MR. DAVIS: So, Mr. Reeves is correct,
8 we agreed not to have a records custodian in for
9 authenticity. We did not agree to admissibility at
10 all. So we do have some terms on those records.
11 It's the content that we don't think there's
12 adequate basis. And specific to this gentleman, he
13 hadn't seen them.

14 THE COURT: Well, you asked him the
15 question and he said no, he didn't see him. That
16 would be the answer.

17 MR. DAVIS: And he just did.

18 THE COURT: All right. So what's the
19 next question?

20 BY MR. BOSWELL:

21 Q. My question is that can -- does the
22 company have any reason why, during this period of
23 time -- can you think of any reason during this
24 period of time when we allege that Ms. Parrott was
25 on the ground, which is basically Tuesday to Friday

1 night that there would have no answered call --

2 MR. DAVIS: Your Honor, he's doing
3 exactly what I just objected to.

4 THE COURT: I understand. If he didn't
5 see the records, he's not going to have any
6 indication of it. He indicated that he's never
7 reviewed them or seen them. I'm not sure what you
8 are going to elicit out of him.

9 MR. BOSWELL: I will move on from
10 there, Your Honor.

11 THE COURT: I'm aware of the records.
12 You reviewed it with Ms. Hall and asked her, you
13 know, would it change her mind or change her
14 opinion. You discussed it with her.

15 MR. BOSWELL: And, Your Honor, we'll
16 make sure -- we didn't believe we needed -- based
17 on a misunderstanding of our agreement to get the
18 records in.

19 THE COURT: Now, how do you plan to get
20 the records in?

21 MR. REEVES: I'm going to find the
22 email that Mr. Riddle and I agreed that all of
23 these documents would come in. I'm sorry. If I
24 misunderstood, I will take my medicine.

25 THE COURT: That's fine. With whom do

1 you -- I guess you don't need to have any specific
2 witness to get it, because it's already in, you
3 discussed with a different witness.

4 MR. REEVES: Correct.

5 THE COURT: Okay. Find the email and
6 we'll deal with it later.

7 MR. DAVIS: For the record, it is not
8 into evidence. The email that he's stating, I
9 wasn't challenging authenticity --

10 THE COURT: Well, let's wait until we
11 get the email and then we'll hash it out at lunch.

12 MR. BOSWELL: And, Your Honor, I'm
13 going to be done in five minutes.

14 BY MR. BOSWELL:

15 Q. Very quickly. You've worked in this
16 industry for a very long time; is that a true
17 statement?

18 A. Yes.

19 Q. In the senior living industry?

20 A. Yes.

21 Q. Is it your experience that the
22 residents, particularly to the ladies and gentlemen
23 that work in this industry, it's a big deal when
24 their children are coming to visit them, or when
25 they're leaving to go be with their children? Sort

1 of a badge of honor? Their kids haven't forgotten
2 them? Have you experienced that in conversation?

3 A. I understand what you're saying, but
4 it's a part of daily life. I mean, sometimes
5 people visit and nobody talks about and sometimes
6 people talk about it if they're coming from five
7 states away and it's a big deal.

8 Q. In your experience, that ladies in
9 these independent living facilities establish
10 friendships with one another, that they share
11 information about what's going on in their
12 day-to-day life? Do you see that and understand
13 that that happens a lot?

14 A. Male and females.

15 Q. Would it seem in line, with your
16 experience, that Ms. Watters and Ms. Parrott, if
17 they were best friends, would keep up with each
18 other on a day-to-day basis?

19 A. It very well could be.

20 Q. That's in line with your experience?
21 I'm not saying you should tell us whether it
22 happened or not. That seems reasonable to you?

23 A. Honestly, sir, that seems reasonable.
24 And I also had some experience people think they're
25 best friends, and the other people specifically

1 asks us to keep the other person away from them.

2 So I know the gamut. But, yes, it would be
3 reasonable.

4 Q. And your staff has to keep up with a
5 130 people. And Ms. Watters was an example, with
6 just trying to keep up with Ms. Parrott. So it
7 would be reasonable that she would pay attention to
8 what was happening with Ms. Parrott, specifically
9 more so than the staff, who was trying to keep up
10 with a 130 people; is that a true statement?

11 A. Did you say more reasonable?

12 Q. Yes. It would be more likely that
13 Ms. Watters would be more in tune with what was
14 happening with Ms. Parrott, during this period of
15 time when she was on the grounds, than your staff
16 who's trying to keep up with a 130 people?

17 A. I wouldn't say that.

18 Q. Okay. Let me just ask you this final
19 thing and I think we'll break. Is it the
20 corporation's position that Ms. Parrott's family,
21 and Ms. Parrott prior to her death, are not --
22 should not have relied on the existence of this
23 policy that we've been talking about?

24 A. Again, I'm going to have to go read the
25 answers to interrogatories.

1 Q. No. No. I'm asking you, what is the
2 corporation's position -- as a representative of
3 the corporation, are you telling this lady and her
4 family that they should not have relied on the
5 policy that we have been talking about for these
6 last three days? It's something that she should
7 have relied on that somebody from Sandpiper would
8 have come and checked on her?

9 A. No. I think they should have relied on
10 multiple approaches as to their situation. It
11 could have been daily check with panic button, with
12 daily call or family, or a third-party service.
13 There's all sorts of ways that families choose, in
14 their own situation, to check on their parent or
15 their loved one.

16 Q. That really wasn't my question.
17 My question is, are you taking the
18 position that the Parrott family should not have
19 been able to rely on this policy that Corrine
20 Carrington described?

21 A. They should have been able to rely on
22 the practice.

23 MR. BOSWELL: Thank you very much.

24 THE COURT: All right. How much time
25 do y'all need?

1 MS. BOSWELL: It's up to the Court.

2 THE COURT: We'll start back about 1 or
3 1:30.

4 (A lunch recess was taken.)

5 (An off-the-record discussion was had.)

6 MR. BOSWELL: Mr. Reeves was kind
7 enough to let us call one witness out of order.
8 Your Honor The Plaintiff calls
9 Dr. Mills.

10 THE COURT: Please raise your right
11 hand.

12 Do you swear or affirm that the
13 testimony you are about to give will be the truth,
14 the whole truth, and nothing but the truth?

15 THE WITNESS: Yes.

16 (Dr. Mills is appearing via WebEx.)

17 DR. RICHARD MILLS,

18 DIRECT EXAMINATION

19 BY MR. BOSWELL:

20 Q. Dr. Mills, good afternoon. I'm John
21 Boswell. How are you doing today?

22 A. Good.

23 Q. Dr. Mills, I want you to endeavor to
24 speak up, because you are being projected through
25 speakers here on the computer. So if you don't

1 mind doing that.

2 A. Yes, sir.

3 Q. Dr. Mills, was Ms. Parrott a patient of
4 yours?

5 A. Yes, sir.

6 Q. Roughly, how long was she your patient?

7 A. She had been in the practice since
8 1989. And I believe I took care of her the bulk of
9 those years.

10 Q. Okay. And in a few minutes I'm going
11 to ask you some questions about Ms. Parrott. But,
12 first, I want to talk about your background. Where
13 did you go to undergraduate school?

14 A. I went to Harvard College in Cambridge,
15 Massachusetts.

16 Q. And where did you attend medical
17 school?

18 A. University of Miami in Miami, Florida.

19 Q. Now, what is the nature of your
20 practice?

21 A. Internal medicine. I follow patients
22 and we are one of the few practices that still
23 admits to the hospital and follows our patients
24 while they're in the hospital. I worked in that
25 practice model in my career. I also do some

1 teaching and some research activities.

2 Q. Do you have any -- would you consider
3 that you have any specialities in your practice?

4 A. Older patients with chronic illness.
5 The average age of my patients are in their 60s and
6 I have a very large number of patients in their 80s
7 and 90s.

8 Q. Doctor, I want to clarify one thing,
9 60s is not old or elderly or in anyway. It's young
10 and vibrant. Can we be clear about that?

11 A. I'm there. So I understand.

12 Q. Are you board certified?

13 A. Yes, sir.

14 Q. What are your board certifications in?

15 A. Internal medicine.

16 Q. Now, do you have hospital privileges?

17 A. Yes.

18 Q. Where?

19 A. I have, currently, at all four of the
20 Roper Hospitals, including St. Francis in the
21 Charleston, South Carolina. I have teaching
22 privileges and clinical privileges at the Medical
23 University. I think we used to have privileges at
24 Regional Medical Center, but we turned away with
25 that with Covid.

1 Q. So you said this a minute ago. But do
2 you have a sense of what percentage of the patients
3 that you see that are in their 80s and 90s?

4 A. At least 25 percent.

5 Q. Talk to me for a few minutes about the
6 difference between treating elderly patients -- and
7 this is just in general, in patients in their 20s,
8 30s, 40s, 50s.

9 A. Well, I'll just accumulate how many
10 times that go along with time. So in the early
11 stages in a patient's life I was often diagnosing
12 those problems, trying to figure out what those
13 problems are and doing preventative care.

14 As they age, you're actively treating
15 medical illnesses that they have and trying to do
16 no harm is especially important with that age group
17 setting them up for surgeries. I want to make sure
18 that the benefit exceeds the risk in the elderly
19 population.

20 Q. Dealing with elderly population, is
21 there a larger part of your practice in dealing
22 with both physical and psychological issues?

23 A. Overall, we deal with a huge number of
24 psychological issues. I would guess to say that any
25 primary care practice, 25 percent of the issues

1 discussed, are probably related to issues like
2 depression, anxiety, situational disorders.

3 So I think psychiatric emotional
4 components are huge, and they have gotten
5 especially big since the Coronavirus, as a lot of
6 older patients, particular in nursing homes or
7 assisting living, are very isolated right now.

8 Q. Right. I can understand that. Is
9 prescribing drugs for anxiety, depression, and
10 things like that is something you do regularly in
11 your practice?

12 A. Multiple times, everyday.

13 Q. Don't be offended by this question, but
14 that something that you are qualified to do, based
15 on your medical training and history?

16 A. Yes, I believe so.

17 Q. And I guess this is obvious, you are
18 currently licensed to practice in the State of
19 South Carolina?

20 A. Yes, sir.

21 MR. BOSWELL: Your Honor, at this point
22 I would offer Dr. Mills as an expert both in
23 internal medicine and in treating of elderly
24 patients.

25 THE COURT: All right. Any objection?

1 MR. RIDDLE: No objection.

2 THE COURT: He's admitted as an expert,
3 without objection.

4 BY MR. BOSWELL:

5 Q. Dr. Mills, I want to turn your
6 attention to Ms. Parrott. Now, in preparation for
7 your testimony today, we sent you some medical
8 records so that you would be able to answer the
9 questions we were going to ask. Did you get a
10 chance to review those medical records?

11 A. Yes, sir. Her records are voluminous.
12 They are probably 5- or 600 pages in length. I
13 reviewed most recent in the last few years. Some of
14 the older records, I noticed that we don't have
15 right now. Most of the hospital systems and
16 doctor's office run off an electronic medical
17 records about 10 or 11 years ago. So those we have
18 in some depth. I did not review any records from
19 the 90s through mid probably 2005 or so.

20 Q. And I don't plan to ask you about
21 anything going back that far. I'm just going to
22 ask you about the years -- really just the year or
23 two, or three or four before 2014, when she was on
24 the ground and had a broken hip.

25 A. Okay.

1 Q. All right. Now, so just to be clear,
2 previously in testimony, Ms. Parrott's daughter,
3 Ms. Acosta had talked about a hospitalization that
4 happened in 2009.

5 I want to draw your attention to after
6 that period of time, after she came back to
7 Charleston, this area. So about the four years
8 from 2010 to 2014. That's specifically what I want
9 to talk about.

10 During that period of time, what was
11 the nature of your treatment of her? And to be
12 more specific, was it preventative, routine,
13 general care? How would you describe the
14 treatments that you would engage in?

15 A. Routine and preventative and acute
16 crises, that come to mind, and in her situation she
17 seemed to be dealing pretty well.

18 She appeared to be doing well. I
19 believe she lost her husband in 2005. And she had
20 retired before all this. Very smart lady, very
21 thoughtful. She was doing well, as I recall,
22 during that time period.

23 Q. So when we're talking about
24 Ms. Parrott, you have a mental image of exactly who
25 we're talking about?

1 A. Yes, I do. I also -- in context, she
2 was a certified nurse practitioner in anesthesia or
3 nurse anesthetist, I believe. And I had seen her
4 in that role through practice at East Cooper Ridge
5 Medical Center.

6 And her husband was a pharmacist, so I
7 had known him. And that's when he became elderly
8 and retired.

9 Q. Oh, I see. So you knew her both as a
10 colleague and as a patient?

11 A. Yes, sir.

12 Q. I did not realize that.

13 Now, the conditions that she had prior
14 to her being on the ground, were those in any way
15 life threatening or life shortening, from your
16 opinion?

17 A. No, I don't believe so.

18 Q. And, by the way, Doctor, when I ask you
19 your opinion, to keep from having to say the same
20 thing over and over again, all of the opinions I'm
21 going to ask you, I would only like you to give me
22 an opinion, if you have that opinion to a
23 reasonable degree of medical certainty. Can we
24 agree to that?

25 A. Yes, sir.

1 Q. So if I ask your opinion, I want you to
2 assume that I'm asking to a reasonable degree of
3 medical certainty. Okay?

4 A. Yes, sir.

5 Q. In your opinion, whatever conditions
6 Ms. Parrott had to 2014, did they prevent her from
7 thriving? And by that I mean living an enjoyable
8 and full life for a lady who was 80 years old?

9 A. I believe that she was doing well. She
10 participated in activities and developed some
11 friendships where she was. So I believe that she
12 was doing well. And I do not have any life
13 threatens conditions in mind that involved her
14 before the hip fracture.

15 Q. Was it your understanding that she was
16 living in an independent living facility at
17 Sandpiper?

18 A. Yes, sir.

19 Q. And was she appropriate to live in such
20 a facility?

21 A. Yes, she was.

22 Q. Now, there's been testimony from her
23 daughter that in the time leading up before her
24 fall and being on the ground, that she regularly
25 went shopping, that she participated, bought and

1 sold stocks, and played bingo, and had friendships
2 and walked around to various places.

3 Would that be consistent with someone
4 that you would describe as frail?

5 A. No. That would be consistent with an
6 older patient who was doing well at their stage of
7 life, doing as well as I would expect.

8 Q. Did you have the opinion prior to 2014,
9 when she was on the ground, that she was a frail
10 little old lady?

11 A. No, I did not have that impression.

12 Q. So according to the actuarial table in
13 South Carolina, an 80-year-old lady has a little
14 over a 9-year life expectancy. Did you see
15 anything in Ms. Parrott's medical or psychological
16 history, prior to her fractured hip, in her long
17 lie, that made you think that she wouldn't live to
18 the normal age of someone in their 80s?

19 A. No, sir.

20 Q. Do you think she would have lived at
21 least as long as the actuarial tables suggests?

22 A. That's always a guesstimate. But I
23 can't think of anything life threatening that would
24 have struck her down in the next year or two.

25 But actuarial tables are averages. So

1 some people are longer or shorter, but the older
2 you get, the longer you're going to live. And I
3 didn't see anything in the immediate future that
4 would have shortened her life.

5 Q. Were any of Ms. Parrott's preexisting
6 conditions out of character for what you would
7 normally see for patients in your practice in their
8 80s?

9 A. No.

10 Q. I want to turn our attention to the
11 fall, and the time that Ms. Parrott was on the
12 floor.

13 Now, there's a dispute between us and
14 the Defendants as to how long that was. And I'll
15 get to that in just a minute.

16 But, first, I just want to talk about
17 the broken hip itself. Have you had patients in
18 your practice that have broken a hip?

19 A. Unfortunately, thousands.

20 Q. I didn't realize it was that many. In
21 general, what are the range of effects? So what's
22 the worst case scenario and best case scenario,
23 simply from somebody falling and breaking their
24 hip?

25 A. Well, the best case scenario is to have

1 a simple break that surgically is easy to fix, it
2 heals off, and they do use some rehab, and get back
3 to the life that they were having before.

4 The worst case scenario is they are not
5 able to fix the hip or it's extremely complicated
6 or it gets a secondary infection, they get a clot
7 that can be life threatening. And the most
8 situations, I've had cases where a surgical hip got
9 infected and it had to be reoperated on, hardware
10 removed, and then later another operation after a
11 course of antibiotics. And those types of
12 situations are very -- they reach a person's
13 functional level significantly. If someone is
14 down, the more strength it leaves and those kind of
15 cases can be life threatening and shorten someone's
16 life acutely.

17 Q. Now, just simply from her broken hip,
18 how well did Ms. Parrott's hip heal, and did she
19 have any complications from the surgery, you know,
20 infections and things that you were just talking
21 about?

22 A. Thankfully she did not have any
23 infections. And I think Patrick Murphy was her
24 surgeon. And he did some x-rays on post-op.
25 Everything was healing well and looking good.

1 Q. Okay. Now, leaving aside the time
2 period that we say that she was on the floor, just
3 simply from her preexisting health and vibrance and
4 how well her hip itself healed, what would have
5 been your expectations for her recovery, from just
6 a broken hip?

7 A. I would expected a period of rehab and
8 then hopefully get back to the same level of living
9 as she had been before. And that would have been
10 in an independent study with some available therapy
11 and assistance, if she needed it. I believe that
12 was the setting that she was in before this
13 happened.

14 Q. Dr. Mills, as you know, we believe that
15 Ms. Parrott was on the ground from Tuesday evening
16 sometime until Friday evening. Now, the Defense
17 dispute that.

18 And I want to ask, is there anything in
19 the medical record that supports the fact that
20 Ms. Parrott was actually on the ground for three
21 days?

22 A. It's hard to know exactly, but I
23 believe that she had been on the ground for a
24 significant period of time. I would have expected
25 two or three days, based on several factors.

1 She was in an air-conditioned
2 apartment. So that would slow down dehydration,
3 but she was dehydrated. She did develop a
4 decubitus ulcer from where she had been lying on
5 the floor. And her CPK was modestly elevated.

6 All of those, getting dehydrated, with
7 having loss of some -- the CPK elevation is
8 probably due to tissue injury from where she was
9 lying on the one side. And that is my
10 understanding, was she developed a decubitus ulcer
11 eventually. And that being on the ground
12 compromised her blood supply, leading to blistering
13 and skin breakdown. Those are things that in the
14 first day or so expect -- I wouldn't expect. I
15 would expect that it would take a longer period of
16 time for those things to happen.

17 It would be somewhat ameliorated by if
18 someone was outside and this happened, dehydration
19 would happen much quicker and to a greater extent.
20 But she was significantly dehydrated, but her
21 kidney functions stabilized and improved.

22 Q. Would it also be relevant to you if
23 what she told the medical service when they arrived
24 and asked her how long she had been on the ground?

25 A. Yes. I believe she was a smart lady

1 and usually my interactions with her she was very
2 sharp. But I --

3 Q. Finish what you were going to say and
4 then I'll ask my question.

5 A. I would tend to believe on what she
6 said.

7 Q. You just anticipated my question.

8 Now, you mentioned a couple of things.
9 You mentioned her BUN level, her CPK level, and
10 some other things. First let me ask you, does the
11 fact that you were her treating physician and knew
12 her, and knew her physical health, her background,
13 does that help you analyze those lab results and
14 what they mean?

15 A. I think it gives me a better
16 understanding of her as a patient and that she was
17 right. And I know from her background and past
18 that those values were normal for her, in terms of
19 kidney function and dehydration.

20 I know that she was the type of person
21 who tried to take good care herself beforehand. I
22 would think that my knowledge of her for a long
23 time gives me insight into her, her thought
24 process, what happened to her, as well as her
25 physical condition.

1 Q. Doctor, because some of the
2 technological issues here, I'm going to be showing
3 a couple of medical records here. I'm going to
4 describe to you what they are. You've seen them
5 all, but I'm not going to be able to show them to
6 you at the same time everybody else is looking.

7 Hang on one second. I'm going to put
8 them up on the screen so everybody here can see
9 them.

10 MR. BOSWELL: This is what I'm going to
11 be talking about.

12 BY MR. BOSWELL:

13 Q. Doctor, in October of 2014, four months
14 after the injury that she suffered, her BUN was
15 eight. Is that a normal BUN?

16 A. Yes.

17 Q. Is that in line with what it had been,
18 you know, during the years that you had treated
19 her?

20 A. Maybe a little bit lower, because she
21 may have lost some muscle mass. Off the top of my
22 head, I don't remember the exact numbers. But I do
23 remember when she was admitted to the hospital, I
24 think the BUN creatinine was 40.7, which would
25 markedly be dehydrated greater, this 5 to 1 ratio.

1 Normal ratio for a BUN in a normal person is ten to
2 one, acceptable mild dehydration in a 20-year-old.
3 And she was over twice that.

4 Months later her a BUN of eight, normal
5 value, and that would indicate that her kidneys are
6 clearing and she was not accumulating anything.

7 Q. Sir, I put up a chart that shows her
8 BUN -- it shows a bunch of other stuff. But we're
9 talking about the BUN right now. It's the sixth
10 column down. And it shows that when she was
11 admitted to the hospital on 8/6, she had a BUN of
12 40. And then it went down on the 7th to 38, and on
13 the 8th to 38 and then 22 on the 9th, and then 16
14 on the 10th.

15 So, first, before we talk anymore about
16 BUN, I meant to ask you, just to explain what it
17 is, for the benefit of the people here in the
18 courtroom. What is the BUN? And what does that
19 tell you? And what's going on with this?

20 A. BUN stands for blood urine nitrogen
21 products. And you can think of it as the waste
22 products that your kidneys are charged with
23 filtering out.

24 And someone who has renal failure and
25 needs dialysis, her BUN may be 80, 90, 100. People

1 go into a coma when their BUN gets above about 150
2 or even lower for some patients. So it's a marker
3 of kidney function in how well your body is
4 secreting byproducts of metabolism.

5 Q. Her normal condition -- her liver was
6 functioning well and she had normal BUN; is that
7 what you said?

8 A. I would say kidney rather than liver.

9 Q. Oh, I'm sorry.

10 A. But, yes, beforehand. And then the
11 month that you quoted afterwards, those would be
12 normal BUNs.

13 Q. Now, an elevated BUN -- let's assume
14 that she was on the floor, not able to drink, not
15 able to eat, not moving, sort of the way they found
16 her, which was on the floor with a broken hip and
17 unable to move. What does a BUN, having gone up to
18 40 suggest? What does that tell you?

19 A. She was significantly dehydrated
20 compared to her baseline. And that she was
21 accumulating products in her system that normally
22 with fluids she would have been excreting them out.

23 Q. How long would it take to go -- you
24 know, given the situation she was in, laying in the
25 air conditioning, not moving around, do you have

1 any sense of how long it would take to go from an
2 eight to ten BUN ratio, all the way to a 40 BUN
3 ratio?

4 A. I think three days would be a
5 reasonable answer. I think if she was outsidier it
6 would happen quicker. But given she was in air
7 conditioning, and relatively in good shape before,
8 I think it would be two to three days at a minimum
9 to get there.

10 Q. If she had eaten -- so one of the
11 issues in this case is that the Defendant says that
12 they saw her at lunch on Thursday, suggesting that
13 she ate and drank lunch on Thursday.

14 If she a normal BUN and ate and drank
15 much on Thursday, and was well hydrated at
16 lunchtime on Thursday, is there any way her BUN
17 Friday at 8 p.m. could have been at 40?

18 A. No, I would not expect that.

19 Q. You talked about CPK. Tell us what CPK
20 is.

21 A. Creatine phosphokinase. It's a
22 byproduct of muscle degradation. All of us have
23 some CPK levels in the body. The higher it is, the
24 more abnormal it is. If it gets extremely high, it
25 can lead to something called rectal myiasis. It's

1 a condition where you have a lot of muscles that
2 are getting inflamed and damaged. And that can
3 actually cause normal kidney failure. Normal CPK
4 is generally less than 150.

5 Q. So what does the fact that her CPK
6 would have gone up to 673 on June 6th, which is the
7 day that she was found -- what does that say is
8 going on in her body?

9 A. Well, that tells me that she had some
10 muscle dehydration. I suspect that was largely
11 from where her body was in direct contact with the
12 floor. And the muscles were helping some ischemia
13 in breaking. And that was elevated. That's not a
14 huge elevation, but it's significant. It's one
15 that in older patients at baseline you never see it
16 like that. You see 150, 180, something like that.

17 In a younger patient, who did a very
18 strenuous activity, you could see one much higher
19 than that. For example, if you take someone that
20 just did a triathlon, their CPK may be elevated,
21 much more so even with that, but with rehydration
22 the body clears it.

23 In her case, though, I think she was
24 experiencing muscle necrosis and damage to where
25 she was laying in direct contact on the floor. And

1 that was elevating the CPK.

2 Q. Is there anything about this CPK level
3 that says, oh no, if she was on the floor she would
4 have had a much higher CPK than that?

5 A. I think if she would have been found
6 within the first day, I would expect the CPK to be
7 much slower and in the range.

8 Q. Doctor, I'm going to -- well, let me
9 ask you this: You had mentioned -- when I asked
10 you were there anything in her medical record that
11 were consistent with her having been on the floor
12 for three days, you mentioned the CPK, you
13 mentioned her BUN level. Was there anything else
14 that was an indicator of her having been on the
15 ground for a long time?

16 A. Well, the decubitus ulcer that she had
17 developed, and the blisters that I think she
18 presented with were the admitting nurse noted.

19 Q. Now, explain what a decubitus ulcer is.

20 A. It's usually from -- it usually results
21 from the long pressure on the skin usually
22 overlying some bony area.

23 The typical decubitus ulcers are
24 usually the backside, the sacral area, or over the
25 hips. In her case, the side of the body that was

1 laying on the floor, the pressure was compromising
2 the skin in that area, and it began to break down.
3 The initial stages of that would be blister and
4 then subsequently loss of layers of skin
5 underneath.

6 Q. Are these similar to what people would
7 refer to like bedsores?

8 A. Yes, exactly. Most of those in the
9 middle of the backside from lying in bed and the
10 sacral and coccyx area. This is the same thing,
11 just on the hip, and that pressure-type sore. And
12 usually you have to have a prolonged pressure for
13 that to happen.

14 Q. Right. So the nurse's note -- there's
15 a drawing that we're looking at that shows a 20
16 centimeter by 20 centimeter fluid filled blister on
17 her -- you know, on her right hip where she was
18 laying.

19 And is that one of the indicators that
20 she had been on the ground for a long time?

21 A. Yes, sir.

22 Q. Now, in your experience and given what
23 you know about Ms. Parrott, would that have
24 developed to that level if she had only been on the
25 ground for 24 hours?

1 A. No. I think it would have taken a
2 longer period of time for that to develop.

3 Q. Is that more consistent with her being
4 on the ground for three days, as opposed to being
5 on the ground for one day?

6 A. Yes, sir, in my opinion it is.

7 Q. Now, let me ask you an obvious
8 question. If she had been on the ground for three
9 days with a broken hip, would she have been in
10 pain?

11 A. Yes.

12 Q. The nature of a hip breaking that she
13 suffered, it was painful, I assume?

14 A. She had a cumulated fracture. And that
15 implies multiple areas were broken. Hip fractures
16 are extremely painful. Patients cannot tolerate
17 being removed or trying to move themselves, because
18 the pain is so significant.

19 Q. Given the nature of this broken hip,
20 would you expect that she would have been able to
21 get up?

22 A. Absolutely not.

23 Q. Would she have been able to walk?

24 A. No. It would have been very painful to
25 even try to drive or shift positions. My

1 understanding is that she was wedged in. That
2 would have been extraordinarily painful to move
3 anything.

4 Q. You indicated earlier that she was
5 dehydrated. Other than the lab values, what are
6 some of the other manifestations of dehydration?

7 A. Dry lips, dry necrosis, skin losing its
8 normal turgor. And when you pull up the skin, and
9 you can pull it up and make a little tent and when
10 it goes down, you see if you've lost some of that
11 underlying fluid. Those are the kind of things
12 that could also affect you in your thinking process
13 or any of your reasonable capability. All of those
14 would be a finding consistent with dehydration.

15 Q. The medical records indicate that when
16 she was found, she was lying in her feces and her
17 own urine. What would have caused that to happen?

18 A. Well, if she was on the floor for
19 several days, she would have to evacuate her bowels
20 or urinate. So that would not be unexpected.

21 But those pose a risk to her of causing
22 a urinary tract infection, causing rectal/vaginal
23 irritation, vaginal-type of infection. All of
24 these could be expected results. And a secondary
25 skin infection from any skin breakdown of that.

1 Q. Did you see evidence of that in the
2 medical records, as well?

3 A. Yes.

4 Q. Now, I want you to assume for me that
5 Ms. Parrott had an expectation that someone would
6 come and check on her safety and wellbeing.

7 What affect would you -- is expected to
8 have on her psychological, physically, mentally
9 however you want to answer it, if after she laid
10 there for 24 hours and no one had come to check on
11 her?

12 A. Well, I think that could have a great
13 effect on her. I think even a person that didn't
14 have any psychiatric history or problems in the
15 past, that would be a very traumatic event that
16 would be seared in their memory, that they could
17 flash back to. It would make someone very anxious,
18 very depressed depression, that combined with the
19 pain for a long period of time would be a very
20 traumatic event.

21 In her case, I think that could react
22 as a trigger to make her mental illness worse, make
23 her more anxious, more suspicious. That she kept
24 calling for help, apparently, and no one came for
25 her. I recall that noted, being that she stated it

1 to someone.

2 Q. Is that one of those things that the
3 longer she's on the ground, the worse that
4 condition would get?

5 A. The more reinforced it would be in her
6 system, yes.

7 Q. For the elder population, that you
8 specialize in, describe the interplay between their
9 mental health and their physical health, just in
10 general.

11 A. For a lot of them their mental health
12 is really more important at the time than their
13 physical health. I think it's what keeps them
14 going. It keeps their will to live.

15 It has been reinforced for me in the
16 last three or four months just how important those
17 social interaction and the mental health with
18 patients it is.

19 It's almost uniformly all the patients
20 went from now, from assisted living, nursing home
21 environments, that they either bring them in or we
22 do them virtually. I'm having so many more
23 complaints of people being depressed, being
24 anxious, feeling life is not worth living, that
25 they can't do the things they want to. And they

1 know they're not going to live that long anyway.

2 So a lot of them it's a very depressing
3 time right now. And I know that there's a playoff
4 between the safety of the Coronavirus, the masks,
5 the isolation.

6 But I think for me it was appropriately
7 reinforcement, just how important your mental
8 health is. That if the patient wants to get
9 better, they have a better chance of getting
10 better.

11 Q. Is there a term that you've heard or
12 used called losing the will to live?

13 A. Absolutely.

14 Q. And what does that mean? And how does
15 that manifest, physically?

16 A. Well, people who have lost the will to
17 live, they end up not living as long, deteriorating
18 much more quickly. And so I take it very seriously
19 when a patient tells me something in those words or
20 is more direct, that they don't want to live
21 anymore. That they've lost all their desire for
22 living, they've outlived their friends. They
23 aren't happy. And those are ones that I try to do
24 something with, as best I can, put them on
25 medications, try to arrange counseling, try to

1 encourage more social interaction.

2 If they've lost the will to live, I
3 take that as a very prognostic indicator.

4 Q. Maybe I asked this question a minute
5 ago, but I want to ask it more directly, what would
6 you expect, knowing Ms. Parrott and her previous
7 conditions, what would you expect the effect of her
8 being on the floor for three days and not rescued?
9 What effect would that have on her mentally?

10 A. I think it would be very harmful. I
11 think it would make her very anxious. It would
12 trigger underlying problems about suspicions,
13 paranoia, being left, not being helped. I think
14 that can play in to her easily her psychiatric
15 condition and cause a worsening of that. And I
16 think that's what happened in her case.

17 Q. Can you tell me psychologically from
18 the time before this event when she was on the
19 floor and the time after how she was different?

20 A. Well, before this event, I viewed her
21 as much more vibrant, engaged in --

22 Q. Your answer to my question, you clicked
23 out. So can you start over again. I apologize.

24 A. Sure.

25 Q. My question was: When did you see --

1 how was she before and how was she after?

2 A. Sure. Well, before I viewed her as she
3 was conversing, she was intelligent, she could
4 carry on a conversation, she had friends, she
5 enjoyed doing some activities with those friends.
6 Whereas after, she was much more suspicious, much
7 more paranoid, not as alert at most times. Her
8 mental capacity and mental reasoning took a big
9 hit.

10 And I think a lot of that had to do
11 with this episode and how it played on her
12 psychiatric state and condition for a long period.

13 Q. Is this what you would have expected,
14 had she simply just had a broken hip?

15 A. No. I would have expected her -- you
16 know, anesthesia can cause a little loss of
17 cognition. And that's almost expected of a very
18 elderly population. But nothing to the level that
19 I saw with her. I would have expected her to
20 eventually complete rehab and get back to her
21 independent living state.

22 Q. Do you have an opinion whether the long
23 lie of three days on the ground contributed to her
24 failure to thrive?

25 A. Yes, sir, I do. I think it harmed her

1 both physically and emotionally, to a great extent.

2 Q. Do you have an opinion, to a reasonable
3 degree of medical certainty that it contributed
4 to -- she only lived eight months after this,
5 rather than eight years.

6 Do you have an opinion that this long
7 lie shortened her life?

8 A. Yes, sir, I do.

9 Q. Now, I know that you can't say.
10 Medicine is not an exact science. I've heard many
11 doctors say that. Is there any way you can say
12 with certainty that had she only been on the ground
13 24 hours, she would have lived this number of years
14 and gotten this level of thriving, and 48 hours if
15 would have been this, and 72 hours it would have
16 been this? Can you be that specific?

17 A. I don't have the background of many
18 patients having suffered this, to tell you. I have
19 looked at some articles about this. And the longer
20 a person is on the ground, the worse the condition
21 is.

22 In her case she recovered well from the
23 physical surgery. And I would have normally
24 expected her to live many more years. I would, you
25 know, given a range four to eight years is

1 expected, even a little longer sometimes. I would
2 not have expected her to pass away within eight
3 months, because she didn't have the life
4 threatening complications; clots, infections,
5 pneumonia after her surgery.

6 MR. BOSWELL: Hang on one second. I'll
7 be right back.

8 BY MR. BOSWELL:

9 Q. Doctor, you indicated a minute ago that
10 you reviewed an article -- or maybe more than one.
11 But the one in particular, was it an article that
12 we shared with you from the New England Journal of
13 Medicine?

14 A. Yes, sir. That was the June 27, 1996.

15 Q. And is the conclusion of that article
16 generally in line with the opinion that you
17 expressed here today?

18 A. Yes, sir. I was actually -- the
19 statistics in that study were disturbing to me, in
20 that the table of mortality was 67 percent of
21 patients who were estimated developed helplessness
22 for more than 72 hours, compared to 12 percent who
23 were helpless. So it spoke to me and the need for
24 early intervention to try to reduce the mortality
25 in complications.

1 Q. And that is in line with the longer
2 you're on the ground, the worse you do?

3 A. Yes, sir.

4 MR. BOSWELL: Thank you for your time.
5 I'm going to let you answer any questions that
6 Mr. Riddle might have.

7 CROSS-EXAMINATION

8 BY MR. RIDDLE:

9 Q. Hello, Doctor.

10 A. Hi.

11 Q. My name is Matt Riddle. And I
12 represent Sandpiper. I just have a few questions
13 for you. You did say that you were Ms. Parrott's
14 primary care physician; correct?

15 A. Yes, sir.

16 Q. And you saw Ms. Parrott a number of
17 times after her fall at Sandpiper Independent
18 Living; is that right?

19 A. Yes, sir. We actually -- my group put
20 her in the hospital, admitted her. And I believe
21 after she went to Sandpiper I think for 100 days to
22 the rehab unit and then went to a five-star place,
23 Ashley something, Ashley Plantation, I think.

24 Q. Ashley River Plantation?

25 A. Yes. Yes.

1 Q. So you saw her a number of times over
2 the eight-month period between the time she fell
3 and her death in February; is that correct?

4 A. I believe I saw her several times and
5 we spoke on the phone numerous times with the
6 staff.

7 The primary doctor in the nursing home
8 rehab section, nursing home physician, who's
9 associated with that. But also as a physician at
10 the Ashley River facility. And they tend to use me
11 as a consultant sometimes to see them. And usually
12 I'll see someone and follow up after a
13 hospitalization or something like a hip fracture.

14 Q. And during that period, over those
15 number of times that you saw her, you did not
16 diagnosis Ms. Parrott with any sort of
17 trauma-induced cognitive decline?

18 A. I don't recall that being listed
19 specifically by me in the record. However, I would
20 note that throughout that time period, my
21 impression is that she was not doing well,
22 emotionally wasn't as good. I had numerous
23 conversations with her daughter about this, that
24 she was more suspicious. She definitely had kind
25 of a progressive downhill course over that time.

1 Q. Sure. You never referred Ms. Parrott
2 to a psychiatrist or any kind of mental health
3 specialist; is that right?

4 A. I believe she had seen those in the
5 past, but not during the timeframe you're talking.

6 Usually, most of the facilities like
7 Sandpiper have a psych. nurse or a mental health
8 professional associated with the facility that will
9 see the patients at times. A lot of times that is
10 advocated to an assistant or to my licensed social
11 worker or case manager.

12 Q. Now, Doctor, I believe you just
13 testified that when you hear from a patient,
14 comments to the effect of that that patient's lost
15 the will to live, that that's very important to
16 you?

17 A. Right.

18 Q. And you would refer the patient for
19 mental health treatment or to a counselor?

20 A. I would either treat them myself, talk
21 to the family, see what was available and/or refer
22 them off to someone, absolutely. It's a lot of --
23 like a patient who is suicidal, those people, I
24 can't tell if they are serious. They need to be
25 evaluated in an emergency setting.

1 We need to figure out why, what's
2 prompted this, why family members are feeling that.
3 Is there some change that you can make in their
4 medications or their living state or their family
5 interactions, which would benefit this.

6 And those are actually frankly from the
7 outpatient setting. It's very hard to find
8 psychiatrists who will be willing to work in the
9 Medicare-aged population, and do them.

10 And so you find a lot of times your
11 primary care doctor, the internal medicine -- you
12 know, the psychiatric people tend to deal with
13 younger patients and not see the older patients.

14 In fact, a problem in Mount Pleasant is
15 not how many psychiatrists will see a Medicare-aged
16 patient, because they don't accept Medicare.

17 Q. And be that as it may, you did not
18 refer Ms. Parrott to a counselor either; right?

19 A. I don't remember during that time
20 period doing that.

21 Q. And, Doctor, I believe you said that
22 you are board certified in internal medicine?

23 A. Yes, sir.

24 Q. And no other areas of practice?

25 A. No. Recertifications and stuff like

1 that, but you're not interested in those. In terms
2 of any other board certification, no. I have been
3 doing this for a long time and treated a very large
4 number of elderly patients.

5 Q. Sure. And I understand that. The
6 reason I ask is just to confirm that you're not a
7 psychiatrist or psychologist?

8 A. No.

9 Q. And, Doctor, it's true, isn't it, that
10 you would defer to a psychiatrist or neurocognitive
11 expert of some kind to diagnose a trauma-induced
12 cognitive decline?

13 A. It depends on how well they delve into
14 the records. I have had some psychiatrists and
15 neurocognitive psychologists who do wonderful jobs,
16 spend a lot of times with the patients and their
17 families and do a great job.

18 I've had some others who don't do quite
19 as good of a job. But most of those generally will
20 coordinate with me the impressions and
21 recommendations. Most of the cognitive will not
22 independently prescribe medications. I very
23 frequently have them contact me and say, I've done
24 the neurocognitive testing on this patient. I
25 think they may be depressed or have memory loss.

1 What do you think about Aricept, for example, or
2 Zoloft. And we kind of collaborate for which
3 medicines would be best for that individual
4 patient.

5 Q. Sure. And I can understand that.

6 But my question is: Doctor, would it
7 be a psychiatrist or a neurocognitive expert that
8 would be the appropriate specialist to diagnose a
9 trauma-induced cognitive decline?

10 A. Yes. But I would not exclude other
11 health care professionals from making that same
12 type of diagnosis. Those are the ones that they
13 are the most comfortable with making.

14 To give you an interesting aside on a
15 patient of mine. A patient who was in Vietnam, who
16 had lots of exposure there and years the V.A.
17 denied he had any post-traumatic problems and they
18 probably in the last three years treated him
19 aggressively for that. And he's done a lot better
20 with some counseling and medication.

21 So it's kind of more how well you know
22 the patient, and if you take the time to look at
23 the patient's function from before. And I think
24 talking to family members is important. All of
25 those are time consuming.

1 But I think the point that you're
2 getting at is a normal practice, would you expect a
3 psychiatrist to make that type of diagnosis? Yes.
4 Would you see an internist for family practice,
5 would I put that diagnosis on paper often? No.
6 Would you see them treat for it? Yes.

7 Q. But, Doctor, I believe you said in your
8 deposition that you would defer to a psychiatrist
9 or a neurocognitive expert for that type of
10 diagnosis, for that type of diagnosis?

11 A. I would take a formal diagnosis, just
12 like I would for ADD or ADHD. I would use their
13 recommendations. I wouldn't necessarily expect to
14 always be in line with their findings. Again, it
15 depends on, do I trust this doctor, has he done a
16 good job for me before, did he take the time to get
17 to know the patients, their family, their
18 background. Generally speaking, I count on those
19 professionals to help me out with this.

20 Q. Certainly. And, Doctor, I hate to
21 belabor the point. You used to defer to the
22 psychiatrist or a neurocognitive expert. So would
23 you agree that you would defer to them for this
24 type of diagnosis?

25 A. You know, in her particular case, not

1 necessarily. And, generally, I would, but there
2 are cases when I don't do that I disagree with that
3 individual. For example, the one I spoke to
4 earlier, the veteran, who I thought had
5 post-traumatic stress. And his initial evaluations
6 said that he didn't. Subsequent evaluations said
7 he did. So there's those type of situations where
8 you're your patient's best advocate. And you look
9 out for your patient's interest and treatment.

10 Q. Certainly, Doctor. And you don't have
11 access to your deposition transcript there?

12 A. Actually, I do.

13 Q. Good. 151 pages. I'm not going to
14 read the whole thing. I just want to show you this
15 one portion of your testimony.

16 A. Sure.

17 Q. It's Page 89. Let me know when you get
18 there.

19 A. I'm there.

20 Q. Starting on Line Number 11. And I'll
21 just read this portion and you can tell me if I
22 read it correctly. Question, okay. But a
23 psychiatrist obviously could properly diagnose a
24 trauma-induced cognitive decline. Answer, they
25 would be one of the ones that I defer to, as well

1 as a neurocognitive expert.

2 Did I read that correctly?

3 A. Yes, sir.

4 Q. Do you agree that was your testimony in
5 your deposition?

6 A. Yes, sir.

7 Q. Okay. Thank you.

8 A. Do you want to go on talking about --

9 Q. Well, I just wanted to confirm that one
10 section, Doctor. And I appreciate that.

11 A. Sure.

12 Q. Now, with regard to the time on the
13 ground after the fall, I believe you testified that
14 you believe that Ms. Parrott was on the ground
15 without hydration for more than 24 hours; is that
16 correct?

17 A. Yes, sir.

18 Q. And that's based on her lab levels and
19 some early skin breakdown; is that right?

20 A. Yes, sir.

21 Q. And those things were documented on the
22 hospital admission records?

23 A. Yes, sir.

24 Q. And you would agree, Doctor, that
25 Ms. Parrott would show signs and symptoms of

1 dehydration from being down for a period of 24 to
2 36 hours?

3 A. Yes. I think in her case she may have
4 been down longer than that, but I would say at
5 least 24 hours. And more probably I think two or
6 three days.

7 Q. And for a patient like Ms. Parrott, who
8 had a history of chronic diarrhea, you would expect
9 to see some incontinence after a period of 24 to 36
10 hours on the ground?

11 A. I would say on any patient laying on
12 the ground that long, I would expect to see
13 incontinence. Even a younger patient I would
14 expect to see that.

15 Q. Now, Doctor, continuing along those
16 same lines with regard to the 24-period. You
17 believe -- if Ms. Parrott's time on the ground
18 after the fall -- was 24 hours or longer, it would
19 have a significant impact on her; is that correct?

20 A. Yes. I think the longer she was on the
21 ground, the greater the impact it would have on
22 her.

23 Q. Certainly. And I believe your
24 testimony in your deposition was that your opinion
25 is that more than 24 hours Ms. Parrott would have

1 had a bad mental outcome; is that right?

2 A. I don't remember those exact words.

3 But I think the longer she was down, the more of an
4 adverse effect it would have on her both physically
5 and emotionally.

6 Q. Certainly. And that being the case,
7 Doctor, you're not able to state with a reasonable
8 degree of medical certainty the extent to which
9 there might be a difference between 24 to 36 hours
10 on the ground, versus 48 hours or more; is that
11 correct?

12 A. I'm not sure I understand your
13 question. Can you restate it for me?

14 Q. Sure. Doctor, you can't tell us that
15 there is a -- with a reasonable degree of medical
16 certainty, that there is or would have been a
17 difference in Ms. Parrott's outcome between a
18 period of 24 to 36 hours on the ground, versus
19 48 hours or more?

20 A. Well, I tend to think that she was on
21 the ground longer more rather than shorter, because
22 of the findings of her labs and the skin breakdown.

23 Do I think those events would have
24 happened within the first 24 hours, given that she
25 was in an air-conditioned room, no. I think it

1 would have taken longer than that. And the
2 impressions I got, based on her skin findings, on
3 her elevated BUN creatine ratio, I tend to think
4 that it was probably more than 48 hours.

5 Can I be certain was it 48 to 72 hours,
6 no. But I don't think it was less than 24 hours.
7 So I would be willing to say with a reasonable
8 degree of medical certainty that she was on the
9 ground most likely, in my mind, somewhere between
10 36 hours to three days. But I don't think it was
11 in the 4-hour to 24-hour range. And I tend to
12 think that based on the things I saw and seen in
13 the record that it was longer than that.

14 Q. Certainly, Doctor. And I understand
15 your opinion about the length of time that she was
16 on the ground, based upon the hospital records and
17 the lab results, and that kind of thing.

18 My question for you is with regard to
19 your opinion as to impact on her psychological
20 condition. You can't state with a reasonable
21 degree of medical certainty that there would have
22 been a difference between 24 to 36 hours on the
23 ground versus 48 hours or more?

24 A. No. I disagree with that. I think
25 that her mental condition would have worsened the

1 longer that she was on the ground. And she did
2 significantly have issues after that that were much
3 more apparent and severe than had been before this
4 injury.

5 So my feeling is that the long time
6 that she was on the ground, laying on the floor,
7 was the worsening of her mental condition and
8 psychiatric condition.

9 Now, am I answering your question
10 appropriately or am I misunderstanding?

11 Q. No. I believe you're getting there.
12 The question is, Doctor, whether you can quantify
13 the extent to which there would have been a
14 difference?

15 A. That's extremely hard to do. And I
16 don't know if anyone can tell you that with
17 absolute certainty.

18 My impression in my medical judgment
19 would be that it had a very significant impact on
20 her. And given the severity impact, combined with
21 the physical findings and combination -- and plus
22 just what the patient said -- what she said is that
23 she had been on the ground since Tuesday. I tend
24 to believe all those things. And that leads me to
25 support the assumption that she was on the ground

1 for a prolonged period of time. And that that led
2 to a worsening of all her underlying psychiatric
3 condition. Can I quantify it would have been 24
4 versus 48 versus 72? No. But I think it's a
5 degradation on the longer she was on the ground
6 for, the worst the issues would have been.

7 Q. Right. So as far as the impact and the
8 time on the ground, I think you said that her
9 dehydration cleared up after she was in the
10 hospital; is that right?

11 A. After several days. It wasn't
12 immediate. It took several days of hydration
13 before it improved. I think it fell to 38 or
14 something. I think by the time she left it was in
15 the teens, and several months later it was down to
16 a BUN of 8, appropriate.

17 Q. And Ms. Parrott did not exhibit kidney
18 failure, as a result of the time on the ground; did
19 she?

20 A. No. Her kidneys did their job. I
21 think that would have -- if she had continued to be
22 on the ground for a week or more, I would have
23 expected to have start see a rise in her
24 creatinine, as well as a much higher level of CPK.
25 But her renal function improved greatly with the

1 hydration and returned to normal function.

2 Q. Doctor, you agree that you're not able
3 to say with a reasonable degree of medical
4 certainty that if the time on the ground was 24 to
5 36 hours, that Ms. Parrott would not have died
6 eight months later?

7 MR. BOSWELL: Your Honor, I think this
8 question has been asked and answered multiple
9 times. So I object.

10 THE COURT: For my purpose -- I
11 understand what you are asking him, but...

12 MR. RIDDLE: If I may, Your Honor.

13 THE COURT: Sure.

14 MR. RIDDLE: At this point I'm asking
15 about the cause of death and not the psychological
16 impact.

17 MR. BOSWELL: I withdrawal my
18 objection. I apologize.

19 BY MR. RIDDLE:

20 Q. Doctor, I'll state the question again.
21 You can't tell us here today with a reasonable
22 degree of medical certainty that if Ms. Parrott
23 would have been found within 24 to 36 hours, that
24 she would not have died eight months later?

25 A. I tend to believe, in my medical

1 judgement, that if she had been found very quickly,
2 she would have lived longer. I do believe that the
3 time that she was on the ground impacted her
4 longevity directly.

5 Now, you're saying 24 to 36 hours. My
6 judgment and in looking at the articles I've looked
7 at and with other patients, if they're found within
8 the first few hours the outcome, of course, is much
9 better. I believe, based on the findings, of the
10 logs, as well as the patient's skin condition, that
11 she had been on the ground at least 49 hours. I
12 believe that was long enough to cause some of these
13 issues that I do believe impacted her longevity and
14 shortened her life.

15 So in that sense, I am certain with a
16 degree of medical certainty. But I believe the
17 length of time that she was on the ground did
18 indeed cause the shortening of her longevity. Can
19 I guesstimate exact hours or how many years she
20 would have lived? No. But I think her life was
21 shortened because of that.

22 Q. Certainly. I understand your opinions,
23 based on how long you think Ms. Parrott was on the
24 ground and what the result was and the impact was
25 on her.

1 But I would ask you to assume for the
2 purposes of my question that Ms. Parrott was on the
3 ground for 24 to 36 hours. If Ms. Parrott was
4 found within 24 to 36 hours, Doctor, I believe your
5 deposition testimony was that you can't say with a
6 reasonable degree of medical certainty that she
7 would have survived beyond the eight months that
8 she lived?

9 A. I don't have a looking glass into the
10 future, particularly at the time. But my
11 impression of this case is that she would have
12 lived longer, if she would have been found sooner.

13 Now, you're picking a time of 24 hours
14 to 36. Well, I think 24 hours wouldn't have
15 impacted, whereas 36, I think, could start to.

16 And, obviously, if she had been found
17 the first four to six hours, that would have been
18 the best scenario.

19 Q. Just to clarify my point, Doctor, and
20 make it clear for the record, I feel I need to read
21 from your deposition transcript again so that you
22 can tell me whether this is what you said in your
23 deposition.

24 A. What page are we on?

25 Q. Page 65. And I'll start with Line

1 Number 7. Do you see where I am?

2 A. Yep.

3 Q. And I'll read this and again you can
4 tell me if I read it correctly. The question was,
5 do you intend to offer an opinion at the trial in
6 this case to a reasonable degree of medical
7 certainty, that had Ms. Parrott fallen, fractured
8 her hip in multiple places and remained on the
9 floor for 24 to 36 hours, and not a longer period
10 of time, that she would not have died nine months
11 later? Answer, I can't say that. Question, and
12 you would agree with me that the reason that you
13 can't say that is because it's inherently
14 speculative; correct? Answer, yes.

15 Now, Doctor, that was your deposition
16 testimony; correct?

17 A. Yes. But you've got to look at the
18 context of that and continue looking on the next
19 page, on Page 66. If you look at Line 5 I said,
20 hypothetically, I think the longer she was there
21 the more it could have contributed to someone's
22 emotional and medical condition. She had, and made
23 it worse. So could that have contributed and
24 caused of her demise, yes.

25 Q. Certainly. But as far as your

1 responses to these questions, your opinion hasn't
2 changed today from the time that you gave your
3 deposition; has it?

4 A. I think I'm better educated now about
5 this case than I was at the time of the deposition.
6 I looked at more books, looked at more articles,
7 and kind of thought about these things, and,
8 unfortunately, laid awake a couple times at night
9 wondering if there was anything that I could have
10 done different.

11 Q. But that research hadn't impacted your
12 ability to say whether Ms. Parrott would have
13 survived if she would have been found in 24 to
14 36 hours; isn't that correct?

15 A. It changed my opinion somewhat, to I
16 was very surprised with that one article,
17 particularly how poorly the longer it was -- how
18 long it was until they were found.

19 So, I guess, out of fairness that has
20 colored some of my thinking on this issue.

21 Q. And you didn't have that article at the
22 time of your deposition; is that correct?

23 A. No, I did not. I also have a lot of
24 the records that I have since reviewed.

25 Q. And at some point between the time of

1 your deposition and your testimony today, did the
2 Plaintiff's attorney provide you that article and
3 ask you to supplement your opinion, based on the
4 article he provided?

5 A. They didn't ask me to supplement my
6 opinion. They asked me to review the article, as
7 well as give me copies of records that they were
8 able to get that we did not have that were
9 archived.

10 And it prompted me to do a little
11 looking on my own for how long people are down for.

12 Q. Doctor, I'm going to ask you a few more
13 questions based on some of the responses that you
14 provided in your deposition testimony. And,
15 specifically, with regard to the hip fracture, you
16 agree, Doctor, that a hip fracture -- a hip
17 fracture alone is a terrible event that decreases
18 an older person's function and increases their risk
19 too; right?

20 A. Yes, sir.

21 Q. And you agree that this hip fracture,
22 to a reasonable degree of medical certainty,
23 impacted Ms. Parrott's health after the fall;
24 correct?

25 A. Yes.

1 Q. And Ms. Parrott lost some mobility, as
2 a result of the hip?

3 A. Yes. But she needed some rehab to
4 improve that.

5 Q. Right. And loss of immobility can take
6 a huge toll on psychological and emotional
7 wellbeing; isn't that correct?

8 A. Yes.

9 Q. Doctor, I believe you said in your
10 deposition that you advised elderly patients to
11 avoid surgery and anesthesia, if at all possible;
12 is that right?

13 A. Yes. Unnecessary surgery, particularly
14 cosmetic surgeries. They are kind of vain of my
15 existence with the elderly patients. This,
16 however, was not an elective surgery.

17 Q. And the reason that you would advise an
18 elderly person to avoid elective surgery is because
19 the process of the surgery and the anesthesia is
20 particularly hard on older people; isn't that
21 correct?

22 A. We do get a lot of preop clearance on
23 older patients. And part of that is you quote them
24 the odds of something bad happening. Just going in
25 for an operation there's a one to two percent risk

1 of mortality. So anytime that you're doing
2 something I thought it's a calculated risk. My
3 opinion -- and it's remained constant that you
4 should only do necessary procedures. There's a
5 risk from the surgery itself. There is a risk that
6 it will take a small piece of your mental function
7 or cognition. And I would say any time that you're
8 under anesthesia, the longer you're under, the
9 greater the risk and higher chance.

10 That being said, there's some
11 procedures if you don't do the surgery, then you're
12 relegating that patient to bedrest, and the issues
13 that causes within the mobility, pressure sores are
14 much more higher risk and dangerous.

15 We're not in the dark ages anymore.
16 Back in the 1960s they would quote you a rate
17 within two years 50 percent of all patients who
18 have hip fractures would die. Nowadays, those
19 rates are remarkably lower. And we quote rates of
20 two to five percent for that same period of time.

21 And so I do have a lot of patients who
22 break one hip, and five, six years later they break
23 the other hip. And a couple of years later,
24 they're still getting along. Now, it does affect
25 their mobility. It increases their fall risk, loss

1 of immobility, loss of driving, loss of
2 independence. All of those are significant
3 factors. But a lot of patients do recover from
4 these things and do well.

5 Q. Doctor, I'm almost through here. I
6 want to ask you a couple of questions about the
7 death certificate of Ms. Parrott. You did not
8 complete the death certificate; is that right?

9 A. No. I believe she was put under
10 Hospice. And the physician associated with that
11 hospital did the death certificate.

12 Q. And do you recall that the cause of
13 death or the primary cause of death listed on the
14 death certificate was chronic schizophrenia?

15 A. I am. And I probably would have put
16 something completely different, if it was up to me.

17 Q. And I think you said in your deposition
18 that you would almost never put a mental illness as
19 a cause of death?

20 A. Well, I would not. Because most of the
21 time depression, anxiety, bipolar, schizophrenia,
22 those are not. Those may be underlying causes of
23 medical deterioration, but they of themselves do
24 not kill the patients.

25 What kills the patient is a heart

1 attack, a stroke, dehydration, those type of
2 things. Infections are probably the most common.
3 And on the death certificate, I much prefer to put
4 the immediate cause of death, whatever medical
5 system that was, and then underlying fractures that
6 contributed to that.

7 Q. Certainly. But --

8 A. But I understand. I mean, that
9 physician knew Ms. Parrott for less than a week.
10 And she probably did not review any of the records,
11 except for the discharge or transfer summary. So
12 she is doing what she knows just based on very
13 little knowledge of that patient.

14 Q. And you're referring to that Hospice
15 physician that filled out that death certificate?

16 A. Yes. I'm not saying what she did is
17 wrong. I just would not agree. And we would have
18 a difference of opinion there.

19 The other thought is that hopefully she
20 died a peaceful death and did not suffer. And
21 that's the goal of the Hospice.

22 Q. Now, with regard to the hip fracture
23 itself, you agree, Doctor, that it most certainly
24 contributed to Ms. Parrott's decline and death?

25 A. Certainly, it contributed to decline.

1 I think she was past any of the immediate lethal
2 complications of the hip surgery. So she didn't
3 have an infection of her prosthesis in her pins,
4 screws. She did not have a clot related to it
5 directly.

6 Could have that have contributed to a
7 loss of mobility, getting around, the failure to
8 thrive, yes, it could have. But she survived the
9 immediate surgery and healed up, where some
10 patients who, unfortunately, don't heal that kind
11 of fracture, even despite surgery, but that's
12 unusual.

13 Q. And, Doctor, with regard to the mental
14 cognitive, psychological decline that you
15 described, I understand it's your opinion that that
16 was also a contributing factor to Ms. Parrott's
17 death; correct?

18 A. Yes, sir.

19 Q. Along with all of the other
20 contributing factors; right?

21 A. Yes, sir.

22 Q. And you are not able to establish,
23 within a reasonable degree of medical certainty,
24 any percentage as to how her failure to recover
25 mentally caused the death? All you can say is it's

1 a contributing factor; is that right?

2 A. I think it's a significant contributing
3 factor. Can I give you percentages, 25, 50, 74
4 percent? No. But do I believe it contribute to
5 her early death than it should have, yes, I do.

6 MR. RIDDLE: Thank you, Doctor. I
7 think that's all I have. I need to take a look at
8 notes and check with my boss over here.

9 That's all I have. Thank you, Doctor.

10 MR. BOSWELL: Your Honor, I don't have
11 any other questions.

12 THE COURT: All right. Dr. Mills,
13 thank you, sir. You are free to go. I hope you
14 have a wonderful day.

15 THE WITNESS: Thank you, sir.

16 THE COURT: All right. How much time
17 do you think -- or anticipate we still have left
18 with Mr. Hadley?

19 MR. DAVIS: Half of what I was planning
20 to ask him. So I'm going to try to cut it to maybe
21 a half hour.

22 THE COURT: All right. Do you want to
23 take a break now? Because what's going to
24 happen is -- if we take a break now, we'll take
25 about 10 minutes. But then about 3:30 we should be

1 done.

2 COURT REPORTER: How about just five
3 minutes, Judge.

4 THE COURT: Okay. That's fine.

5 (A brief recess was taken.)

6 CROSS-EXAMINATION

7 BY MR. DAVIS:

8 Q. Mr. Hadley --

9 THE COURT: And, for the record, you
10 are still under oath.

11 THE WITNESS: Okay.

12 BY MR. DAVIS:

13 Q. Mr. Hadley, you came back to work for
14 Premiere Senior Living sometime in 2019?

15 A. Yes. I think it was July 1st.

16 Q. Now, in an attempt to kill what is a
17 horribly dead horse, I'm going to ask you one time,
18 and one time only. With respect to what was going
19 on with Sandpiper, whether it was a policy, a
20 practice, a procedure, whatever the lawyers call
21 it, I want you to explain to the Judge, in your
22 business world, what a policy is to you. Okay.

23 In other words, what does it look like,
24 that kind of stuff?

25 A. So for the sake of maybe repeating

1 myself -- and I apologize -- I think -- to me the
2 definition or what I think is a policy is a
3 document that is created that has given birth
4 through some sort of regulatory or statutory
5 compliance.

6 So, for example, maybe it's something
7 that the Social Security Act of 1965 says we have
8 to do and it's a facility that participates in a
9 Medicare program, or maybe it's something that the
10 South Carolina Department of Health and Human
11 Services says that we have to do to participate in
12 the State Medicaid program. Or it can be something
13 that the executive branch through the Elder Justice
14 Act says that we have to do for a certain reason.

15 There's -- it's been said -- and I
16 think it's probably still true, but the four top
17 regulated industries within the country are
18 banking, airlines, long-term care, and nuclear
19 power plants.

20 And so my world sees through that
21 vision a policy is something that's given birth
22 through a legislative or regulatory requirement,
23 that has a purpose that's defined. And then what
24 we're trying to accomplish, what purpose are we
25 achieving, and who's telling us to do that, and

1 then the procedures and the person or the position
2 that's responsible to achieve that.

3 Q. So, if I ask you under oath -- if I
4 show you the duties and procedures that we've seen
5 50 times and I ask you under oath, is that a
6 policy, is there any other answer that you can give
7 me other than no, from your perspective, as
8 Director of Operations, from a place that was an
9 apartment complex? Any other answer under oath
10 that would be true?

11 A. That is not a policy.

12 Q. Thank you. I'm going to step away from
13 that horse.

14 All right. With respect -- there's a
15 'ton of evidence that these employees were doing the
16 check-in systems. For you, as Director of
17 Operations, did you envision it or want them -- if
18 they were doing that work, to do it reasonably?

19 A. Yes.

20 Q. Any question about that, in this case?

21 A. No.

22 Q. I'm going to talk a little bit about
23 Sandpiper Independent. And I think it's been lost
24 a little bit in this case. So I want to try to
25 clarify some things. What is assisted living?

1 A. Assisted living in South Carolina is
2 known as residential care, assisted living or
3 community residential care facility, which is
4 licensed by DHEC. And it's State specific. So in
5 South Carolina the generally assisted living, is
6 licensed to provide services to seniors that
7 require at least two ADLs, activities of daily
8 living.

9 Q. And is the assisted living world
10 heavily regulated?

11 A. Yes, by the State. It has no federal
12 regulation.

13 Q. Fair enough. With respect to skills,
14 are there even more regulations?

15 A. Many more.

16 Q. And in response to those regulations,
17 you have the form of policies; correct?

18 A. Yes.

19 Q. And you implement the formal policies
20 regulated to the system?

21 A. Yes.

22 Q. With respect to the independent, those
23 regulations do not apply?

24 A. Correct.

25 Q. Is that correct?

1 A. Correct.

2 Q. So you would not have the need for the
3 formal policies, as you envision in your world, to
4 be in place like those two worlds?

5 A. Right.

6 Q. Now, give me a little bit of history of
7 kind of how this check system came into play. You
8 have been around, and you came and left. But give
9 the Judge an idea of how these employees might be
10 able to have and not have it and put it back in.
11 Tell him the history behind that.

12 A. So in the early days of its inception
13 Sandpiper was licensed by consumer affairs in South
14 Carolina. I believe it was in 2008 or 2009 we
15 decommissioned and delicensed the Community
16 Retirement Community.

17 Part of that delicensing, from that
18 point forward, we did a lot of things to sort of
19 break apart the fabric of what did happen in that
20 community, everything from weekly wellness checks,
21 to a nurse on staff, to communicating potentially
22 and case management with people's positions, and
23 filling pill boxes, and collaborating with home
24 health agencies in the independent living.

25 Q. So at one time there were regulations

1 in place for that continued care retirement
2 community. And then y'all became a not-a-continued
3 care; right?

4 A. Correct.

5 Q. And when that happened, the official
6 policies and procedures were taken off?

7 A. Correct.

8 Q. And what happened with respect to
9 obviously some of the stuff? Did that continue?

10 A. Yes. Some of the things would have
11 continued, but we were trying to remove anything
12 related to what came about, because we are a CCRC.

13 Q. And was that in relation to your
14 transformation from a heavily -- or at least a
15 regulated industry that did provide health-related
16 services, to being an apartment for senior living?

17 A. Yes. There were deposits made out to
18 people. There were completely new leases. And
19 there was a complete decoupling of anything to do
20 with independent living and assisted living and
21 skilled nursing.

22 Q. Now, with respect to the operations --
23 I'm not going to get into the story again. But
24 with respect to the operations at Sandpiper, what
25 was the primary system for responding to falls?

1 A. The panic buttons, the emergency
2 button.

3 Q. And that provided for a rapid response?

4 A. Yes.

5 Q. Why would the check-in system not be a
6 reasonable system to put in place to respond to
7 somebody who has fallen? Why didn't that work
8 right?

9 A. Because if someone's fallen, it's kind
10 of arbitrary. They don't decide to fall five
11 minutes before the next check. I mean, to me,
12 there's little safety gained or sense of safety in
13 a check that might be 9 a.m. in the morning or it
14 might be 8 p.m. at night. It might be seeing the
15 person versus somebody else saying if they saw the
16 person. It's not taking the place of a media real
17 time, I've fallen and I need assistance.

18 Q. So, would it be correct or incorrect to
19 say that it was never intended to be the primary
20 safety response system in independent living? And
21 even if it was, would that be reasonable to say,
22 okay, we're going to let you lay on the ground for
23 36 or 48 hours?

24 A. That's why we provide the panic system.
25 I think no one ever believed that a daily check

1 provided the level of safety or a sense of safety
2 like a panic system.

3 Q. But the check system has benefits.
4 Let's be fair. It has benefits. And accounting
5 for people is a reasonable condition to the panic
6 system; is that true?

7 A. Yes.

8 Q. But from your experience, working in
9 this industry, would that ever be something that
10 would be put in place for a primary duty, or to
11 satisfy a primary duty of safety? Would that make
12 any sense to use that as a way of duty to keep
13 people safe?

14 A. No, it wouldn't. You would have to be
15 constantly checking on them, which is essentially
16 what a panic button does. It's always there.

17 Q. Right. Because we would be back here
18 next year and they would be mad at you because you
19 didn't go in in 36, you went in in 12 hours, you
20 didn't go in fast enough?

21 MR. BOSWELL: I object. I don't think
22 he can testify to that.

23 MR. DAVIS: Withdrawn.

24 BY MR. DAVIS:

25 Q. I was going to take you through every

1 single day and ask you questions. With respect to
2 Wednesday and what Wednesday, Thursday, Friday with
3 what you saw --

4 Well, let me ask you this question:
5 With respect to what happened Wednesday around the
6 apartments, as Director of Operations, what's your
7 thought process on the decision making of your
8 employees who made a determination to check on
9 Ms. Parrott the next day, as opposed to try and go
10 further to get into their unit that day?

11 And obviously there's a dispute about
12 what happened next. Just being there at that time,
13 what are your thoughts on that, and the judgment
14 they made that evening?

15 A. I think the judgment that they made was
16 reasonable. Had I been in their shoes, I would
17 have made the same decision, based on -- there's
18 this concept that Rebecca showed up at the door
19 with a key.

20 And I've thought about that a few
21 times. If I was Rebecca and I showed up to the
22 door with a key, well, yes, I did intend to go in
23 that apartment, but I already had the concept in
24 the back of my head that now I'm being faced with I
25 couldn't get into that unit because the locks have

1 been changed by the resident, and it's going to
2 further extubate that whole conversation in my head
3 over and over and over about I'm standing here in
4 front of this door and I know this lady has told
5 multiple people multiple times, do not go in my
6 unit.

7 In my opinion, had I been standing
8 there that night, and in her shoes, I would have
9 made a decision that privacy trumps a sense of
10 safety.

11 There was no smoke going out the
12 window. There was no water coming out the door.
13 There was no sounds. And the panic button wasn't
14 going off. What am I going to do when I open the
15 door? Am I going to exacerbate some sort of
16 phycological issues? Am I going to be blamed for
17 something? I've been told, don't go in this unit,
18 this human being, who has civil rights, has told us
19 not to do it.

20 Q. Now, what if she had that decision and
21 just gone home and not arranged for follow-up
22 checking the next day, would that have been a
23 reasonable decision, saying, I'm not going in, I'm
24 just going home?

25 A. Following up the next day, to me was

1 the -- she should have done that -- although you
2 have to ask yourself, to me that was an extra step
3 because there would have been a follow-up the next
4 day anyway.

5 Q. So I'm going to ask you another
6 question. Would it also be reasonable to do
7 exactly what the Plaintiffs have suggested, which
8 is to go look for the key, try to get in? Would
9 that also be a completely reasonable choice, on her
10 part, if that's the one that she made?

11 A. I think that would have been
12 reasonable. I thought about that several times
13 too. You have to ask yourself, well, what would
14 have made her go get the key, if she's standing
15 there with the master key. What would have made it
16 different about the key.

17 Q. So from your prospective as Director of
18 Operations, either choice would be reasonable under
19 the circumstances? So how does the hindsight
20 argument play into that here in this case?

21 Does it begin to taint the decision
22 making process? You say, maybe she's on the
23 ground, maybe I should do something different?
24 What, if any, impact, you know, whether or not this
25 was a good or bad decision, whether or not it was

1 reasonable?

2 But if you take that out, are either
3 choice okay, from your prospective, given the facts
4 of this case?

5 A. That wouldn't have been part of my
6 decision because I wouldn't have had that
7 information to --

8 Q. Fair enough. That was probably a bad
9 question.

10 Now, I'm going to touch briefly on
11 Thursday. You've been in the courtroom for a bunch
12 of evidence. Mrs. Watters and things that she
13 wanted from your staff, specifically from Beth and
14 Rebecca. And basically your interactions with
15 working with Beth and Rebecca over the years, would
16 there have been any reasonable basis to fail to go
17 check on her, if Ms. Watters is standing at the
18 desk on multiple occasions on Thursday or Friday,
19 based on your experience with working with them?

20 MR. BOSWELL: Your Honor, objection. I
21 don't think he's qualified about they should do.
22 All he's done is heard the same testimony as the
23 rest of us.

24 THE COURT: Well, I mean, you can ask
25 him what he would do. Or you can ask him if he's

1 got any issues with them not doing something, as a
2 supervisor.

3 BY MR. DAVIS:

4 Q. If they came to you in that context as
5 a supervisor, what would you say?

6 A. Ms. Watters?

7 Q. If Ms. Watters came and said these
8 people are ignoring me and not paying attention to
9 me. And really the question I'm after is not so
10 much that.

11 Again, as the Director of Operations
12 over these employees, and your interaction with
13 them, has it been your experience that they would,
14 in fact, ignore an elderly resident who came to
15 them multiple times and said, let's walk one minute
16 away?

17 A. No.

18 MR. DAVIS: I appreciate your time. I
19 had a lot more that I wanted to ask you, but I'm
20 not going to waste the Court's time.

21 THE COURT: All right. Anything
22 further?

23 MR. BOSWELL: Nothing else, Your Honor.

24 (An off-the-record discussion was had.)

25 THE COURT: Well, we need to watch the

1 video.

2 MR. BOSWELL: Your Honor, there's one
3 issue, though, which is the telephone records.
4 Because they are a vital piece of evidence that we
5 thought was not going to be an objection in this
6 case.

7 We can put Ms. Acosta on the stand to
8 validate the records or we can agree that they can
9 come in. But we can't leave that issue.

10 THE COURT: No. I understand. Where
11 did y'all end up over the break?

12 MR. REEVES: Judge, the email that was
13 exchanged between Mr. Riddle and myself was that we
14 would not raise any objections about authenticity
15 or the need for a custodian of records on any
16 documents that were produced in discovery.
17 Therefore, they would come in.

18 Because whatever complaint or objection
19 would be weight, not admissibility.

20 THE COURT: Go ahead.

21 MR. DAVIS: Judge, I've been doing this
22 a long time. I take authenticity very, very
23 seriously. I have been down this road a bunch over
24 25 years. And that means, you don't have to bring
25 someone in to tell you their phone records. But

1 the contents of those records are very complex.

2 THE COURT: Well, what's very unique is
3 that this is a bench trial and not a jury trial.
4 In those type of situations, obviously, I would be
5 weighing the admissibility of those documents.
6 And, obviously, for purposes of authenticating then
7 we would have to bring in a chain witness and those
8 types of things.

9 And that's all for me to make a
10 determination whether or not they are authenticated
11 and then they get to go back to the jury room.

12 I've already heard the information. I
13 can't unhear what I've already heard. So, I know
14 what's contained in them. I know what's on them.
15 So the fact that they're -- I mean, I just don't
16 see really what the objection would truly be.

17 I think what you need to do,
18 potentially, Mr. Reeves, is just make an argument
19 as to why they're admissible and why they need to
20 be admitted into the case.

21 And you can make your argument as to
22 why they would be admissible. And I just make a
23 determination just like it was a jury trial and
24 move on from there. It's just one piece of
25 evidence that y'all don't agree on that was

1 potentially not to come in and not authenticated.

2 I just think, for the record, the best
3 way to keep it clean.

4 MR. REEVES: Okay.

5 THE COURT: If you want to make your
6 argument?

7 MR. REEVES: First of all, we
8 subpoenaed from the AT&T company the phone records
9 for Delila Parrott's landline and cell records
10 and --

11 MR. BOSWELL: Under the tab it's
12 telephone records.

13 MR. REEVES: The telephone records from
14 her landline and cell phone, which both happen to
15 be with AT&T. The subpoena response came. Those
16 records were produced in discovery to the
17 Defendants.

18 Your Honor, I'm not sure what's
19 complicated about this. Those records simply show
20 incoming and outgoing telephone calls.

21 Now, Your Honor, there is a reference
22 in the telephone records that all the times on
23 those records are UTC time, which translates to
24 daylight savings time. You just subtract five
25 hours. That is what is the record. The records

1 show the UTC time. The UTC time is accurate, less
2 five hours. I'm sorry, it's four hours, five hours
3 in daylight savings time.

4 And, Judge, what we did is those
5 records were produced. And Ms. Acosta knew her
6 mother's telephone numbers. She also knew Lila
7 Watters' telephone number, because it's in her
8 deposition. And we knew Sandpiper's telephone
9 number, because that's in the discovery.

10 And those telephone records were simply
11 matched up for the days that are at question here.
12 June 2, 3, 4, 5 and 6. And what records show
13 incoming calls and outgoing calls. Although
14 there's not any outgoing calls for the dates of
15 June 2nd through June 6th.

16 We got those, Your Honor, because of
17 the very issue the Defendants raise that
18 Ms. Parrott was up and well and, you know, alive
19 and doing all the things that she normally did.

20 All of those records, though, Your
21 Honor, also show things that before the week of
22 June 6th, when there was no outgoing calls she
23 never had a circumstance without one call from
24 Mrs. Watters for more than 24 hours.

25 Your Honor, that's all in the records

1 itself. Anybody can take a look at these dates and
2 times and come to those conclusions. The records
3 are relevant and material, and any objection passed
4 on I'm not sure I understand it.

5 THE COURT: All right.

6 MR. DAVIS: I think it takes
7 specialized knowledge to come in here and say what
8 they mean or what they don't mean. And I think the
9 admission of these records, absent some testimony,
10 to explain to the Court -- really everything they
11 just represented to you, they couldn't even agree
12 on UTC time. We need somebody who understands
13 these records to come in here and tell us what they
14 do or do not show.

15 I'll give you an example, Your Honor,
16 look at the top headings. It says, connect, date
17 and time, UTC. I don't know what connect date is.
18 I assume I know what it is. But we're speculating
19 as to what actually is. Originating number, I
20 assume, is a phone number where it comes from, but
21 I don't know that.

22 There's something called SCC Org. I
23 don't know what that is. Is that a second number?
24 Is it the same number? Is it related in some way?
25 Did it go through some kind of exchange. I don't

1 know.

2 Here's the critical part of this to me,
3 Judge, they want to hand you these records and be
4 like, oh, here's what they show you, Judge. And I
5 get zero opportunity to cross-examine somebody on
6 the context of these documents, because there's no
7 witness here testifying to substantively about the
8 contents of those documents mean.

9 And I don't think -- for instance, a
10 lapsed time. The lapsed time is 28 seconds. Is
11 that from the moment that it starts ringing? Is it
12 when you pick the phone up? A voicemail machine?
13 Is it somebody talking? We don't have a clue what
14 that means.

15 Now, the call codes, what does call
16 code mean? Does that change in any way whether
17 it's an outgoing or a terminating call. I don't
18 have a clue. And I know this, they can stand up
19 and argue to you what that means or doesn't mean,
20 but there's zero evidence from a qualified witness
21 with specialized knowledge as the rules require, to
22 admit this and then consider it.

23 So from my standpoint, it's not like
24 you get your monthly phone bill and you can read it
25 and it says, Ms. Jones. This has all kinds of

1 information, which may be very broad. But in the
2 absence of a witness to help us understand that, it
3 would be improper to consider it, Judge.

4 MR. REEVES: Your Honor, to be most
5 helpful -- first of all, Judge, bottom line, what
6 the case law says about this type of situation with
7 evidence, whatever the Defendant's concerns are, it
8 goes to weight under admissibility.

9 But if the Court will turn to Page 49
10 through 57, those answers explain ever question
11 that Mr. Davis just asked. It tells how to read
12 the particular phone records. All of that's in
13 there.

14 Now, Your Honor, this case has been a
15 long, hard fought case by both parties. And
16 they've done an excellent job and everybody
17 agreeing to, what are we going to do. I will tell
18 you now, if I thought this was going to be a
19 problem I would have had someone here to testify to
20 this.

21 But the email says, we have no
22 objections to any document exchanged in discovery.
23 We don't need a record custodian. That's just
24 simply not true. He doesn't want the records in
25 because they hurt him. And I understand that.

1 MR. DAVIS: Your Honor, the fact that
2 he just made that argument, he was completely
3 inappropriate.

4 THE COURT: It's all right.

5 MR. REEVES: I didn't mean to be
6 inappropriate. It just goes to weight.

7 MR. DAVIS: I strenuously object. May
8 I be heard on that?

9 THE COURT: Sure.

10 MR. DAVIS: So what he just told you,
11 it's all explained in the back. It ain't explained
12 in the back. For instance, he just told you that
13 all of the definitions are contained in Pages 1
14 through 9. Well, guess what, that's the wireless
15 records. They have certain rules, apparently. The
16 landlines have different rules, with different
17 definitions. So when I sat down to try to
18 understand them, I couldn't. I need somebody to
19 tell me. And I saw no evidence, no effort to bring
20 these in with a witness with specialized knowledge.

21 Not only does that, it goes to
22 specifically the idea that it goes to the weight.
23 Who am I cross-examining? I have no way to
24 cross-examine on the weight of it.

25 So from my prospective, Your Honor,

1 this would be significantly prejudicial to us and
2 not appropriate under the rules.

3 THE COURT: All right.

4 Ms. Acosta, raise your right hand.

5 Do you swear?

6 MS. ACOSTA: Yes.

7 THE COURT: What's your telephone
8 number?

9 MS. ACOSTA: My telephone number is
10 803-331-6342.

11 THE COURT: Do you remember your
12 mother's.

13 MS. ACOSTA: 843-881-1692. Do you want
14 her cell?

15 THE COURT: Yes. That was her
16 landline?

17 MS. ACOSTA: That was her landline.

18 And her cell 843-276-1816.

19 THE COURT: All right. I'm going to
20 take a look at these overnight and let you know my
21 decision in the morning. But at this point in
22 time, I'm going to need to refer to the records.

23 We're going to play the video.

24 (The video deposition of Dr. Bergmann
25 was played.)

1 (Court was in recess until 9/10/2020.)
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1 State of South Carolina)

2)

3 County of Charleston)

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5 I, Krista Nicole Carney, Official Court
6 Reporter for the Ninth Judicial Circuit of the
7 State of South Carolina do hereby certify that the
8 foregoing is a true, accurate and complete
9 Transcript of Record in the Court of General
10 Sessions for Charleston County, South Carolina, on
11 the 9th of August, 2020.

12 I do further certify that I am neither of
13 kin, counsel, nor interest to any party hereto.

14

15 March 2, 2021

16

17

18 Krista nicole carney

19 Krista Nicole Carney,

20 Official Stenographic Court Reporter

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