

ARBITRATION

ESTATE OF DIANE FRANKLIN, by Jacqueline Carney,
Executrix,

Plaintiff,

vs.

OSPREY/PANTOPS PLACE, LLC, trading as
COMMONWEALTH SENIOR LIVING AT CHARLOTTESVILLE,
and COMMONWEALTH ASSISTED LIVING, LLC,
Defendants.

VIDEOTAPED DEPOSITION OF ASHLEY EVANS

September 21, 2016
2:37 p.m.

Taken at:

WILLIAMS MULLEN
321 East Main Street, Suite 400
Charlottesville, Virginia 22902

REPORTED BY: Lisa M. Blair, RMR

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ASHLEY EVANS
By Mr. Gavin

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EXHIBITS

(None)

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17 ALSO PRESENT:
18 Alex Powers, Video Works
19 Ashley Showalter
20
21
22
23
24
25

1 THE VIDEOGRAPHER: This is the beginning of
2 tape number one in the deposition of Ashley Evans, and
3 we are on record at 2:37 p.m.

4 Counsel may proceed after the witness
5 has been sworn in.
6

7 ASHLEY EVANS, a Witness, called by
8 the Plaintiff, first being duly sworn, testified as
9 follows:
10

EXAMINATION BY MR. GAVIN:

11 Q. Good afternoon, Ms. Evans.
12

13 A. Hello.
14

15 Q. Ms. Evans, I'm Chuck Gavin. I'm an
16 attorney, and I represent the Estate of Diane
17 Franklin. I'm here today just to ask you some
18 questions about what happened with Ms. Franklin, and
19 what your duties were at the facility, and in
20 particular the maintenance and the use of the logbook
21 which you handled as a receptionist.
22

23 I'll tell you, like I told everyone else
24 today, that you're under oath. You were just placed
25 under oath. And that means that your testimony is
under oath, which has significant consequences. It's

1 no different than if you were in a courtroom; do you
2 understand that?

3 A. Yes, sir.

4 Q. Okay. Just as a couple of preliminary
5 marks, I'm only -- if you're ever in question about
6 the time frame I'm referring to, I'm only referring to
7 the time frame up until the time that Ms. Franklin was
8 discovered. I'm not referring to any time frame after
9 Ms. Franklin was discovered and left the facility,
10 okay? If I'm ever talking about the program, I'm
11 talking about the check-in program, which is the
12 subject of the logbook, okay? So if I call it
13 anything that's related to program, that's what I'm
14 talking about; do you understand?

15 A. I understand.

16 Q. All right. You just gave me a couple of
17 different nods. So I'll only tell you that you've got
18 to make a verbal response, because the court reporter
19 can't take down a nod.

20 A. Okay.

21 Q. So me and you know what we're saying, but
22 she doesn't. So any time you provide an answer, make
23 sure you provide a verbal response.

24 A. Yes, sir.

25 Q. Are you feeling okay today?

1 A. Yes.

2 Q. Okay. Good. What's your address,
3 Ms. Evans?

4 A. 302 Wright Street, W-r-i-g-h-t,
5 Gordonsville, Virginia.

6 Q. Is that in Orange County?

7 A. Yes, sir.

8 Q. And what's your education, Ms. Evans?

9 A. I completed high school.

10 Q. Where did you go to high school?

11 A. Orange County High School.

12 Q. Do you have any post high school training
13 or education?

14 A. No, sir.

15 Q. What was your first job when you got out?

16 A. I was a cashier at Target in
17 Charlottesville.

18 Q. And when was that?

19 A. 2010 to early 2015.

20 Q. So you graduated in 2012 or 2011?

21 A. I graduated in 2009.

22 Q. 2009. So what did you do between 2009
23 and 2012?

24 A. I was employed at Target in 2010.

25 Q. Okay. 2010.

1 All right. And you stayed there until
2 2015?

3 A. Yes, sir.

4 Q. Did you go directly from there to
5 Commonwealth Senior Living?

6 A. Yes, sir.

7 Q. All right. So the one job at Target is
8 your only adult working experience prior to
9 Commonwealth Senior Living?

10 A. Yes, sir.

11 Q. Do you have any specialized degrees or
12 certificates?

13 A. No, sir.

14 Q. Do you have any experience working in
15 assisted living homes or nursing homes or independent
16 living homes prior to this job?

17 A. No, sir.

18 Q. When were you hired?

19 A. Late March of 2015.

20 Q. Did you respond to an ad that you saw?

21 A. Yes, sir, online.

22 Q. And what was your understanding of the
23 job that you'd be fulfilling?

24 A. I would be a receptionist, provide
25 complete various office duties, answer phones, assist

1 the residents in anything they might need.

2 Q. All right. I'm going to ask you to open
3 that white book, if you would, for me, and turn it
4 to -- well, I don't have one for you. So strike that.

5 When you applied for the job, did you
6 know that you would have the responsibility of
7 checking in on the welfare and the safety of
8 residents?

9 A. Yes.

10 Q. And who told you that?

11 A. My boss at the time.

12 Q. Who was that?

13 A. Tiffany Nichols.

14 Q. Is she who hired you?

15 A. Yes; with the executive director, Monica.

16 Q. So the two of them hired you?

17 A. (Indicating in the affirmative).

18 Q. Did they interview you?

19 A. Yes, sir.

20 Q. And based on one interview, were you
21 hired, or was it multiple interviews?

22 A. It was one interview.

23 Q. After the one interview, you became
24 employed?

25 A. Yes, sir.

- 1 Q. Hourly or salary?
 2 A. Hourly.
 3 Q. After you became employed, were you
 4 required to take some initial training as an employee?
 5 A. Yes.
 6 Q. Do you remember the training?
 7 A. Yes.
 8 Q. Did you do it individually or as part of
 9 a group?
 10 A. It was part of a group.
 11 Q. Do you remember how long it took?
 12 A. It was about a week, I believe.
 13 Q. A week every day in the week or just one
 14 day out of the week?
 15 A. You mean did I train like Monday --
 16 Q. It was a bad question. Let me try again.
 17 Was it for a week eight hours a day, or was it just
 18 certain times in the day throughout the week?
 19 A. It was -- it was almost eight hours a
 20 day.
 21 Q. Okay.
 22 A. It was probably about six or seven hours
 23 a day.
 24 Q. All right. And is that the training
 25 where you would go in and get a briefing from Monica

- 1 Adcock on the history of the facility and things like
 2 that, and then she would check off on your training?
 3 A. I believe that was completed in
 4 orientation --
 5 Q. All right.
 6 A. -- the first couple of days of training,
 7 and then we went on to shadow Tiffany.
 8 Q. What is shadow?
 9 A. We would partner with Tiffany and watch
 10 her and learn about the various tasks that we might
 11 have to do.
 12 Q. As part of your orientation did you
 13 receive any training that relates to the program?
 14 A. No, sir, not the initial training. They
 15 haven't implemented the program yet.
 16 Q. When did you start working there? You
 17 told me that.
 18 MR. PACE: March of 2015.
 19 A. March.
 20 Q. And when did they implement the program,
 21 to your recollection?
 22 A. To the best -- to the best of my
 23 recollection, a couple of months after that.
 24 Q. So sometime after March of 2015?
 25 A. Yes, sir.

- 1 Q. Were you part of the process of coming up
 2 with the plan or implementing the plan or was that
 3 Tiffany?
 4 A. That was Tiffany and Monica possibly.
 5 Q. All right. So prior to that there was no
 6 training, I guess, to be conducted. After the plan
 7 was implemented, did Tiffany provide any training to
 8 you on how the program was to be run?
 9 A. She did go over it with us, yes.
 10 Q. When you say she'd go over it with us,
 11 what did she go over with you?
 12 A. I don't recall having a formal training
 13 on the program. I don't particularly remember Tiffany
 14 sitting us down and telling us this is how we're going
 15 to do. It was just mentioned to us, you know, we came
 16 into work. And she said, okay, we're doing this now.
 17 It's going to be part of the daily tasks that we have
 18 to complete.
 19 Q. So she considered it a daily task?
 20 A. Yes.
 21 Q. Did you ever read the language in the
 22 program?
 23 A. The language?
 24 Q. The language that was in the handbook
 25 that was offered to residents, did you ever read that

- 1 language?
 2 A. No, sir.
 3 Q. So why don't you flip to page -- tab 2,
 4 page 55.
 5 A. How are these numbered?
 6 Q. Down at the bottom.
 7 A. Oh, I was looking at the other page
 8 numbers.
 9 Q. There's a section on that page entitled,
 10 Daily Check-in. And I can represent to you that was
 11 part of the handbook. Did you ever see that language?
 12 Did you ever review the handbook?
 13 A. I do not recall.
 14 Q. When the program was first being
 15 implemented, do you remember any discussions, or were
 16 you privy to any discussions between Monica and
 17 Tiffany as to how it would be set up or run?
 18 A. No, sir.
 19 Q. So it just sort of appeared one day, and
 20 Tiffany said this is what we're doing now?
 21 A. Yes, sir.
 22 Q. What was your understanding on the
 23 requirements of the program?
 24 A. That the residents on the list would have
 25 to check in once a day by -- I believe it was by

1 **12:00.**
 2 Q. Okay. I'm going to ask you to refresh
 3 your recollection. Do you recognize that document?
 4 A. Yes, sir.
 5 Q. Is that the logbook that was used?
 6 A. Yes, sir.
 7 Q. Was it always in that arrangement?
 8 A. Yes, sir. It was in a binder.
 9 Q. Was it put in a binder later?
 10 A. I do not recall. I just remember a
 11 binder.
 12 Q. Okay. When you first remember the
 13 program, you were there at its inception, correct?
 14 A. Yes, sir.
 15 Q. Is that what it looked like?
 16 A. Yes, sir.
 17 MR. PACE: And just for clarification, all
 18 your questions are about what was done with this up
 19 until Ms. Franklin's incident in December --
 20 MR. GAVIN: Correct.
 21 MR. PACE: -- of 2015.
 22 Q. I'm not asking you if this is the logbook
 23 that was revised after the incident. I'm only talking
 24 about what you saw when it was first implemented.
 25 A. Yes, sir. I understand.

1 Q. So what was your -- back to my original
 2 question. There is language on the front of this
 3 logbook. Can you read that language real quick?
 4 A. Must be done every day for highlighted
 5 apartments before 10:30 a.m., or resident must be
 6 called and checked on.
 7 Q. All right. So was this cover page at the
 8 very first page of the binder?
 9 A. Yes, sir.
 10 Q. So every time you opened the book, you
 11 would see this cover page?
 12 A. Yes, sir.
 13 Q. Does that refresh your recollection on
 14 the time by which a resident was supposed to check in?
 15 A. Yes, sir.
 16 Q. And what does it do? What is your
 17 recollection now, 10:30 or 12:00?
 18 A. 10:30.
 19 Q. You threw out 12:00. Where did you get
 20 that number from?
 21 A. 12:00 is what pops in my head. I was
 22 mistaken. It's 10:30.
 23 Q. Okay. So if a resident did not call in
 24 by 10:30, what was your understanding of what you
 25 would be required to do?

1 A. I would first call them. And if they
 2 didn't answer the phone, I would go to their apartment
 3 to complete a wellness check.
 4 Q. All right. And did you ever have
 5 occasion to do that?
 6 A. Very rarely. I worked in the evenings
 7 from 5:00 p.m. to 1:00 a.m.
 8 Q. So it was quiet generally?
 9 A. Yes, sir.
 10 Q. And in theory, all the checks would have
 11 been done earlier in the day?
 12 A. Yes, sir.
 13 Q. Was there times when you would come in at
 14 5:00 p.m. and work the 5:00 p.m. to 1:00 a.m. shift
 15 where you would see several -- or blank lines or blank
 16 entries in the logbook?
 17 A. There were times where there would be a
 18 few entries. And the day receptionist would ask me to
 19 check on these people, because they hadn't seen them
 20 that day.
 21 Q. And what would you do?
 22 A. I would call or check on them.
 23 Q. If you called and checked on them, then
 24 those lines would have then been completed, right?
 25 A. Yes. I would fill in the time I saw or

1 checked on them.
 2 Q. So if they didn't fill in or check in the
 3 line by the time that you got there at 5:00, and there
 4 is no entry from you between 5:00 and 1:00, isn't it
 5 logical to conclude that they didn't check in at all
 6 that day?
 7 MR. PACE: Object to the form. You can
 8 answer it, if you can.
 9 A. I'm not -- I'm not sure.
 10 Q. Isn't it fair to say -- logical -- let me
 11 back up.
 12 Isn't it fair to say that if the shift
 13 which would be the second shift, I guess, the day
 14 shift -- is the day shift the 9:00 to 5:00 shift, or
 15 is that considered the first shift?
 16 A. 9:00 to 5:00, we can call it the day
 17 shift.
 18 Q. Okay. So if somebody had not checked in
 19 on the day shift, and you had not picked it up and
 20 checked in an entry on the night shift, isn't it fair
 21 to say that that person didn't get checked in at all
 22 that day?
 23 A. Yes, I believe so.
 24 Q. And wasn't there times when the logbook
 25 would go without entries at all for a given day?

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- 1 A. Without any entries for a given day?
 2 Q. Correct.
 3 A. I don't believe there were any days where
 4 no one was checked on.
 5 Q. All right. Let me ask you to look at the
 6 logbook. I'm going to start from the beginning. And
 7 I'm just going to flip over to the day of May 3rd,
 8 which is page 78. This was the very first resident
 9 that utilized the program, and she lived in unit 327.
 10 There's a blank there, if you agree with me, for
 11 Sunday, May 3rd, as no entry; do you see that?
 12 A. I see May --
 13 Q. Page 78, Bates stamp. These numbers here
 14 are called Bates stamps. So if I say 78, that's what
 15 I'm talking about.
 16 A. Yes.
 17 Q. There are the dates at the top.
 18 A. Oh, okay.
 19 Q. So if you look at the top and see the
 20 date May 3rd and look down to the bottom of the
 21 column, there's a blank line there where unit 327
 22 reads; do you agree with that?
 23 A. Yes, sir.
 24 Q. And if you look over the page at May 9th,
 25 there's a blank line again for May 9th.

Page 18

- 1 A. Yes, sir.
 2 Q. Now, how would you explain the blank
 3 entries in those two units, if they didn't get checked
 4 on -- or if they got checked on at all?
 5 MR. PACE: Object to the form, and lack of
 6 foundation. I don't know if she was working that day.
 7 Q. All right. Assuming this is a
 8 hypothetical, and this is an example that I'm giving
 9 to you, not whether you're working that day or not:
 10 What would you envision as a reason why these lines
 11 were left empty?
 12 MR. PACE: Object to form. You can answer,
 13 if you can.
 14 A. I don't really have an explanation, sir.
 15 It would be a number of possibilities.
 16 Q. Well, let's go through them.
 17 A. Whoever was working the day shift that
 18 day forgot to write down the time. There's a
 19 possibility that they did not see that person that
 20 day.
 21 Q. And they just didn't make a note of it --
 22 A. Yes, sir.
 23 Q. -- is that fair? Isn't it also fair that
 24 they just were never checked on; is that a
 25 possibility?

Page 19

- 1 A. Yes, sir, it's a possibility.
 2 Q. If you flip over to page 79 and you look
 3 at that same line for Monday, May 10th, there's also a
 4 blank line there.
 5 A. Yes, sir.
 6 Q. So without knowing what exactly happened,
 7 because you may or may not have been working on that
 8 day, isn't it a possibility that she was never checked
 9 on, on that day?
 10 MR. PACE: Object to form. You can answer.
 11 A. Yes, sir, it's a possibility.
 12 Q. All right. If you flip on forward to
 13 page 81, this is the first entries where Ms. Franklin
 14 makes an appearance in the logbook at unit 111. Do
 15 you see 111?
 16 A. Yes, sir.
 17 Q. There is a blank on May 30th; would you
 18 agree with that?
 19 A. Yes, sir.
 20 Q. And there's a blank on May 31st, the next
 21 day, the next page; do you see that?
 22 A. Yes, sir.
 23 Q. If you look over on page 83 there's a
 24 blank on June 10th and June 13th; do you agree with
 25 that?

Page 20

- 1 A. Yes, sir.
 2 Q. If you flip over to the next page, 84,
 3 there is a blank at June 14th, a blank at June 18th,
 4 and a blank on June 20th; do you see those?
 5 A. Yes, sir.
 6 Q. Do you have any explanation as to why
 7 that many blanks would appear on the log, just based
 8 on your knowledge of how it worked?
 9 A. No, sir.
 10 Q. Is it possible that she wasn't being
 11 checked on at all for all of those times?
 12 MR. PACE: Object to form. You can answer.
 13 A. It's a possibility, but again, I really
 14 don't know the exact reason why they were left blank.
 15 Q. Did you ever work the 9:00 to 5:00 shift?
 16 A. No, sir.
 17 Q. So you only worked the 5:00 p.m. to
 18 1:00 p.m. shift?
 19 A. Yes, sir.
 20 Q. If a blank appeared in the logbook that
 21 you saw, what would you do when you came on duty?
 22 A. I would call the resident or go check on
 23 them.
 24 Q. So if you called the resident and there
 25 was no answer, you would literally go to the

- 1 apartment?
- 2 A. Yes, sir.
- 3 Q. If you didn't receive a response from the
- 4 resident, what would you do next?
- 5 A. I would enter the apartment.
- 6 Q. With what?
- 7 A. With the key.
- 8 Q. And you would gain access with a key from
- 9 whom?
- 10 A. From our office.
- 11 Q. So there's a bank of keys in the
- 12 management office?
- 13 A. Yes, sir.
- 14 Q. If you went in and you found the person
- 15 and everything was well, you would come back and make
- 16 a notation in the logbook, correct?
- 17 A. Yes, sir.
- 18 Q. If you did not find a person -- so by
- 19 this time there is nobody there during the day, and
- 20 it's night shift 5 p.m. -- 5 p.m. to 1 a.m.; is that
- 21 right?
- 22 A. Yes.
- 23 Q. If there is nobody in there, what do you
- 24 do then?
- 25 A. If there is no resident in the apartment,

- 1 I would make a note in our shift report that I
- 2 completed a check, but nobody was home.
- 3 Q. All right. So what would you do with
- 4 this logbook? Would you leave it blank?
- 5 A. Yes.
- 6 Q. You would just leave it blank?
- 7 A. If I didn't physically see the person, I
- 8 would leave it blank.
- 9 Q. But at that point in time they would be
- 10 totally unaccounted for; isn't that correct?
- 11 A. Yes, sir.
- 12 Q. All right. So you wouldn't know whether
- 13 they're in harm's way or at the grocery store,
- 14 correct?
- 15 MR. PACE: Object to the form. You can
- 16 answer.
- 17 A. Correct.
- 18 Q. Was that Tiffany's instruction to you as
- 19 to how to handle the logbook?
- 20 A. No, sir. I don't recall being instructed
- 21 what to do if it was left blank and I couldn't find
- 22 the person after -- when I got there for my shift.
- 23 Q. Do you remember times where you would see
- 24 blanks in the logbook, and you would then go and have
- 25 to check on the person in their apartment?

- 1 A. There were very few times.
- 2 Q. But there were times?
- 3 A. A couple. One in particular that I can
- 4 recall.
- 5 Q. And who was that?
- 6 A. It was another resident. She was in 214,
- 7 I believe.
- 8 Q. Okay. At some point did you have
- 9 concerns about whether the other people that were
- 10 working the day shift were making the calls they were
- 11 required to make?
- 12 A. Yes.
- 13 Q. And why was that? What prompted your
- 14 concern?
- 15 A. Because I would notice blanks in the
- 16 check-in book occasionally.
- 17 Q. And you're talking about the same blanks
- 18 that we just went over --
- 19 A. I suppose.
- 20 Q. -- as an example?
- 21 A. As an example, yes.
- 22 Q. All right. You and your colleague
- 23 receptionists and the management kept something called
- 24 shift reports, if I'm correct?
- 25 A. Yes, sir.

- 1 Q. I have some of them, not all of them, but
- 2 some of them, which are in tab 14, if you'll flip to
- 3 that. Do you recognize these documents? They begin
- 4 at page 116 and they continue over to page 126.
- 5 A. Yes, sir.
- 6 Q. And what are they?
- 7 A. They are our shift report logs.
- 8 Q. Are they records that the receptionist
- 9 would routinely keep?
- 10 A. Yes, sir.
- 11 Q. And would they keep them every day?
- 12 A. Yes, sir.
- 13 Q. Is -- have you ever heard of pass it on?
- 14 A. No, sir.
- 15 Q. All right. So if you had a shift and you
- 16 were relieved of your shift duty by the next person,
- 17 you would pass on the information about what happened
- 18 during your shift to the next person so they could be
- 19 prepared for anything. Did you have any equivalent
- 20 program like that here at Commonwealth Senior Living?
- 21 A. We would verbally pass it on, or write it
- 22 in the shift report log.
- 23 Q. So the only ways that information from
- 24 one shift to the next would be passed on would be
- 25 whether it's in this shift report, or whether it's

done verbally by you to the next person?

A. Yes, sir.

Q. All right. Is the fact that there was a blank in a chart, was that something that was ever communicated to you when you took over the 5:00 p.m. to 1:00 p.m. shift -- or 1:00 a.m. shift from somebody that was in the day shift?

A. Yes. They would sometimes tell me that there was a blank, and if I could check on that person.

Q. Okay. Was there sometimes not --

A. Would there sometimes not be blanks?

Q. Yeah. No, sometimes not get the information. You said sometimes there would be. So I assume that there is sometimes not would be also a possibility?

A. Yes, there were days when there was no communication about the shift report, or, I'm sorry, the daily check-in log. If there was no communication, I assumed that it was completed for the day.

Q. I'm sorry, say that again. If there was no mark in the box, and somebody didn't tell you that they needed to be checked on, you just assumed that the person had been checked on?

see this happened one time where somebody -- Tiffany says X person is coming into the program, but there was a point that she pointed out Diane Franklin. Do you have any understanding or knowledge of why she did that?

A. No, sir.

Q. Was there any significance that you recall to the note in here that you wrote that made it clear that she was to be checked in on every morning?

A. No, I don't believe there was any significance.

Q. All right. If you flip over to page 117, do you recognize that?

A. Yes, sir.

Q. There is a note in here the third asterisks down. It comes right after day shift. And then it has in parentheses, Telisha and Crystal. Is Crystal, Crystal Mendiola?

A. Yes, sir.

Q. And who was Telisha?

A. Telisha, I don't recall her last name. She was a receptionist. She was only with us for a very short time.

Q. Okay. Your directive, then, was to please make sure that you check in with every resident

A. I assumed that -- no. If there's no -- no, don't misunderstand. I -- I was referring to the whole -- like everybody, the whole -- for the whole day.

Q. All right. Let me take your attention to page 116. On the second shift, which is 5 p.m. to 1 a.m. there appears to be a note from you midway down the page; do you recognize that?

A. Which note are you referring to?

Q. Well, in the middle of the page it says, notes. And then at the bottom -- and let me just point it out to you to save time. Right there; do you see that? It says, we have a new resident, Diane Franklin, in 111. Please make sure she checks in and write on the log sheet every morning; is that your writing?

A. Yes, sir.

Q. What prompted you to write that with respect to Ms. Franklin in particular?

A. I believe it was Tiffany that told me to include it in the shift report.

Q. Did Tiffany usually give you the names of people that were coming onto the program?

A. I don't recall exactly.

Q. Well, in looking through these, I only

that's highlighted on the call check-in clipboard next to the phone. What caused you to write that?

A. I just wanted to give out a general reminder. Call log was important. I wanted to make sure that they remembered to do it during the day.

Q. But it's not because you had looked at the log the night before and realized that some entries were missing?

A. I do not recall.

Q. Is it possible?

A. If I had noticed entries the night before, I would have completed the checks myself.

Q. Would you routinely make reminders like this?

A. Yes.

Q. Just out of the blue?

A. Yes.

Q. All right. Look at page 118, if you would. Under the notes section for your shift there is a note from you which reads, if I'm correct, Please make sure that every resident in the highlighted apartments checks in every day, the ones highlighted on the check-in chart on the clipboard by the phone. Adaline, number 214, was not checked off today.

So was that a general reminder, or was

1 that because you saw something that was incomplete on
2 the logbook?

3 **A. This particular note was because I had**
4 **noticed that 214 hadn't checked in that day.**

5 Q. All right. Do you recall whether or not,
6 because they hadn't been checked off on that day, that
7 you went to the room?

8 **A. Yes, sir.**

9 Q. You did go to the room?

10 **A. I did go to the room.**

11 Q. Did you find her?

12 **A. Yes.**

13 Q. Did you make an entry in the logbook that
14 you found her?

15 **A. I do not recall without checking the**
16 **logbook.**

17 Q. Well, let's look. June 16th, flip over
18 here. June 16th, room 214, there is an entry at 8:30.
19 Is that your writing?

20 **A. I can't tell if it's my writing. Holly**
21 **was with me that night. We both checked on Adaline.**

22 Q. Why did Holly become involved?

23 **A. She was still there that evening. I**
24 **asked her to go with me, because I had never met**
25 **Adaline, and I was afraid if I entered her**

1 **apartment -- because I had knocked and she didn't**
2 **answer -- I didn't want to startle her.**

3 Q. Okay. So on that particular day,
4 Adaline, to your knowledge, had not called in by
5 10:30?

6 **A. Yes, sir, to my knowledge.**

7 Q. You didn't know at this point whether any
8 of the receptionists had called her prior to your
9 coming on shift?

10 **A. Correct.**

11 Q. And the first time that she was being
12 checked on by you was at 8:30, three hours after your
13 shift started?

14 **A. Yes, sir.**

15 Q. If you go to the next page, which is 119,
16 this appears to be a shift report that was written by
17 Brittany Rush. Who is Brittany Rush?

18 **A. She was another receptionist.**

19 Q. Would you as a matter of course read the
20 reports from the day before or the shifts before just
21 to come up to speed?

22 **A. Yes, sir.**

23 Q. So even though this was written Brittany
24 Rush, would this have been the report that you would
25 generally have reviewed when you came on duty?

1 **A. Yes, sir.**

2 Q. Or after?

3 This indicates -- it says, Did all
4 required residents check in yesterday? If so, please
5 fill out the missing times. I highlighted on the
6 sheet for 6-20.

7 Do you remember any discussion about
8 there being missing entries for June 20th of 2015?

9 **A. I don't remember.**

10 Q. Did Tiffany ever express any concern to
11 you about whether the logbook was being properly
12 completed?

13 **A. No, sir.**

14 Q. Did she ever have any discussions with
15 the group to say that, hey, guys, the logbook is not
16 being completed?

17 **A. I don't recall.**

18 Q. If you would go over to page 120, please,
19 this appear to be a shift report for June 23rd, 2015.
20 I assume Crystal Mendiola worked the first shift,
21 Tiffany had the second shift, and you had the third
22 shift, the late shift. The second shift has a note
23 indicating that the call log has not been getting
24 done, which I am guilty of as well. Do you know who
25 wrote that entry?

1 **A. Tiffany.**

2 Q. Would there have been any other
3 receptionists on that shift, to your knowledge,
4 besides Tiffany? I know that's a long time ago.

5 **A. I really don't remember. Occasionally**
6 **Tiffany would have another receptionist there helping**
7 **her out, but I don't remember when that was**
8 **implemented.**

9 Q. Okay. Well, having seen this, which is
10 an entry just immediately prior to your shift, and the
11 entry reading the call log has not been getting done,
12 is it still your position that Tiffany did not ever
13 say anything to anyone about the completion of a
14 logbook?

15 **A. No. It appears that she did. I just**
16 **didn't remember. I didn't remember reading this.**

17 Q. And does -- having your recollection
18 refreshed, do you remember anything else that she said
19 about what you have to do, or what the requirements
20 are?

21 **A. No, sir. I don't remember anything else.**

22 Q. At that point in time did she remind you
23 that they needed to be completed by 10:30?

24 **A. I don't remember.**

25 Q. So as of this time, if a resident hadn't

1 called in, and a call had been made and not received
2 by the resident, and no one had followed up to
3 actually track them down, it's your understanding it
4 was okay for that receptionist to come back and
5 continue to leave the line blank until at some point
6 in the day they checked in?

7 MR. PACE: Object to form. You can answer,
8 if you can.

9 A. I'm sorry. I'm not sure what you're
10 asking.

11 Q. It's a long question. I'm sorry. But I
12 have to -- I have to give it some foundation. So at
13 this point as of June 23rd, 2015, was it your
14 understanding that it was okay for you as a
15 receptionist on the second shift, knowing that if a
16 box hasn't been checked, that they may not have
17 checked in that day, which means to me that 10:30 has
18 passed and they didn't call in; are you with me?

19 A. Uh-huh.

20 Q. And that the receptionist may or may not
21 have made a call to the resident, and didn't find
22 them, and we're assuming that they then went to the
23 apartment to let themselves in to check on them, and
24 they weren't there. Is it your understanding that it
25 was still okay to come back to the receptionist desk,

1 if you would have done this, and just leave the line
2 blank in the entry form until they checked in at some
3 point later in the day?

4 MR. PACE: Object to the form. You can
5 answer.

6 A. Yes. If they went to the apartment and
7 didn't find them there, they would leave the line
8 blank and follow up later.

9 Q. And Tiffany was aware that was the
10 policy?

11 A. I don't know.

12 Q. Did Tiffany ever say that that was not
13 the policy?

14 A. No.

15 Q. Was that the common practice of you and
16 the other receptionists on how you would handle the
17 logbook?

18 A. I don't know.

19 Q. Did you guys ever talk about it, you
20 know, hey, you know, if the line is blank, this is how
21 we handle this?

22 A. No, not that I remember.

23 Q. How often did Tiffany have to remind the
24 receptionists to keep track of the logbook?

25 A. I don't know.

1 Q. Do you recall her reminding the
2 receptionists to make sure that they followed the
3 logbook?

4 A. I don't remember.

5 Q. Do you remember Tiffany ever coming to
6 inspect the logbook?

7 A. No, sir. I don't remember.

8 Q. Flip over, if you would, to 123. Do you
9 recognize that, Ms. Evans?

10 A. Yes, sir.

11 Q. The bottom asterisks note in your note
12 says, We really need to stay on top of the resident
13 call log.

14 Was there a particular reason why you
15 wrote that in as really being necessary?

16 A. No, I don't remember there being a
17 particular reason.

18 Q. Would there be a reason that you wrote
19 that just out of the blue? That's not really a
20 reminder.

21 A. It's so long ago, I don't really remember
22 my specific reason for writing that in the shift
23 report.

24 Q. I'm not putting words in your mouth, but
25 is it possible that they had been missed -- entries

1 had been missed?

2 A. Yes, it's possible.

3 Q. I mean, I've looked through these shift
4 reports, and the only person that appears to be making
5 commentary on it is you. So it looks like you were on
6 top of it. Would you agree that you were on top of
7 whether these entries were being made or not?

8 A. Yes.

9 Q. And was the day shift sometimes
10 problematic in that they would not complete them,
11 requiring you to do it on your shift?

12 A. It wasn't frequent.

13 Q. Was there a certain time that it happened
14 versus others, like weekends? Were the weekends worse
15 than the week?

16 A. Yes.

17 Q. So it was more common practice that items
18 would be missed on the weekends versus the weekdays?

19 A. Yes.

20 Q. Who generally worked the weekends?

21 A. It varied between our other
22 receptionists. I worked the evening shift the 5:00 to
23 1:00 every other weekend. Crystal would sometimes
24 work day shift.

25 Q. Did you ever see Tiffany out reviewing

1 the shift reports?

2 A. Did I ever see Tiffany review the shift
3 reports? Yeah, I would see her read the — flip
4 through the shift reports.

5 Q. So she would stay abreast of the shift
6 reports on a daily basis; is that fair?

7 A. I really couldn't say if she reviewed
8 them every day.

9 Q. But you remember that she reviewed them
10 frequently, but maybe not every day?

11 A. Yes, sir.

12 Q. But she did not ever look at the logbook,
13 to your knowledge?

14 A. Well, Tiffany would be the one to
15 complete the logbook on most days when she didn't have
16 a receptionist. I don't recall when Diane first
17 started working as a full-time receptionist with
18 Tiffany.

19 Q. Well, who else was in charge of
20 completing the logbook as of June of 2015?

21 A. It would be the responsibility of
22 whoever — for Tiffany, since she worked the desk from
23 9:00 to 5:00.

24 Q. So she was working the desk as a
25 receptionist, and also was serving as a manager?

1 your recollection, the shift reports, but you don't
2 know necessarily whether she ever looked at the
3 logbook?

4 A. Correct.

5 Q. You still work there; is that correct?

6 A. Yes, sir.

7 Q. What's your role now?

8 A. I am currently the 9:00 to 5:00
9 receptionist.

10 Q. You may have answered this, so I
11 apologize. But when you were hired, and up until the
12 time of Ms. Franklin's incident, did you ever see a
13 training manual that dealt with the program and how
14 people should comply with it?

15 A. No, sir.

16 Q. Did anybody ever provide you any specific
17 training to manage the program, other than I guess the
18 initial conversation you had with Tiffany?

19 A. No, sir.

20 Q. Did Ms. Adcock ever come down to the
21 front desk?

22 A. Not that I recall.

23 Q. Do you ever remember seeing her look at a
24 shift report?

25 A. No, sir.

1 A. Yes, sir.

2 Q. So when did Shadell come on for
3 employment?

4 A. She was hired the same time as me.

5 Q. All right. So March?

6 A. (Indicating in the affirmative).

7 Q. And what about Crystal?

8 A. Crystal was sometime afterward. I don't
9 recall exactly when.

10 Q. But there were two other receptionists,
11 too, if I'm not mistaken, Christin, I believe, and
12 Brittany; is that fair?

13 A. Yes, sir.

14 Q. So there was a total of four
15 receptionists?

16 A. Yes, sir.

17 Q. But as of that window between June of
18 2015 and the incident with Ms. Franklin in
19 mid-December of 2015, was Tiffany still working the
20 phones regularly, or was that dedicated to the other
21 four primarily?

22 A. It would be mostly the job of the
23 receptionist.

24 Q. Okay. So Tiffany would have oversight of
25 the receptionist. And she would read, to the best of

1 Q. Did you ever see or remember her taking a
2 look at the logbook?

3 A. No, sir.

4 Q. As far as you were concerned, who had
5 responsibility for the oversight of the logbook?

6 A. The receptionist and Tiffany.

7 Q. The receptionist reported to Tiffany,
8 correct?

9 A. Yes, sir.

10 Q. She hired you, correct?

11 A. Yes.

12 Q. So was it your understanding that if she
13 didn't like you, she could fire you?

14 A. Yes.

15 Q. She told you what to do?

16 A. Yes.

17 Q. Did she make the work schedules?

18 A. Yes.

19 Q. So your understanding of the program was
20 that if a resident didn't check in with you by 10:30,
21 that the receptionist would be required to immediately
22 then check on the resident?

23 A. Yes.

24 Q. Was it an option, in your mind, that the
25 receptionist could wait until 3:00 or 4:00 in the

1 afternoon to make the initial call to the resident, or
2 were they required to do it immediately after 10:30?

3 MR. PACE: Object to the form. You can
4 answer.

5 A. Like it said on the front of the check-in
6 log, it had to be done by 10:30. It was my assumption
7 that after 10:30, they should be starting to check on
8 residents.

9 Q. Right then?

10 A. Yes, sir.

11 Q. Would there ever be an excuse, in your
12 mind, or a reason to not call someone specifically
13 until 3:00 or 4:00 in the afternoon?

14 MR. PACE: Object. You can answer.

15 A. I don't -- I don't recall there -- I
16 mean, a specific reason. I mean, it would be very
17 busy at the front desk if they didn't call till later.

18 Q. So the only reason that they would have
19 would be that they're busy doing other things?

20 A. Uh-huh. Yes, sir.

21 Q. Do you ever remember Tiffany ever
22 disciplining anyone, or re-training them, or
23 re-instructing them for their failure to comply with
24 the program or make entries in the logbook?

25 A. No, sir. I don't remember.

1 Q. There was one particular note that you
2 made on page 24 -- 124, if you look at that. Is that
3 your note over on the left margin to Crystal?

4 A. I see it, yes.

5 Q. That's a specific directive that you made
6 particularly to Crystal. Was Crystal one of the
7 receptionists that would oftentimes not complete the
8 logbook?

9 A. I don't recall.

10 Q. Well, would this have been a general
11 reminder, like you said originally, or would this have
12 been a specific instruction to Crystal?

13 A. I believe -- was this just before the
14 weekend? It would be a general reminder for the
15 people working the desk on the weekend. If I singled
16 Crystal out, it was only because she was working the
17 day shift that weekend.

18 Q. And it's because you knew that the
19 weekend shift was a problem with regard to the
20 check-ins?

21 A. Yes, sir.

22 Q. All right. Let me draw your attention
23 back to the call logbook. And before I do that, let's
24 flip over to tab 10. Tab 10 has what has been
25 produced to me as the work schedule for that week for

1 you. And I see that you are at the very top. And it
2 reflects that on both Friday night and Saturday night
3 you were working 5:00 p.m. to 1:00 a.m. on Friday,
4 December 11th, and Saturday, December 12th from
5 5:00 p.m. to 1:00 a.m.; is that correct?

6 A. Yes.

7 Q. Were you, in fact, working those two
8 nights at those two times?

9 A. Yes.

10 Q. All right. Now, if you go to the logbook
11 and you look at those same two days, which is on page
12 109, do you recognize that as the logbook?

13 A. Yes.

14 Q. When this happened, did you take it upon
15 yourself to take a look at the logbook to see exactly
16 what it said?

17 When was the first day that you were back
18 after that weekend? Were you back to work on Monday
19 the 14th?

20 A. Yes.

21 Q. And did you hear about Ms. Franklin's
22 incident on Monday morning when you came back, or when
23 did you first hear about it?

24 A. I -- I'm sorry, I don't remember when I
25 first heard about Ms. Franklin's incident.

1 Q. Well, this appears to say that you were
2 also working Sunday afternoon, the 13th, from
3 5:00 p.m. to 1:00 a.m. Did you work the day that it
4 happened, the day that she was discovered?

5 A. Was that on Sunday the 13th?

6 Q. Yes, ma'am.

7 A. Yes, sir.

8 Q. I would imagine that would have been hot
9 news at the receptionist desk, wouldn't you?

10 A. Yes, sir.

11 Q. Do you remember on the 13th, that Sunday,
12 going back to look at the logbook to see exactly what
13 had happened?

14 A. Yes.

15 Q. And what do you remember it showing?
16 Take a look at 109 now. Was that entry that's in
17 there for Ms. Franklin's unit, which is 111, on
18 December 10th that just says 10 with no minute
19 marking, was that there when you saw it on Sunday
20 afternoon?

21 A. I'm sorry, I don't know.

22 Q. Is it that you don't recall?

23 A. I don't remember if that entry was there
24 when I looked at it on Sunday.

25 Q. What about when you looked at it on

1 Sunday was the entry that's there for Friday,
2 December 11th in Ms. Franklin's line showing a
3 check-in time of 10:00, was that there?

4 **A. I don't remember.**

5 **Q.** What about the scribble-in mark that's on
6 December 12th, Saturday?

7 **A. I do remember seeing that scribbled out.**

8 **Q.** What about Sunday in the morning, do you
9 remember seeing that? And I'm talking about
10 December 13th in Ms. Franklin's line, which is 111.

11 **MR. PACE:** It's on page 112.

12 **A. I'm sorry, what was the question?**

13 **Q.** Do you remember seeing that as a blank
14 line?

15 **A. I don't remember for sure.**

16 **Q.** All right. So your testimony under oath
17 is that this event had just happened; this tragedy had
18 just happened?

19 **A. On Sunday.**

20 **Q.** And it's Sunday afternoon. You're the
21 first shift that is following the discovery of
22 Ms. Franklin, and you don't remember looking back and
23 seeing blank lines preceding that Sunday? They were
24 filled in, or you just don't remember at all?

25 **A. I don't remember exactly.**

1 **Q.** Do you remember saying to yourself, wow,
2 they didn't check on her?

3 **A. Yes, that was my assumption when I first
4 heard about the incident.**

5 **Q.** And why was that your assumption?

6 **A. Because if they had checked on her, the
7 incident wouldn't have happened.**

8 **Q.** But these records, these prior entries
9 indicated that they had checked on her. So why would
10 that be your assumption?

11 **A. I don't know.**

12 **Q.** Is it possible that those entries weren't
13 there?

14 **MR. PACE:** Object to the form.

15 **A. I don't know.**

16 **Q.** Okay. Do you know whose writing -- based
17 on your experience, are you able to identify the
18 different receptionists' handwriting?

19 **A. No.**

20 **Q.** Okay. So if you look at 109, page 109,
21 under the December 10th entry for unit 111, and it
22 just has a 10 there, so your testimony is you would
23 not be able to tell me who wrote that in?

24 **A. No, sir.**

25 **Q.** What about the next one, the 10:00, would

1 you be able to tell me who wrote that in?

2 **A. No, sir.**

3 **Q.** Would you be able to tell me who did the
4 scribble-out on December 12th?

5 **A. No, sir.**

6 **Q.** All right. Would you agree that a
7 scribble-out is not a check-in?

8 **A. Yes.**

9 **Q.** All right. So if I'm not mistaken, you
10 worked Saturday from 5:00 p.m. to 1:00 a.m.?

11 **A. Yes, sir.**

12 **Q.** And that would be Saturday the 12th?

13 **A. Saturday the 12th, yes.**

14 **Q.** So if the scribble is not a check-in,
15 then when you came on shift, then that would have been
16 something that you would have noticed as needing a
17 followup; isn't that fair?

18 **A. If they pointed it out, yes.**

19 **Q.** Well, did you look at the book on your
20 shift?

21 **A. Sometimes. Not all the time.**

22 **Q.** So sometimes you would come into your
23 shift and just assume that the logbook had been done
24 correctly, and not look at it?

25 **A. Correct.**

1 **Q.** And sometimes if they told you, you know,
2 hey, you've got to check on Ms. Franklin in 111, you'd
3 follow up on it?

4 **A. Yes.**

5 **Q.** But it wasn't your routine practice to
6 check the logbook every day when you came in?

7 **A. Correct.**

8 **Q.** Correct, it was not your routine
9 practice?

10 **A. (Indicating in the affirmative).**

11 **Q.** If you had checked the log-in book and
12 saw the scribble, wouldn't you have called?

13 **A. Yes.**

14 **Q.** And if Ms. Franklin didn't answer, then
15 you would have gone to her apartment; is that correct?

16 **A. Yes.**

17 **Q.** And if she didn't answer, you would have
18 let yourself in, correct?

19 **A. Yes.**

20 **Q.** And if you let yourself in, you would
21 have found her in her bed on Saturday; is that
22 correct?

23 **A. Yes.**

24 **Q.** After Tiffany left, who did you consider
25 to be your manager?

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1 A. Monica.

2 Q. At any point in time did you consider
3 Diane Ross to be your manager?

4 A. No.

5 Q. At some point in time did Diane Ross
6 start handling the business side?

7 A. Okay.

8 Q. And was that right around the beginning
9 of December?

10 A. I believe so. It was whenever Tiffany
11 left for her leave.

12 Q. But as far as you're concerned, you never
13 heard her being called a manager, or considered that
14 she was a manager?

15 A. No.

16 Q. What about Holly; if she was a manager on
17 duty, would she come by the front desk?

18 A. Yes.

19 Q. When she came by the front desk, what
20 would she do?

21 A. Just check to make sure everything was
22 okay, make sure there wasn't anything that we needed
23 help with.

24 Q. An emergency?

25 A. Uh-huh.

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1 Q. Were you ever aware of a practice where
2 if you pointed out that someone had not completed an
3 entry, that they would go back on the following day
4 and correct their entry? Were you ever aware of that
5 happening?

6 A. No.

7 Q. For example, you say in your night shift,
8 Hey, Crystal, you didn't fill out the logbook. Go
9 back and fill it out. Were you ever aware, or did you
10 ever observe, or did you have knowledge that somebody
11 on the following day or a day after the actual day
12 would come back and revise their findings for a day
13 where a logbook wasn't -- entry wasn't made?

14 MR. PACE: Object to the form.

15 A. Not that I recall.

16 Q. Did you provide a statement to
17 Ms. Adcock?

18 A. No, I don't believe so.

19 Q. Everyone else -- well, not everyone.

20 That was vague. Other people provided investigation
21 interview questionnaire at the request of Ms. Adcock,
22 but there is not one for you. Did -- did you ever get
23 interviewed by Ms. Adcock?

24 A. About the incident? No.

25 Q. Did anybody talk to you Sunday about what

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1 Q. Would she ever look at the logbook?

2 A. I don't know.

3 Q. Did you ever, ever see her look at a
4 logbook?

5 A. Yes, the night that she helped me check
6 on Adaline.

7 Q. Okay. That night when she got checked in
8 at 8:30?

9 A. Yes.

10 Q. Other than that one time, did you ever
11 see her look at the logbook?

12 A. Not that I recall.

13 Q. As far as that goes, if there was a
14 manager on duty, and not Tiffany or not Ms. Adcock,
15 would the manager on duty routinely come by and check
16 at the receptionist desk?

17 A. Yes.

18 Q. But just to check to see that you guys
19 were doing what you were supposed to be doing?

20 A. Yes.

21 Q. Did anybody, to your knowledge, as there
22 was a manager on duty, ever come by and pick the
23 logbook up and look at it to see if it was being
24 recorded correctly?

25 A. Not that I recall.

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1 happened?

2 A. Yes.

3 Q. Who talked to you?

4 A. Diane.

5 Q. What did Diane say?

6 A. She told me what happened, that
7 Ms. Franklin had been found in her apartment.

8 Q. All right. Now, when you say she told
9 you, was Diane at the facility?

10 A. I don't recall. She called me on the
11 phone.

12 Q. Before you went to work or after you got
13 there?

14 A. Before I went to work.

15 Q. All right. So Diane knew about the
16 incident prior to your taking your shift?

17 A. Yes.

18 Q. But Diane wasn't working that day?

19 A. I don't think so.

20 Q. Do you remember whether Diane said, Hey,
21 I'm at the facility and I'm calling you to tell you
22 this?

23 A. I don't remember her saying where she
24 was.

25 Q. Okay. When you say you gave a statement

1 to Diane, what did you say to her, or is that what you
2 said?

3 **A. I'm sorry, I gave a statement to Diane?**

4 **Q.** Yeah, I asked if you gave a statement to
5 anyone on the night of this Sunday, and you said to
6 Diane. So I guess the question is: Did you give a
7 statement to her as in like a formal statement as if
8 she was trying to question you as an employee as to
9 what happened, or were you just talking generally
10 about what happened?

11 **A. We were just talking generally when she**
12 **called me on the phone.**

13 **Q.** Okay. So the next day when you're
14 working on the 14th, did Ms. Adcock call you in at all
15 to discuss what happened?

16 **A. No, sir.**

17 **Q.** What about anyone else?

18 **A. No, sir.**

19 **Q.** What about Tuesday?

20 **A. No. I don't remember anybody formally**
21 **talking to me about what happened.**

22 **Q.** I don't have a file on you, Ashley, but
23 did you get disciplined, or did you receive any
24 write-up for the incident that involved Ms. Franklin?

25 **A. No, sir.**

1 **MR. GAVIN:** All right. That's all I have.
2 Thank you.

3 **MR. PACE:** Thank you, Ashley.

4 **THE VIDEOGRAPHER:** Off the record at
5 3:38 p.m.
6


7 **AND FURTHER THIS DEPONENT SAITH NOT**
8 **(The deposition concluded at 3:38 p.m.)**
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1 **COMMONWEALTH OF VIRGINIA,**
2 **CITY OF RICHMOND, to wit:**
3

4 I, Lisa M. Blair, a Notary Public
5 for the State of Virginia at Large, do hereby certify
6 that the foregoing deposition of ASHLEY EVANS was duly
7 sworn to before me at the time and place set out in
8 the caption hereto.

9 Further, that the transcript of
10 the deposition is true and correct, and that there
11 were 0 exhibits filed with me during the taking
12 hereof.

13 Given under my hand this
14 1st day of October, 2016.

15 
16 _____
17 Notary Public for the
18 State of Virginia at Large
19

20 My Commission expires:
21 October 31, 2016
22 Notary registration #: 253150
23
24
25

1 **COMMONWEALTH OF VIRGINIA,**
2 **CITY/COUNTY OF _____ to wit:**
3

4 I, ASHLEY EVANS, do hereby certify
5 that I have read the foregoing pages of typewritten
6 matter numbered 1 through 52, and that the same
7 contains a true and correct transcription of the
8 deposition given by me on the 21st day of September,
9 2016, with the exception of the noted corrections, to
10 the best of my knowledge and belief.
11

12 _____
13 Date ASHLEY EVANS
14

15
16 Subscribed and sworn to before me
17 this _____ day of _____, 2016.
18 My commission expires
19 _____
20

21
22 _____
23 Notary Public
24 Notary registration #: _____
25