

ARBITRATION PURSUANT TO AGREEMENT OF PARTIES

JACQUELINE CARNEY, as executrix	)	
of the estate of Diane Franklin, deceased,	)	
	)	
Plaintiff,	)	
	)	
v.	)	McCammon Group Case No. 2016000286
	)	Michael E. Harman, Esquire, Arbitrator
OSPREY/PANTOPS PLACE, LLC,	)	
T/A COMMONWEALTH SENIOR	)	
LIVING AT CHARLOTTESVILLE, et al.,	)	
	)	
Defendants.	)	

**DEFENDANTS' OBJECTIONS AND RESPONSES TO  
PLAINTIFF'S FIRST INTERROGATORIES AND FIRST  
FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS**

Defendants, Osprey/Pantops Place, LLC, t/a Commonwealth Senior Living at Charlottesville ("CSL") and Commonwealth Assisted Living, LLC ("CAL") (collectively referred to as "Defendants" or "Commonwealth"), by counsel, submit the following as their Objections and Responses to Plaintiff's First Interrogatories and Requests for Production of Documents.

**GENERAL OBJECTIONS**

1. Defendants object to Plaintiff's discovery requests to the extent they call for information protected by the attorney-client privilege or the work product doctrine.
2. Defendants object generally to Plaintiff's discovery requests that are (a) irrelevant to the subject matter involved in this lawsuit or otherwise not reasonably calculated to lead to the discovery of admissible evidence; (b) unreasonably cumulative or duplicative; (c) unduly burdensome or expensive, or otherwise obtainable from some other source that is more convenient, less burdensome, or less expensive; (d) overly broad, unduly vague, or otherwise ambiguous; or (e) oppressive, vexatious, or otherwise designed to harass.

3. Defendants object to Plaintiff's discovery requests to the extent they seek production of documents or information that are not within Defendants' possession, custody or control, and specifically documents and information in the possession, custody or control of Plaintiff.

4. Defendants object to Plaintiff's discovery requests to the extent they would enlarge Defendants' obligations beyond those set forth in the Federal Rules of Civil Procedure.

5. Defendants object to the Plaintiff's discovery requests to the extent they ask for legal conclusions or legal analysis.

6. All answers are made expressly subject to the foregoing general objections, regardless of any lack of specific reference. Where such objections are particularly pertinent, they have been specifically noted. Failure to specifically note such objections, however, should not be regarded as, and does not constitute, a waiver.

### **INTERROGATORIES**

1. Identify the person(s) that was/were in charge of implementation of the Program at the Facility.

### **ANSWER:**

Defendants state that the Daily Check-in Program was implemented as part of CSL's safety measures for its independent living wing, in addition to an emergency pull-cord system, 24-hour receptionist coverage, emergency pendants, and a video surveillance system. The Daily Check-in Program was set forth in the Resident Handbook and required residents to call the front desk each day by 10:30 a.m. to check in. In the event a resident did not check in, the Program required the front desk receptionist to call the resident, and if the resident did not answer, to go to the resident's apartment to check on him or her.

The Executive Director of the community during Ms. Franklin's residency was Monica Adcock. As Executive Director, Ms. Adcock would have been responsible for implementing the program at CSL, and the business office manager at the time, Tiffany Nichols, would have been the immediate supervisor of the front desk receptionists, who were responsible for completing the Daily Check-in each day. In December of 2015, Tiffany Nichols was out on maternity leave, and Diane Gentry-Ross was the interim business office manager. Additionally, the night shift receptionist would often review the Daily Check-in log during her shift and report issues on the receptionists' "Shift Report." Ashley Evans was the night shift receptionist for much of the relevant time period. Ms. Evans and Ms. Gentry-Ross are still employees of CSL. Ms. Adcock and Ms. Nichols are no longer employed by CSL. The addresses of the above-named individuals are as follows:

Monica Adcock  
4 Swan Court  
Palmyra, VA 22963

Tiffany Nichols  
P.O. Box 165  
Middletown, IL 62666

Diane Gentry-Ross  
194 Edd Ridge Lane  
Troy, VA 22974

Ashley Evans  
302 Wright Street  
Gordonsville, VA 22942

Defendants object to any *ex parte* contact with any current or former employee whose negligence the Plaintiff alleges should be imputed to Defendants.

2. Identify the supervisor or manager that was responsible for oversight of the Program between May 1, 2015 and December 15, 2015.

**ANSWER:**

Defendants refer Plaintiff to their Answer to Interrogatory No. 1.

3. Identify the specific manager(s) or supervisor(s) that was/were responsible for oversight and/or compliance with the Program by the Facility's employees between December 8, 2015 and December 14, 2015. If there were multiple persons, identify the managers and the dates and times of their respective management periods.

**ANSWER:**

Between December 8, 2015 and December 14, 2015, Diane Gentry-Ross was the interim business office manager, while Tiffany Nichols was out on maternity leave. Monica Adcock was CSL's Executive Director during the stated timeframe.

4. Identify all actions taken by any manager or supervisor designated in your answer to Interrogatory 3, regardless of whether pursuant to Program protocol, to ensure compliance by the Facility employees with the Program between December 8, 2015 and December 14, 2015.

**ANSWER:**

Defendants state that Diane Gentry-Ross was the interim business office manager during the stated time period and that Shadell Hughes and Crystal Mendiola were the front desk receptionists during the day shifts of the stated time period. As interim business office manager, Ms. Gentry Ross supervised the receptionists during this time, and assisted in the completion of the Daily Check-in log during the daytime shift from December 8 through December 11, 2015.

Also, on the morning of December 13, 2015, CSL's activities director, Hollie Drobinski, observed flyers outside Ms. Franklin's room. Ms. Drobinski then went to the front desk and asked the receptionist whether Ms. Franklin had been checked on. The front desk receptionist, Crystal Mendiola, read the Check-in log incorrectly to indicate that Ms. Franklin was out of the building that day, and provided inaccurate information to Ms. Drobinski. Ms. Drobinski, Ms. Hughes and Ms. Mendiola are no longer employed by CSL. Their last known addresses are as follows:

Hollie Drobinski  
2359 Chreenfield Road  
Afton, VA 22920

Shadell Hughes  
945 Hacktown Road  
Keswick VA 22947

Crystal Mendiola  
2044 Northwood Point Drive  
Charlottesville VA 22901

Defendants object to any *ex parte* contact with any current or former employee whose negligence the Plaintiff alleges should be imputed to Defendants.

5. If any other resident of the Facility who was a participant in the Program failed to check in with the receptionist's desk by 10:30 between December 9, 2015 and December 14, 2015, identify any and actions taken by your employees or supervisors to check on that resident's well-being.

**ANSWER:**

Defendants object to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Defendants further object on the grounds that the Interrogatory seeks information

that is irrelevant to the subject matter involved in this lawsuit and/or is otherwise not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving their objections, Defendants state that the other residents' check-in times are reflected on the Daily Call Log for the dates in question.

6. With regard to the Program, explain the genesis of the Program including how it came in to existence, the materials relied upon to create it, and identify the persons who made the decision to implement the Program at the Facility.

**ANSWER:**

Defendants object to this Interrogatory on the grounds that it is irrelevant to the subject matter involved in this lawsuit and/or is otherwise not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to the extent the Interrogatory seeks information protected by the attorney-client privilege. Subject to and without waiving these objections, Defendants state that the Daily Check-in program had been utilized by members of Commonwealth's management team in the past while working for other companies. When the Resident Handbook was being developed in anticipation of the opening of Commonwealth's first independent living community at CSL, Commonwealth's Regional Director of Operations, Christina Driscoll, inserted the Daily Check-in paragraph in the Resident Handbook. While this was Commonwealth's first independent living wing, its management team had extensive experience in managing such communities, and adopted the Daily Check-in as part of the security measures for CSL because they had used the system in the past and felt it was a best practice to use such a system. Ms. Driscoll drafted the two sentences that established the plan based on policies she had used in the past.

7. Explain why no employee of the Facility checked in on Ms. Franklin pursuant to the Program on December 10, 2015, December 11, 2015, December 12, 2015, and December 13, 2015. Please provide a separate answer for each date.

**ANSWER:**

Defendants refer Plaintiffs to their Answer to Plaintiff's Complaint in this matter, and to the employees' statements, which have been previously produced to Plaintiff.

8. Identify all staff members who made entries in the Log book between December 1, 2015 and December 15, 2015.

**ANSWER:**

Defendants state that the following employees made entries in the log book between the dates of December 1, 2015 and December 15, 2015:

Diane Gentry-Ross  
Shadell Hughes  
Crystal Mendiola

9. Identify the person that would have conducted any training of the receptionists on the maintenance of the Log Book between May 1, 2015 and December 13, 2015.

**ANSWER:**

Defendants state that the business office manager, Tiffany Nichols, was the immediate supervisor of the front desk receptionists between May 1, 2015 and December 13, 2015.

10. Identify any specific training that was given to any receptionist working the front desk relative to the Program between May 1, 2015 and December 13, 2015.

**ANSWER:**

Defendants state that new receptionists were informed by the business office manager and/or another receptionist training them that the call log for the Daily Check-in Program was one of their responsibilities. They were provided with a list of all residents who were participating in the Daily Check-in Program. The receptionists were instructed that the residents were to call in by 10:30 a.m. each morning and to record the time that the resident called on the log. If the resident did not call in by 10:30 a.m., the receptionist was told it was her responsibility to call the resident and if the resident did not answer or return any message left, to go to the resident's apartment to check on them. The receptionist was told to perform such a "wellness check" by knocking on the door, and if no one answered, to use the master key to gain entry into the apartment. The receptionist was told to record the time the resident was "checked in" on the log, regardless of how the resident's presence was confirmed. In some instances, the call log itself indicated that the residents were to be called by 11:00 a.m. if they had not checked in by that time. If any resident was found to be in need of medical assistance during the above process, the receptionist was to call 911. If any resident was not checked in after going through the above steps, the receptionist was to alert the Business Office Manager, who would then decide whether to call family and/or the proper authorities. The staff was instructed not to call 911 and/or a resident's family except in the case of a medical emergency. As the residents were independent and free to leave the facility anytime they wished, a missing resident would not result in an emergency call unless circumstances suggested the resident was in danger and/or the resident did not return to the facility within a reasonable period of time.



11. Identify any procedure, protocol, job assignment or duty, between the inception of the Program and December 13, 2015 which was required of a supervisor or manager to ensure compliance with the Program by the receptionists who maintained the front desk and/or the Log Book.

**ANSWER:**

Defendants state that the business office manager was responsible for oversight of the front desk receptionists and that the front desk receptionists were advised that completion of the Daily Call Log was part of their job responsibilities. Defendants also refer Plaintiff to their Answer to Interrogatory No. 1.

12. If any manager or supervisor reviewed the contents of the Log Book between December 10, 2015 and December 13, 2015, identify the name of such person.

**ANSWER:**

Defendants state that Diane Gentry-Ross was the interim business office manager during the stated timeframe, and that she did review the log book during that timeframe. Defendants further state that Hollie Drobinski was the activities director and did inquire of the front desk receptionist as to the status of Ms. Franklin on December 13, 2015 at approximately 9:45 a.m. Stating further, Defendants refer Plaintiff to the call log for the stated time period, as it contains entries for Ms. Franklin from December 9 through December 12, which would have given the misleading impression to anyone reviewing it that Ms. Franklin had, in fact, been checked in. Unfortunately, those entries were made in error.

13. Identify any and all training session(s) wherein any employee responsible for the maintenance of the Program Log Book was provided training or direction with respect to maintenance and/or journal entry in the Log Book.

**ANSWER:**

Defendants state that the training regarding the Daily Check-in log book was on-the-job training provided by the business office manager and/or the other front desk receptionists while training new front desk receptionists.

14. Identify any revisions made to the Log Book entries for Diane Franklin, by any manager or employee, at any time, and for each such revision, alteration or amendment, identify 1) the revision, 2) the basis for the revision, 3) the person making the revision, and 4) any witnesses to the revision.

**ANSWER:**

Defendants state that Diane Gentry-Ross made revisions to the log book for the dates of December 11 and 12, 2015. Ms. Gentry-Ross first corrected her entry in the log book for Friday, December 11, when she realized that she had made the entry in the wrong line of the log book. She was then asked by Monica Adcock to revise the log to accurately reflect that no checks were made on Ms. Franklin from December 11 through December 12, 2015, and Ms. Gentry Ross made those revisions. The revisions were made on Monday, December 14, 2015, after the staff had been made aware of their failure to check on Ms. Franklin. The staff retained copies of all versions of the log book, which have been previously produced to Plaintiff.

15. Provide in detail all accounts or versions made by your employees as an explanation as to why Ms. Franklin was not checked upon between December 10, 2015 and December 13, 2015. Please provide the names of those employees and their statement.

**ANSWER:**

Defendants object to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and/or the work product doctrine. Subject to and without waiving these objections, Defendants refer Plaintiff to the employee statements produced contemporaneously herewith.

**REQUESTS**

1. Any documents, emails, memos, minutes, notes which discuss, or describe the creation of the Program from its inception through December 13, 2015.

**RESPONSE:**

Defendants object to this Request to the extent it seeks information protected by the attorney-client privilege and/or the work product doctrine. Subject to and without waiving these objections, see attached. To the extent such documents reflect Defendants' proprietary business information, they are being produced as "Confidential" subject to the agreed Protective Order in this case.

2. Any documents, emails, memos, minutes, notes which discuss or describe the implementation of the Program from its inception through December 13, 2015.

**RESPONSE:**

Defendants object to this Request to the extent it seeks information protected by the attorney-client privilege and/or the work product doctrine. Subject to and without waiving these objections, see attached. To the extent such documents reflect Defendants' proprietary business information, they are being produced as "Confidential" subject to the agreed Protective Order in this case.

3. A copy of any lease template or form contract used by the Defendants which describes the Program. If the description is within a Handbook or other document, produce the entire Handbook or document in which the Program is described.

**RESPONSE:**

Defendants object to the extent this Request seeks to invade the attorney-client privilege. Subject to and without waiving these objections, none.

4. Any manual, policy, guideline, rule, procedure, protocols or any other documents related to the Program, from its inception through December 13, 2015.

**RESPONSE:**

See attached. To the extent such documents reflect Defendants' proprietary business information, they are being produced as "Confidential" subject to the agreed Protective Order in this case.

5. Produce any instructional sheets that were provided to any employee which provide instructions to be followed pursuant to the Program, from its inception through December 13, 2015.

**RESPONSE:**

None.

6. Produce any training materials prepared or provided to any employee which include training or instruction, in whole or in part, for any facet of the Program.

**RESPONSE:**

Defendants state that certain training materials contained in personnel files have been produced; however, they relate to training done after Ms. Franklin's incident. To the extent such documents reflect Defendants' proprietary business information, they are being produced as "Confidential" subject to the agreed Protective Order in this case.

7. Produce any documents, acknowledgments, notes or memos reflecting training received for the Program by Facility employees employed at the Facility between May 1, 2015 and December 13, 2015.

**RESPONSE:**

None.

8. Produce any marketing materials, whether written or electronic, that have content which describes the Program, from its inception until December 15, 2015.

**RESPONSE:**

None.

9. Provide the job description used by the Facility to define the responsibilities of the position(s) held by Diane Gentry Ross.

**RESPONSE:**

See attached. To the extent such documents reflect Defendants' proprietary business information, they are being produced as "Confidential" subject to the agreed Protective Order in this case.

10. Provide the complete personnel file of Diane Gentry Ross including any resume or employment application provided or completed.

**RESPONSE:**

Defendants object to this Request to the extent it seeks confidential employment records. Defendants further object on the grounds that the Request seeks information that is irrelevant to the subject matter involved in this lawsuit and/or is otherwise not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, see attached portions of the personnel file which are being produced as "Confidential" subject to the agreed Protective Order in this case.

11. Please provide copies of any letter, memo, notification, statement and/or other document provided to Diane Gentry Ross by Defendants as the result of the Incident described in the Complaint.

**RESPONSE:**

Defendants object to this Request to the extent it seeks confidential employment records. Subject to and without waiving this objection, see attached documents, which are being produced as “Confidential” subject to the agreed Protective Order in this case.

12. Please provide copies of any information within the possession, control and/or access of Defendants, related in any manner to the education, training, qualifications and/or experience of Diane Gentry Ross.

**RESPONSE:**

Defendants object to this Request to the extent it seeks confidential employment records. Subject to and without waiving this objection, see attached documents, which are being produced as “Confidential” subject to the agreed Protective Order in this case.

13. Provide the job description used by the Facility to define the responsibilities of the position(s) held by Shadell Hughes.

**RESPONSE:**

See attached. To the extent such documents reflect Defendants’ proprietary business information, they are being produced as “Confidential” subject to the agreed Protective Order in this case.

14. Provide the complete personnel file of Shadell Hughes, including any resume or application provided or completed.

**RESPONSE:**

Defendants object to this Request to the extent it seeks confidential employment records. Defendants further object on the grounds that the Request seeks information that is irrelevant to the subject matter involved in this lawsuit and/or is otherwise not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, see attached portions of the personnel file which are being produced as “Confidential” subject to the agreed Protective Order in this case.

15. Please provide copies of any letter, memo, notification, statement and/or other document provided to Shadell Hughes by Defendants as the result of the Incident described in the Complaint.

**RESPONSE:**

Defendants object to this Request to the extent it seeks confidential employment records. Subject to and without waiving this objection, see attached documents, which are being produced as “Confidential” subject to the agreed Protective Order in this case.

16. Please provide copies of any information within the possession, control and/or access of Defendants, related in any manner to the education, training, qualifications and/or experience of Shadell Hughes.

**RESPONSE:**

Defendants object to this Request to the extent it seeks confidential employment records. Subject to and without waiving this objection, see attached documents, which are being produced as “Confidential” subject to the agreed Protective Order in this case.



17. Provide the job description used by the Facility to define the responsibilities of the position(s) held by Crystal Mendiola.

**RESPONSE:**

See attached. To the extent such documents reflect Defendants' proprietary business information, they are being produced as "Confidential" subject to the agreed Protective Order in this case.

18. Provide the complete personnel file of Crystal Mendiola including any resume or application provided or completed.

**RESPONSE:**

Defendants object to this Request to the extent it seeks confidential employment records. Defendants further object on the grounds that the Request seeks information that is irrelevant to the subject matter involved in this lawsuit and/or is otherwise not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, see attached portions of the personnel file which are being produced as "Confidential" subject to the agreed Protective Order in this case.

19. Please provide copies of any letter, memo, notification, statement and/or other document provided to Crystal Mendiola by Defendants as the result of the Incident described in the Complaint.

**RESPONSE:**

Defendants object to this Request to the extent it seeks confidential employment records. Subject to and without waiving this objection, see attached documents, which are being produced as “Confidential” subject to the agreed Protective Order in this case.

20. Please provide copies of any information within the possession, control and/or access of Defendants, related in any manner to the education, training, qualifications and/or experience of Crystal Mendiola.

**RESPONSE:**

Defendants object to this Request to the extent it seeks confidential employment records. Subject to and without waiving this objection, see attached documents, which are being produced as “Confidential” subject to the agreed Protective Order in this case.

21. Provide any documented complaint, from anyone, which, as a basis for the complaint, cites lack compliance with the Program.

**RESPONSE:**

None.

22. Provide footage of any security cameras, pictures, video, or images which reflects the hallway in front of Diane Franklin's apartment between December 9, 2015 and December 13, 2015.

**RESPONSE:**

Defendants object to this Request to the extent it seeks images of CSL's other residents. Defendants further object on the grounds that the Request seeks information that is irrelevant to the subject matter involved in this lawsuit and/or is otherwise not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, Defendants are producing surveillance video footage responsive to this Request in electronic format and subject to the confidentiality requirements of the agreed Protective Order in this case.

23. Provide footage of any security cameras, pictures, video, or images which reflects the receptionist desk between December 9, 2015 and December 13, 2015.

**RESPONSE:**

Defendants object to this Request to the extent it seeks images of CSL's other residents. Defendants further object on the grounds that the Request seeks information that is irrelevant to the subject matter involved in this lawsuit and/or is otherwise not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, Defendants are producing surveillance video footage responsive to this Request in electronic format and subject to the confidentiality requirements of the agreed Protective Order in this case.

24. Provide any records of any meals ordered or eaten by Diane Franklin between November 15, 2015 and December 13, 2015.

**RESPONSE:**

See attached.

25. The complete Log Book, including all revisions, alterations or amendments. For each revision, indicate the original version and identify each separate revision in chronological order. This request also requests any cover pages, instructional pages, or any other materials contained within the Log Book.

**RESPONSE:**

See attached.

26. Any journals, records or documentation which reflects supervision of the Program by any manager or supervisor at the Facility between May 1, 2015 and December 13, 2015.

**RESPONSE:**

See attached Shift Reports.

27. Any records or documentation which reflect monitoring of the Program by any employee of the Facility other than a receptionist.

**RESPONSE:**

See attached Shift Reports.

28. Provide a complete copy of the Diane Franklin's resident file, administrative chart and/or any other file or document, including medical conditions, in the possession of the Defendants.

**RESPONSE:**

See attached.

29. All versions of the Resident Handbook from its inception through December 15, 2015.

**RESPONSE:**

See attached. To the extent such documents reflect Defendants' proprietary business information, they are being produced as "Confidential" subject to the agreed Protective Order in this case.

30. Any management chart reflecting management responsibility for the receptionist desk between May 1, 2015 and December 15, 2015.

**RESPONSE:**

None.

31. Produce any resource materials, manuals, books, or other information upon which you relied to create the Program.

**RESPONSE:**

None.

32. All non-privileged incident reports in your possession related to the incident.

**RESPONSE:**

Defendants object to this Request to the extent it seeks to invade the attorney-client privilege and/or the work product doctrine. Subject to and without waiving these objections, see attached.

33. Any non-privileged written communication from any employee related to the Incident.

**RESPONSE:**

Defendants object to this Request to the extent it seeks to invade the attorney-client privilege and/or the work product doctrine. Subject to and without waiving these objections, see attached.

34. Any written communication from any resident at the facility related to the Incident.

**RESPONSE:**

None.

35. Provide copies of any documents, evidencing, concerning and/or otherwise relate to any reprimand or disciplinary action that was taken with regard to any agent, servant or employee of the Defendants as the result of the Incident.

**RESPONSE:**

See attached, which are being produced as “Confidential” subject to the agreed Protective Order in this case.

36. Copies of all insurance policies which may offer coverage for the Incident.

**RESPONSE:**

Defendants have requested copies of their insurance policies, and will produce same upon receipt.

37. Any specific documents which reflect training, whether initial or supplemental, on the Program, either given or received, by any employees from its inception until December 13, 2015.

**RESPONSE:**

See attached.

38. If any of your other facilities offered, between August, 2015 and December, 2015, as a benefit or service, a program similar to the Program, produce all documents which reflect implementation, compliance or training relative to that facility's program.

**RESPONSE:**

Defendants object on the grounds that the Request seeks information that is irrelevant to the subject matter involved in this lawsuit and/or is otherwise not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection, none. Commonwealth did not operate any other independent living communities during the stated time period.

39. Please produce copies of any emails, notes, memos, letters and/or other correspondence and/or communications generated between the employees, agents and/or servants of Defendants related in any manner to Incident as alleged in the Complaint.

**RESPONSE:**

Defendants object to this Request to the extent it attempts to invade the attorney-client privilege and/or the work product doctrine. Subject to and without waiving this objection, see attached.

40. Please provide copies of the work schedules, specifically including any timesheets or other record of time worked, between December 8, 2015, and December 13, 2015, for any employee, agent and/or servant of the Defendants who had any responsibility or job duty within the Program.

**RESPONSE:**

See attached.

41. Produce any and all reports and/or summaries regarding the Incident, including but not limited to internal reports, investigation reports, incident reports, disciplinary reports, governmental reports, summaries, insurance claim forms, and/or statements.

**RESPONSE:**

Defendants object to this Request to the extent it attempts to invade the attorney-client privilege and/or the work product doctrine. Subject to and without waiving this objection, see attached.

42. Produce all records, memos, notices, requests provided to, or received from any governmental authority, or agency related to the Incident.

**RESPONSE:**

See attached.

43. Please produce a copy of any and all statements taken from any witness, employee and/or other individual pertaining to the Incident.



**RESPONSE:**

Defendants object to this Request to the extent it attempts to invade the attorney-client privilege and/or the work product doctrine. Subject to and without waiving this objection, see attached.

44. Please produce copies of any policies, guidelines, rules, procedures, protocols and/or any other documents regarding the steps required to be taken by any employee in the event that a resident failed to check in in accordance with the Program, from the inception of the Program until December 13, 2015.

**RESPONSE:**

Defendants refer Plaintiff to the Resident Handbook, which is attached.

45. Please provide copies of all rules, regulations, procedures, guidelines, standards, manuals, orders and/or directives promulgated and/or utilized by Defendant which regulated, governed, controlled and/or applied to the actions and/or conduct of any employee, servant and/or agent of the Defendants with regard to following or complying with the Program.

**RESPONSE:**


See attached. To the extent such documents reflect Defendants' proprietary business information, they are being produced as "Confidential" subject to the agreed Protective Order in this case.

46. Any phone records in your possession reflecting calls made from the receptionist desk to any resident that was a participant in the Program, after that resident failed to check in at 10:30 a.m., between December 8, 2015 and December 13, 2015.

**RESPONSE:**

Defendants object to this Request on the grounds that it is overly broad and unduly burdensome. Defendants further object on the grounds that the Request seeks information that is irrelevant to the subject matter involved in this lawsuit and/or is otherwise not reasonably calculated to lead to the discovery of admissible evidence. Defendants state that the front desk receptionist calls resident rooms regularly, and there would be no way to determine whether calls were made due to a lack of the resident checking in or otherwise.

OSPREY/PANTOPS PLACE, LLC, T/A  
COMMONWEALTH SENIOR LIVING AT  
CHARLOTTESVILLE and  
COMMONWEALTH ASSISTED LIVING,  
LLC

By:   
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wpace@williamsmullen.com  
*Counsel for Defendants*

**CERTIFICATE**

I hereby certify that on September 2, 2016 a copy of the foregoing was sent by email and federal express to:

Charles A. Gavin, Esquire  
Cawthorn, Desekvich & Gavin, P.C.  
1409 Eastridge Road  
Richmond, Virginia 23229  
*Counsel for Plaintiff*



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