

**STEVE WATREL, P.A.**  
**ACCIDENT & INJURY LAW**

**Personal Injury Handled Personally®**

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September 2, 2015

**Via Certified Mail/**

**Return Receipt Requested**

(Certified Receipt No.: 7004 1160 0005 0469 5101)

Ms. Misty Degross, Administrator  
The Terrace of Jacksonville  
10680 Old St. Augustine Road  
Jacksonville, Florida 32257

**Via Certified Mail/**

**Return Receipt Requested**

(Certified Receipt No.: 7004 1160 0005 0469 5118)

Mr. Norman Ginsparg  
12221 West Dixie Highway  
North Miami, FL 33161

**Via Certified Mail/**

**Return Receipt Requested**

(Certified Receipt No.: 7004 1160 0005 0469 5125)

Mr. Morris Esformes  
480 Fentress Boulevard, Suite H  
Daytona Beach, FL 32114

**Via Certified Mail/**

**Return Receipt Requested**

(Certified Receipt No.: 7004 1160 0005 0469 5132)

Terrace of Jacksonville, LLC  
10680 Old St. Augustine Road  
Jacksonville, Florida 32257

**Via Certified Mail/**

**Return Receipt Requested**

(Certified Receipt No.: 7004 1160 0005 0469 5149)

Mr. Philip Esformes  
6865 N. Lincoln Avenue  
Lincolnwood, IL 60712

**RE: NOTIFICATION OF VIOLATION OF RESIDENT'S RIGHTS**  
**AND/OR ALLEGED NEGLIGENCE PURSUANT TO FLORIDA**  
**STATUTE §400.0233**

**Our Client:**

**Estate of Nadine O. McBurnett**

**Client DOB:**

**09/11/1928**

**Dates of Admission:**

**12/02/10 to 01/24/15**

**Our File No.:**

**201525**

Dear Sir/Madam:

Please be advised that pursuant to the provisions of Chapter 400, Florida Statutes, Ms. Patte M. Wallace, the daughter of Ms. Nadine O. McBurnett, believes you are a prospective defendant in a lawsuit involving violation of resident's rights and negligence.

Ms. Wallace intends to file a lawsuit against you, and any others who bear a legal relationship to you, for violations of Ms. Nadine O. McBurnett's resident's rights and negligence, regarding care and treatment received while she was a resident at The Terrace of Jacksonville, 10680 Old St. Augustine Road, Jacksonville, Florida 32257. Our client intends to file a lawsuit against all prospective defendants named below:

1. **Ms. Misty Degross, Administrator**  
**The Terrace of Jacksonville**  
**10680 Old St. Augustine Road**  
**Jacksonville, Florida 32257**
2. **Terrace of Jacksonville, LLC**  
**10680 Old St. Augustine Road**  
**Jacksonville, Florida 32257**
3. **Mr. Norman Ginsparg**  
**12221 West Dixie Highway**  
**North Miami, FL 33161**
4. **Mr. Philip Esformes**  
**6865 N. Lincoln Avenue**  
**Lincolnwood, IL 60712**
5. **Mr. Morris Esformes**  
**480 Fentress Boulevard, Suite H**  
**Daytona Beach, FL 32114**

Discovery and investigation is ongoing and continuing into other parties who may be responsible for the violations of Ms. Nadine O. McBurnett's Chapter 400 resident's rights and/or negligence.

Under the foregoing statute, we are precluded from bringing suit against you and the other prospective defendants for a period of seventy-five (75) days. During that seventy-five (75) day period, you and your insurers are required to conduct a review of this matter. Accordingly, you are to contact your insurance carriers so that the full seventy-five (75) day period can be utilized for the intended purpose.

**Please report this to all of your insurance agents, and all applicable insurance carriers (including excess and umbrella coverage). If excess and/or umbrella coverage does exist, you should ensure a copy of this notification is forwarded to all insurers providing such coverage.**

In accordance with Florida Statute §400.0233(11), the parties must meet in pre-suit mediation to discuss the issues of liability and damages. Please note that pre-suit mediation must be completed within thirty (30) days of your response to this notice of claim.

**This is an official notice under Florida Statute §400.0233, and should be treated accordingly.**

**DATES OF RESIDENCY**

Ms. Nadine O. McBurnett was a resident of The Terrace of Jacksonville (sometimes hereinafter referred to as "TERRACE") from 12/02/10 to 01/24/15.

**PROSPECTIVE DEFENDANTS**

1. **Ms. Misty Degross, Administrator.**
2. **Terrace of Jacksonville, LLC.**
3. **Mr. Norman Ginsparg.**
4. **Mr. Philip Esformes.**
5. **Mr. Morris Esformes.**

If you have knowledge of any other persons or business entities affiliated in any manner with TERRACE that is, or may be, a prospective defendant in this matter and therefore entitled to notification of claim set forth herein, we request that you identify such related persons or entities in your response. **In the event you choose to not identify all related prospective defendants in your response, this letter will serve as notice to those related persons and/or entities.**

**ASSERTED VIOLATIONS OF FLORIDA STATUTE §400.022  
NURSING HOME RESIDENTS' BILL OF RIGHTS**

Based on the information provided on behalf of our client, the medical records from TERRACE, and the medical providers after discharge, it appears that you and other prospective defendants failed to comply with applicable nursing home statutes and regulations during Ms. Nadine O. McBurnett's residency. More particularly, the parties named above violated Ms. Nadine O. McBurnett's resident bill of rights:

1. The right to be adequately informed of the resident's medical condition and proposed treatment (F.S. §400.022(1)(j));
2. The right to be fully informed in advance of any nonemergency changes in care or treatment that might affect the resident's well being (F.S. §400.022(1)(j));
3. The right to receive adequate and appropriate health care protective and support services, consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency (F.S. §400.022(1)(l));
4. The right to have privacy in treatment and in caring for personal needs (F.S. §400.022(1)(m));

5. The right to be treated courteously, fairly and with the fullest measure of dignity (F.S. §400.022(1)(n)); and
6. The right to be free from mental or physical abuse (F.S. §400.022(1)(o)).

**ASSERTED DEVIATIONS FROM THE STANDARD OF CARE-NEGLIGENCE**

In addition, based on our investigation and the medical records referenced above, it appears that you and the other prospective defendants deviated from the applicable standard of care as follows:

1. Failing to chart changes in the medical condition of Nadine O. McBurnett;
2. Failing to consult with Nadine O. McBurnett's power of attorney, family and/or legal representatives on changes in Nadine O. McBurnett's physical and mental condition;
3. Failing to provide adequate and appropriate evaluation and care by the facility's nursing staff;
4. Failing to properly hire, train and/or supervise the facility's personnel;
5. Failing to monitor and provide a safe environment for Nadine O. McBurnett;
6. Failing to provide Nadine O. McBurnett with proper custodial, medical, and nursing care;
7. Failing to treat Nadine O. McBurnett courteously, fairly, and with the fullest measure of dignity;
8. Failing to comply with the requirements of applicable state and federal nursing home statutes, administrative codes, and/or regulations;
9. Failing to have adequate and appropriate number of nursing staff and personnel available to care for Nadine O. McBurnett;
10. Failing to provide Nadine O. McBurnett with the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care;
11. Failing to conduct initial and periodic comprehensive, accurate, standardized, reproducible assessments of Nadine O. McBurnett's functional status;
12. Failing to develop a comprehensive care plan for Nadine O. McBurnett that included measurable objectives and timetables to meet a resident's medical, nursing, mental, and psychosocial needs identified in the comprehensive

assessment. This must be completed by an interdisciplinary team and revised when a significant change in a resident's status occurs;

13. Failing to properly notify Nadine O. McBurnett's physician of significant health changes in her condition;
14. Failing to properly implement and maintain the facility's care plan;
15. Failing to comply with the treating doctor's orders;
16. Failing to follow through with other interdisciplinary orders;
17. Failing to ensure that Nadine O. McBurnett, who was unable to carry out activities of daily living, received the necessary services to maintain good nutrition, grooming, personal, and oral hygiene; and
22. Failing to ensure the facility had an adequate budget that provided a sufficient number of staff members, raw food, dietary supplements, and/or specialty equipment, to meet the needs of the residents in the facility, including Nadine O. McBurnett.

#### **ASSERTED VIOLATIONS OF FLORIDA ADMINISTRATIVE CODE**

##### **1. 59A-4.107 Follow Physician's Orders**

(5) All physicians' orders shall be followed as prescribed and if not, the reason shall be recorded on the resident's medical record during that shift.

##### **2. 59A-4.108 Nursing Services**

(4) The nursing home facility shall have sufficient nursing staff, on a 24-hour basis to provide nursing and related services to residents in order to maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.

##### **3. 59A-4.109 Components of Care Plan**

(1) Each resident admitted to the nursing home facility shall have a plan of care. The plan of care shall consist of: (c) A complete, comprehensive, accurate and reproducible assessment of each resident's functional capacity which is standardized in the facility, and is completed within 14 days of the resident's admission to the facility, and every twelve months, thereafter. The assessment shall be: 1. Reviewed no less than once every 3 months; 2. Reviewed promptly after a significant change in the resident's physical or mental condition; 3. Revised as appropriate to assure the continued accuracy of the assessment.

(2) The facility is responsible to develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, mental and psychosocial needs that are identified in the comprehensive assessment. The care plan must describe the services that are to be furnished to attain or maintain the resident's highest practicable physical, mental and social well-being. The care plan must be completed within 7 days after completion of the resident assessment.

(4) All staff personnel who provide care, and at the resident's option, private duty nurses or non-employees of the facility, shall be knowledgeable of, and have access to, the resident's plan of care.

#### **4. 59A-4.118 Medical Records**

(2) Each medical record shall contain sufficient information to clearly identify the resident, his diagnosis and treatment, and results. Medical records shall be complete, accurate, accessible, and systematically organized.

(3) Medical records shall be retained for a period of five years from the date of discharge.

#### **5. 59A-4.1288 Exception**

Nursing homes that participate in Title XVIII or XIX must follow certification rules and regulations found in 42 C.F.R. 483, Requirements for Long Term Care Facilities, September 26, 1991, which is incorporated by reference. . . .

### **ASSERTED VIOLATIONS OF FEDERAL OBRA REGULATIONS**

#### **1. 483.10 Resident's Rights.**

The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights: (a) Exercise of rights: (1) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States. . . (b)(2) The resident or his or her legal representative has the right—(3) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition. . . (11) Notification of changes. (i) A facility must immediately inform the resident; consult with the resident's physician; and, if known, notify the resident's legal representative or an interested family member when there is—(A) An accident involving the resident which results in injury and has the potential for requiring physician intervention; (B) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications); (C) A need to alter treatment significantly (i.e., a need to discontinue an existing form of treatment due to adverse consequences, or to commence a new form of treatment).

**2. 483.13 Resident behavior and facility practices.**

(b) Abuse. The resident has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion.

(c) Staff treatment of residents. The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property. . . .(2) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property are reported immediately to the administrator of the facility and to other officials in accordance with State law through established procedures (including to the State survey and certification agency). (3) The facility must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.

**3. 483.15 Quality of Life.**

A facility must care for its residents in a manner that promotes maintenance or enhancement of each resident's quality of life. (a) Dignity. The facility must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

**4. 483.20 Resident Assessment.**

The facility must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity.

(b) Comprehensive assessments—(1) Resident assessment instrument. A facility must make a comprehensive assessment of a resident's needs, using the resident assessment instrument (RAI) specified by the State. . . .

(k) Comprehensive care plans. (1) The facility must develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, and mental and psychosocial needs that are identified in the comprehensive assessment. The care plan must describe the following—(i) The services that are to be furnished to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being as required under section 483.25. . . .(3)(i) The services provided by or arranged by the facility must meet professional standards of quality and (ii) Be provided by qualified persons in accordance with each residents written plan of care.

**5. 483.25 Quality of Care.**

Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care.

(a) Activities of daily living. Based on the comprehensive assessment of a resident, the facility must ensure that—(1) A resident's abilities in activities of daily living do not diminish unless circumstances of the individual's clinical condition demonstrate that diminution was unavoidable. . . (2) A resident is given the appropriate treatment and services to maintain or improve his or her abilities specified in paragraph (a)(1) of this section; and (3) A resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene. . . .

(h) Accidents. The facility must ensure that—(1) The resident environment remains as free of accident hazards as is possible; and (2) Each resident receives adequate supervision and assistance to prevent accidents.

(i) Nutrition. Based on a resident's comprehensive assessment, the facility must ensure that a resident (1) Maintains acceptable parameters of nutritional status, such as body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible; and (2) Receives a therapeutic diet when there is a nutritional problem.

(j) Hydration: The facility must provide each resident with sufficient fluid intake to maintain proper hydration and health.

...  
(m) The facility must ensure that (1) it is free of medication error rates of 5 percent or greater; (2) Residents are free of any significant medication errors.

#### **6. 483.30 Nursing Services.**

The facility must have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.

(a) Sufficient staff. (1) The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans: (i) Except when waived under paragraph (c) of this section, licensed nurses; and (ii) Other nursing personnel.

(e) Nursing Staffing information—(1) Data requirements. The facility must post the following information on a daily basis: . . .

#### **7. 483.75 Administration.**

A facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

(b) Compliance with State, Federal, and local laws and professional standards. The facility must operate and provide services in compliance with all Federal, State, and local laws, regulations,



and codes, and with accepted professional standards and principles that apply to professionals providing services in such a facility.

(d) Governing Body. (1) The facility must have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility; and (2) The governing body appoints the administrator who is—(i) Licensed by the State where licensing is required; and (ii) Responsible for management of the facility.

(h) Use of Outside Resources. (1) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility must have that service furnished to residents by a person or agency outside the facility under an arrangement described in section 1861(w) of the Act or (with respect to services furnished to NF residents and dental services furnished to SNF residents) an agreement described in paragraph (h)(2) of this section. (2) Arrangements as described in section 1861(w) of the Act or agreements pertaining to services furnished by outside resources must specify in writing that the facility assumes responsibility for—(i) Obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility; and (ii) The timeliness of the services.

(l) Clinical records. (1) The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices that are—(i) Complete; (ii) Accurately documented; (iii) Readily accessible; (iv) Systematically organized.

### **SUMMARY OF LIABILITY FACTS**

In January of 2015, Ms. Nadine O. McBurnett was an 86-year-old resident at The Terrace of Jacksonville. Ms. McBurnett suffered from severe Alzheimer's dementia and was dependent on the nursing staff for all of her activities of daily living. She was identified as a two-person assist for all activities of daily living.

On January 24, 2015, at around 5:30 p.m., a Certified Nursing Assistant went into Ms. McBurnett's room to change the bed linens. The Certified Nursing Assistant put the bed rail down and placed Ms. McBurnett on her side without any assistance (Ms. McBurnett was a two-person assist). She left Ms. McBurnett on her side by the edge of the bed and left the room to get bed linens. When the Certified Nursing Assistant left the room, Ms. McBurnett fell out of the bed and struck the right side of her body against the floor causing head and hip injuries.

At around 8:24 p.m., or about three hours post-incident, Ms. McBurnett's daughter and power of attorney, Patte M. Wallace, was finally informed of her mother's condition. The nurse, Mary, informed Ms. Wallace that her mother was "found in a pool of blood." Ms. Wallace immediately went to the facility. When Ms. Wallace arrived at her mother's room about 15 minutes after the call, her mother was unconscious and her face was swollen and severely bruised. Ms. McBurnett was still bleeding from head trauma. Ms. Wallace asked if anyone had called 911. The nurse, Mary, stated "no, because I had another emergency that was more pressing and urgent." Mary claimed that she did not know what happened. Mary called Ms. McBurnett's doctor who told the nursing home staff to send Ms. McBurnett to the emergency

room. EMT's from Liberty Ambulance transported Ms. McBurnett to Baptist Medical Center-South.

At Baptist Medical Center-South, the doctors noted multiple large lacerations and bruises on Ms. McBurnett's head and found an intertrochantric fracture of the right femur. Dr. Gregory Solis, the orthopedic surgeon on duty, performed surgery on Ms. McBurnett's right hip fracture on January 25, 2015. Ms. McBurnett was discharged from Baptist Medical Center-South to the care of Hospice. Ms. McBurnett died tragically on February 26, 2015.

On January 29, 2015, Ms. Wallace, her sister, and other family members had a meeting with the TERRACE's Administrator, Misty Degross, the Director of Nursing, the head Certified Nursing Assistant, the social worker and others. Ms. Degross stated that the TERRACE was "100% responsible for the incident" and then told the truth about what happened on January 24, 2015, describing how the facility's security footage showed the Certified Nursing Assistant's activities after the incident. Ms. Degross informed the family that the subject Certified Nursing Assistant was terminated as a result of the incident on January 24, 2015.

Given all the available evidence, the prospective defendants herein violated the statutory resident rights of Ms. Nadine O. McBurnett and/or were negligent in their care and treatment of Ms. McBurnett while she was a resident at TERRACE. A significant, contributing cause of such violations of rights and negligence was the prospective defendants' improper administration of the facility, including, without limitation, implementing an inadequate and inappropriate budget for nursing staff, raw food, dietary supplements, and specialty medical devices. Such violations of resident's rights and/or negligence directly and proximately caused Ms. McBurnett pain and suffering, mental anguish, inconvenience, disfigurement, loss of the enjoyment of life, activation of a latent condition, and/or aggravation of a previously existing condition. Such violations of rights and negligence ultimately caused and/or contributed to Ms. McBurnett's death on February 26, 2015.

The investigation is ongoing and continuing, on behalf of our client. We therefore reserve the right to discover and/or allege additional facts.

**DAMAGES CLAIMED BY NEGLIGENCE AND VIOLATIONS OF  
RESIDENT'S RIGHTS BY PROSPECTIVE DEFENDANTS**

Ms. Patte M. Wallace intends to claim the following damages as a direct and proximate result of the prospective defendants' negligence and violations of Ms. McBurnett's resident's rights:

1. Liberty Ambulance Service emergency transport services incurred by Nadine O. McBurnett from The Terrace of Jacksonville to Baptist Medical Center-South on 01/25/2015;
2. Medical expenses incurred by Nadine O. McBurnett at Baptist Medical Center-South and related providers from 01/25/15 to 01/29/15;

3. Medical expenses incurred by Nadine O. McBurnett at Hadlow Hospice from 02/25/15 to 02/26/15;
4. Wrongful death damages for the Estate and survivors, including, without limitation, the survivors' loss of parental companionship; mental pain and suffering from the date of Ms. Nadine O. McBurnett's injury; and medical and funeral expenses due to Ms. Nadine O. McBurnett's injury and death; and
5. Survival damages for Ms. Nadine O. McBurnett including, without limitation, pain and suffering, mental anguish, inconvenience, loss of the enjoyment of life, activation of a latent condition, and/or aggravation of a previously existing condition.

Please note that our client does not intend claim the expenses of Ms. Nadine O. McBurnett's residency at the Terrace of Jacksonville as damages in this case.

#### **DISCOVERY REQUESTS - DOCUMENTS OR THINGS**

Pursuant to F.S. §400.0233(7)(b)("**A party is required to produce relevant and discoverable documents or things within that party's possession or control**"), you are required to respond in writing to the requests below and produce the following items:

1. Please produce a complete itemized statement (by whatever name) of all services rendered to Nadine O. McBurnett, while a resident at TERRACE during the years 2014 and 2015.
2. Please produce a **COMPLETE COPY** of Nadine O. McBurnett's charts from TERRACE (i.e., medical, financial, and administrative charts). **We are willing to pay a reasonable copy charge to have the chart copied and Bates labeled for future use in the case.**
3. Other than the charts referenced in request number 2 above, please produce all records pertaining to Nadine O. McBurnett's residency at TERRACE. This includes, without limitation, all incident reports, photographs, committee notes, 24-hour reports, shift-to-shift reports, physician logs, dietician logs, and all other documents related to her care and treatment.
4. A complete list of the full names and addresses of all staff members who were working at TERRACE during 2014 and 2015. This includes, without limitation, the Administrator(s), Assistant Administrator(s), Director(s) of Nursing, Assistant Director(s) of Nursing, Registered Nurses, Licensed Practical Nurses, Certified Nursing Assistants, Medical Records Coordinator(s), Dietary Manager, Registered Dietitians, MDS Coordinator(s), and Staffing Coordinator(s).
5. The nursing home license(s) for TERRACE for 2014 and 2015.

6. Please produce all daily assignment sheets for RN's, LPN's and CNA's during Nadine May McBurnett's residency during the year 2015;
7. Please produce all schedules identifying the names of nurses and nursing assistants who were assigned to work on all dates and shifts during Nadine O. McBurnett's residency during the year 2015;
8. Please produce a complete copy of the computerized Punch Detail Reports and/or Time Detail Reports (by whatever name) for all individuals who provided care and/or treatment to Nadine O. McBurnett while a resident at the facility during the year 2015.
9. Please produce all census records showing the daily census of the facility during Nadine O. McBurnett's residency during the year 2015;
10. Please produce all records (by whatever name) identifying whether the facility met state and federal minimum standards for staffing during Nadine O. McBurnett's residency during the years 2014, and 2015;
11. Please produce all training videos, which were utilized in the training of personnel who cared for or treated Nadine O. McBurnett in any capacity during her residency at TERRACE during the years 2014 and 2015;
12. Please produce all contracts, by whatever name, between TERRACE and its Medical Director, in effect during 2014 and 2015;
13. Please produce all contracts, by whatever name, between TERRACE and any management, services, and/or consulting individuals and/or companies responsible in any way for the management and/or operation of TERRACE during 2014 and 2015;
14. Please produce all contracts, by whatever name, between TERRACE and any other outside consultants, during 2014 and 2015 not listed above. This request includes, without limitation, dietitians, therapists, physicians, lab work and/or prescription medicines.
15. If the Nursing Home Administrator, Director of Nursing, Assistant Director of Nursing, RN's, LPN's, CNA's, and other staff of TERRACE were not employees of the nursing home licensee during 2014 and 2015, please produce all documents that would identify the name of the entity that employed said personnel and provide copies of any contracts, by whatever name, between such entity and the licensee of TERRACE.
16. Please produce the 2014 IRS Form W-2's and 2014 IRS Form 1099's for the Administrator, Director of Nursing, Assistant Director of Nursing, all RN's, all LPN's, all C.N.A.'s, all Physical Therapists, all Speech Therapist, all Occupational Therapists, and all Registered Dietitians at TERRACE that

provided care to Nadine O. McBurnett during 2014 and 2015 (Note: You may redact their DOB and SSN's).

17. Please provide complete copies of all policies of liability insurance, insurance reciprocals, and/or trusts that may provide PRIMARY coverage to you and/or the other prospective defendants herein. As to each policy, please include the declarations sheet that would set forth the following information:
  - a. The exact name of the insurer, reciprocal, or trust;
  - b. The name of the insured or insureds;
  - c. The policy or certificate number;
  - d. The effective dates of the beginning and end of coverage; and
  - e. The amount of coverage.
18. Please provide complete copies of all policies of liability insurance, insurance reciprocals, and/or trusts that may provide EXCESS coverage to you and/or the other prospective defendants herein. As to each policy, please include the declarations sheet that would set forth the following information:
  - a. The exact name of the insurer, reciprocal, or trust;
  - b. The name of the insured or insureds;
  - c. The policy or certificate number;
  - d. The effective dates of the beginning and end of the coverage; and
  - e. The amount of coverage.
19. Please provide copies of all letters whereby any insurance company, reciprocal, or trust, has denied coverage or stated it will defend you in this matter under a reservation of rights to later deny coverage.
20. Please provide all documents that would identify every individual or entity that was a member of the "Governing Body" of TERRACE, during 2014 and 2015.
21. Please provide all documents identifying every individual or entity that was a member of the nursing home licensee's "Board of Directors" during 2014 and 2015.
22. Please produce all documents including, without limitation, all contracts or agreements (by whatever name), that would set forth and/or describe the legal relationship between the following related individuals and entities:
  1. Ms. Misty Degross, Administrator.
  2. Terrace of Jacksonville, LLC.
  3. Mr. Norman Ginsparg.
  4. Mr. Philip Esformes.
  5. Mr. Morris Esformes.

23. Please provide all documents, including, without limitation, all contracts or agreements that would set forth and/or describe the goods, services, supplies, and/or materials the following individuals and entities during Nadine O. McBurnett's residency:
  1. Ms. Misty Degross, Administrator.
  2. Terrace of Jacksonville, LLC.
  3. Mr. Norman Ginsparg.
  4. Mr. Philip Esformes.
  5. Mr. Morris Esformes.
24. Please produce a copy of TERRACE's Table of Contents, for all facility policies, procedures, and/or guidelines (by whatever name), that were in effect during 2014 and 2015.
25. Please produce a copy of TERRACE'S admission and discharge policy and procedures, by whatever name, in effect during 2014 and 2015.
26. Please produce a copy of TERRACE'S grievance policy and procedures, by whatever name, in effect during 2014 and 2015.
27. Please produce a copy of TERRACE'S nursing policies and procedures, by whatever name, in effect during 2014 and 2015.
28. Please produce a copy of TERRACE'S physician policies and procedures, by whatever name, in effect during 2014 and 2015.
29. Please produce a floor plan or layout of TERRACE, showing the various sections of the facility (i.e., wings, halls, etc.).
30. Please produce all advertising materials and/or brochures, by whatever name, used by TERRACE during 2014 and 2015.
31. Please provide of copy of all in-service training materials, including, without limitation, all schedules and sign-in sheets for the RN's, LPN's, and C.N.A.'s at TERRACE, during 2014 and 2015.
32. Please provide a copy, cover to cover, of the Administrator(s) personnel file(s) during 2014 and 2015. This request includes, without limitation, all IRS Form W-2's or 1099's, all personnel evaluations, all disciplinary actions, all in-service training documents, all continuing education documents, all job applications, all resignation letters, and all bonus plans.
33. Please provide a copy, cover to cover, of the Director(s) of Nursing personnel file(s) during 2014 and 2015. This request includes, without limitation, all IRS Form W-2's or 1099's, all personnel evaluations, all disciplinary actions, all in-

service training documents, all continuing education documents, all job applications, all resignation letters, and all bonus plans.

34. Please provide a copy, cover to cover, of all personnel files for the RN's, LPN's and C.N.A.'s, who provided care and treatment to Nadine O. McBurnett during 2014 and 2015. This request includes, without limitation, all IRS Form W-2's or 1099's, all personnel evaluations, all disciplinary actions, all in-service training documents, all continuing education documents, all job applications, all resignation letters, and all bonus plans.
35. Please provide a complete copy of the "Resident Handbook" given to new residents and their family members in the year 2014.
36. Please provide a complete copy of all Form CMS-855/855A and all attachments provided to CMS, Medicaid, and/or any governmental entity pertaining to TERRACE that was in effect for the year 2014 and 2015.
37. Please provide a complete copy of all Form CMS-671 and all attachments provided to CMS, Medicaid, and/or any governmental entity pertaining to TERRACE for the years 2014 and 2015.
38. Please provide a complete copy of all attachments to the Form CMS-672 provided to CMS, Medicaid, and/or any governmental entity for TERRACE for the years 2014 and 2015.
39. Please provide a complete copy of the TERRACE's security video footage showing the subject Certified Nursing Assistant's activities both inside and outside Ms. McBurnett's room for one hour before the incident on January 24, 2015, through the time of Ms. McBurnett's discharge from the TERRACE on January 25, 2015.

Upon receipt of this letter, we expect a prompt reply to the above-referenced information, not to exceed twenty (20) days from the date of this letter.

**INSTRUCTION TO NOT CONTACT ANY MEDICAL PROVIDERS  
OF NADINE O. MCBURNETT**

Pursuant to Florida Statute Section 456.057(7), you are hereby instructed to not directly, or indirectly, contact any of Nadine O. McBurnett's medical providers, including, without limitation, her attending physician and any physician's assistants at TERRACE.

**DEMAND FOR PRESERVATION OF EVIDENCE**

By way of this correspondence, you are formally placed on notice of this claim. Under Florida law, all prospective defendants and their attorneys owe a duty to preserve all evidence which may be relevant to this case. **Please preserve all documents and files in the**

**possession and/or control of your facility, related parties, and entities.** This includes, without limitation, all documents requested above, staffing schedules, sign-in sheets, staffing guidelines, budgets, memoranda or correspondence concerning staffing recommendations, payroll journals, and all documents related to the staffing of TERRACE and Ms. Nadine O. McBurnett's residency. The claimant hereby agrees to reimburse each potential defendant for reasonable and customary charges associated with preserving all evidence in this case.

**CERTIFICATE OF COUNSEL**

I hereby certify that a reasonable investigation gave rise to a good faith belief that grounds exist for an action against each prospective defendant on behalf of Ms. Nadine O. McBurnett.

**STEVE WATREL, P.A.**

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**STEPHEN WATREL**

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Attorney for Plaintiff

cc: Ms. Patte M. Wallace (via U.S. Mail)