

02-1014-CD  
Gertrude Dohner vs Knickerbocker Inc



02-1014-C  
GERTRUDE R. DONNER -vs- KNICKERBOCKER VILLA, INC.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

GERTRUDE R. DOHNER,

Plaintiff,

vs.

KNICKERBOCKER VILLA, INC,  
a corporation,

Defendant,

CIVIL DIVISION

No. 02-1014-CO

Code:

**COMPLAINT IN CIVIL ACTION**

Counsel of Record for this Party:

Jay N. Silberblatt, Esquire  
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
412-232-0580

**FILED**

JUN 26 2002

Office of the Prothonotary  
William A. Shaw  
Prothonotary  
Pd \$80.00

acc atty.

## **NOTICE**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that, if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU SHOULD NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

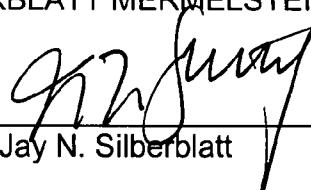
**CLEARFIELD COUNTY PROTHONOTARY  
P.O. BOX 549  
CLEARFIELD, PA 16830**

**TELEPHONE NUMBER: 814-765-2641 (x5988)**

SIILBERBLATT MERMELSTEIN, P.C.

By \_\_\_\_\_

Jay N. Silberblatt



## COMPLAINT

1. Plaintiff is a resident of Clearfield, County of Clearfield and Commonwealth of Pennsylvania.

2. Defendant is a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, with a registered address at 304 South 2<sup>nd</sup> Street, in Clearfield, County of Clearfield and Commonwealth of Pennsylvania.

3. At the time of the accidents hereinafter set forth and at all times pertinent hereto, the Defendant maintained and operated a residential care facility located at 304 South 2<sup>nd</sup> Street in Clearfield, County of Clearfield and Commonwealth of Pennsylvania.

4. At the time of the accidents hereinafter set forth and at all times pertinent hereto, the Defendant was acting by and through nurses, nursing personnel and/or nursing aides who were then and there acting in their capacity as agents, servants and employees of the Defendant and who were then and there acting within the scope of their employment and within the scope of their respective authority.

5. At the time of the accidents hereinafter set forth and at all times pertinent hereto, the Plaintiff was a resident at the Defendant's residential care facility.

6. At the time of the accidents hereinafter set forth and for some time prior thereto, the Plaintiff had been suffering from dementia and/or Alzheimer's Disease.

7. On several occasions while Plaintiff was a resident at Defendant's residential care facility, she suffered injuries from falls, including a fall on June 11, 2000,

when she fell out of a chair in the dining room at Defendant's facility, injuring her head and left side of her forehead.

**FIRST COUNT**

8. Following the fall on June 11, 2000, Plaintiff was hospitalized at the Clearfield Hospital.

9. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on June 11, 2000, Plaintiff's physician ordered that Plaintiff be restrained.

10. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on June 11, 2000, Plaintiff's family requested that Plaintiff be restrained.

11. On June 30, 2000, while the Plaintiff was a resident at Defendant's residential care facility, the Plaintiff was permitted to move around unrestrained.

12. On June 30. 2000, while the Plaintiff remained unrestrained at the Defendant's residential care facility, she was permitted to move around, unassisted and unsupervised by any member of the Defendant's nursing staff and/or aide.

13. On June 30, 2000, while the Plaintiff remained unrestrained, unassisted and unsupervised by either a member of the Defendant's nursing staff and/or a nursing aide, she fell, sustaining serious injuries.

14. All of the resultant losses, damages and injuries sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, acting by and through its agents, servants or employees, generally and in the following particulars:

- a. In failing to monitor and/or properly monitor Plaintiff while she remained a resident at Defendant's residential care facility; and/or

- b. In permitting Plaintiff to be and remain unrestrained; and/or
- c. In failing to take into consideration Plaintiff's mental capacity and Plaintiff's medical history before permitting her to remain alone and unrestrained; and/or
- d. In failing to take into consideration Plaintiff's history of falling, before permitting her to remain alone and unrestrained; and/or
- e. In permitting Defendant's nursing staff and/or aides to leave Plaintiff, alone and unrestrained, while Plaintiff was unable to safely arise from a seat and/or was unable to safely ambulate without assistance; and/or
- f. In failing to have staff attending to and remaining with Plaintiff, while Plaintiff was unrestrained; and/or
- g. In failing to protect Plaintiff, an Alzheimer's/dementia patient, while she was a resident at Defendant's residential care facility; and/or
- h. In creating a dangerous and hazardous condition by abandoning Plaintiff, while she remained unrestrained, when Defendant knew or should have known, of Plaintiff's mental capacity, and Plaintiff's medical history; and/or
- i. In creating a dangerous and hazardous condition by abandoning Plaintiff while she was unrestrained, when Defendant knew, or should have known, of Plaintiff's history of falling while at Defendant's residential care facility; and/or
- j. In failing to train and/or properly and completely train Defendant's nursing staff and/or aides; and/or
- k. In failing to provide restraints to protect Plaintiff while she was a resident at Defendant's residential care facility; and/or
- l. In failing to assure that Plaintiff would safely remain seated; and/or

- m. In failing to assure that Plaintiff would remain safely seated until the nursing staff and/or nursing aide could assist Plaintiff; and/or
- n. In failing to instruct and/or properly instruct Defendant's nursing staff and/or nursing aides not to leave Plaintiff unrestrained, while the Plaintiff was at Defendant's residential care facility; and/or
- o. In having actual and/or constructive notice of the dangerous, hazardous and unsafe condition created by Defendant by permitting Plaintiff to remain unrestrained, when Defendant knew Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling and knew that Plaintiff required assistance with the activities of daily living, including walking, getting to and from the bathroom, and getting out of a chair, sofa or other seating; and/or
- p. In having actual and/or constructive notice of the Plaintiff's propensity to get up and walk unassisted; and/or
- q. In failing to take reasonable measures to hire sufficient nursing staff and/or nursing aides to assist residents at Defendant's residential care facility, including Plaintiff; and/or
- r. In failing to use reasonable care to provide the appropriate precautions necessary to protect from harm those persons residing with Defendant in the residential care facility, including Plaintiff herein; and/or
- s. In failing to employ sufficient adequately trained nursing personnel and nursing aides; and/or
- t. In failing to properly and adequately supervise the nursing staff and/or nursing aides in the safe conduct and operation of Defendant's business; and/or
- u. In failing to conduct Defendant's business in a manner that was safe for those persons in Defendant's care, including Plaintiff; and/or

- v. In failing to provide constant observation and attention to Plaintiff while she remained unrestrained at Defendant's residential care facility, when Defendant knew of Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of losing her balance and falling; and/or
- w. In failing to take adequate steps to insure that the nursing staff and/or nursing aides on duty and responsible for the care of Plaintiff would restrain Plaintiff any time she had to remain alone while she was at Defendant's residential care facility; and/or
- x. In failing to assist Plaintiff while she was unrestrained; and/or
- y. In failing to provide the proper care and supervision to Plaintiff, a resident at Defendant's residential care facility; and/or
- z. In failing to provide the proper care and supervision to Plaintiff who had severe Alzheimer's dementia, orthostatic hypotension, and a history of losing her balance and falling; and/or
- aa. In failing to comply with the orders from Plaintiff's treating physician that Plaintiff be restrained; and/or
- bb. In failing to comply with the requests and instructions from Plaintiff's family that Plaintiff be restrained after having sustained injuries from several falls at Defendant's facility; and/or
- cc. In assuring and continuing to assure the Plaintiff's family that Plaintiff would be adequately restrained and then in failing to restrain Plaintiff; and/or
- dd. In assuring and continuing to assure the Plaintiff's family that Defendant would be able to adequately and completely care for Plaintiff and then in failing to do so; and/or

- ee. In failing to warn Plaintiff's family that Defendant's nursing staff and/or nursing aides would not restrain Plaintiff; and/or
- ff. In assuring and continuing to assure the Plaintiff's family that Defendant's residential care facility had adequate facilities and staff and that Defendant was capable of adequately caring for Plaintiff and then in failing to do so.

15. As a result of the negligence of the Defendant, Plaintiff has sustained injuries to her spine, including a T-12 compression fracture, and the muscles, ligaments, tissues, tendons and nerves in, about and extending from Plaintiff's spine were strained, torn and dislocated, all of which are or may be serious and permanent injuries.

16. As a result of her injuries, Plaintiff has suffered and may continue to suffer physical and mental anguish and pain, suffering and inconvenience.

17. As a result of her injuries, Plaintiff has suffered and may continue to suffer shock and injury to the nerves and nervous system and has suffered and may continue to suffer emotional distress.

18. As a result of her injuries, Plaintiff has been and/or may be deprived of the ordinary pleasures of life.

19. As a result of her injuries, Plaintiff has been and may continue to be compelled to expend money for medical aid, medicines and the like.

WHEREFORE, Plaintiff claims of the Defendant damages in a sum in excess of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

**SECOND COUNT**

20. Plaintiff incorporates by reference paragraphs 1 through 7, inclusive, and paragraphs 16 through 19, inclusive, with the same force and effect as though set forth at length herein.

21. Following the fall on June 30, 2000, Plaintiff was hospitalized at the Clearfield Hospital.

22. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on June 30, 2000, Plaintiff's physician ordered that Plaintiff be restrained.

23. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on June 30, 2000, Plaintiff's family requested that Plaintiff be restrained.

24. On July 3, 2000, sometime prior to 4:40 p.m., while the Plaintiff was a resident at Defendant's residential care facility, the Plaintiff was sitting, unrestrained, on a sofa.

25. On July 3, 2000, sometime prior to 4:40 p.m., while the Plaintiff remained unrestrained on the sofa at the Defendant's residential care facility, she was permitted to arise from the sofa on which she had been sitting, unassisted and unsupervised by any member of the Defendant's nursing staff and/or aide.

26. On July 3, 2000, while the Plaintiff attempted to arise from the sofa and walk, unassisted and unsupervised by either a member of the Defendant's nursing staff and/or a nursing aide, she fell, sustaining serious injuries.

27. All of the resultant losses, damages and injuries sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, acting by and through its agents, servants or employees, generally and in the following particulars:

- a. In failing to monitor and/or properly monitor Plaintiff while she remained unrestrained on a sofa; and/or
- b. In permitting Plaintiff to be and remain unrestrained on a sofa; and/or
- c. In failing to take into consideration Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling before permitting her to remain alone and unrestrained while seated on a sofa; and/or
- d. In failing to take into consideration Plaintiff's history of falling whenever she attempted to get up from a seat or attempted to walk unassisted, before permitting her to remain alone and unrestrained while seated on a sofa; and/or
- e. In permitting Defendant's nursing staff and/or aides to leave Plaintiff seated on a sofa, alone and unrestrained, while Plaintiff was unable to safely arise from the sofa and/or was unable to safely ambulate without assistance; and/or
- f. In failing to have staff attending to and remaining with Plaintiff, while Plaintiff was seated, unrestrained, on a sofa; and/or
- g. In failing to protect Plaintiff, an Alzheimer's/dementia patient, while she was a resident at Defendant's residential care facility; and/or
- h. In creating a dangerous and hazardous condition by abandoning Plaintiff while she was seated, alone and unrestrained, on a sofa, when Defendant knew or should have known, of Plaintiff's mental capacity, and Plaintiff's medical history; and/or
- i. In creating a dangerous and hazardous condition by abandoning Plaintiff, while she was seated

unrestrained on a sofa, when Defendant knew, or should have known, of Plaintiff's history of falling while at Defendant's facility; and/or

- j. In failing to train and/or properly and completely train Defendant's nursing staff and/or aides; and/or
- k. In failing to provide restraints to protect Plaintiff while she was a resident at Defendant's residential care facility; and/or
- l. In failing to assure that Plaintiff would safely remain seated; and/or
- m. In failing to assure that Plaintiff would remain seated until the nursing staff and/or nursing aide could assist Plaintiff to leave the sofa; and/or
- n. In failing to instruct and/or properly instruct Defendant's nursing staff and/or nursing aides not to leave Plaintiff unrestrained, while the Plaintiff was at Defendant's residential care facility; and/or
- o. In having actual and/or constructive notice of the dangerous, hazardous and unsafe condition created by Defendant by permitting Plaintiff to remain unrestrained, when Defendant knew Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling and knew that Plaintiff required assistance with the activities of daily living, including walking, getting to and from the bathroom, and getting out of a chair, sofa or other seating; and/or
- p. In having actual and/or constructive notice of the Plaintiff's propensity to get up and walk unassisted; and/or
- q. In failing to take reasonable measures to hire sufficient nursing staff and/or nursing aides to assist residents at Defendant's residential care facility, including Plaintiff; and/or
- r. In failing to use reasonable care to provide the appropriate precautions necessary to protect from harm those persons residing with Defendant in the

residential care facility, including Plaintiff herein; and/or

- s. In failing to employ sufficient adequately trained nursing personnel and nursing aides; and/or
- t. In failing to properly and adequately supervise the nursing staff and/or nursing aides in the safe conduct and operation of Defendant's business; and/or
- u. In failing to conduct Defendant's business in a manner that was safe for those persons in Defendant's care, including Plaintiff; and/or
- v. In failing to provide constant observation and attention to Plaintiff while she remained unrestrained at Defendant's residential care facility, when Defendant knew of Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of losing her balance and falling; and/or
- w. In failing to take adequate steps to insure that the nursing staff and/or nursing aides on duty and responsible for the care of Plaintiff would restrain Plaintiff any time she had to remain alone while she was at Defendant's residential care facility; and/or
- x. In failing to assist Plaintiff when she attempted to arise from the sofa and attempted to walk; and/or
- y. In failing to provide the proper care and supervision to Plaintiff, a resident at Defendant's residential care facility; and/or
- z. In failing to provide the proper care and supervision to Plaintiff who had severe Alzheimer's dementia, orthostatic hypotension, and a history of losing her balance and falling; and/or
- aa. In failing to comply with the orders from Plaintiff's treating physician that Plaintiff be restrained; and/or
- bb. In failing to comply with the requests and instructions from Plaintiff's family that Plaintiff be restrained after

having sustained injuries from falls at Defendant's residential care facility; and/or

- cc. In assuring and continuing to assure the Plaintiff's family that Plaintiff would be adequately restrained and then in failing to restrain Plaintiff; and/or
- dd. In assuring and continuing to assure the Plaintiff's family that Defendant would be able to adequately and completely care for Plaintiff and then in failing to do so; and/or
- ee. In failing to warn Plaintiff's family that Defendant's nursing staff and/or nursing aides would not restrain Plaintiff; and/or
- ff. In assuring and continuing to assure the Plaintiff's family that Defendant's residential care facility had adequate facilities and staff and that Defendant was capable of adequately caring for Plaintiff and then in failing to do so.

28. As a result of the negligence of the Defendant, Plaintiff has sustained injuries to her head and back and an initiation, activation, precipitation and/or aggravation of injuries to her spine, including a significant increase in the degree of compression fracture of T-12, and the muscles, ligaments, tissues, tendons and nerves in, about and extending from Plaintiff's spine were strained, torn and dislocated, all of which are or may be serious and permanent injuries.

WHEREFORE, Plaintiff claims of the Defendant damages in a sum in excess of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

**THIRD COUNT**

29. Plaintiff incorporates by reference paragraphs 1 through 7, inclusive, and paragraphs 16 through 19, inclusive, with the same force and effect as though set forth at length herein.

30. Following the fall on July 3, 2000, Plaintiff was hospitalized at the Clearfield Hospital.

31. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on July 3, 2000, Plaintiff's physician ordered that Plaintiff be restrained.

32. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on July 3, 2000, Plaintiff's family requested that Plaintiff be restrained.

33. During the late evening hours of September 11, or early morning hours of September 12, 2000, while the Plaintiff was a resident at Defendant's residential care facility, the Plaintiff attempted to walk to the bathroom alone.

34. During the late evening hours of September 11, or early morning hours of September 12, 2000, while the Plaintiff was unrestrained, at the Defendant's residential care facility, she was permitted to arise from bed, unassisted and unsupervised by any member of the Defendant's nursing staff and/or aide.

35. On September 11, or September 12, 2000, when the Plaintiff attempted to walk unassisted, unrestrained and unsupervised by either a member of the Defendant's nursing staff and/or a nursing aide, she fell, sustaining serious injuries.

36. All of the resultant losses, damages and injuries sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, acting by and through its agents, servants or employees, generally and in the following particulars:

- a. In failing to monitor and/or properly monitor Plaintiff while she remained unrestrained; and/or
- b. In permitting Plaintiff to be and remain unrestrained while she moved about Defendant's residential care facility; and/or
- c. In failing to take into consideration Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling before permitting her to remain alone and unrestrained; and/or
- d. In failing to take into consideration Plaintiff's history of falling, before permitting her to walk alone to the bathroom, unassisted and unsupervised; and/or
- e. In permitting Defendant's nursing staff and/or aides to leave Plaintiff alone and unrestrained, when Plaintiff was unable to safely arise from a bed and/or was unable to safely ambulate without assistance; and/or
- f. In failing to have staff attending to and remaining with Plaintiff, when Plaintiff needed to get out of bed to use the bathroom facilities; and/or
- g. In failing to protect Plaintiff, an Alzheimer's/dementia patient, while she was a resident at Defendant's residential care facility; and/or
- h. In creating a dangerous and hazardous condition by abandoning Plaintiff in bed, when she needed to use the bathroom facilities, when Defendant knew or should have known, of Plaintiff's mental capacity, and Plaintiff's medical history; and/or
- i. In creating a dangerous and hazardous condition by abandoning Plaintiff, when she needed to use the bathroom facilities, when Defendant knew, or should

have known, of Plaintiff's history of falling while at Defendant's facility; and/or

- j. In failing to train and/or properly and completely train Defendant's nursing staff and/or aides; and/or
- k. In failing to provide restraints to protect Plaintiff while she was a resident at Defendant's residential care facility; and/or
- l. In failing to assure that Plaintiff would remain safe; and/or
- m. In failing to assure that Plaintiff would remain in the bathroom until the nursing staff and/or nursing aide could assist Plaintiff to leave the bathroom; and/or
- n. In failing to instruct and/or properly instruct Defendant's nursing staff and/or nursing aides not to leave Plaintiff unrestrained, while the Plaintiff was at Defendant's residential care facility; and/or
- o. In having actual and/or constructive notice of the dangerous, hazardous and unsafe condition created by Defendant by permitting Plaintiff to remain unrestrained, when Defendant knew Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling and knew that Plaintiff required assistance with the activities of daily living, including walking, getting to and from the bathroom, and getting out of a bed, chair, sofa or other seating; and/or
- p. In having actual and/or constructive notice of the Plaintiff's propensity to get up and walk unassisted; and/or
- q. In failing to take reasonable measures to hire sufficient nursing staff and/or nursing aides to assist residents at Defendant's residential care facility, including Plaintiff; and/or
- r. In failing to use reasonable care to provide the appropriate precautions necessary to protect from harm those persons residing with Defendant in the

residential care facility, including Plaintiff herein; and/or

- s. In failing to employ sufficient adequately trained nursing personnel and nursing aides; and/or
- t. In failing to properly and adequately supervise the nursing staff and/or nursing aides in the safe conduct and operation of Defendant's business; and/or
- u. In failing to conduct Defendant's business in a manner that was safe for those persons in Defendant's care, including Plaintiff; and/or
- v. In failing to provide constant observation and attention to Plaintiff while she remained unrestrained at Defendant's residential care facility, when Defendant knew of Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of losing her balance and falling; and/or
- w. In failing to take adequate steps to insure that the nursing staff and/or nursing aides on duty and responsible for the care of Plaintiff would restrain Plaintiff any time she had to remain alone while she was at Defendant's residential care facility; and/or
- x. In failing to assist Plaintiff when she attempted to get to the bathroom; and/or
- y. In failing to provide the proper care and supervision to Plaintiff, a resident at Defendant's residential care facility; and/or
- z. In failing to provide the proper care and supervision to Plaintiff who had severe Alzheimer's dementia, orthostatic hypotension, and a history of losing her balance and falling; and/or
- aa. In failing to comply with the orders from Plaintiff's treating physician that Plaintiff be restrained; and/or
- bb. In failing to comply with the requests and instructions from Plaintiff's family that Plaintiff be restrained after

having sustained injuries from falls at Defendant's residential care facility; and/or

- cc. In assuring and continuing to assure the Plaintiff's family that Plaintiff would be adequately restrained and then in failing to restrain Plaintiff; and/or
- dd. In assuring and continuing to assure the Plaintiff's family that Defendant would be able to adequately and completely care for Plaintiff and then in failing to do so; and/or
- ee. In failing to warn Plaintiff's family that Defendant's nursing staff and/or nursing aides would not restrain Plaintiff; and/or
- ff. In assuring and continuing to assure the Plaintiff's family that Defendant's residential care facility had adequate facilities and staff and that Defendant was capable of adequately caring for Plaintiff and then in failing to do so.

37. As a result of the negligence of the Defendant, Plaintiff has sustained injuries to her head, chest and back and/or an initiation, activation, precipitation and/or aggravation of injuries to her spine, and the muscles, ligaments, tissues, tendons and nerves in, about and extending from Plaintiff's spine were strained, torn and dislocated, all of which are or may be serious and permanent injuries.

WHEREFORE, Plaintiff claims of the Defendant damages in a sum in excess of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

#### **FOURTH COUNT**

38. Plaintiff incorporates by reference paragraphs 1 through 7, inclusive, and paragraphs 16 through 19, inclusive, with the same force and effect as though set forth at length herein.

39. Following the fall during the early morning hours on September 12, 2000, Plaintiff was hospitalized at the Clearfield Hospital.

40. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on September 12, 2000, Plaintiff's physician ordered that Plaintiff be restrained.

41. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on September 12, 2000, Plaintiff's family requested that Plaintiff be restrained.

42. On January 22, 2001, sometime prior to 3:40 p.m. the Plaintiff, while a resident at Defendant's residential care facility, was placed, unrestrained, in a recliner chair.

43. On January 22, 2001, while the Plaintiff remained unrestrained in the recliner chair at Defendant's residential care facility, she was permitted to get out of the recliner chair unassisted and unsupervised by any member of the Defendant's nursing staff and/or aide.

44. On January 22, 2001, while the Plaintiff attempted to arise from the recliner chair and walk unassisted and unsupervised by either a member of the Defendant's nursing staff and/or a nursing aide, she fell, sustaining serious injuries.

45. All of the resultant losses, damages and injuries sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, acting by and through its agents, servants or employees, generally and in the following particulars:

- a. In failing to monitor and/or properly monitor Plaintiff while she remained unrestrained in the recliner chair; and/or
- b. In permitting Plaintiff to be and remain unrestrained in a recliner chair; and/or
- c. In failing to take into consideration Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling before permitting her to remain alone and unrestrained in a recliner chair; and/or
- d. In failing to take into consideration Plaintiff's history of falling when she attempted to get up from a chair or attempted to walk unassisted, before permitting her to remain alone and unrestrained while in a recliner chair; and/or
- e. In permitting Defendant's nursing staff and/or aides to leave Plaintiff, alone and unrestrained in a recliner chair, while Plaintiff was unable to safely get out of the chair and/or was unable to safely ambulate without assistance; and/or
- f. In failing to have staff attending to and remaining with Plaintiff, while Plaintiff was sitting unrestrained in a recliner chair; and/or
- g. In failing to protect Plaintiff, an Alzheimer's patient, while she was a resident at Defendant's residential care facility; and/or
- h. In creating a dangerous and hazardous condition by abandoning Plaintiff while she was sitting unrestrained in a recliner chair, when Defendant knew or should have known, of Plaintiff's mental capacity, and Plaintiff's medical history; and/or

- i. In creating a dangerous and hazardous condition by abandoning Plaintiff while she was sitting unrestrained in a recliner chair, when Defendant knew, or should have known, of Plaintiff's history of falling while at Defendant's facility; and/or
- j. In failing to train and/or properly and completely train Defendant's nursing staff and/or aides; and/or
- k. In failing to provide restraints to protect Plaintiff while she was a resident at Defendant's residential care facility; and/or
- l. In failing to assure that Plaintiff would safely remain seated in the recliner chair in which she was placed; and/or
- m. In failing to assure that Plaintiff would remain seated until the nursing staff and/or nursing aide could assist Plaintiff to leave the recliner chair; and/or
- n. In failing to instruct and/or properly instruct Defendant's nursing staff and/or nursing aides not to leave Plaintiff unrestrained, while the Plaintiff was at Defendant's residential care facility; and/or
- o. In having actual and/or constructive notice of the dangerous, hazardous and unsafe condition created by Defendant by permitting Plaintiff to remain unrestrained, when Defendant knew Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling and knew that Plaintiff required assistance with the activities of daily living, including getting to and from the bathroom, getting out of a chair and walking; and/or
- p. In having actual and/or constructive notice of the Plaintiff's propensity to get up and walk unassisted; and/or
- q. In failing to take reasonable measures to hire sufficient nursing staff and/or nursing aides to assist residents at Defendant's residential care facility, including Plaintiff; and/or

- r. In failing to use reasonable care to provide the appropriate precautions necessary to protect from harm those persons residing with Defendant in the residential care facility, including Plaintiff herein; and/or
- s. In failing to employ sufficient adequately trained nursing personnel and nursing aides; and/or
- t. In failing to properly and adequately supervise the nursing staff and/or nursing aides in the safe conduct and operation of Defendant's business; and/or
- u. In failing to conduct Defendant's business in a manner that was safe for those persons in Defendant's care, including Plaintiff; and/or
- v. In failing to provide constant observation and attention to Plaintiff while she remained unrestrained at Defendant's residential care facility, when Defendant knew of Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of losing her balance and falling; and/or
- w. In failing to take adequate steps to insure that the nursing staff and/or nursing aides on duty and responsible for the care of Plaintiff would restrain Plaintiff any time she had to remain alone while she was at Defendant's residential care facility; and/or
- x. In failing to assist Plaintiff when she attempted to arise from the recliner chair and attempted to walk; and/or
- y. In failing to provide the proper care and supervision to Plaintiff, a resident at Defendant's residential care facility; and/or
- z. In failing to provide the proper care and supervision to Plaintiff who had severe Alzheimer's dementia, orthostatic hypotension, and a history of losing her balance and falling; and/or
- aa. In failing to comply with the orders from Plaintiff's treating physician that Plaintiff be restrained; and/or

- bb. In failing to comply with the requests and instructions from Plaintiff's family that Plaintiff be restrained after having sustained injuries from several falls at Defendant's facility; and/or
- cc. In assuring and continuing to assure the Plaintiff's family that Plaintiff would be adequately restrained and then in failing to restrain Plaintiff; and/or
- dd. In assuring and continuing to assure the Plaintiff's family that Defendant would be able to adequately and completely care for Plaintiff and then in failing to do so; and/or
- ee. In failing to warn Plaintiff's family that Defendant's nursing staff and/or nursing aides would not restrain Plaintiff; and/or
- ff. In assuring and continuing to assure the Plaintiff's family that Defendant's residential care facility had adequate facilities and staff and that Defendant was capable of adequately caring for Plaintiff and then in failing to do so.

46. As a result of the negligence of the Defendant, Plaintiff sustained injuries to her left shoulder and left hip, including an impacted intracapsular fracture of her left hip, and the muscles, ligaments, tissues, tendons and nerves in, about and extending from her left hip were strained, torn and dislocated, all of which are or may be serious and permanent injuries.

WHEREFORE, Plaintiff claims of the Defendant damages in a sum in excess of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

JURY TRIAL DEMANDED

SILBERBLATT MERMELSTEIN, P.C.

By 

Jay N. Silberblatt, Esq.  
Counsel for Plaintiffs  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
(412) 232-0580

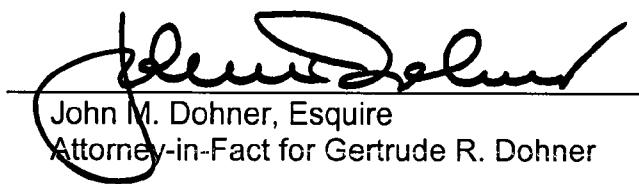
Dated: 4/24/02

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## **VERIFICATION**

I verify that the statements made in this **Complaint in Civil Action** are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: 6.7.02

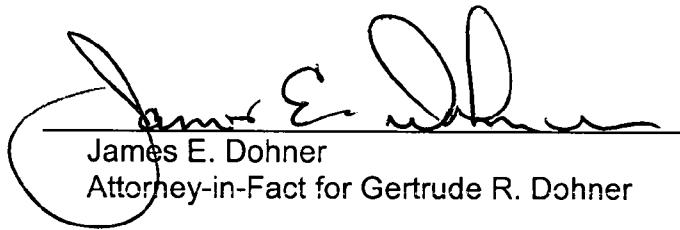


John M. Dohner, Esquire  
Attorney-in-Fact for Gertrude R. Dohner

## **VERIFICATION**

I verify that the statements made in this **Complaint in Civil Action** are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: 6-18-02



James E. Dohner  
Attorney-in-Fact for Gertrude R. Dohner

**GERTRUDE R. DOHNER**  
Plaintiff

v.

**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**PRAECIPE FOR ENTRY OF APPEARANCE**

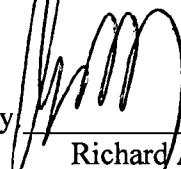
**TO THE PROTHONOTARY:**

Kindly enter our Appearance on behalf of the Defendant, Knickerbocker Villa, Inc., in the above-captioned matter.

Respectfully submitted,

MITCHELL MITCHELL GRAY & GALLAGHER  
A Professional Corporation

By

  
Richard A. Gray - ID #21560  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404 - Telephone  
(570) 323-8585 - Fax

**FILED**

JUL 10 2002

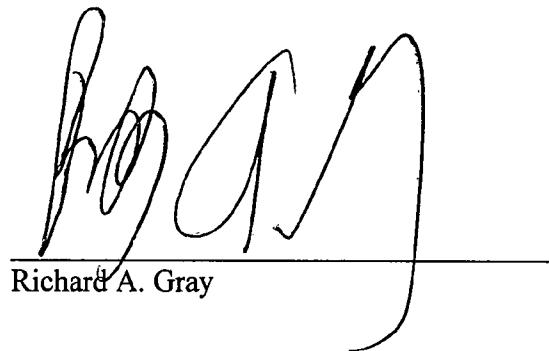
William A. Shaw  
Prothonotary

**CERTIFICATE OF SERVICE**

RICHARD A. GRAY hereby certifies that he filed the original of the foregoing Praeclipe for Entry of Appearance with the Clearfield County Prothonotary, P.O. Box 549, Clearfield, PA 16830, this 9 day of July, 2002.

He further certifies that he served a copy of the foregoing Praeclipe for Entry of Appearance on the following, in the following manner, this 9 day of July, 2002:

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219



A handwritten signature in black ink, appearing to read "Richard A. Gray", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized 'R' at the beginning.

FILED

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JUL 10 2002  
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William A. Shaw  
Prothonotary

GERTRUDE R. DOHNER  
Plaintiff

v.  
KNICKERBOCKER VILLA, INC.  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
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:CIVIL DIVISION

**PRELIMINARY OBJECTIONS OF DEFENDANT KNICKERBOCKER VILLA, INC.**

AND NOW comes Defendant by it's counsel, Mitchell, Mitchell, Gray & Gallagher and demurs, or in the alternative, moves for a more specific pleading and states as follows:

1. The complaint avers that Plaintiff was a resident of Defendant's residential care facility. (See averment #5.)
2. The complaint avers in the four counts that Plaintiff was injured on four occasions as a result of falls while Plaintiff was unrestrained. (See averment #14, 27, 36 and 45)
3. Nowhere in the complaint is there an averment that Defendant's personal care home is an intermediate care facility with skilled personnel or a nursing home providing for constant care.
4. Residential care facilities or personal care facilities like Defendant are regulated by the Department of Welfare as set forth in 55 Pa. Code 2620 et seq.
5. In order to qualify for such home as Defendant's, a physician must state that a resident such as Plaintiff does not require services of an intermediate care or skilled nursing facility. Mohler v. Jeke, 407 Pa. Super. 478, 595 A.2d 1247 (1991).
6. A personal care home such as Defendant only provides such services as are necessary to assist a resident with the activities of daily living, see 55 Pa. Code 2620.31 to 2620.40.
7. The resident rights provided to individuals in the position of Plaintiff as a resident of Defendant's facility include the right to be free from restraints, 55 Pa. Code 2620.61 (13).

**FILED**

JUL 23 2002

William A. Shaw  
Prothonotary

8. Defendant, as a matter of law, could not restrain Plaintiff.

Wherefore, Defendant respectfully requests that it's demur be granted and all portions of Plaintiff's complaint which aver negligence for failure to restrain be dismissed including but not limited to paragraphs 14 b, c, d, e, f, h, i, k, n, o, p, w, x, aa, bb, cc and ee, 27 b, c, d, e, f, h, i, k, n, o, p, w, x, aa, bb, cc and ee, 36 b, c, d, e, f, h, i, k, n, o, p, w, x, aa, bb, cc and ee and 45 b, c, d, e, f, h, i, k, n, o, p, w, x, aa, bb, cc and ee.

9. Defendant moves for a more specific pleading as to paragraph 4 of Plaintiff's complaint in that it does not sufficiently allege the identity of the agent or an appropriate description with the agent's authority and how alleged tortious acts fell within the scope of that authority and were ratified by the principle as required by the Rules of Civil Procedure and our Superior Court's decision in Alumni Association v. Sullivan, 535 A.2d 1095 (Pa. Super 1987) Aff'd, 524 Pa. 356, 572 A.2d 1209 (1990).

10. In addition, Plaintiff demurs and/or moves for a more specific pleading as to the following averments of paragraphs 14, 27, 36 and 45 in as much as they are vague, conclusory, lacking in fact, and in violation of our Supreme Court's decision in Conner v. Allegheny General Hospital, those being sub paragraphs a, g, j, p, q, r, s, t, u, y, z, dd and ff.

Wherefore, Defendant requests that the above averments be stricken and Plaintiff directed to plead with more specificity.

Respectfully submitted,  
MITCHELL MITCHELL GRAY & GALLAGHER  
A Professional Corporation

By:

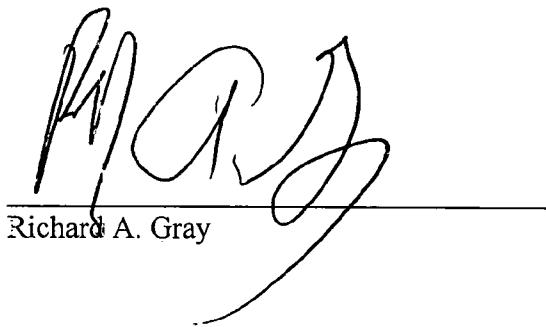
Richard A. Gray - ID #21560  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404 - Telephone  
(570) 323-8585 - Fax

**CERTIFICATE OF SERVICE**

RICHARD A. GRAY hereby certifies that he filed the original of the foregoing Preliminary Objections of Defendant Knickerbocker Villa, Inc. with the Clearfield County Prothonotary, P.O. Box 549, Clearfield, PA 16830, this 22 day of July, 2002.

He further certifies that he served a copy of the foregoing Preliminary Objections of Defendant Knickerbocker Villa, Inc. on the following, in the following manner, this 22 day of July, 2002:

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219



Richard A. Gray

FILED

JUL 23 2002

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Shaw  
William A.  
Prothonotary

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**GERTRUDE R. DOHNER**  
Plaintiff

v.

**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS  
AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendant intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Respectfully submitted,

MITCHELL, MITCHELL, GRAY & GALLAGHER

By:

Richard A. Gray  
ID #21560  
Attorneys for Defendant

10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404

Date: July 30, 2002

**FILED**

JUL 31 2002  
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William A. Shaw  
Prothonotary

**GERTRUDE R. DOHNER**  
Plaintiff

v.

**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

**TO:** Attn: Records Custodian  
Clearfield Hospital  
809 Turnpike Avenue  
Clearfield, PA 16830

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things:

**All records concerning the care and treatment of Gertrude R. Dohner, including but not limited to, doctor's notes, nurses' notes, consultations, reports, diagnostic tests, orders, and any and all other information concerning the care, treatment and health of Gertrude R. Dohner.**

S.S. #: 172-14-9123

Birthdate: 05/04/20

at MITCHELL, MITCHELL, GRAY & GALLAGHER; ATTN: RICHARD GRAY; 10 WEST THIRD STREET; WILLIAMSPORT, PA 17701.

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

This subpoena was issued at the request of the following person:

RICHARD A. GRAY; ID #21560; MITCHELL, MITCHELL, GRAY & GALLAGHER;  
10 WEST THIRD STREET; WILLIAMSPORT PA 17701; (717) 323-8404  
ATTORNEYS FOR DEFENDANT

BY THE COURT:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Prothonotary

**CERTIFICATE OF SERVICE**

RICHARD A. GRAY hereby certifies that he filed the original of the foregoing NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21, with the Prothonotary; Clearfield County Courthouse; 230 East Market Street, Clearfield, PA 16830, by U.S. Mail, Postage prepaid, this 30 day of July, 2002.

He further certifies that he served a true and correct copy of the foregoing upon the following, service as indicated, this 30 day of July, 2002:

**UNITED STATES MAIL--POSTAGE PREPAID**

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

  
Richard A. Gray

GERTRUDE R. DOHNER  
Plaintiff

v.

KNICKERBOCKER VILLA, INC.  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS  
AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendant intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Respectfully submitted,

MITCHELL, MITCHELL, GRAY & GALLAGHER

By:

Richard A. Gray  
ID #21560  
Attorneys for Defendant

10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404

Date: July 30, 2002

**FILED**

JUL 31 2002  
m/10:59 (no cc)  
William A. Shaw  
Prothonotary

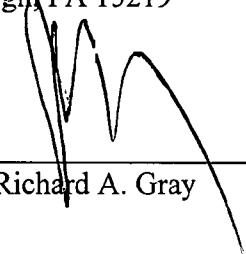
**CERTIFICATE OF SERVICE**

RICHARD A. GRAY hereby certifies that he filed the original of the foregoing NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21, with the Prothonotary; Clearfield County Courthouse; 230 East Market Street, Clearfield, PA 16830, by U.S. Mail, Postage prepaid, this 30 day of July, 2002.

He further certifies that he served a true and correct copy of the foregoing upon the following, service as indicated, this 30 day of July, 2002:

**UNITED STATES MAIL--POSTAGE PREPAID**

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

  
Richard A. Gray

**GERTRUDE R. DOHNER**  
Plaintiff

v.

**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

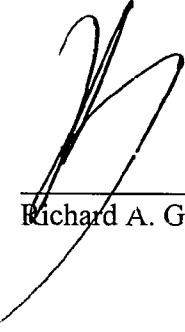
:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**CERTIFICATE OF SERVICE**

RICHARD A. GRAY hereby certifies that he filed the original of the foregoing Response of Defendant Knickerbocker Villa, Inc. to Plaintiff's Request for Production of Documents with the Clearfield County Prothonotary, P.O. Box 549, Clearfield, PA 16830, this 30 day of July, 2002.

He further certifies that he served a copy of the foregoing Response of Defendant Knickerbocker Villa, Inc. to Plaintiff's Request for Production of Documents on the following, in the following manner, this 30 day of July, 2002:

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

  
Richard A. Gray

**FILED**

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William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

GERTRUDE R. DOHNER,

CIVIL DIVISION

Plaintiff,

No. 02-1014-CD

vs.

Code:

KNICKERBOCKER VILLA, INC,  
a corporation,

**AMENDED COMPLAINT IN CIVIL  
ACTION**

Defendant,

Counsel of Record for this Party:

Jay N. Silberblatt, Esquire  
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
412-232-0580

**FILED**

AUG 19 2002  
M/1105/noc  
William A. Shaw  
Prothonotary

## **NOTICE**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that, if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU SHOULD NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**CLEARFIELD COUNTY PROTHONOTARY  
P.O. BOX 549  
CLEARFIELD, PA 16830**

**TELEPHONE NUMBER: 814-765-2641 (x5988)**

SIILBERBLATT MERMELSTEIN, P.C.

By \_\_\_\_\_

Jay N. Silberblatt



## COMPLAINT

1. Plaintiff is a resident of Clearfield, County of Clearfield and Commonwealth of Pennsylvania.

2. Defendant is a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, with a registered address at 304 South 2<sup>nd</sup> Street, in Clearfield, County of Clearfield and Commonwealth of Pennsylvania.

3. At the time of the accidents hereinafter set forth and at all times pertinent hereto, the Defendant maintained and operated a residential care facility located at 304 South 2<sup>nd</sup> Street in Clearfield, County of Clearfield and Commonwealth of Pennsylvania.

4. At the time of the accidents hereinafter set forth and at all times pertinent hereto, the Defendant was acting by and through nurses, nursing personnel and/or nursing aides, who were then and there acting in their capacity as agents, servants and employees of the Defendant and who were then and there acting within the course of their employment and within the scope of their respective authority.

5. At the time of the accidents hereinafter set forth and at all times pertinent hereto, the Plaintiff was a resident at the Defendant's residential care facility.

6. At the time of the accidents hereinafter set forth and for some time prior thereto, the Plaintiff had been suffering from dementia and/or Alzheimer's Disease.

7. On several occasions while Plaintiff was a resident at Defendant's residential care facility, she suffered injuries from falls, including a fall on June 11, 2000, when she fell out of a chair in the dining room at Defendant's facility, injuring her head and left side of her forehead.

**FIRST COUNT**

8. Following the fall on June 11, 2000, Plaintiff was hospitalized at the Clearfield Hospital.

9. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on June 11, 2000, Plaintiff's physician ordered that the Defendant take extra precautions to be sure that the Plaintiff would be safe and would not fall again.

10. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on June 11, 2000, Plaintiff's family requested that the Defendant take extra precautions to be sure that the Plaintiff would be safe and would not fall again.

11. On June 30, 2000, while the Plaintiff was a resident at Defendant's residential care facility, the Plaintiff was permitted to move around freely without assistance.

12. On June 30. 2000, while the Plaintiff was a patient at the Defendant's residential care facility, she was permitted to move around, unassisted and unsupervised by any member of the Defendant's nursing staff and/or aide.

13. On June 30, 2000, while the Plaintiff was unassisted and unsupervised by either a member of the Defendant's nursing staff and/or a nursing aide, she fell, sustaining serious injuries.

14. All of the resultant losses, damages and injuries sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, acting by and through its agents, servants or employees, generally and in the following particulars:

- a. In failing to monitor and/or properly monitor Plaintiff while she remained a resident at Defendant's residential care facility; and/or
- b. In permitting Plaintiff to move about unsupervised and unassisted;
- c. In failing to take into consideration Plaintiff's mental capacity and Plaintiff's medical history before permitting her to remain alone, unassisted, and unsupervised; and/or
- d. In failing to take into consideration Plaintiff's history of falling, before permitting her to remain alone, unassisted, and unsupervised; and/or
- e. In permitting Defendant's nursing staff and/or aides to leave Plaintiff, alone, unassisted, and unsupervised, while Plaintiff was unable to safely arise from a seat and/or was unable to safely ambulate without assistance; and/or
- f. In failing to have staff attending to and remaining with Plaintiff, while Plaintiff was permitted to move about; and/or
- g. In failing to protect Plaintiff, an Alzheimer's/dementia patient, while she was a resident at Defendant's residential care facility; and/or
- h. In creating a dangerous and hazardous condition by abandoning Plaintiff, while she was permitted to freely move about, when Defendant knew or should have known, of Plaintiff's mental capacity, and Plaintiff's medical history; and/or
- i. In creating a dangerous and hazardous condition by abandoning Plaintiff while she was permitted to move about unassisted and unsupervised, when Defendant knew, or should have known, of Plaintiff's history of falling while at Defendant's residential care facility; and/or
- j. In failing to train and/or properly and completely train Defendant's nursing staff and/or aides; and/or

- k. In failing to provide warning devices and/or alarms that would provide notice to the Defendants that the Plaintiff was moving about unassisted and unsupervised and to otherwise protect Plaintiff while she was a resident at Defendant's residential care facility; and/or
- l. In failing to assure that Plaintiff would safely remain seated; and/or
- m. In failing to assure that Plaintiff would remain safely seated until the nursing staff and/or nursing aide could assist Plaintiff; and/or
- n. In failing to instruct and/or properly instruct Defendant's nursing staff and/or nursing aides not to leave Plaintiff alone, unassisted, and unsupervised, while the Plaintiff was at Defendant's residential care facility; and/or
- o. In having actual and/or constructive notice of the dangerous, hazardous and unsafe condition created by Defendant by permitting Plaintiff to remain alone, unassisted, and unsupervised, when Defendant knew Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling and knew that Plaintiff required assistance with the activities of daily living, including walking, getting to and from the bathroom, and getting out of a chair, sofa or other seating; and/or
- p. In having actual and/or constructive notice of the Plaintiff's propensity to get up and walk unassisted; and/or
- q. In failing to take reasonable measures to hire sufficient nursing staff and/or nursing aides to assist residents at Defendant's residential care facility, including Plaintiff; and/or
- r. In failing to use reasonable care to provide the appropriate precautions necessary to protect from harm those persons residing with Defendant in the

residential care facility, including Plaintiff herein; and/or

- s. In failing to employ sufficient adequately trained nursing personnel and nursing aides; and/or
- t. In failing to properly and adequately supervise the nursing staff and/or nursing aides in the safe conduct and operation of Defendant's business; and/or
- u. In failing to conduct Defendant's business in a manner that was safe for those persons in Defendant's care, including Plaintiff; and/or
- v. In failing to provide constant observation and attention to Plaintiff while she remained unassisted and unsupervised at Defendant's residential care facility, when Defendant knew of Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of losing her balance and falling; and/or
- w. In failing to take adequate steps to insure that the nursing staff and/or nursing aides on duty and responsible for the care of Plaintiff would supervise and assist Plaintiff any time she had to remain alone while she was at Defendant's residential care facility; and/or
- x. In failing to assist Plaintiff while she was a patient at Defendant's residential care facility; and/or
- y. In failing to provide the proper care and supervision to Plaintiff, a resident at Defendant's residential care facility; and/or
- z. In failing to provide the proper care and supervision to Plaintiff who had severe Alzheimer's dementia, orthostatic hypotension, and a history of losing her balance and falling; and/or
- aa. In failing to comply with the orders from Plaintiff's treating physician that Plaintiff be assisted and supervised when moving about; and/or

- bb. In failing to comply with the requests and instructions from Plaintiff's family that Plaintiff be assisted and supervised when moving about after having sustained injuries from several falls at Defendant's facility; and/or
- cc. In assuring and continuing to assure the Plaintiff's family that Plaintiff would be adequately assisted and supervised when moving about and then in failing to assist and supervise Plaintiff; and/or
- dd. In assuring and continuing to assure the Plaintiff's family that Defendant would be able to adequately and completely care for Plaintiff and then in failing to do so; and/or
- ee. In failing to warn Plaintiff's family that Defendant's nursing staff and/or nursing aides would not assist and supervise Plaintiff; and/or
- ff. In assuring and continuing to assure the Plaintiff's family that Defendant's residential care facility had adequate facilities and staff and that Defendant was capable of adequately caring for Plaintiff and then in failing to do so; and/or
- gg. In failing to warn the Plaintiff's family that the Plaintiff required a higher level of care than the Defendant could otherwise provide to the Plaintiff; and/or
- hh. In inducing the Plaintiff's family to maintain the Plaintiff as a resident at the Defendant's residential care facility so that the Defendant could continue receiving payment from the Plaintiff's family for services that it was supposed to provide to the Plaintiff when the Defendant knew that it was not properly equipped and staffed to properly care for the Plaintiff given the Plaintiff's mental and medical status; and/or
- ii. In failing to tell the Plaintiff and the Plaintiff's family that the Plaintiff required a higher level of care than the Defendant was not equipped or staffed to provide to the Plaintiff.

15. As a result of the negligence of the Defendant, Plaintiff has sustained injuries to her spine, including a T-12 compression fracture, and the muscles, ligaments, tissues, tendons and nerves in, about and extending from Plaintiff's spine were strained, torn and dislocated, all of which are or may be serious and permanent injuries.

16 As a result of her injuries, Plaintiff has suffered and may continue to suffer physical and mental anguish and pain, suffering and inconvenience.

17. As a result of her injuries, Plaintiff has suffered and may continue to suffer shock and injury to the nerves and nervous system and has suffered and may continue to suffer emotional distress.

18. As a result of her injuries, Plaintiff has been and/or may be deprived of the ordinary pleasures of life.

19. As a result of her injuries, Plaintiff has been and may continue to be compelled to expend money for medical aid, medicines and the like.

WHEREFORE, Plaintiff claims of the Defendant damages in a sum in excess of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

**SECOND COUNT**

20. Plaintiff incorporates by reference paragraphs 1 through 7, inclusive, and paragraphs 16 through 19, inclusive, with the same force and effect as though set forth at length herein.

21. Following the fall on June 30, 2000, Plaintiff was hospitalized at the Clearfield Hospital.

22. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on June 30, 2000, Plaintiff's physician ordered that the Defendant take extra precautions to be sure that the Plaintiff would be safe and would not fall again.

23. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on June 30, 2000, Plaintiff's family requested that the Defendant take extra precautions to be sure that the Plaintiff would be safe and would not fall again.

24. On July 3, 2000, sometime prior to 4:40 p.m., while the Plaintiff was a resident at Defendant's residential care facility, the Plaintiff was sitting, unassisted and unsupervised on a sofa.

25. On July 3, 2000, sometime prior to 4:40 p.m., while the Plaintiff remained unassisted and unsupervised on the sofa at the Defendant's residential care facility, she was permitted to arise from the sofa on which she had been sitting, unassisted and unsupervised by any member of the Defendant's nursing staff and/or aide.

26. On July 3, 2000, while the Plaintiff attempted to arise from the sofa and walk, unassisted and unsupervised by either a member of the Defendant's nursing staff and/or a nursing aide, she fell, sustaining serious injuries.

27. All of the resultant losses, damages and injuries sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, acting by and through its agents, servants or employees, generally and in the following particulars:

- a. In failing to monitor and/or properly monitor Plaintiff while she remained a resident at Defendant's residential care facility; and/or
- b. In permitting Plaintiff to move about unsupervised and unassisted;
- c. In failing to take into consideration Plaintiff's mental capacity and Plaintiff's medical history before permitting her to remain alone, unassisted, and unsupervised; and/or
- d. In failing to take into consideration Plaintiff's history of falling, before permitting her to remain alone, unassisted, and unsupervised; and/or
- e. In permitting Defendant's nursing staff and/or aides to leave Plaintiff, alone, unassisted, and unsupervised, while Plaintiff was unable to safely arise from a seat and/or was unable to safely ambulate without assistance; and/or
- f. In failing to have staff attending to and remaining with Plaintiff, while Plaintiff was permitted to move about; and/or
- g. In failing to protect Plaintiff, an Alzheimer's/dementia patient, while she was a resident at Defendant's residential care facility; and/or
- h. In creating a dangerous and hazardous condition by abandoning Plaintiff, while she was permitted to freely move about, when Defendant knew or should have known, of Plaintiff's mental capacity, and Plaintiff's medical history; and/or
- i. In creating a dangerous and hazardous condition by abandoning Plaintiff while she was permitted to move about unassisted and unsupervised, when Defendant

knew, or should have known, of Plaintiff's history of falling while at Defendant's residential care facility; and/or

- j. In failing to train and/or properly and completely train Defendant's nursing staff and/or aides; and/or
- k. In failing to provide warning devices and/or alarms that would provide notice to the Defendants that the Plaintiff was moving about unassisted and unsupervised and to otherwise protect Plaintiff while she was a resident at Defendant's residential care facility; and/or
- l. In failing to assure that Plaintiff would safely remain seated; and/or
- m. In failing to assure that Plaintiff would remain safely seated until the nursing staff and/or nursing aide could assist Plaintiff; and/or
- n. In failing to instruct and/or properly instruct Defendant's nursing staff and/or nursing aides not to leave Plaintiff alone, unassisted, and unsupervised, while the Plaintiff was at Defendant's residential care facility; and/or
- o. In having actual and/or constructive notice of the dangerous, hazardous and unsafe condition created by Defendant by permitting Plaintiff to remain alone, unassisted, and unsupervised, when Defendant knew Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling and knew that Plaintiff required assistance with the activities of daily living, including walking, getting to and from the bathroom, and getting out of a chair, sofa or other seating; and/or
- p. In having actual and/or constructive notice of the Plaintiff's propensity to get up and walk unassisted; and/or
- q. In failing to take reasonable measures to hire sufficient nursing staff and/or nursing aides to assist

residents at Defendant's residential care facility, including Plaintiff; and/or

- r. In failing to use reasonable care to provide the appropriate precautions necessary to protect from harm those persons residing with Defendant in the residential care facility, including Plaintiff herein; and/or
- s. In failing to employ sufficient adequately trained nursing personnel and nursing aides; and/or
- t. In failing to properly and adequately supervise the nursing staff and/or nursing aides in the safe conduct and operation of Defendant's business; and/or
- u. In failing to conduct Defendant's business in a manner that was safe for those persons in Defendant's care, including Plaintiff; and/or
- v. In failing to provide constant observation and attention to Plaintiff while she remained unassisted and unsupervised at Defendant's residential care facility, when Defendant knew of Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of losing her balance and falling; and/or
- w. In failing to take adequate steps to insure that the nursing staff and/or nursing aides on duty and responsible for the care of Plaintiff would supervise and assist Plaintiff any time she had to remain alone while she was at Defendant's residential care facility; and/or
- x. In failing to assist Plaintiff while she was a patient at Defendant's residential care facility; and/or
- y. In failing to provide the proper care and supervision to Plaintiff, a resident at Defendant's residential care facility; and/or
- z. In failing to provide the proper care and supervision to Plaintiff who had severe Alzheimer's dementia, orthostatic hypotension, and a history of losing her balance and falling; and/or

- aa. In failing to comply with the orders from Plaintiff's treating physician that Plaintiff be assisted and supervised when moving about; and/or
- bb. In failing to comply with the requests and instructions from Plaintiff's family that Plaintiff be assisted and supervised when moving about after having sustained injuries from several falls at Defendant's facility; and/or
- cc. In assuring and continuing to assure the Plaintiff's family that Plaintiff would be adequately assisted and supervised when moving about and then in failing to assist and supervise Plaintiff; and/or
- dd. In assuring and continuing to assure the Plaintiff's family that Defendant would be able to adequately and completely care for Plaintiff and then in failing to do so; and/or
- ee. In failing to warn Plaintiff's family that Defendant's nursing staff and/or nursing aides would not assist and supervise Plaintiff; and/or
- ff. In assuring and continuing to assure the Plaintiff's family that Defendant's residential care facility had adequate facilities and staff and that Defendant was capable of adequately caring for Plaintiff and then in failing to do so; and/or
- gg. In failing to warn the Plaintiff's family that the Plaintiff required a higher level of care than the Defendant could otherwise provide to the Plaintiff; and/or
- hh. In inducing the Plaintiff's family to maintain the Plaintiff as a resident at the Defendant's residential care facility so that the Defendant could continue receiving payment from the Plaintiff's family for services that it was supposed to provide to the Plaintiff when the Defendant knew that it was not properly equipped and staffed to properly care for the Plaintiff given the Plaintiff's mental and medical status; and/or

- ii. In failing to tell the Plaintiff and the Plaintiff's family that the Plaintiff required a higher level of care than the Defendant was not equipped or staffed to provide to the Plaintiff.

28. As a result of the negligence of the Defendant, Plaintiff has sustained injuries to her head and back and an initiation, activation, precipitation and/or aggravation of injuries to her spine, including a significant increase in the degree of compression fracture of T-12, and the muscles, ligaments, tissues, tendons and nerves in, about and extending from Plaintiff's spine were strained, torn and dislocated, all of which are or may be serious and permanent injuries.

WHEREFORE, Plaintiff claims of the Defendant damages in a sum in excess of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

### **THIRD COUNT**

29. Plaintiff incorporates by reference paragraphs 1 through 7, inclusive, and paragraphs 16 through 19, inclusive, with the same force and effect as though set forth at length herein.

30. Following the fall on July 3, 2000, Plaintiff was hospitalized at the Clearfield Hospital.

31. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on July 3, 2000, Plaintiff's physician ordered that the Defendant take extra precautions to be sure that the Plaintiff would be safe and would not fall again.

32. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on July 3, 2000, Plaintiff's family requested that the Defendant take extra precautions to be sure that the Plaintiff would be safe and would not fall again.

33. During the late evening hours of September 11, or early morning hours of September 12, 2000, while the Plaintiff was a resident at Defendant's residential care facility, the Plaintiff attempted to walk to the bathroom alone.

34. During the late evening hours of September 11, or early morning hours of September 12, 2000, while the Plaintiff was unsupervised and unassisted, at the Defendant's residential care facility, she was permitted to arise from bed, unassisted and unsupervised by any member of the Defendant's nursing staff and/or aide.

35. On September 11, or September 12, 2000, when the Plaintiff attempted to walk unassisted, unrestrained and unsupervised by either a member of the Defendant's nursing staff and/or a nursing aide, she fell, sustaining serious injuries.

36. All of the resultant losses, damages and injuries sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, acting by and through its agents, servants or employees, generally and in the following particulars:

- a. In failing to monitor and/or properly monitor Plaintiff while she remained a resident at Defendant's residential care facility; and/or
- b. In permitting Plaintiff to move about unsupervised and unassisted;
- c. In failing to take into consideration Plaintiff's mental capacity and Plaintiff's medical history before permitting her to remain alone, unassisted, and unsupervised; and/or

- d. In failing to take into consideration Plaintiff's history of falling, before permitting her to remain alone, unassisted, and unsupervised; and/or
- e. In permitting Defendant's nursing staff and/or aides to leave Plaintiff, alone, unassisted, and unsupervised, while Plaintiff was unable to safely arise from a seat and/or was unable to safely ambulate without assistance; and/or
- f. In failing to have staff attending to and remaining with Plaintiff, while Plaintiff was permitted to move about; and/or
- g. In failing to protect Plaintiff, an Alzheimer's/dementia patient, while she was a resident at Defendant's residential care facility; and/or
- h. In creating a dangerous and hazardous condition by abandoning Plaintiff, while she was permitted to freely move about, when Defendant knew or should have known, of Plaintiff's mental capacity, and Plaintiff's medical history; and/or
- i. In creating a dangerous and hazardous condition by abandoning Plaintiff while she was permitted to move about unassisted and unsupervised, when Defendant knew, or should have known, of Plaintiff's history of falling while at Defendant's residential care facility; and/or
- j. In failing to train and/or properly and completely train Defendant's nursing staff and/or aides; and/or
- k. In failing to provide warning devices and/or alarms that would provide notice to the Defendants that the Plaintiff was moving about unassisted and unsupervised and to otherwise protect Plaintiff while she was a resident at Defendant's residential care facility; and/or
- l. In failing to assure that Plaintiff would safely remain seated; and/or

- m. In failing to assure that Plaintiff would remain safely seated until the nursing staff and/or nursing aide could assist Plaintiff; and/or
- n. In failing to instruct and/or properly instruct Defendant's nursing staff and/or nursing aides not to leave Plaintiff alone, unassisted, and unsupervised, while the Plaintiff was at Defendant's residential care facility; and/or
- o. In having actual and/or constructive notice of the dangerous, hazardous and unsafe condition created by Defendant by permitting Plaintiff to remain alone, unassisted, and unsupervised, when Defendant knew Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling and knew that Plaintiff required assistance with the activities of daily living, including walking, getting to and from the bathroom, and getting out of a chair, sofa or other seating; and/or
- p. In having actual and/or constructive notice of the Plaintiff's propensity to get up and walk unassisted; and/or
- q. In failing to take reasonable measures to hire sufficient nursing staff and/or nursing aides to assist residents at Defendant's residential care facility, including Plaintiff; and/or
- r. In failing to use reasonable care to provide the appropriate precautions necessary to protect from harm those persons residing with Defendant in the residential care facility, including Plaintiff herein; and/or
- s. In failing to employ sufficient adequately trained nursing personnel and nursing aides; and/or
- t. In failing to properly and adequately supervise the nursing staff and/or nursing aides in the safe conduct and operation of Defendant's business; and/or

- u. In failing to conduct Defendant's business in a manner that was safe for those persons in Defendant's care, including Plaintiff; and/or
- v. In failing to provide constant observation and attention to Plaintiff while she remained unassisted and unsupervised at Defendant's residential care facility, when Defendant knew of Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of losing her balance and falling; and/or
- w. In failing to take adequate steps to insure that the nursing staff and/or nursing aides on duty and responsible for the care of Plaintiff would supervise and assist Plaintiff any time she had to remain alone while she was at Defendant's residential care facility; and/or
- x. In failing to assist Plaintiff while she was a patient at Defendant's residential care facility; and/or
- y. In failing to provide the proper care and supervision to Plaintiff, a resident at Defendant's residential care facility; and/or
- z. In failing to provide the proper care and supervision to Plaintiff who had severe Alzheimer's dementia, orthostatic hypotension, and a history of losing her balance and falling; and/or
- aa. In failing to comply with the orders from Plaintiff's treating physician that Plaintiff be assisted and supervised when moving about; and/or
- bb. In failing to comply with the requests and instructions from Plaintiff's family that Plaintiff be assisted and supervised when moving about after having sustained injuries from several falls at Defendant's facility; and/or
- cc. In assuring and continuing to assure the Plaintiff's family that Plaintiff would be adequately assisted and supervised when moving about and then in failing to assist and supervise Plaintiff; and/or

- dd. In assuring and continuing to assure the Plaintiff's family that Defendant would be able to adequately and completely care for Plaintiff and then in failing to do so; and/or
- ee. In failing to warn Plaintiff's family that Defendant's nursing staff and/or nursing aides would not assist and supervise Plaintiff; and/or
- ff. In assuring and continuing to assure the Plaintiff's family that Defendant's residential care facility had adequate facilities and staff and that Defendant was capable of adequately caring for Plaintiff and then in failing to do so; and/or
- gg. In failing to warn the Plaintiff's family that the Plaintiff required a higher level of care than the Defendant could otherwise provide to the Plaintiff; and/or
- hh. In inducing the Plaintiff's family to maintain the Plaintiff as a resident at the Defendant's residential care facility so that the Defendant could continue receiving payment from the Plaintiff's family for services that it was supposed to provide to the Plaintiff when the Defendant knew that it was not properly equipped and staffed to properly care for the Plaintiff given the Plaintiff's mental and medical status; and/or

- ii. In failing to tell the Plaintiff and the Plaintiff's family that the Plaintiff required a higher level of care than the Defendant was not equipped or staffed to provide to the Plaintiff.

37. As a result of the negligence of the Defendant, Plaintiff has sustained injuries to her head, chest and back and/or an initiation, activation, precipitation and/or aggravation of injuries to her spine, and the muscles, ligaments, tissues, tendons and nerves in, about and extending from Plaintiff's spine were strained, torn and dislocated, all of which are or may be serious and permanent injuries.

WHEREFORE, Plaintiff claims of the Defendant damages in a sum in excess of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

**FOURTH COUNT**

38. Plaintiff incorporates by reference paragraphs 1 through 7, inclusive, and paragraphs 16 through 19, inclusive, with the same force and effect as though set forth at length herein.

39. Following the fall during the early morning hours on September 12, 2000, Plaintiff was hospitalized at the Clearfield Hospital.

40. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on September 12, 2000, Plaintiff's physician ordered that the Defendant take extra precautions to be sure that the Plaintiff would be safe and would not fall again.

41. At the time of Plaintiff's discharge from Clearfield Hospital after the fall on September 12, 2000, Plaintiff's family requested that the Defendant take extra precautions to be sure that the Plaintiff would be safe and would not fall again.

42. On January 22, 2001, sometime prior to 3:40 p.m. the Plaintiff, while a resident at Defendant's residential care facility, was placed, unassisted and unsupervised in a recliner chair.

43 On January 22, 2001, while the Plaintiff remained unassisted and unsupervised in the recliner chair at Defendant's residential care facility, she was permitted to get out of the recliner chair unassisted and unsupervised by any member of the Defendant's nursing staff and/or aide.

44. On January 22, 2001, while the Plaintiff attempted to arise from the recliner chair and walk unassisted and unsupervised by either a member of the Defendant's nursing staff and/or a nursing aide, she fell, sustaining serious injuries.

45. All of the resultant losses, damages and injuries sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, acting by and through its agents, servants or employees, generally and in the following particulars:

- a. In failing to monitor and/or properly monitor Plaintiff while she remained a resident at Defendant's residential care facility; and/or
- b. In permitting Plaintiff to move about unsupervised and unassisted;
- c. In failing to take into consideration Plaintiff's mental capacity and Plaintiff's medical history before permitting her to remain alone, unassisted, and unsupervised; and/or
- d. In failing to take into consideration Plaintiff's history of falling, before permitting her to remain alone, unassisted, and unsupervised; and/or
- e. In permitting Defendant's nursing staff and/or aides to leave Plaintiff, alone, unassisted, and unsupervised, while Plaintiff was unable to safely arise from a seat and/or was unable to safely ambulate without assistance; and/or
- f. In failing to have staff attending to and remaining with Plaintiff, while Plaintiff was permitted to move about; and/or
- g. In failing to protect Plaintiff, an Alzheimer's/dementia patient, while she was a resident at Defendant's residential care facility; and/or
- h. In creating a dangerous and hazardous condition by abandoning Plaintiff, while she was permitted to freely

move about, when Defendant knew or should have known, of Plaintiff's mental capacity, and Plaintiff's medical history; and/or

- i. In creating a dangerous and hazardous condition by abandoning Plaintiff while she was permitted to move about unassisted and unsupervised, when Defendant knew, or should have known, of Plaintiff's history of falling while at Defendant's residential care facility; and/or
- j. In failing to train and/or properly and completely train Defendant's nursing staff and/or aides; and/or
- k. In failing to provide warning devices and/or alarms that would provide notice to the Defendants that the Plaintiff was moving about unassisted and unsupervised and to otherwise protect Plaintiff while she was a resident at Defendant's residential care facility; and/or
- l. In failing to assure that Plaintiff would safely remain seated; and/or
- m. In failing to assure that Plaintiff would remain safely seated until the nursing staff and/or nursing aide could assist Plaintiff; and/or
- n. In failing to instruct and/or properly instruct Defendant's nursing staff and/or nursing aides not to leave Plaintiff alone, unassisted, and unsupervised, while the Plaintiff was at Defendant's residential care facility; and/or
- o. In having actual and/or constructive notice of the dangerous, hazardous and unsafe condition created by Defendant by permitting Plaintiff to remain alone, unassisted, and unsupervised, when Defendant knew Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of falling and knew that Plaintiff required assistance with the activities of daily living, including walking, getting to and from the bathroom, and getting out of a chair, sofa or other seating; and/or

- p. In having actual and/or constructive notice of the Plaintiff's propensity to get up and walk unassisted; and/or
- q. In failing to take reasonable measures to hire sufficient nursing staff and/or nursing aides to assist residents at Defendant's residential care facility, including Plaintiff; and/or
- r. In failing to use reasonable care to provide the appropriate precautions necessary to protect from harm those persons residing with Defendant in the residential care facility, including Plaintiff herein; and/or
- s. In failing to employ sufficient adequately trained nursing personnel and nursing aides; and/or
- t. In failing to properly and adequately supervise the nursing staff and/or nursing aides in the safe conduct and operation of Defendant's business; and/or
- u. In failing to conduct Defendant's business in a manner that was safe for those persons in Defendant's care, including Plaintiff; and/or
- v. In failing to provide constant observation and attention to Plaintiff while she remained unassisted and unsupervised at Defendant's residential care facility, when Defendant knew of Plaintiff's mental capacity, Plaintiff's medical history and Plaintiff's history of losing her balance and falling; and/or
- w. In failing to take adequate steps to insure that the nursing staff and/or nursing aides on duty and responsible for the care of Plaintiff would supervise and assist Plaintiff any time she had to remain alone while she was at Defendant's residential care facility; and/or
- x. In failing to assist Plaintiff while she was a patient at Defendant's residential care facility; and/or

- y. In failing to provide the proper care and supervision to Plaintiff, a resident at Defendant's residential care facility; and/or
- z. In failing to provide the proper care and supervision to Plaintiff who had severe Alzheimer's dementia, orthostatic hypotension, and a history of losing her balance and falling; and/or
- aa. In failing to comply with the orders from Plaintiff's treating physician that Plaintiff be assisted and supervised when moving about; and/or
- bb. In failing to comply with the requests and instructions from Plaintiff's family that Plaintiff be assisted and supervised when moving about after having sustained injuries from several falls at Defendant's facility; and/or
- cc. In assuring and continuing to assure the Plaintiff's family that Plaintiff would be adequately assisted and supervised when moving about and then in failing to assist and supervise Plaintiff; and/or
- dd. In assuring and continuing to assure the Plaintiff's family that Defendant would be able to adequately and completely care for Plaintiff and then in failing to do so; and/or
- ee. In failing to warn Plaintiff's family that Defendant's nursing staff and/or nursing aides would not assist and supervise Plaintiff; and/or
- ff. In assuring and continuing to assure the Plaintiff's family that Defendant's residential care facility had adequate facilities and staff and that Defendant was capable of adequately caring for Plaintiff and then in failing to do so; and/or
- gg. In failing to warn the Plaintiff's family that the Plaintiff required a higher level of care than the Defendant could otherwise provide to the Plaintiff; and/or
- hh. In inducing the Plaintiff's family to maintain the Plaintiff as a resident at the Defendant's residential

care facility so that the Defendant could continue receiving payment from the Plaintiff's family for services that it was supposed to provide to the Plaintiff when the Defendant knew that it was not properly equipped and staffed to properly care for the Plaintiff given the Plaintiff's mental and medical status; and/or

- ii. In failing to tell the Plaintiff and the Plaintiff's family that the Plaintiff required a higher level of care than the Defendant was equipped or staffed to provide to the Plaintiff.

46. As a result of the negligence of the Defendant, Plaintiff sustained injuries to her left shoulder and left hip, including an impacted intracapsular fracture of her left hip, and the muscles, ligaments, tissues, tendons and nerves in, about and extending from her left hip were strained, torn and dislocated, all of which are or may be serious and permanent injuries.

WHEREFORE, Plaintiff claims of the Defendant damages in a sum in excess of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

JURY TRIAL DEMANDED

SILBERBLATT MERMELSTEIN, P.C.

Dated: 8/16/02

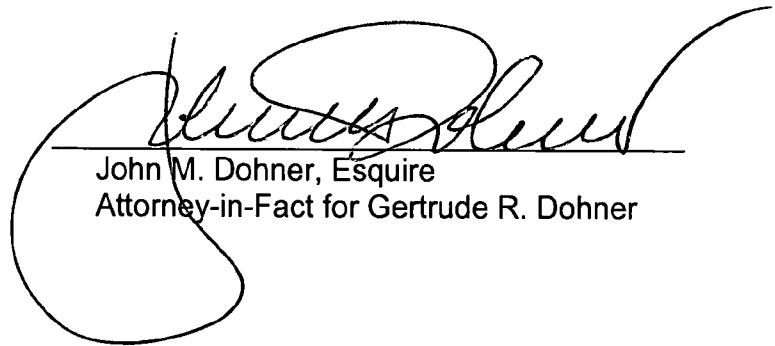
By

  
Jay N. Silberblatt, Esq.  
Counsel for Plaintiffs  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
(412) 232-0580

## **VERIFICATION**

I verify that the statements made in this **Amended Complaint in Civil Action** are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 8-8-02

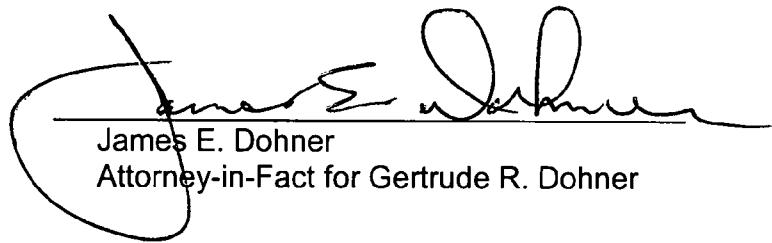


John M. Dohner, Esquire  
Attorney-in-Fact for Gertrude R. Dohner

## **VERIFICATION**

I verify that the statements made in this **Amended Complaint in Civil Action** are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 8-8-02



James E. Dohner  
Attorney-in-Fact for Gertrude R. Dohner

**CERTIFICATE OF SERVICE**

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's Amended Complaint in Civil Action** was mailed by first class mail, postage prepaid, on the 16 day of August , 2002 to the following person:

**Richard A. Gray, Esquire  
Mitchell, Mitchell, Gray & Gallagher, P.C.  
10 West Third Street  
Williamsport, PA 17701-6513  
Attorney for Defendant  
Knickerbocker Villa, Inc.**

SILBERBLATT MERMELSTEIN, P.C.

By Jay N. Silberblatt  
Jay N. Silberblatt  
Attorney for Plaintiff

**GERTRUDE R. DOHNER**  
Plaintiff

v.  
**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**CERTIFICATE OF SERVICE**

Richard A. Gray certifies that the original of the Subpoena and Notice to Clearfield Hospital was served upon the following this 19 day of August, 2002.

**UNITED STATE MAIL--POSTAGE PREPAID**

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

\_\_\_\_\_  
Richard A. Gray

**FILED**

AUG 20 2002  
m10:411 nocc  
William A. Shaw  
Prothonotary

**GERTRUDE R. DOHNER**  
Plaintiff

v.

**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**CERTIFICATE OF SERVICE**

Richard A. Gray certifies that the original of the Subpoena and Notice to Dr. Bruno Romeo was served upon the following this 19 day of August, 2002.

**UNITED STATE MAIL--POSTAGE PREPAID**

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

\_\_\_\_\_  
Richard A. Gray

**FILED**

AUG 20 2002  
m(10:41) /ncc  
William A. Shaw  
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12699

DOHNER, GERTRUDE R.

02-1014-CD

VS.

KNICKERBOCKER VILLA, INC.

**COMPLAINT & PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS**

**SHERIFF RETURNS**

NOW JULY 3, 2002 AT 9:30 AM DST SERVED THE WITHIN COMPLAINT & PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS ON KNICKERBOCKER VILLA, INC., DEFENDANT AT EMPLOYMENT, 304 S. 2ND ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO LINDA BELL, HEAD NURSE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT & PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

**Return Costs**

Cost	Description
20.00	SHFF. HAWKINS PAID BY: DAN BELL, ATTY
10.00	SURCHARGE PAID BY: DAN BELL, ATTY.

Sworn to Before Me This

29 Day Of August 2002  
WILLIAM A. SHAW

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

So Answers,

*Chester Hawkins  
by Marilyn Harris*  
Chester A. Hawkins

Sheriff

**FILED**

*200*  
AUG 29 2002  
018:58 PM

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERTRUDE R. DOHNER,

CIVIL DIVISION

Plaintiff,

NO.: 02-1014-CD

vs.

KNICKERBOCKER VILLA, INC.,  
a Corporation,

**PLAINTIFF'S RESPONSE TO  
DEFENDANT'S PRELIMINARY  
OBJECTIONS TO PLAINTIFF'S  
AMENDED COMPLAINT**

Defendant.

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

Jay N. Silberblatt, Esquire  
Pa. I.D. # 32253

Silberblatt Mermelstein, P.C.  
Firm I.D. #645

2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
412-232-0580

**FILED**

SEP 25 2002

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERTRUDE R. DOHNER,

CIVIL DIVISION

Plaintiff,

NO.: 02-1014-CD

vs.

KNICKERBOCKER VILLA, INC.,  
a corporation,

Defendant.

**PLAINTIFF'S RESPONSE TO DEFENDANT'S  
PRELIMINARY OBJECTIONS**

AND NOW, comes the Plaintiff, Gertrude R. Dohner, by her attorneys, Jay N. Silberblatt, Esquire and the law firm of Silberblatt Mermelstein, P.C., and presents the within response to the Defendant's Preliminary Objections to Plaintiff's Amended Complaint, and in pursuance thereof, respectfully represents as follows:

1. Admitted.
2. Denied as stated. The Plaintiff's Complaint does not allege that Plaintiff's falls occurred while she was "unrestrained". To the contrary, Plaintiff's Amended Complaint alleges that the Defendant, while having notice of Plaintiff's dementia, Alzheimers and propensity to fall, failed to properly monitor, supervise and otherwise assist the Plaintiff, all of which caused the Plaintiff to fall on several occasions.
3. Admitted. By way of further answer, Plaintiff's Complaint alleges that the Defendant assured the Plaintiff's family that the Plaintiff would be adequately assisted

and supervised when moving about. (Paragraph 14cc) Moreover, the Defendant was aware that the Plaintiff suffered from Alzheimer's disease and dementia and was otherwise incapable of moving about without some assistance and supervision and notwithstanding this knowledge, the Defendant failed to provide any assistance or supervision, all of which caused the Plaintiff to fall and suffer injuries.

4. It is admitted that the regulations promulgated by the Pennsylvania Department of Welfare establish minimal requirements for personal care facilities like the Defendant. It is specifically denied that the regulations promulgated by the Pennsylvania Department of Welfare establish the only requirements or duties incumbent upon such personal care homes.

5. Denied. This Defendant's Preliminary Objection is a misstatement of the applicable law and the duties incumbent upon personal care homes. Although a physician may "pre-qualify" a particular patient for residence in a personal care home, the Defendant in the present case was well aware that the Plaintiff suffered from Alzheimer's disease and dementia and was otherwise incapable of properly caring for her own needs and moving about the facility without assistance. Indeed, by virtue of the numerous prior occasions involving incidents during which the Plaintiff was injured as a result of falls, the Defendant had an obligation to either take appropriate measures to prevent the Plaintiff from suffering such injuries or arrange for the Plaintiff to be transferred to a facility capable of providing proper attention to the Plaintiff.

6. Denied. The Plaintiff incorporates by reference her responses as set forth in Paragraphs 4 and 5 herein.

7. Plaintiff incorporates her response as set forth in Paragraphs 4 and 5 as though more fully set forth at length herein.

8. Admitted. By way of further answer, during the time the Plaintiff was a resident in the Defendant's facility, the Plaintiff suffered from Alzheimer's disease and dementia and the Defendant was aware of the Plaintiff's medical condition. As a result of the Plaintiff's medical condition, the Plaintiff was physically and medically incapable of leaving the facility without assistance.

9. The allegations contained in Paragraph 9 of the Defendant's Preliminary Objections are denied. While it is true that the Defendant could not restrain the Plaintiff, the Defendant did have an obligation to monitor the Plaintiff's activities and whereabouts and otherwise insure that the Plaintiff would not continually suffer from preventable falls and mishaps.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court to dismiss the Defendant's Preliminary Objections.

10. Denied. The Plaintiff believes that the allegations contained in these Paragraphs of Plaintiff's Amended Complaint are sufficiently specific to permit the Defendant to adequately respond thereto.

11. Denied. The Plaintiff believes that the allegations contained in Paragraph 4 of Plaintiff's Complaint are sufficiently specific to permit the Defendant to respond thereto. Indeed, the Defendant employed numerous staff persons during the time that the Plaintiff was a resident. Certainly the identity of all such staff personnel will be revealed during discovery in this case. It would be unduly burdensome for the Plaintiff, at this stage in these proceedings, to specifically identify each individual person who in

any way came in contact with the Plaintiff. Neither the Rules of Civil Procedure nor the decisional caselaw of Pennsylvania require such specificity.

12. Denied. Plaintiff believes that the allegations contained in her Amended Complaint are sufficiently specific so as to permit the Defendant to respond thereto.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court to dismiss the Defendant's Preliminary Objections.

Respectfully submitted,

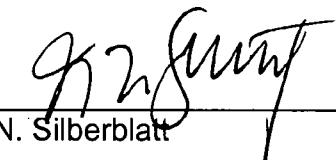
SILBERBLATT MERMELSTEIN, P.C.

By \_\_\_\_\_

Jay N. Silberblatt

## VERIFICATION

I, Jay N. Silberblatt, Esquire, counsel of record for the Plaintiff, Gertrude R. Dohner, in the within matter, do hereby certify that the statements set forth in the foregoing Plaintiff's Response to Defendant's Preliminary Objections to Plaintiff's Amended Complaint are true and correct to the best of my knowledge, information and belief, these being legal matters and more within my knowledge and purview as counsel for the Plaintiff than the Plaintiff herself. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Jay N. Silberblatt

Dated: 9/23/02

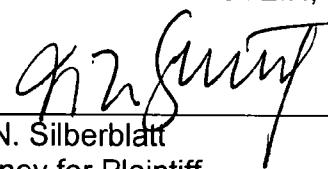
**CERTIFICATE OF SERVICE**

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's Response to Defendant's Preliminary Objections to Plaintiff's Amended Complaint** was mailed by first class mail, postage prepaid, on the 23 day of September, 2002 to the following person:

Richard A. Gray, Esquire  
Mitchell, Mitchell, Gray & Gallagher, P.C.  
10 West Third Street  
Williamsport, PA 17701-6513  
Attorney for Defendant  
Knickerbocker Villa, Inc.

SILBERBLATT MERMELSTEIN, P.C.

By \_\_\_\_\_

  
Jay N. Silberblatt  
Attorney for Plaintiff

FILED

Mar 10 2002

cc

William A. Shaw  
Prothonotary

GERTRUDE R. DOHNER  
Plaintiff

v.  
KNICKERBOCKER VILLA, INC.  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

FILED

SEP 03 2002  
m 18:30 / LWS  
William A. Shaw  
Prothonotary

**PRELIMINARY OBJECTIONS OF DEFENDANT TO PLAINTIFF'S AMENDED  
COMPLAINT**

And Now comes Defendant by and through its counsel Mitchell, Mitchell, Gray & Gallagher and demurs, or in the alternative, moves for a more specific pleading and states as follows:

1. The amended complaint avers that Plaintiff was a resident of Defendant's residential care facility. (See averment #5.)
2. The amended complaint avers in the four counts that Plaintiff was injured on four occasions as a result of falls while Plaintiff was unrestrained. (See averment #14, 27, 36 and 45)
3. Nowhere in the amended complaint is there an averment that Defendant's personal care home is an intermediate care facility with skilled personnel or a nursing home providing for constant care.
4. Residential care facilities or personal care facilities like Defendant are regulated by the Department of Welfare as set forth in 55 Pa. Code 2620 et seq.
5. In order to qualify for such home as Defendant's, a physician must state that a resident such as Plaintiff does not require services of an intermediate care or skilled nursing facility. Mohler v. Jeke, 407 Pa. Super. 478, 595 A.2d 1247 (1991).
6. A personal care home such as Defendant only provides such services as are necessary to assist a resident with the activities of daily living, see 55 Pa. Code 2620.31 to 2620.40.

7. As defined in the regulations, the tasks of daily living for which a personal care home can provide assistance do not include the duty to prevent people from moving, the duty to supervise, the duty to have staff with a resident, the duty to assure that a person stays seated or anything of the sort, see 55 Pa. Code 2620.33.

8. A resident such as plaintiff has the right to leave and return to the facility and the right to be free from restraints, see 55 Pa. Code 2620.61(1 and 13).

9. Defendant as a matter of law, could not restrain plaintiff, keep her seated and has no duty to monitor plaintiff such as to prevent her movements.

Wherefore, defendant respectfully requests that its demur be granted in part and all portions of plaintiffs complaint which aver negligence for failure to prevent plaintiff from moving, to remain alone, to remain unsupervised, to remain seated or any other form amounting to restraint shall be dismissed including but not limited to subparagraphs b, c, d, e, f, h, i, k, l, m, n, o, p, v, and w of paragraph 14, 27, 36 and 45.

10. Defendant moves for more specific pleading as to paragraphs 9, 14 aa, 22, 27 aa, 31, 36aa, 40 and 45 aa providing the name of the physician and either attaching a copy of the physicians order or stating the specifics of the order.

11. Defendant moves for a more specific pleading as to paragraph 4 of Plaintiff's complaint in that it does not sufficiently allege the identity of the agent or an appropriate description with the agent's authority and how alleged tortious acts fell within the scope of that authority and were ratified by the principle as required by the Rules of Civil Procedure and our Superior Court's decision in Alumni Association v. Sullivan, 535 A.2d 1095 (Pa. Super 1987) Aff'd, 524 Pa. 356, 572 A.2d 1209 (1990).

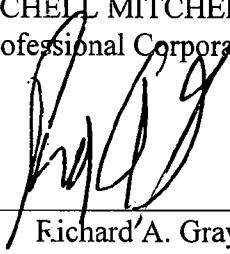
12. In addition, Plaintiff demurs and/or moves for a more specific pleading as to the

following averments of paragraphs 14, 27, 36 and 45 in as much as they are vague, conclusory, lacking in fact, and in violation of our Supreme Court's decision in Conner v. Allegheny General Hospital, those being sub paragraphs a, g, j, q, r, s, t, u, x, y, z, cc and dd.

Wherefore, defendant respectfully requests that the partial demurs to be granted as to the above averments which should be stricken and/or that plaintiff should be directed to plead with more specificity so as to enable defendant to properly respond.

Respectfully submitted,

MITCHELL MITCHELL GRAY & GALLAGHER  
A Professional Corporation

By: 

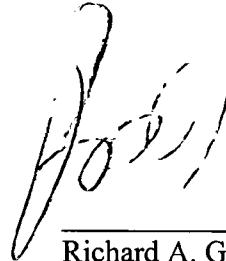
Richard A. Gray - ID #21560  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404 - Telephone  
(570) 323-8585 - Fax

**CERTIFICATE OF SERVICE**

RICHARD A. GRAY hereby certifies that he filed the original of the foregoing Preliminary Objections of Defendant Knickerbocker Villa, Inc. with the Clearfield County Prothonotary, P.O. Box 549, Clearfield, PA 16830, this 30 day of August, 2002.

He further certifies that he served a copy of the foregoing Preliminary Objections of Defendant Knickerbocker Villa, Inc. on the following, in the following manner, this 30 day of August, 2002:

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219



Richard A. Gray

FILED

SEP 03 2002

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

GERTRUDE R. DOHNER : :

-vs- : No. 02 - 1014 - CD

KNICKERBOCKER VILLA, INC., : :

a corporation : :

**ORDER**

NOW, this 23<sup>rd</sup> day of December, 2002, this matter coming before the Court on Preliminary Objections filed on behalf of Defendant above-named, and following argument and briefs thereon, it is the ORDER of this Court that said Objections in the nature of a demurrer, shall be and are hereby dismissed at the present stage of the proceeding.

It is the further ORDER of this Court that Preliminary Objection seeking a more specific pleading to include the name of the position who allegedly indicated to the Defendant that a higher level of care was needed together with his written order, if such exists, shall be supplied to Defendant within ten (10) days from date hereof.

It is the further ORDER of this Court that paragraph 27(u) shall, upon agreement of the Plaintiff, be withdrawn and all other paragraphs alleging negligence on the part of the Defendant shall be construed to allege negligence solely on the basis of failing to take adequate steps to prevent Plaintiff from falling.

By the Court,

President Judge

**FILED**

DEC 23 2002

William A. Shaw  
Prothonotary

**FILED**  
1cc Atty Silberblatt  
013:08-0811  
1cc Atty Gray  
DEC 23 2002  
FED

William A. Shaw  
Prothonotary

**GERTRUDE R. DOHNER**  
Plaintiff

v.

**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**NOTICE**

**TO: Plaintiff**

c/o Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

YOU are hereby notified and required to plead to the within New Matter of Defendant within twenty (20) days from the date of service thereof.

NOTE: YOU are hereby warned that if you fail to plead as notified and required, the action will proceed without you and you will be liable to have a Default Judgment entered against you in your absence.

Respectfully submitted,

MITCHELL, MITCHELL,  
GRAY & GALLAGHER  
A Professional Corporation

By:

Richard A. Gray  
ID #21560  
Attorneys for Defendant

**FILED**

JAN 13 2003

William A. Shaw  
Prothonotary

**GERTRUDE R. DOHNER**  
Plaintiff

v.

**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**ANSWER**

1-2. Admitted.

3. Denied as phrased. To the contrary, the proper designation for defendant's facility is a personal care home rather than a residential facility.

4. Denied. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial. The averment is so vague as to not be answered with any more specificity.

5. See answer to #3 above. By way of more specific answer, defendant's facility is a personal care home.

6. Defendant does not know how long plaintiff has been suffering from Alzheimer's Disease however, the MA 51 signed by Dr. Romeo on 5/1/2000 indicated that plaintiff had dementia.

7. It is admitted that plaintiff had falls during her stay in defendant's personal care home however, as to additional details, such is denied after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial.

8. It is admitted that defendant immediately called 9-1-1 and plaintiff was transported to Clearfield Hospital.

9. Specifically denied as stated and proof thereof is demanded at trial. To the contrary, records indicate that plaintiff was discharged from the hospital to her family's care indicating that plaintiff's status was baseline.

10. Specifically denied as stated and proof thereof is demanded at trial. To the contrary, defendant, at all times, used due care.

11. Admitted that plaintiff was a resident at defendant's personal care home on June 30 and that she was permitted to move about freely as was her right and as is law. Plaintiff was assisted with various tasks when needed and/or requested.

12. The answer to #11 above is incorporated herein by reference thereto. It is admitted that plaintiff did not have one on one supervision however, at all times relevant, three aides were on duty supervising residents.

13. The answer to #12 above is incorporated herein by reference thereto. As to the nature of any injury, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial. By way of further answer, the discharge summary indicated that she had a mild compression fracture at T-12 at the time of discharge as well as degenerative joint disease of the lumbar spine.

14a-ii. The averments are a legal conclusion and are denied for that reason, and further are specifically denied as stated and proof thereof is demanded at trial. By way of further answer, and as to all subparts, defendant followed physician's orders and gave appropriate care in keeping with the capabilities of a personal care home. By way of further answer, the averment is denied pursuant to Pa.R.C.P. 1029(e).

15. Specifically denied as stated and proof thereof is demanded at trial. As to what

exactly what injuries resulted from the fall, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial.

16-19. Denied. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial.

Wherefore, defendant respectfully requests that plaintiff's complaint be dismissed and that judgment be entered in favor of defendant.

20. Paragraphs 1-7 and 16-19 of this answer are incorporated herein by reference thereto.

21. Admitted.

22. Specifically denied. To the contrary, the available documents indicate that plaintiff was returned to Knickerbocker Villa with activities as tolerated without orders for special care.

23. Specifically denied as stated and proof thereto is demanded at trial. To the contrary, no such requests were communicated.

24. As stated, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial.

25-26. Denied. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial. By way of further answer, it is unknown whether plaintiff fell although she was found on the floor.

27a-ii. The averments are specifically denied as stated and proof thereof is demanded at trial. The answer to #14 above is incorporated herein by reference thereto.

28. The averments are denied pursuant to Pa.R.C.P. 1029(e) and by way of further answer, as to the nature and extent of the injuries from the incident, after reasonable investigation defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial.

Wherefore, defendant respectfully requests that plaintiff's complaint be dismissed and that judgment be entered in favor of defendant.

29. The answers to paragraphs 1-7 and 16-19 are incorporated herein by reference thereto.

30. Admitted.

31. Specifically denied that such instructions were relayed. Defendant and staff continued to exercise due care consistent with a personal care home. Apparently, on discharge, the doctor discussed with plaintiff's family a transfer to a nursing home to which they agreed but did not complete.

32. Specifically denied as stated and proof thereof is demanded at trial. See answer to #31 above.

33. Denied. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial. Plaintiff was found in the shower stall.

34. It is admitted that plaintiff did not have one on one supervision at the time, however at all times relevant, three aides were on duty supervising residents. By way of further answer, defendant had no authority to keep plaintiff from getting out of bed. As to the specifics of the incident, the answer to #33 above is incorporated herein by reference thereto.

35. The answer to #34 above is incorporated herein by reference thereto.

36a-ii. The averments are specifically denied as stated and proof thereof is demanded at trial. The answer to #14 above is incorporated herein by reference thereto.

37. The averments are denied pursuant to Pa.R.C.P. 1029(e). By way of further answer, as to the nature and extent of injuries from said incident, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial.

Wherefore, defendant respectfully requests that plaintiff's complaint be dismissed and that judgment be entered in favor of defendant.

38. Paragraphs 1-7 of this answer and 16-19 of this answer are incorporated herein by reference thereto.

39. As to whether the fall occurred, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial. By way of further additional answer, plaintiff was seen at the emergency room on September 12.

40. Specifically denied as stated and proof thereof is demanded at trial. Nothing of that type was communicated and it is believed that plaintiff was instructed to follow up with family physician.

41. Denied. The answer to #32 above is incorporated herein by reference thereto.

42. Denied. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial.

43. Denied. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is

demanded at trial. It is admitted that plaintiff was not restrained while sitting in a chair.

44. Denied. After reasonable investigation, defendant is without knowledge and information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial. Any fall which occurred was not witnessed.

45a-ii. Denied. The answer to #14 above is incorporated herein by reference thereto.

46. The averment is denied pursuant to Pa.R.C.P. 1029(e). By way of further answer, as to the nature and extent of the injuries and the incident, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth to the averment and proof thereof is demanded at trial.

Wherefore, defendant respectfully requests that plaintiff's complaint be dismissed and that judgment be entered in favor of defendant.

#### NEW MATTER

47. At all times relevant, the attached admissions agreement had been executed by plaintiff as well as her son Power of Attorney James E. Dohner. Said document is attached hereto, marked Exhibit A and is incorporated herein by reference thereto.

48. At all times relevant, specifically on May 1, 2000, plaintiff's physician, Dr. Romeo, executed the attached MA51 certifying that plaintiff was certified for personal care/residential care as the appropriate level and was further noted to need minimal assistance if required to vacate the building, said verification form being attached hereto and marked Exhibit B and is incorporated herein by reference thereto.

49. At no time relevant of her stay at defendant's facility did defendant receive a new evaluation from plaintiff's physician certifying that a higher level of care was required.

50. Plaintiffs son and daughter-in-law, James and Lisa Dohner visited defendant's

facility and were fully aware of the staffing levels at such facility.

51. By law, defendant did not have the ability to restrain plaintiff or prevent her from moving about.

52. At some time on or before July 7, 2000, Dr. Romeo discussed with plaintiff's family transferring plaintiff to a nursing home other than defendant's personal care home.

53. On or before July 7, 2000, plaintiff's family agreed to the transfer and indicated that they were making an application to Christ the King Manor Nursing Home but failed to follow through on that transfer.

54. Upon information and belief, James Dohner, Lisa Dohner and/or John M. Dohner were negligent in not obtaining nursing home care for plaintiff.

55. Upon information and belief, the aforementioned family members were negligent in obtaining the appropriate follow up care for plaintiff given their discussion with Dr. Romeo.

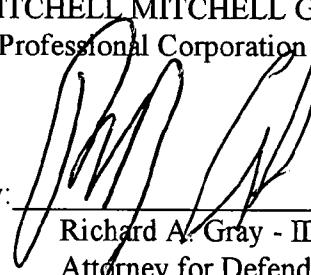
56. The direct, proximate and substantial cause of any injuries to Gertrude R. Dohner, upon information and belief was the negligence of the above mentioned family members or others unknown at this time.

57. At all times relevant, defendant provided appropriate and proper continuing personal care consistent with the capabilities of a personal care home.

Wherefore, defendant respectfully requests that plaintiff's complaint be dismissed and that judgment be entered in favor of defendant.

Respectfully submitted,

MITCHELL MITCHELL GRAY & GALLAGHER  
A Professional Corporation

By: 

Richard A. Gray - ID #21560  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404 - Telephone  
(570) 323-8585 - Fax

# Knickerbocker Villa, Inc.

*a personal care facility*

304 South Second St.

Clearfield, Pa. 16830

(814)765-1933

## ADMISSION AGREEMENT FOR KNICKERBOCKER VILLA (PCH)

THIS AGREEMENT is required by the Commonwealth of Pennsylvania's Regulations governing Personal Care Homes. This agreement made in duplicate this first day of May, 20 00, between Knickerbocker Villa, Inc. and the following Resident:

Trudy Danner  
Resident's Name

304 S. 2nd St. Clearfield Pa 16830  
Street Address      City      State Zip Code

1. Resident agrees to pay \$ 111.00 for room, board and personal services on a  monthly  bi-weekly or  daily basis at Knickerbocker Villa, Inc.

The charges for holding a bed during hospitalization or other extended absence from the home are: 111.00 a day.

ADDITIONAL CHARGES. The following services and items will be billed to the resident when the service is received.

- a) Personal Laundry 1.00
- b) Emergency room call 1.00
- c) Transportation of lab work to hospital 1.00
- d) Blue pads and Diapers 1.00
- e) Medications and over the counter drugs 1.00
- f) Damage to property \_\_\_\_\_
- g) Transportation to appointments with specialists \_\_\_\_\_
- h) OTHER: \_\_\_\_\_

Payment will be made by: John Danner  
2195 Stark Bridge Rd.  
Hinsdale, IL 60520

EXHIBIT

tables

A

**2.GUARANTEED RENT:** For all Residents the above stated cost for room, board and personal care services **MUST BE THE ACTUAL AMOUNT THAT IS CHARGED.**

The Resident certifies that he/she has at least \$60.00 per month for personal expenses, or an amount as determined by the Department of Public Welfare.

Further, the Home agrees to give the Resident thirty (30) days notice in writing of any rent increase. Any additional charges (for non-SSI Residents) must be specified and be part of this Agreement. This includes anyone who receives a rent rebate benefit.

**3. SSI RESIDENT RESTRICTIONS:** The following restrictions apply in this Agreement for residents who receive or are eligible for SSI benefits:

a) The Home's charges for actual rent and other services may not exceed the SSI resident's actual current monthly income reduced by a minimum personal needs allowance determined by the Department of Public Welfare.

b) For a resident who is an SSI recipient or eligible for SSI benefits, payment for rent and other services **MAY NOT** include funds received as lump sum awards, gifts or inheritances, gains from the sale of property or retroactive government benefits. The administrator may seek and accept payments from funds received as retroactive awards of SSI benefits, but only to the extent that the retroactive awards cover periods of time during which the resident actually resided in **THIS HOME** for which full payment has not been received.

c) The following is the policy of the Home regarding the Rent Rebate benefit. (Act 185 prohibits the Home from seeking or accepting payment from a resident who is an SSI recipient in excess of one-half of any funds received by the resident under the Senior Citizens Rebate and Assistance Act.)

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The following specifies how the resident's portion of the rent rebate will be returned to the resident. If the PCH provides assistance with financial management, the PCH must comply with the requirements of PCH Regulation Section 2620.35.

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**4. PERSONAL CARE SERVICES PROVIDED BY THE HOME:** The following will be provided as needed: Supervised care; Assistance with Personal Hygiene; Assistance with Tasks of Daily Living and Assistance with Medications.

Any Resident who is a recipient of SSI or an eligible applicant for SSI, at **NO CHARGE** beyond the amount determined in subsection 1, is provided the following items or services as needed:

a) Necessary personal hygiene items such as a comb, toothbrush, toothpaste, soap and shampoo. Cosmetic items are **NOT** included.

- b) Laundry services, including personal laundry, but NOT including dry cleaning or other specialized services.
- c) Personal Care Services.

**OPTIONAL SERVICES AVAILABLE INCLUDE:**

- a) Personal laundry service. (except for recipients or eligible applicants of SSI)
- b) Assistance in managing resident's money. When such service is provided the Home will comply with the financial management requirements as specified in PCH regulation Section 2620.35.

1. Upon discharge of the resident, the administrator shall return to the resident all of the resident's funds that were managed or entrusted to the home.

2. The Resident's funds will be managed as follows in frequency and amounts as indicated below:

Administrator will issue cash to residents:

Daily	Amount\$ _____
Weekly	Amount\$ _____
Semi-monthly	Amount\$ _____
Monthly	Amount\$ _____
Upon Request	Amount\$ _____
Other (specify)	Amount\$ _____

Administrator will purchase items on behalf of the resident, when requested by the resident.

Items will be purchased:

Daily	Amount\$ _____
Weekly	Amount\$ _____
Semi-monthly	Amount\$ _____
Monthly	Amount\$ _____
Upon Request	Amount\$ _____
Other	Amount\$ _____

**3) Personal Needs Allowance**

The resident's signature upon this agreement certifies that a minimum of \$60.00 in cash or goods is available or provided to the resident each month. If assistance with financial management, or the management of the personal needs allowance is provided by the PCH, all requirements of PCH Regulation 2620.35 shall be met by the PCH. A resident may not be

required to use any portion of his personal needs allowance for room and board or additional charges.

4) The PCH Regulation prohibits Personal Care Home Owners, Administrators or employees from being assigned power of attorney or guardianship for any resident.

5) ASSURANCE OF CONFIDENTIALITY. The Home acknowledges that Resident's personal and medical records are confidential. Resident acknowledges that such records are hereby released and may be used internally by the staff of the facility to determine appropriateness of care and to develop resident support plans, and, in case of Resident's admission to a hospital or health care institution, may be released to such institution.

**6. REQUIRED MEDICAL EVALUATION AND SCREENING FOR ADMISSION.**

Resident agrees to have a medical evaluation by a physician prior to commencement of residency and annually thereafter. Resident also agrees to provide a copy of his/her annual medical evaluation on the form designated by the Department to the PCH.

Prior to admission and annually thereafter, the Resident agrees to participate in and share needed information for the Administrator to complete the Screening Instrument to determine the appropriateness of care available in light of resident's present medical and social needs.

7. ACTIVITIES PROGRAM. The home will have a program of activities designed to promote the Resident's active involvement with other residents, family and the community. The program shall provide social, physical, intellectual and recreational activities.

**8. REQUIREMENTS FOR DISCHARGE OR TRANSFER.**

a) If the home initiates a discharge or transfer of a resident, or the licensee chooses to close the home, the administrator shall give a 30-day prior written notice to the resident, the designated person, and, the referral agent citing the reasons for the discharge or transfer.

b) The administrator may require a 30-day prior written notice from a resident who chooses to leave the home. The resident may be charged for up to 30 days of rent and personal care services after the date of the notice whether or not the resident remains in the home for the entire time period.

c) If a delay in discharge or transfer would jeopardize the health or safety of the resident or others in the home, as certified by a physician or the Department, or both, the time periods required in subsections do not have to be observed. This may occur when the resident needs psychiatric or long-term care, or is abused in the home or a closure of the home is initiated by the Department.

(d) The date and reason for the discharge or transfer, and the destination of the resident, if known, shall be recorded in the resident's record.

9. DISCHARGE DUE TO A CHANGE IN RESIDENT'S CONDITIONS. The administrator shall notify both the resident and the designated person, if any, of the need to transfer the resident in the following situations.

- (a) The resident's physician or a local appropriate assessment agency has determined that the resident needs a higher level of care. In this situation, a plan for other placement shall be made as soon as possible by the administrator in conjunction with the resident or designated person, if any, or both. If assistance with relocation is needed, the administrator shall contact appropriate local agencies, such as the Area Agency on Aging, county mental health/mental retardation program or drug and alcohol program, for assistance. The administrator shall also contact the appropriate PCH licensing field office.
- (b) The resident's condition is such that the resident is a danger to self or other residents and the resident must be removed from the home. In this situation, the administrator shall take appropriate interim immediate action to protect the health and safety of the resident, other residents of the home and the staff.

10. NOTICE OF INTENT TO LEAVE: The resident shall give the Administrator written notice at least 30 days of his/her intent to leave. The refund and/or additional charges incurred by the Resident will be governed by the following Refund Section provisions.

#### 11. REFUNDS

- (a) If, after the home gives notice of discharge or transfer, and the resident moves out of the home before the 30 days are over, the Home shall give the resident a refund equal to the previously paid charges for rent and personal care services for the remainder of the 30 day time period.
- (b) After a resident gives notice of the intent to leave in accordance with this Agreement, and if the resident moves out of the home before expiration of the required 30 days, the resident owes the home the charges for rent and personal care services for the entire length of the 30 day time period for which payment has not been made.

12. HOME RULES. The resident agrees to abide by these rules and items of choice selected by The Resident and Home in completing this Agreement. These rules must not be in violation of Resident's Rights given in paragraph 14 of this Agreement.

- 1) Alcohol use is permitted with Administrator's/Physician's approval only
- 2) Smoking is permitted only in the smoking room.

3) Curfew: 9:00PM every day of the week, unless authorization has been given by the Administrator to return after the curfew. When leaving, a resident whose medications are in custody of the Home should notify the Administrator so medicines to be taken during the period absent may be taken with him/her.

4) Visiting Hours: 8:00am until 8:00pm seven days a week.

5) If the resident will not be returning to the facility for the night, the Administrator must be notified.

6) Meals:

Breakfast 8:30am

Lunch 12:30pm

Dinner 5:30pm

When the resident misses a meal, the staff will ensure that adequate nutritional substitute food is provided. All meals will be served in the dining room, unless authorized by the administrator.

7) A phone is provided in the facility for resident use. Residents are permitted to make local calls free of charge, long distance calls will only be made by reversing the charges. Each room is equipped with phone jacks to permit the resident the option of having his/her own phone. The resident is responsible for the maintenance and cost of the phone and must contact the phone company to hook the phone up.

8) Fire drill participation is mandatory. The regulations require that all residents participate in each fire drill. To ensure safety in the event of an actual fire or other emergency, Residents shall participate fully in the monthly fire drills.

9) Personal hygiene regulations will be followed.

10) Residents should comply to doctor's orders for medication. Non-compliance may result in discharge.

### 13. RESIDENTS RIGHTS

- a) The resident is not restricted in the right to leave and return to the home at reasonable times consistent with the home rules.
- b) The resident is free to receive visitors for a minimum of 8 hours daily, 7 days per week.
- c) The resident has access in reasonable privacy to a telephone in the home, and can make local calls without charge, except where a standard pay telephone is used.
- d) The resident may write, send and receive uncensored and unopened mail at his/her own expense.
- e) The resident may exercise his/her right to attend and participate in religious activities.
- f) The resident has the right to be treated with dignity and respect.
- g) The resident is free to request and receive assistance in relocating.
- h) The resident is free to exercise civil rights and, to this end, may voice grievances and recommend changes in policies and services of the facility without fear of reprisal or intimidation. In addition, the Resident shall be made aware of the telephone number of the Governor's Action Center Toll Free Line: 1-800-932-0784 and other advocacy agencies.
- i) The resident is to be compensated in accordance with State and Federal labor statutes for labor performed on behalf of the home. Residents may perform personal housekeeping tasks related directly to the resident's personal but may not perform tasks in lieu of a staff person.
- j) The resident has the right of privacy of self and possessions.
- k) The resident has the right to be free from abuse.
- l) The resident is free to associate and communicate with others privately.
- m) The resident has the right to be free from restraints.

THIS AGREEMENT has been reviewed by me and explained to me by the Administrator or his/her designee. I understand that the administrator must give me and my designated person, if applicable, thirty (30) days advance written notice before changing the agreement.

It is required that the administrator acquaint the resident with the Regulations which are posted in the facility. In signing this Agreement, the Resident acknowledges each of the conditions and the fact that the Regulations have been explained.

Joe Bieder  
Resident's Signature

5-1-00  
Date signed

Martin J. Walsh  
Administrator or Designee Signature

5-1-00  
Date signed

James E. Schaefer  
Designated person or Referral Agency  
(Signature is at the option of the  
Resident)

5-3-00  
Date signed

If a Resident is unable to sign his/her name, Resident should show his/her mark below:

Resident's Mark

Date marked

Kinda Bell  
Witness to mark (other than Administrator) Date witnessed

A copy of the signed Admission Agreement shall be given to the resident and a copy is to be filed in the resident's record.

## MEDICAL EVALUATION

New

Updated

**FOR DEPARTMENT USE**

Medical and other professional personnel of the Medicaid agency or its designee MUST evaluate each applicant's or recipient's need for admission by reviewing and assessing the evaluations required by regulations.

21A. Medically Eligible	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Medically Appropriate for Waiver Services	21B. Length of Stay	<input type="checkbox"/> Within 180 Days	<input type="checkbox"/> Over 180 Days
22. Comments						

## MEDICAL EVALUATION

 Updated

1. MA RECIPIENT NUMBER	2. NAME OF APPLICANT (Last, first, middle initial)	3. SOCIAL SECURITY NO.	4. BIRTH DATE	5. AGE	6. SEX
Dohner Trudi Bertrude		771-14-9123	5-4-20		F
7. ATTENDING PHYSICIAN	8. PHYSICIAN LICENSE NUMBER				
Dr Romeo					
9. EVALUATION AT (Description and code)		10. For the purpose of determining my need for TITLE XIX INPATIENT CARE, and if applicable, my need for a shelter deduction, I authorize the release of any medical information by the physician to the County Assistance Office, State Department of Public Welfare or its agents.			
01 Hospital 02 NF 03 Personal Care/Dom Care 04 Own House/Apartment 05 Other (Specify)		Signature - Applicant or Person Acting for Applicant _____ Date _____			

11. HEIGHT	WEIGHT	BLOOD PRESSURE	TEMPERATURE	PULSE RATE	CARDIAC RHYTHM
		Cyanotic		76	Reg.

## 12. MEDICAL SUMMARY

13. In event of an emergency the patient can vacate the building	14. Patient is capable of administering his/her own medications
<input type="checkbox"/> 1. Independently <input checked="" type="checkbox"/> 2. With Minimal Assistance <input type="checkbox"/> 3. With Total Assistance	<input type="checkbox"/> 1. Self <input type="checkbox"/> 2. Under Supervision <input checked="" type="checkbox"/> 3. No

## 15. ICD-9-CM DIAGNOSTIC CODES

294.81	Primary (Principal) Dementia
285.9	Secondary Anemia
	Tertiary

## 16. Professional and Technical Care Needed - Check ✓ each category that is applicable

Physical Therapy  Speech Therapy  Occupational Therapy  Inhalation Therapy  Special Dressings  Irrigations  
 Special Skin Care  Parenteral Fluids  Suctioning  Other (Specify) \_\_\_\_\_

## 17. PHYSICIAN ORDERS

Medications Nefex 150mg BID - Toprol XL 50mg 1.8d - Gourmadi 2.5 - 1.8d  
 Andizene 300mg 1.8d - Iainoxin 0.125mg 1.8d - Zulcalac 250g 1.8d

Treatment

Rehabilitative and Restorative Services

Therapies

Diet Reg - Low NA

Activities as tolerated

Social Services as lab

Special Procedures for Health and Safety or to Meet Objectives

18. PROGNOSIS - Check ✓ only one	19. REHABILITATION POTENTIAL - Check ✓ only one
<input checked="" type="checkbox"/> 1. Stable <input type="checkbox"/> 2. Improving <input type="checkbox"/> 3. Deteriorating	<input type="checkbox"/> 1. Good <input checked="" type="checkbox"/> 2. Limited <input type="checkbox"/> 3. Poor

PHYSICIANS RECOMMENDATION	To the best of my knowledge, the patient's medical condition and related needs are essentially as indicated as above.		
---------------------------	---	--	--

20A. On the basis of the present medical findings the patient will eventually be able to return home or be discharged.	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, check ✓ only one
		<input type="checkbox"/> 1. Within 180 days <input type="checkbox"/> 2. Over 180 days

20B. I recommend that the services and care to meet these needs can be provided at the level of care indicated - check ✓ only one	<input type="checkbox"/> NF Services <input type="checkbox"/> In Home/Community Services <input checked="" type="checkbox"/> Personal Care/Residential <input type="checkbox"/> ICF/MR Care	<input type="checkbox"/> Inpatient Psychiatric Care <input type="checkbox"/> Other (Specify) _____
---	---	---

Dr Bruno Romeo 765-6644	Physician (Printed Name)	Phone	Physician Signature	5-100
-------------------------	--------------------------	-------	---------------------	-------

## FOR DEPARTMENT USE

Medical and other professional personnel of the Medicaid agency or its designee MUST evaluate each applicant's or recipient's need for admission by reviewing and assessing the evaluations required by regulations.

21A. Medically Eligible <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Medically Appropriate for Waiver Services	21B. Length of Stay <input type="checkbox"/> Within 180 Days <input type="checkbox"/> Over 180 Days
---	---

## 22. Comments

Reviewer's Signature and Title

Date

**CERTIFICATE OF SERVICE**

RICHARD A. GRAY hereby certifies that he filed the original of the foregoing Answer with the Clearfield County Prothonotary, P.O. Box 549, Clearfield, PA 16830, this 10 day of January, 2003.

He further certifies that he served a copy of the foregoing Answer on the following, in the following manner, this 10 day of January, 2003:

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219



---

Richard A. Gray

**FILED**  
NO  
cc

18:51 AM  
JAN 13 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERTRUDE R. DOHNER,

CIVIL DIVISION

Plaintiff,

NO.: 02-1014-CD

vs.

KNICKERBOCKER VILLA, INC.,  
a Corporation,

**PLAINTIFF'S REPLY TO  
DEFENDANT'S NEW MATTER**

Defendant.

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

Jay N. Silberblatt, Esquire  
Pa. I.D. # 32253

Silberblatt Mermelstein, P.C.  
Firm I.D. #645

2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
412-232-0580

**FILED**

*MAR 06 2003*

*William A. Shaw  
Prothonotary*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERTRUDE R. DOHNER,

CIVIL DIVISION

Plaintiff,

NO.: 02-1014-CD

vs.

KNICKERBOCKER VILLA, INC.,  
a corporation,

Defendant.

**PLAINTIFF'S REPLY TO DEFENDANT'S**  
**NEW MATTER**

AND NOW, comes the Plaintiff, Gertrude R. Dohner, by her attorneys, Jay N. Silberblatt, Esquire and the law firm of Silberblatt Mermelstein, P.C., and presents the within Reply to the Defendant's New Matter, and in pursuance thereof, respectfully represent as follows:

47. Admitted.

48. It is admitted that Dr. Romeo signed the MA51 form as attached to Defendant's Answer and New Matter. The remaining allegations are specifically denied inasmuch as the document attached to Defendant's Answer and New Matter speaks for itself.

49. The allegations contained in Paragraph 49 of the Defendant's New Matter are specifically denied. By way of further answer, following the Plaintiff's discharge from Clearfield Hospital, the Defendant was instructed to provide the Plaintiff with restorative

nursing and the Defendant specifically agreed to provide the Plaintiff with a higher level of care.

50. It is admitted that the Plaintiff's son and daughter-in-law frequently visited the Plaintiff at the Defendant's residential care facility. It is specifically denied that they were fully aware of the staffing levels at such facility. By way of further answer, the Plaintiff's family was continually assured by the Defendant that it would provide adequate nursing care and supervision to the Plaintiff so that she would not continue to fall and injure herself.

51. It is admitted that the Defendant did not have the right to restrain the Plaintiff. However, and as more fully set forth in Plaintiff's Complaint, the Defendant had specifically agreed to provide a heightened level of care to the Plaintiff inasmuch as the Defendant was aware or should have been aware that the Plaintiff was at risk to continue falling because of her mental status and frail physical condition.

52. Admitted.

53. It is admitted that the Plaintiff's family made an application for the Plaintiff to reside at Christ the King Manor Nursing Home. It is specifically denied that they failed to follow through on the transfer. To the contrary, the Defendant continually assured the Plaintiff and her family that the Defendant could provide an adequate and heightened level of care for the Plaintiff and that it was unnecessary for the Plaintiff's family to transfer the Plaintiff to the Christ the King Manor Nursing Home. At all times, the Defendant encouraged the Plaintiff to remain a resident at Defendant's facility.

54. The allegations contained in Paragraph 54 of the Defendant's New Matter are specifically denied and strict proof thereof is demanded at the time of trial. It is

specifically denied that James Dohner, Lisa Dohner and/or John M. Dohner were negligent. By way of further answer, the Defendant continually assured the Plaintiff's family that the Defendant could adequately provide a heightened level of care to the Plaintiff in accordance with the Plaintiff's needs given the Plaintiff's mental status and frail physical condition. At all times, the Defendant encouraged the Plaintiff to remain a resident at Defendant's facility.

55. The allegations contained in Paragraph 54 of the Defendant's New Matter are specifically denied and strict proof thereof is demanded at the time of trial. It is specifically denied that James Dohner, Lisa Dohner and/or John M. Dohner were negligent. By way of further answer, the Defendant continually assured the Plaintiff's family that the Defendant could adequately provide a heightened level of care to the Plaintiff in accordance with the Plaintiff's needs given the Plaintiff's mental status and frail physical condition. At all times, the Defendant encouraged the Plaintiff to remain a resident at Defendant's facility.

56. The allegations contained in Paragraph 54 of the Defendant's New Matter are specifically denied and strict proof thereof is demanded at the time of trial. It is specifically denied that James Dohner, Lisa Dohner and/or John M. Dohner were negligent. By way of further answer, the Defendant continually assured the Plaintiff's family that the Defendant could adequately provide a heightened level of care to the Plaintiff in accordance with the Plaintiff's needs given the Plaintiff's mental status and frail physical condition. At all times, the Defendant encouraged the Plaintiff to remain a resident at Defendant's facility.

57. The allegations contained in Paragraph 57 of the Defendant's New Matter are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer, the Plaintiff incorporates by reference the allegations contained in her Complaint as though more fully set forth at length herein.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court to dismiss the Defendant's New Matter and enter judgment in favor of the Plaintiff and against the Defendant.

SILBERBLATT MERMELSTEIN, P.C.

By \_\_\_\_\_

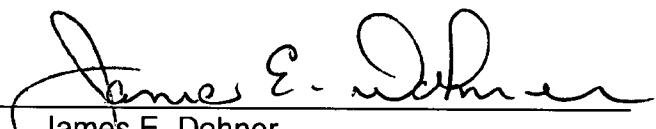
Jay N. Silberblatt

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## **VERIFICATION**

I verify that the statements made in this **Reply to Defendant's New Matter** are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 2-4-03



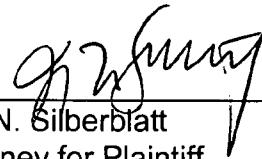
James E. Dohner  
James E. Dohner  
Attorney-in-Fact for Gertrude R. Dohner

## **CERTIFICATE OF SERVICE**

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiffs in the within matter, do hereby certify that a true and correct copy of the **Plaintiff's Reply to Defendant's New Matter** was mailed by first class mail, postage prepaid, on the 4 day of March, 2003 to the following person:

**Richard A. Gray, Esquire  
Mitchell, Mitchell, Gray & Gallagher, P.C.  
10 West Third Street  
Williamsport, PA 17701-6513  
Attorney for Defendant  
Knickerbocker Villa, Inc.**

SILBERBLATT MERMELSTEIN, P.C.

By   
Jay N. Silberblatt  
Attorney for Plaintiff

FILED  
10-4425  
MAR 06 2003

645

William A. Shaw  
Prothonotary

**GERTRUDE R. DOHNER**  
Plaintiff

v.  
**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

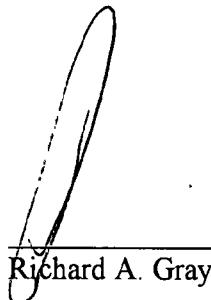
:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**CERTIFICATE OF SERVICE**

RICHARD A. GRAY hereby certifies that he filed the original of the foregoing Certificate of Service for the Defendant's Interrogatories and Requests for Production of Documents Directed to Plaintiff with the Clearfield County Prothonotary, P.O. Box 549, Clearfield, PA 16830, this 1 <sup>July</sup> day of ~~June~~, 2003.

He further certifies that he served the original of the Defendant's Interrogatories and Requests for Production of Documents Directed to Plaintiff on the following, in the following manner, this 1 <sup>July</sup> day of ~~June~~, 2003:

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219



Richard A. Gray

**FILED**

JUL 02 2003

William A. Shaw  
Prothonotary

FILED NO CC  
M 11:00 AM JUL 02 2003  
JUL 02 2003  
FBI

William A. Shaw  
Prothonotary

**GERTRUDE R. DOHNER**  
Plaintiff

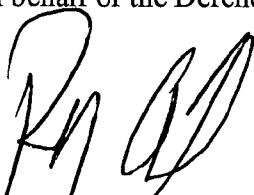
v.  
**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**PRAECIPE FOR WITHDRAWAL OF APPEARANCE**

**TO THE PROTHONOTARY:**

Kindly withdrawal my Appearance on behalf of the Defendant in the above captioned matter.



Richard A. Gray - ID #: 21560

**PRAECIPE FOR ENTRY OF APPEARANCE**

**TO THE PROTHONOTARY:**

Kindly enter my Appearance on behalf of the Defendant in the above-captioned matter.

Respectfully submitted,

MITCHELL MITCHELL GRAY & GALLAGHER  
A Professional Corporation

By: 

Darryl R. Wishard - ID #56862  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404 - Telephone  
(570) 323-8585 - Fax

**FILED**

NOV 20 2003

William A. Shaw  
Prothonotary/Clerk of Courts

**CERTIFICATE OF SERVICE**

RICHARD A. GRAY hereby certifies that he filed the original of the foregoing Praeclipe for Withdrawal of Appearance and Praeclipe for Entry of Appearance with the Clearfield County Prothonotary, P.O. Box 549, Clearfield, PA 16830, this 19<sup>th</sup> day of November, 2003.

He further certifies that he served the original of the Praeclipe for Withdrawal of Appearance and Praeclipe for Entry of Appearance on the following, in the following manner, this 19<sup>th</sup> day of November, 2003:

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

  
for Richard A. Gray

**FILED**

No.  
cc

10:29 AM  
NOV 20 2003

*[Handwritten signature]*

William A. Shaw  
Prothonotary/Clerk of Courts

GERTRUDE R. DOHNER  
Plaintiff

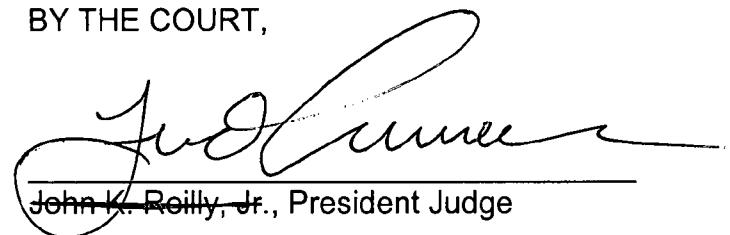
v.  
KNICKERBOCKER VILLA, INC.  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**ORDER**

AND NOW, day of Jan 29, 2004, Defendant's Motion to Compel is  
hereby GRANTED. Plaintiff will serve answers to Defendant's Interrogatories and  
Requests for Production of Documents within ~~thirty~~ (30) days or face sanctions  
pursuant to Pennsylvania Rule of Civil Procedure 4019.

BY THE COURT,



John K. Reilly, Jr., President Judge

**FILED**

FEB 02 2004

William A. Shaw  
Prothonotary

ED

1. 6. 2004

V. Shaw  
F. Notary

ED

015034 110000-00000000  
110302 2004  
00000000

V. Shaw  
Notary

GERTRUDE R. DOHNER :IN THE COURT OF COMMON PLEAS OF  
Plaintiff :CLEARFIELD COUNTY, PENNSYLVANIA  
:  
v. :NO. 02-1014-CD  
:  
KNICKERBOCKER VILLA, INC. :JURY TRIAL DEMANDED  
a corporation, :  
Defendant :CIVIL DIVISION

**DEFENDANT'S MOTION TO COMPEL**

1. Plaintiff filed a Complaint on June 28, 2002, and an Amended Complaint on August 16, 2002.
2. After Preliminary Objections of Defendant were resolved by the Court via Order, dated December 23, 2002, Defendant filed an Answer on January 13, 2003.
3. Plaintiff filed a Reply to Defendant's New Matter on March 4, 2003.
4. Defendant served Interrogatories and Requests for Production of Documents on Plaintiff on July 1, 2003. A true and correct copy of Defendant's discovery requests are attached to this Motion as Exhibit "A" and incorporated herein by reference.
5. On October 13, 2003, Defendant's counsel sent a letter to Plaintiff's counsel requesting responses to Defendant's discovery. A true and correct copy of that letter is attached to this Motion as Exhibit "B" and incorporated herein by reference.
6. On October 28, 2003, Plaintiff's counsel responded, indicating that answers would be served shortly. A true and correct copy of that Answer is attached to this Motion as Exhibit "C" and incorporated herein by reference.
7. On December 17, 2003, Defendant's counsel again requested answers to Defendant's discovery requests, and asked for a response within 15 days. A true and correct copy of that letter is attached to this Motion as Exhibit "D".
8. A final letter was sent to Plaintiff's counsel on January 6, 2004, again

**FILED**

JAN 29 2004

William A. Shaw  
Prothonotary/Clerk of Courts

requesting a response to Defendant's discovery requests within 15 days. A true and correct copy of that letter is attached to this Motion as Exhibit "E" and incorporated herein by reference.

9. To date, Plaintiff has failed to serve answers to Defendant's discovery requests, in violation of Pennsylvania Rules of Civil Procedure 4006 and 4009.12.

WHEREFORE, Defendant respectfully requests that the Court grant this Motion to Compel and require Plaintiff to serve answers to Defendant's discovery requests within 30 days or face further sanctions pursuant to Pennsylvania Rule of Civil Procedure 4012.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD, P.C.

BY:



Darryl R. Wishard  
Attorneys for Defendants

ID #56862

10 West Third Street  
Williamsport, PA 17701

(570) 323-8404

LAW OFFICES  
**MITCHELL, MITCHELL, GRAY & GALLAGHER**  
A PROFESSIONAL CORPORATION  
10 West Third Street  
Williamsport, Pennsylvania 17701-6513  
Telephone: (570) 323-8404  
Facsimile: (570) 323-8585  
Email: [mmgpc@mmgglaw.com](mailto:mmgpc@mmgglaw.com)  
Direct Email: [rgray@mmgglaw.com](mailto:rgray@mmgglaw.com)  
Web Page: [www.MMGGLaw.com](http://www.MMGGLaw.com)

C. Edward S. Mitchell  
Richard A. Gray  
Robert A. Gallagher  
Gary L. Weber  
Bret J. Souhard  
Darryl R. Wishard

Jacob Neafie Mitchell  
1919-1995

June 30, 2003

William A. Shaw, Prothonotary  
Clearfield County Courthouse  
P.O. Box 549  
Clearfield, PA 16830

Re: Dohner v. Knickerbocker Villa, Inc.  
Docket No. 02-1014-CD

Dear William:

Enclosed herewith is the original and one (1) copy of our Certificate of Service for the Defendant's Interrogatories and Requests for Production of Documents Directed to Plaintiff in the above captioned matter. Please file stamp and return the copy to me in the self addressed stamped envelope.

Very truly yours,

MITCHELL MITCHELL GRAY & GALLAGHER  
A Professional Corporation

  
Richard A. Gray

RAG:nrr

Enclosures

cc: Jay Silberblatt, Esquire



**GERTRUDE R. DOHNER**  
Plaintiff

v.

**KNICKERBOCKER VILLA, INC.**  
a corporation,  
Defendant

:IN THE COURT OF COMMON PLEAS OF  
:CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:NO. 02-1014-CD  
:  
:JURY TRIAL DEMANDED  
:  
:CIVIL DIVISION

**DEFENDANT'S INTERROGATORIES AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF**

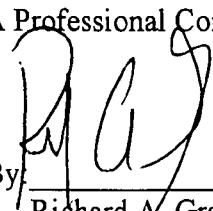
**TO:** Plaintiff  
c/o Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

Please take notice that you are hereby required, pursuant to Pennsylvania Rules of Civil Procedure 4005 and 4006 to serve upon the undersigned within thirty (30) days after service of this Notice, your answers in writing and under oath to the following Interrogatories, and pursuant to Pennsylvania Rules of Civil Procedure 4009, you are required to serve upon the undersigned within thirty (30) days after service of this Notice your response to Defendant's Requests for Production of Documents.

These Interrogatories and Requests for Production of Documents shall be deemed to be continuing. If between the time of your answers to said Interrogatories and Requests for Production of Documents and the time of trial of this case you or anyone acting on your behalf learns of or discovers the existence of the identity or whereabouts of any other witnesses not disclosed in your answers, the existence of any other documents or data not provided in your answers, or if you obtain or become aware of additional requested information not supplied in your answers you shall promptly furnish the same to the undersigned by supplemental answers under oath.

MITCHELL, MITCHELL, GRAY & GALLAGHER  
A Professional Corporation

By

  
Richard A. Gray

I.D. # 21560

Attorneys for Defendant

10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404

**DEFENDANT'S INTERROGATORIES AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF**

1. As to Plaintiff, Attorney in fact, John Dohner and James Dohner, please state:
  - a. Each Attorney's date of birth:
  - b. Each Attorney's Social Security number:
  - c. The other members of the household in which each Attorney in fact resides and their relationship to her:
  - d. The extent of each Attorney in fact education and last grade completed in school:
  - e. The name and address of each attorney in facts employer, if any:
  - f. During the time when plaintiff was a resident of Knickerbocker Villa, each Attorney's address.

2. Please state the name and address of any person with any relevant knowledge concerning both the liability and damage issues in this case, and state the general subject matter of that knowledge.

3. Please state the name and address of any and all persons you expect to call as witnesses at the trial of this case.

4. As to any of the aforementioned witnesses whom you expect to call at the trial of this case who are expert witnesses, including physicians, please state:

a. The name, address and qualifications of any such expert:

b. The subject matter on which the expert is expected to testify:

c. The substance of all facts and opinions to which the expert is expected to testify:

d. A summary of the grounds for each opinion.

5. Have you, your attorney, or anyone else acting in your behalf, obtained from any person or persons any reports, statements, investigations, memoranda or testimony concerning the accident or injuries which are the subject of this lawsuit?

If so:

a. Identify the writing in question:

b. Identify the person or persons with custody of the writing:

c. Please produce a copy of any such writing identified above.

6. Please produce any photographs taken by you, your family, your agents, servants or employees or by your attorneys or by any professional photographer in connection with the accident and the injuries complained of in your Complaint.

7. As to Power of Attorney James Dohner and Power of Attorney John Dohner, please state:

a. The dates of all visits to Knickerbocker Villa made by each during the time of plaintiff's residency.

b. Name or if the name is unknown, the title of all individuals employed by Knickerbocker Villa with whom plaintiff's care was discussed.

c. The substance of said discussion.

8. Please state each and every date on which Mrs. Dohner was examined or treated by any doctor, physician, or medical practitioner with respect to any injury, illness or disability which you claim to have sustained or suffered as a result of the alleged occurrence, setting forth in detail as to each such date of examination or treatment:

a. The name and address of each such doctor, physician or medical practitioner:

b. The nature and extent of the examination or treatment received from each such doctor, physician or medical practitioner:

c. The diagnosis and prognosis made by each such doctor, physician or medical practitioner:

d. The amount of the charge made to you, or any other person or organization for your account, by each doctor, physician or medical practitioner, fully itemized as indicated in any bill rendered therefore:

e. Please produce a copy of any such bill, diagnosis or other report referenced above.

9. Please state each and every date on which Mrs. Dohner was examined, treated or cared for while an inpatient or outpatient at any hospital, clinic, or other institution, for any injury or disability which you claim to have suffered or sustained as a result of the alleged occurrence, setting forth in detail as to each such date of examination, treatment or care:

a. The name and address of each such hospital, clinic or other institution:

b. The nature and extent of any such examination at such hospital, clinic or other institution:

c. The inclusive dates of any period of confinement with respect to any such examination, treatment or care, at any such hospital, clinic or institution:

d. The amount charged you by each such hospital, clinic or other institution, fully itemized as indicated in any bill rendered therefore:

e. Please produce a copy of any bill, report and record referenced above.

10. Is plaintiff still afflicted with or suffering from the effects of any injury, illness or disability you received at the time of the alleged occurrence?

If so, please describe in complete detail the nature, extent and duration of each and every one of your present injuries, illnesses, pains, disabilities and symptoms:

11. Is plaintiff presently receiving any medical treatment, or do you anticipate in the future any medical treatment for any condition related to the alleged occurrence which is the subject of this lawsuit?

If so, please state:

a. The physician or other health care provider who is or will provide the treatment:

b. The nature of the treatment:

c. The duration of the expected treatment.

12. Is there any activity in which plaintiff could engage before the accident in which she cannot engage in now as a result of the injuries received in the accident?

If so, please state for each such activity:

a. A description of the activity:

b. In what way the accident or injuries restricted the activity:

c. Whether you will be able to engage in the activity in the future, and if so, when.

13. During the five (5) year period prior to or at any time subsequent to the date of the alleged occurrences, did plaintiff sustain any injury, illness or disability other than those that you have described in response to any of the preceding Interrogatories?

If so, please state:

a. A full and detailed description of each such injury, illness or disability:

b. Where and when you sustained each such injury, illness or disability:

c. For what time period, giving dates, you suffered from each such injury, illness or disability:

d. The name and address of each such doctor, medical practitioner, hospital, clinic or other institution visited by you in which you were confined for the purpose of care or treatment, specifying the dates of each such visit or the period of any time of such confinement.

14. As to any claim for pain and suffering, please state:

a. The specific nature of the pain or area of the body affected by pain:

b. The treatment prescribed for the relief of any such pain or suffering:

c. The treatment pursued for relief of any such pain or suffering:

d. All drugs used for the relief of pain, specifying the name, quantity and general time period in which the drugs were taken:

e. Whether any of the pain referenced in (a) above continues at the present time, and if so, what is its nature.

15. Please state the name and address of all facility or facilities where Plaintiff Gertrude Dohner has resided since leaving Knickerbocker Villa.

16. Please produce copies of all MA51's or similar medical evaluations for calendar years 2001, 2002, and 2003.

17. Please produce a copy of Plaintiff Gertrude Dohner's current care plan.

18. Please state exact medications currently taken by Plaintiff Gertrude Dohner with dosages.

19. Please state the name and address of all physicians or health care providers who have seen or cared for Mrs. Dohner since she left Knickerbocker Villa not previously revealed in response to interrogatories 8 and 9 above.

MITCHELL, MITCHELL, GRAY & GALLAGHER  
A Professional Corporation

By: 

Richard A. Gray  
I.D.# 21560  
Attorneys for Defendant

10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404

**GERTRUDE R. DOHNER**

Plaintiff

v.

**KNICKERBOCKER VILLA, INC.**

a corporation,

Defendant

:IN THE COURT OF COMMON PLEAS OF

:CLEARFIELD COUNTY, PENNSYLVANIA

:

:NO. 02-1014-CD

:

:JURY TRIAL DEMANDED

:

:CIVIL DIVISION

**CERTIFICATE OF SERVICE**

RICHARD A. GRAY hereby certifies that he filed the original of the foregoing Certificate of Service for the Defendant's Interrogatories and Requests for Production of Documents ~~Directed to~~ Plaintiff with the Clearfield County Prothonotary, P.O. Box 549, Clearfield, PA 16830, this 1 <sup>July</sup> day of ~~June~~, 2003.

He further certifies that he served the original of the Defendant's Interrogatories and Requests for Production of Documents Directed to Plaintiff on the following, in the following manner, this 1 <sup>July</sup> day of ~~June~~, 2003:

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

  
Richard A. Gray

LAW OFFICES  
**MITCHELL, MITCHELL, GRAY & GALLAGHER**  
A PROFESSIONAL CORPORATION  
10 West Third Street  
Williamsport, Pennsylvania 17701-6513  
Telephone: (570) 323-8404  
Facsimile: (570) 323-8585  
Email: [mmggpc@mmgglaw.com](mailto:mmggpc@mmgglaw.com)  
Direct Email: [bjs@mmgglaw.com](mailto:bjs@mmgglaw.com)  
Web Page: [www.MMGGLaw.com](http://www.MMGGLaw.com)

Jacob Neafie Mitchell  
1919-1996

C. Edward S. Mitchell  
Richard A. Gray  
Robert A. Gallagher  
Gary L. Weber  
Bret J. Southard  
Daryl R. Wishard

October 13, 2003

Jay N. Silberblatt, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

RE: Claim No.: HCF 311 07 74 C6  
Our insured: Knickerbocker Villa, Inc.  
Date of Loss: June 30, 2000 (RPO)  
Plaintiff: Gertrude Dohner  
Our File: 17436

Dear Mr. Silberblatt:

It does not appear that you have responded to our discovery that was served back in July. Could you please let us know when responses can be expected? Thank you for your assistance.

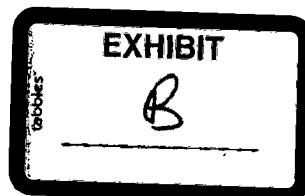
Very truly yours,

**MITCHELL MITCHELL GRAY & GALLAGHER**  
a professional corporation

  
Richard A. Gray

  
Bret J. Southard

RAG/BJS/kjks



# Silberblatt Mermelstein

Attorneys

Professional Corporation

2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
412.232.0580  
412.232.0581 Fax  
[www.smlawpa.com](http://www.smlawpa.com)

Jay N. Silberblatt \*  
Merle Kramer Mermelstein

October 28, 2003

S02-118/JNS

Richard A. Gray, Esq.  
Mitchell, Mitchell, Gray & Gallagher  
10 West Third Street  
Williamsport, PA 17701

**RE: Gertrude R. Dohner vs. Knickerbocker Villa, Inc., a corporation  
In the Court of Common Pleas of Clearfield County, Pennsylvania  
No. 02-1014-CD**

**Date of Incident: January 22, 2001**

Dear Mr. Gray:

I apologize for my delay in getting Answers to your Interrogatories. I have sent rough Answers to my clients for their signature and hope to have finished Answers to you very shortly. I appreciate your indulgence.

In the interim, if you have any questions, please contact me.

Very truly yours,

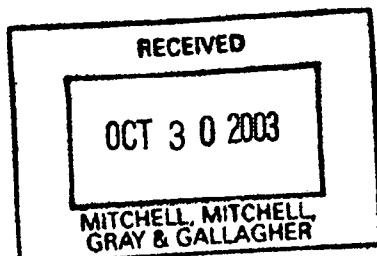
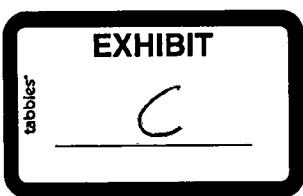
SILBERBLATT MERMELSTEIN, P.C.

By \_\_\_\_\_

Jay N. Silberblatt

JNS/hdg

I:\JNS\General\02118\counsel.ltr5.doc



LAW OFFICES  
**MITCHELL, MITCHELL, GRAY & GALLAGHER**  
A PROFESSIONAL CORPORATION  
10 West Third Street  
Williamsport, Pennsylvania 17701-6513  
Telephone: (570) 323-8404  
Facsimile: (570) 323-8585  
Email: [mngpc@mmgglaw.com](mailto:mngpc@mmgglaw.com)  
Direct Email: [drw@mmgglaw.com](mailto:drw@mmgglaw.com)  
Web Page: [www.MMGGlaw.com](http://www.MMGGlaw.com)

Jacob Neafie Mitchell  
1919-1996

C. Edward S. Mitchell  
Richard A. Gray  
Robert A. Gallagher  
Gary L. Weber  
Bret J. Southard  
Darryl R. Wishard

December 17, 2003

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

**Re: Dohner v. Knickerbocker**

Dear Mr. Silberblatt:

I have assumed handling this file for my partner, Rick Gray, who has been elected judge.

I note that Rick wrote back in October regarding some answers to interrogatories, and you responded on October 28, 2003 that answers were forthcoming.

Please let me know within the next 15 days if your client needs additional time, and, if so, how much time so I can note it on my calendar.

Thank you.

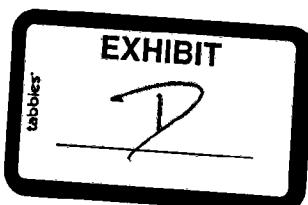
Very truly yours,

**MITCHELL MITCHELL GRAY & GALLAGHER**  
A Professional Corporation



Darryl R. Wishard

DRW:bgh



*Mitchell  
Gallagher*  
*Attorneys at Law*

*J. Neafie Mitchell (1919-1996)*

C. Edward S. Mitchell  
Robert A. Gallagher  
Gary L. Weber  
Bret J. Southard  
Darryl R. Wishard

Email: drw@mmgsw.com

January 6, 2004

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

**Re: Dohner v. Knickerbocker**

Dear Mr. Silberblatt:

Reference my December 17, 2003 letter to you.

Please let me know within the next 15 days when I can expect answers to interrogatories on behalf of your client. I would like to avoid filing a motion to compel if at all possible.

Thank you for your consideration.

Very truly yours,

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD, P.C.



Darryl R. Wishard

DRW:bgh

**EXHIBIT**



Mitchell Mitchell Gallagher Weber Southard & Wishard P.C.

[www.mmgsw.com](http://www.mmgsw.com)

10 West Third Street, Williamsport, Pa. 17701-6513  
(570) 323-8404 Fax (570) 323-8585

**CERTIFICATE OF SERVICE**

DARRYL R. WISHARD, hereby certifies that on this 28<sup>th</sup> day of January, 2004, he mailed the foregoing Motion to Compel to the Clearfield County Prothonotary by U.S. Mail, postage prepaid, first class rates.

He further certifies that a true and correct copy has been mailed to the following by U.S. Mail, postage prepaid, first class rates this same date:

Jay N. Silberblatt, Esquire  
Silberblatt Mermelstein, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219



---

Darryl R. Wishard

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERTRUDE R. DOHNER,

CIVIL DIVISION

Plaintiff,

NO. 02-1014-CD

vs.

KNICKERBOCKER VILLA, INC.,  
a Corporation,

**VERIFICATION OF SERVICE OF  
PLAINTIFF'S ANSWERS TO  
DEFENDANT'S INTERROGATORIES**

Defendant.

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

Jay N. Silberblatt, Esquire  
Pa. I.D. # 32253

Silberblatt Mermelstein, P.C.  
Firm I.D. #645

2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
412-232-0580

**FILED**

FEB 11 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERTRUDE R. DOHNER,

CIVIL DIVISION

Plaintiff,

NO. 02-1014-CD

vs.

KNICKERBOCKER VILLA, INC.,  
a corporation,

Defendant.

**VERIFICATION OF SERVICE  
PLAINTIFF'S ANSWERS TO THE  
DEFENDANT'S INTERROGATORIES**

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's Answers to the Defendant's Interrogatories** was mailed by first class mail, postage prepaid, on the 9<sup>th</sup> day of February, 2004 to the following person:

**Darryl R. Wishard, Esquire  
Mitchell, Mitchell, Gallagher, Weber,  
Southard & Wishard, P.C.  
10 West Third Street  
Williamsport, PA 17701-6513  
Attorney for Defendant  
Knickerbocker Villa, Inc.**

SILBERBLATT MERMELSTEIN, P.C.

By \_\_\_\_\_

  
Jay N. Silberblatt  
Attorney for Plaintiff

FILED

CERTIFICATE

PREREQUISITE TO SERVICE OF A SUBPOENA

MAR 25 2004

PURSUANT TO RULE 4009.22

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE MATTER OF:

COURT OF COMMON PLEAS

GERTRUDE DOHNER

TERM,

-VS-

CASE NO: 02-1014-CD

KNICKERBOCKER VILLA, INC.

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of DARRYL R. WISHARD, ESQ.  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DATE: 03/22/2004

MCS on behalf of  
Darryl R. Wishard, Esq.  
Attorney for DEFENDANT

## **EXPLANATION OF REQUIRED RECORDS**

**TO: CUSTODIAN OF RECORDS FOR:**

RIDGEVIEW ELDER CARE REHAB.CTR  
MCNAUL STREET

CURWENSVILLE, PA 16833

**RE: 42985**  
GERTRUDE R. DOHNER

Please call for prior approval for fees in excess of \$100.00 for hospitals,  
\$50.00 for all other providers.

Entire medical file, including but not limited to any and all records, correspondence to and from the consulting and treating physicians, files, memoranda, handwritten notes, history and physical reports, medication/prescription records, including any and all such items as may be stored in a computer database or otherwise in electronic form, relating to any examination, diagnosis or treatment pertaining to:

**Dates Requested: up to and including the present.**

**Subject : GERTRUDE R. DOHNER**

304 SOUTH SECOND STREET, CLEARFIELD, PA 16830

**Social Security #: 171-14-9123**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERTRUDE R. DOHNER,

CIVIL DIVISION

Plaintiff,

NO.: 02-1014-CD

vs.

**PRAECIPE TO SETTLE  
AND DISCONTINUE**

KNICKERBOCKER VILLA, INC.,  
a Corporation,

Filed on Behalf of Plaintiff

Defendant.

Counsel of Record for this Party:

Jay N. Silberblatt, Esquire  
Pa. I.D. # 32253

Silberblatt Mermelstein, P.C.  
Firm I.D. #645

2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
412-232-0580

FILED <sup>12</sup> NO <sup>12</sup> CC  
MAY 13 2005 Cert. of Disc.  
William A. Shaw  
Prothonotary/Clerk of Courts  
to Atty  
Silberblatt  
Copy to CIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERTRUDE R. DOHNER,

CIVIL DIVISION

Plaintiff,

NO.: 02-1014-CD

vs.

KNICKERBOCKER VILLA, INC.,  
a Corporation,

Defendant.

**PRAECIPE TO SETTLE AND DISCONTINUE**

TO: ***WILLIAM A. SHAW, PROTHONOTARY***

SIR:

Please settle and discontinue the within-captioned case and mark it off the docket or satisfy the Verdict, Award or Judgment.

(XXX) Attorney for Plaintiffs;

(XXX) Prothonotary Settle and Discontinue  
with Issue Costs; and

( ) Certificate.

SILBERBLATT MERMELSTEIN, P.C.

By

  
Jay N. Silberblatt  
Attorneys for Plaintiffs

DATE: \_\_\_\_\_

PROTHONOTARY COSTS: \_\_\_\_\_

SWORN to and subscribed before me

this 11 day of May, 2005.

Nancy T. Argentieri  
NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Nancy T. Argentieri, Notary Public  
City Of Pittsburgh, Allegheny County  
My Commission Expires Apr. 18, 2009

Member, Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

Gertrude R. Dohner

Vs. No. 2002-01014-CD  
Knickerbocker Villa, Inc.

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on May 13, 2005, marked:

Settled and Discontinued

Record costs in the sum of \$80.00 have been paid in full by Jay N. Silberblatt.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 13th day of May A.D. 2005.

---

William A. Shaw, Prothonotary