

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

FILED

JUN 02 2008

0/12:50/W

William A. Shaw
Prothonotary/Clerk of Courts

NO CASE OPEN

ISSUED WRIT

TO APPEAL

BY CARRIER

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,
456 Ridge Avenue
Curwensville, PA

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II
551 State Street
Curwensville, Pa 16833

KAREN ARNOLD NEFF, d/b/a
MARION MANOR II
551 State Street
Curwensville, PA 16833

THOMAS C. NEFF, SR., d/b/a
MARION MANOR, II
551 State Street
Curwensville, Pa 16833

KAREN ARNOLD NEFF,
ADMINISTRATOR
MARION MANOR, II.
551 State Street
Curwensville, Pa 16833

Defendants.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

No. 2008-1006-CD

TERM, 2008

Filed on Behalf of Plaintiffs,
Virginia Spencer and Carol Eckley,
Executrices of the Estate of
Virginia Wilkinson

Counsel of Record for This Party:
Tammera L. Harrelson, Esquire
Pa. I.D. No. 202869
Wilkes & McHugh, P.A.
1650 Market Street, Suite 3175
Philadelphia, PA 19103
(215) 972-0811
(215) 972-0580 (facsimile)

JURY TRIAL DEMANDED

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

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,
456 Ridge Avenue
Curwensville, PA

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II
551 State Street
Curwensville, Pa 16833

KAREN ARNOLD NEFF, d/b/a
MARION MANOR II
551 State Street
Curwensville, PA 16833

THOMAS C. NEFF, SR., d/b/a
MARION MANOR, II
551 State Street
Curwensville, Pa 16833

KAREN ARNOLD NEFF,
ADMINISTRATOR
MARION MANOR, II.
551 State Street
Curwensville, Pa 16833

Defendants.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

No.

TERM, 2008

PRAECIPE FOR WRIT OF SUMMONS

(4Y Professional Malpractice)

TO THE PROTHONOTARY:

Kindly issue a Writ of Summons in the above-captioned matter of record with the Court.

WILKES & McHUGH, PA.

BY: Tammara Harrelson /POG
Tammara R. Harrelson, Esquire
Attorney for Plaintiff
Supreme Court ID No.: 202869
1650 Market Street, Suite 3175
Philadelphia, PA 19103
Telephone: (215) 972- 0811
Facsimile: (215) 972- 0580
tharrelson@wilkesmchugh.com

Date: 5/30/08

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION**

SUMMONS

**Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson**

Vs.

NO.: 2008-01006-CD

**Marion Manor, Inc.d/b/a Marion Manor, II,
Karen Arnold Neff, d/b/a/ Marion Manor, II
Thomas C. Neff, Sr., d/b/a Marion Manor, II
Karen Arnold Neff, Administrator Marion Manor, II**

TO: MARION MANOR, INC.
MARION MANOR II
KAREN ARNOLD NEFF
THOMAS C. NEFF, SR.
KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 6/2/2008

William A. Shaw
Prothonotary

Issuing Attorney:

Tammera L. Harrelson
Wilkes & McHugh, P.A.
Philadelphia, PA 19103
215-972-0811

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,
456 Ridge Avenue
Curwensville, PA

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II
551 State Street
Curwensville, Pa 16833

KAREN ARNOLD NEFF, d/b/a
MARION MANOR II
551 State Street
Curwensville, PA 16833

THOMAS C. NEFF, SR., d/b/a
MARION MANOR, II
551 State Street
Curwensville, Pa 16833

KAREN ARNOLD NEFF,
ADMINISTRATOR
MARION MANOR, II.
551 State Street
Curwensville, Pa 16833

Defendants.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

No. 2008-¹⁰⁰⁶~~0006~~CD

FILED *Att. pd.*
m/12:49:00 \$7.00
JUL 01 2008

William A. Shaw
Prothonotary/Clerk of Courts

6 CC & 6 Reissued
Writs to Sheriff

(6X)

PRAECIPE TO REISSUE WRIT OF SUMMONS
(4Y Professional Malpractice)

TO THE PROTHONOTARY:

Kindly Reissue the Writ of Summons in the above-captioned matter of record with the
Court.

WILLIAM L. GAY

REV. S. MUL

Tammera R. Harrelson
Tammera R. Harrelson, Esquire
Attorney at Law

Tammera R. Harrelson, Esquire
Attorney for Plaintiff
Supreme Court ID No.: 202869
1650 Market Street, Suite 3175
Philadelphia, PA 19103
Telephone: (215) 972- 0811
Facsimile: (215) 972- 0580
tharrelson@wilkesmchugh.com

6.26.04

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

COPY

SUMMONS

Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson

Vs.

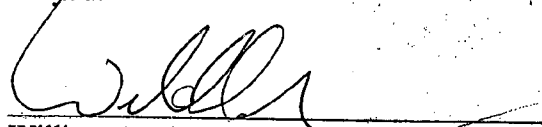
NO.: 2008-01006-CD

Marion Manor, Inc. d/b/a Marion Manor, II,
Karen Arnold Neff, d/b/a/ Marion Manor, II
Thomas C. Neff, Sr., d/b/a Marion Manor, II
Karen Arnold Neff, Administrator Marion Manor, II

TO: MARION MANOR, INC.
MARION MANOR II
KAREN ARNOLD NEFF
THOMAS C. NEFF, SR.
KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II

To the above named Defendant(s) you are hereby notified that the above named
Plaintiff(s) has/have commenced a Civil Action against you.

Date: 6/2/2008


William A. Shaw
Prothonotary

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

Issuing Attorney:

Tammera L. Harrelson
Wilkes & McHugh, P.A.
Philadelphia, PA 19103
215-972-0811

7/11/08 Document
Reinstated/Reissued to Sheriff/Attorney
for service.


Deputy Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

No. 2008-1006-CD

TERM, 2008

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

PRAECIPE FOR APPEARANCE

Filed on Behalf of Defendants:

Counsel of Record for This Party:

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns White & Hickton LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (facsimile)

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White & Hickton LLC
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212
412-995-3000
412-995-3305 (facsimile)

JURY TRIAL DEMANDED

FILED No CC.
m/12:00pm
JUL 07 2008
(UN)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

No. 2008-1006-CD

TERM, 2008

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

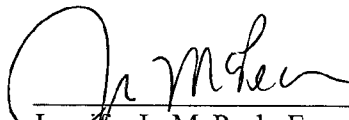
PRAECIPE FOR APPEARANCE

Kindly enter the appearance of William J. Mundy and Jennifer L. McPeak as counsel for
the Defendants in the above-captioned matter.

Respectfully submitted,

BURNS, WHITE & HICKTON, LLC

By:



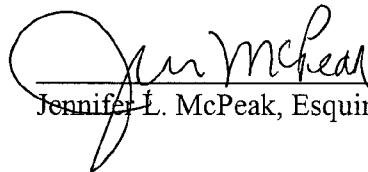
Jennifer L. McPeak, Esquire
Attorney for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **Praecipe for Appearance** was served upon all counsel of record via first class mail, postage prepaid, this

2nd day of July, 2008:

Tammera L. Harrelson, Esquire
Wilkes & McHugh, P.A.
1650 Market Street, Suite 3175
Philadelphia, PA 19103
(Attorney for Plaintiff)


Jennifer L. McPeak, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

No. 2008-1006-CD

TERM, 2008

Plaintiffs,

v.

**PRAECIPE FOR RULE TO FILE
COMPLAINT**

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Filed on Behalf of Defendants:

Defendants.

Counsel of Record for This Party:

William J. Mundy, Esquire
Pa.I.D. No. 57679
Burns White & Hickton LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (facsimile)

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White & Hickton LLC
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212
412-995-3000
412-995-3305 (facsimile)

JURY TRIAL DEMANDED

FILED NOCC.
m 12:00pm
JUL 07 2008 rule issued
(LM) to Atty
William A. Shaw mcPeak
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

No. 2008-1006-CD

TERM, 2008

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

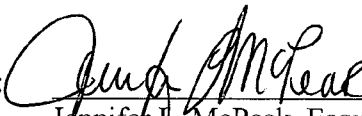
Defendants.

PRAECIPE FOR RULE TO FILE COMPLAINT

Pursuant to Rule 1037(a) of the Pennsylvania Rules of Civil Procedure, please enter a rule upon the Plaintiffs VIRGINIA SPENCER and CAROL ECKLEY, Executrices of the Estate of VIRGINIA WILKINSON,, to file a Complaint in the captioned case within twenty (20) days after service thereof or suffer judgment of non pros.

Respectfully submitted,

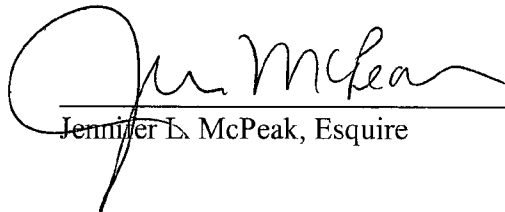
BURNS, WHITE & HICKTON, LLC

By: 
Jennifer L. McPeak, Esquire
Attorney for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **Praecipe for Rule to File Complaint** was served upon all counsel of record via first class mail, postage prepaid, this July day of 2nd, 2008:

Tammera L. Harrelson, Esquire
Wilkes & McHugh, P.A.
1650 Market Street, Suite 3175
Philadelphia, PA 19103
(Attorney for Plaintiff)



Jennifer L. McPeak, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia
Wilkinson
Plaintiffs

COPY

Case No. 2008-1006-CD

Vs.

Marion Manor Inc., d/b/a Marion
Manor II, Karen Arnold Neff d/b/a
Marion Manor II, Thomas C. Neff Sr.
d/b/a Marion Manor II and Karen Arnold
Neff, Administrator, Marion Manor II
Defendants

RULE TO FILE COMPLAINT

TO: Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within
twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

A handwritten signature in black ink, appearing to read "William A. Shaw", with a small "LM" monogram to the right.

William A. Shaw, Prothonotary

Dated: 7/7/2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1006-CD

VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of Virginia Wilkinson
vs
MARION MANOR, INC. d/b/a MARION MANOR II, et al
SUMMONS
SERVICE # 1 OF 4

SERVE BY: 07/02/2008 HEARING: PAGE: 104278

DEFENDANT: MARION MANOR, INC. d/b/a MARION MANOR II
ADDRESS: 551 STATE ST.
CURWENSVILLE, PA 16833

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT OCCUPIED

ATTEMPTS

SHERIFF'S RETURN

NOW, _____ AT _____ AM / PM **SERVED** THE WITHIN

SUMMONS ON MARION MANOR, INC. d/b/a MARION MANOR II, DEFENDANT

BY HANDING TO _____ / _____

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED _____

NOW _____ AT _____ AM / PM **POSTED** THE WITHIN

SUMMONS FOR MARION MANOR, INC. d/b/a MARION MANOR II

AT (ADDRESS) _____

NOW July 10, 2008 AT 3:10 AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO MARION MANOR, INC. d/b/a MARION MANOR II

REASON UNABLE TO LOCATE moved - 2465 Circleville Apt 112, State College, Pa

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

Dominic L. Morgillo
Deputy Signature

Dominic L. Morgillo
Print Deputy Name

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION**

SUMMONS

**Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson**

Vs.

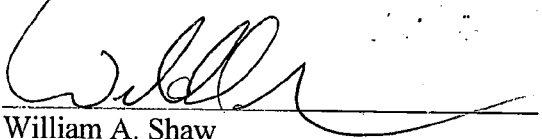
NO.: 2008-01006-CD

**Marion Manor, Inc.d/b/a Marion Manor, II,
Karen Arnold Neff, d/b/a/ Marion Manor, II
Thomas C. Neff, Sr., d/b/a Marion Manor, II
Karen Arnold Neff, Administrator Marion Manor, II**

**TO: MARION MANOR, INC.
MARION MANOR II
KAREN ARNOLD NEFF
THOMAS C. NEFF, SR.
KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 6/2/2008


William A. Shaw
Prothonotary

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan., 2010
Clearfield Co., Clearfield, PA

Issuing Attorney:

Tammera L. Harrelson
Wilkes & McHugh, P.A.
Philadelphia, PA 19103
215-972-0811

FILED
JUL 10 2008
William A. Shaw
Prothonotary/Clerk of Courts

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan 2010
Chester Co. District PA

JUN _ 4 2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1006-CD

VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of Virginia Wilkinson
vs

SERVICE # 2 OF 4

MARION MAROR, INC. d/b/a MARION MANOR II, al
SUMMONS

SERVE BY: 07/02/2008 HEARING: PAGE: 104278

DEFENDANT: KAREN ARNOLD NEFF d/b/a MARION MANOR II
ADDRESS: 551 STATE ST.
CURWENSVILLE, PA 16833

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT OCCUPIED

ATTEMPTS

SHERIFF'S RETURN

NOW, _____ AT _____ AM / PM **SERVED** THE WITHIN

SUMMONS ON KAREN ARNOLD NEFF d/b/a MARION MANOR II, DEFENDANT

BY HANDING TO _____ / _____

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS
THEREOF.

ADDRESS SERVED _____

NOW _____ AT _____ AM / PM **POSTED** THE WITHIN

SUMMONS FOR KAREN ARNOLD NEFF d/b/a MARION MANOR II

AT (ADDRESS) _____

NOW July 10, 2008 AT 3:10 AM / (PM) AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO KAREN ARNOLD NEFF d/b/a MARION MANOR II

REASON UNABLE TO LOCATE Moved: 2465 Circleville Apt 112, State College, PA

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answered: CHESTER A. HAWKINS, SHERIFF

BY:

Dominic L. Morgillo
Deputy Signature

Dominic L. Morgillo
Print Deputy Name

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION**

SUMMONS

**Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson**

Vs.

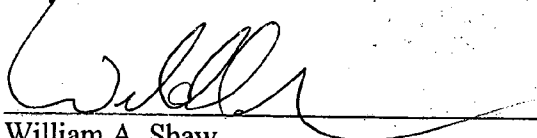
NO.: 2008-01006-CD

**Marion Manor, Inc.d/b/a Marion Manor, II,
Karen Arnold Neff, d/b/a/ Marion Manor, II
Thomas C. Neff, Sr., d/b/a Marion Manor, II
Karen Arnold Neff, Administrator Marion Manor, II**

**TO: MARION MANOR, INC.
MARION MANOR II
KAREN ARNOLD NEFF
THOMAS C. NEFF, SR.
KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 6/2/2008


William A. Shaw
Prothonotary

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan., 2010
Clearfield Co., Clearfield, PA

Issuing Attorney:

Tammera L. Harrelson
Wilkes & McHugh, P.A.
Philadelphia, PA 19103
215-972-0811

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1006-CD

VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of Virginia Wilkinson
vs

SERVICE # 3 OF 4

MARION MAROR, INC. d/b/a MARION MANOR II, et al
SUMMONS

SERVE BY: 07/02/2008

HEARING:

PAGE: 104278

DEFENDANT: THOMAS C. NEFF SR. d/b/a MARION MANOR II

ADDRESS: 551 STATE ST.
CURWENSVILLE, PA 16833

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED

ATTEMPTS

new 2465 Circleville

APT 112

STATE College

SHERIFF'S RETURN

NOW, _____ AT _____ AM / PM **SERVED** THE WITHIN

SUMMONS ON THOMAS C. NEFF SR. d/b/a MARION MANOR II, DEFENDANT

BY HANDING TO _____ / _____

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED _____

NOW July 10, 2008 AT 3:10 AM / PM **POSTED** THE WITHIN

SUMMONS FOR THOMAS C. NEFF SR. d/b/a MARION MANOR II

AT (ADDRESS) _____

NOW July 10, 2008 AT 3:10 AM PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO THOMAS C. NEFF SR. d/b/a MARION MANOR II

REASON UNABLE TO LOCATE Moved to 2465 Circleville Apt 112
State College, PA.

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

Dominic L. Morgillo
Deputy Signature

Dominic L. Morgillo
Print Deputy Name

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION**

SUMMONS

**Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson**

Vs.

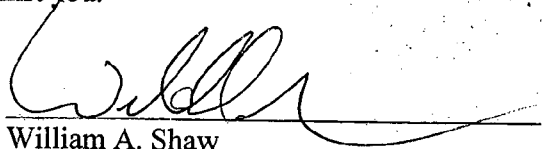
NO.: 2008-01006-CD

**Marion Manor, Inc.d/b/a Marion Manor, II,
Karen Arnold Neff, d/b/a/ Marion Manor, II
Thomas C. Neff, Sr., d/b/a Marion Manor, II
Karen Arnold Neff, Administrator Marion Manor, II**

**TO: MARION MANOR, INC.
MARION MANOR II
KAREN ARNOLD NEFF
THOMAS C. NEFF, SR.
KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 6/2/2008


William A. Shaw
Prothonotary

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan., 2010
Clearfield Co., Clearfield, PA

Issuing Attorney:

Tammera L. Harrelson
Wilkes & McHugh, P.A.
Philadelphia, PA 19103
215-972-0811

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1006-CD

VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of Virginia Wilkinson
vs

SERVICE # 4 OF 4

MARION MAROR, INC. d/b/a MARION MANOR II, al
SUMMONS

SERVE BY: 07/02/2008

HEARING:

PAGE: 104278

DEFENDANT: KAREN ARNOLD NEFF, ADMINISTRATOR, MARION MANOR II

ADDRESS: 551 STATE ST.
CURWENSVILLE, PA 16833

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED

ATTEMPTS

SHERIFF'S RETURN

NOW, _____ AT _____ AM / PM **SERVED** THE WITHIN

SUMMONS ON KAREN ARNOLD NEFF, ADMINISTRATOR, MARION MANOR II, DEFENDANT

BY HANDING TO _____ / _____

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS
THEREOF.

ADDRESS SERVED _____

NOW _____ AT _____ AM / PM **POSTED** THE WITHIN

SUMMONS FOR KAREN ARNOLD NEFF, ADMINISTRATOR, MARION MANOR II

AT (ADDRESS) _____

NOW July 10, 2008 AT 3:10 AM PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO KAREN ARNOLD NEFF, ADMINISTRATOR, MARION MANOR II

REASON UNABLE TO LOCATE ^{moved:} 2465 Circleville, Apt 112, State College, Pa

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

Dominic L. Morgillo
Deputy Signature

Dominic L. Morgillo
Print Deputy Name

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION**

SUMMONS

**Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson**

Vs.

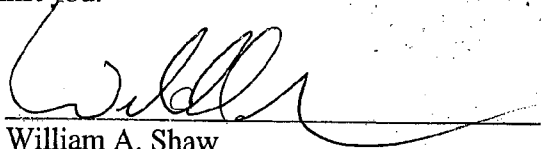
NO.: 2008-01006-CD

**Marion Manor, Inc. d/b/a Marion Manor, II,
Karen Arnold Neff, d/b/a Marion Manor, II
Thomas C. Neff, Sr., d/b/a Marion Manor, II
Karen Arnold Neff, Administrator Marion Manor, II**

**TO: MARION MANOR, INC.
MARION MANOR II
KAREN ARNOLD NEFF
THOMAS C. NEFF, SR.
KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 6/2/2008


William A. Shaw
Prothonotary

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan., 2010
Clearfield Co., Clearfield, PA

Issuing Attorney:

Tammera L. Harrelson
Wilkes & McHugh, P.A.
Philadelphia, PA 19103
215-972-0811

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

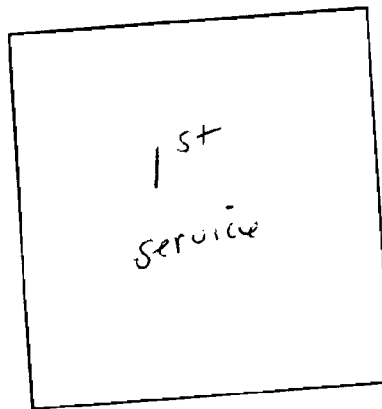
DOCKET # 104278
NO: 08-1006-CD
SERVICES 4
SUMMONS

PLAINTIFF: VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of Virginia Wilkinson
vs.
DEFENDANT: MARION MANOR, INC. d/b/a MARION MANOR II, al

SHERIFF RETURN

RETURN COSTS

Description	Paid By
SURCHARGE	WILKES
SHERIFF HAWKINS	WILKES



AMOUNT
40.00
36.02

FILED
0/10:30 am
SEP 18 2008
William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

_____ Day of _____ 2008

So Answers,

A handwritten signature in cursive script, appearing to read "Chester A. Hawkins".

Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

COPY

SUMMONS

Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson

Vs.

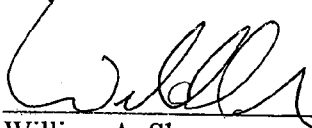
NO.: 2008-01006-CD

Marion Manor, Inc.d/b/a Marion Manor, II,
Karen Arnold Neff, d/b/a/ Marion Manor, II
Thomas C. Neff, Sr., d/b/a Marion Manor, II
Karen Arnold Neff, Administrator Marion Manor, II

TO: MARION MANOR, INC.
MARION MANOR II
KAREN ARNOLD NEFF
THOMAS C. NEFF, SR.
KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II

To the above named Defendant(s) you are hereby notified that the above named
Plaintiff(s) has/have commenced a Civil Action against you.

Date: 6/2/2008


William A. Shaw
Prothonotary

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan., 2010
Clearfield Co., Clearfield, PA

Issuing Attorney:

Tammera L. Harrelson
Wilkes & McHugh, P.A.
Philadelphia, PA 19103
215-972-0811

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104356
NO: 08-1006-CD
SERVICE # 1 OF 4
PRAECIPE & SUMMONS

PLAINTIFF: VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of
VIRGINIA WILKINSON

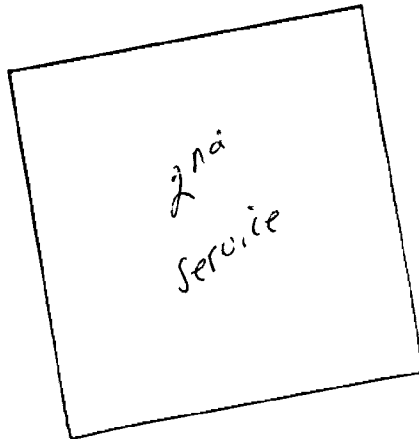
vs.

DEFENDANT: MARION MANOR, INC. d/b/a MARION MANOR II al

SHERIFF RETURN

NOW, July 08, 2008, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON MARION MANOR, INC. d/b/a MARION MANOR II.

NOW, July 14, 2008 AT 6:35 PM SERVED THE WITHIN PRAECIPE & SUMMONS ON MARION MANOR, INC. d/b/a MARION MANOR II, DEFENDANT. THE RETURN OF CENTRE COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.



FILED

01/10:30 AM
SEP 18 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104356
NO: 08-1006-CD
SERVICE # 2 OF 4
PRAECIPE & SUMMONS

PLAINTIFF: VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of
VIRGINIA WILKINSON

vs.

DEFENDANT: MARION MANOR, INC. d/b/a MARION MANOR II al

SHERIFF RETURN

NOW, July 08, 2008, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON KAREN ARNOLD NEFF, d/b/a MARION MANOR II.

NOW, July 14, 2008 AT 6:35 PM SERVED THE WITHIN PRAECIPE & SUMMONS ON KAREN ARNOLD NEFF, d/b/a MARION MANOR II, DEFENDANT. THE RETURN OF CENTRE COUNTY IS HERETO **ATTACHED** AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104356
NO: 08-1006-CD
SERVICE # 3 OF 4
PRAECIPE & SUMMONS

PLAINTIFF: VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of
VIRGINIA WILKINSON

vs.

DEFENDANT: MARION MANOR, INC. d/b/a MARION MANOR II al

SHERIFF RETURN

NOW, July 08, 2008, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON THOMAS C. NEFF, SR., d/b/a MARION MANOR, II.

NOW, July 14, 2008 AT 6:35 PM SERVED THE WITHIN PRAECIPE & SUMMONS ON THOMAS C. NEFF, SR., d/b/a MARION MANOR, II, DEFENDANT. THE RETURN OF CENTRE COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104356
NO: 08-1006-CD
SERVICE # 4 OF 4
PRAECIPE & SUMMONS

PLAINTIFF: VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of
VIRGINIA WILKINSON

vs.

DEFENDANT: MARION MANOR, INC. d/b/a MARION MANOR II al

SHERIFF RETURN

NOW, July 08, 2008, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II.

NOW, July 14, 2008 AT 6:35 PM SERVED THE WITHIN PRAECIPE & SUMMONS ON KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II, DEFENDANT. THE RETURN OF CENTRE COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104356
NO: 08-1006-CD
SERVICES 4
PRAECIPE & SUMMONS

PLAINTIFF: VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of
VIRGINIA WILKINSON

vs.

DEFENDANT: MARION MANOR, INC. d/b/a MARION MANOR II al

SHERIFF RETURN

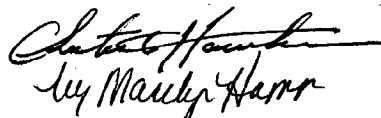
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	WILKES	384801	40.00
SHERIFF HAWKINS	WILKES	384801	12.00
CENTRE CO.	WILKES	384800	75.00

Sworn to Before Me This

_____ Day of _____ 2008

So Answers,



Chester A. Hawkins
Sheriff

SHERIFF'S OFFICE

CENTRE COUNTY

Wilkes & McHugh P. A.

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

BS

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN		INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. please type or print legibly. Do Not detach any copies.	
1. Plaintiff(s) Virginia Spencer et al		2. Case Number 08-1006-CD	
3. Defendant(s) Marion Manor Inc. d/b/a Marion Manor II et al		4. Type of Writ or Complaint: Summons 501859	
SERVE → AT		5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold. Marion Manor Inc. d/b/a Marion Manor II 6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code) 2465 Circleville #112, State College, PA	
7. Indicate unusual service: <input type="checkbox"/> Reg Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Deputize <input type="checkbox"/> Post <input type="checkbox"/> Other			
Now, _____ 20____, I SHERIFF OF CENTRE COUNTY, PA., do hereby deputize the Sheriff of _____ County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff. _____ Sheriff of Centre County			
8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE			
NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN -- Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.			
9. Print/Type Name and Address of Attorney/Originator Wilkes & McHugh P. A. ONE NO. DALE MABRY HWY-STE 800 TAMPA FL. 33609		10. Telephone Number (813) 873-0026	11. Date
		12. Signature	
SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE			
13. I acknowledge receipt of the writ or complaint as indicated above.		SIGNATURE of Authorized CCSD Deputy of Clerk and Title	14. Date Filed
			15. Expiration/Hearing Date
TO BE COMPLETED BY SHERIFF			
16. Served and made known to Thomas Neff, on the 14 day of July, 20 2008, at 6:35 PM o'clock, _____ m., at 2465 Circleville #112, State College, PA, County of Centre			
Commonwealth of Pennsylvania, in the manner described below: <input type="checkbox"/> Defendant(s) personally served. <input type="checkbox"/> Adult family member with whom said Defendant(s) resides(s). Relationship is co-defendant <input type="checkbox"/> Adult in charge of Defendant's residence. <input type="checkbox"/> Manager/Clerk of place of lodging in which Defendant(s) resides(s). <input type="checkbox"/> Agent or person in charge of Defendant's office or usual place of business. _____ and officer of said Defendant company. Other _____			
On the _____ day of _____, 20____, at _____ o'clock, _____ M. Defendant not found because: <input type="checkbox"/> Moved <input type="checkbox"/> Unknown <input type="checkbox"/> No Answer <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____			
Remarks:			
Advance Costs 75.00	Docket 9.00	Service 27.00	Sur Charge 0.00
Affidavit 4.00	Mileage 35.00	Postage	Misc.
Total Costs 75.00	Costs Due or Refund 0.00		
17. AFFIRMED and subscribed to before me this 15 day of July 20 08		So Answer.	
20. _____		18. Signature of Dep. Sheriff	19. Date 7/15/08
21. _____		21. Signature of Sheriff	22. Date
Notary Seal Corinne H. Peters, Notary Public My Commission Expires 09/08		SHERIFF OF CENTRE COUNTY	
24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE		25. Date Received	

SHERIFF'S OFFICE

Wilkes & McHugh P. A.

CENTRE COUNTY

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN		INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. please type or print legibly. Do Not detach any copies.	
1. Plaintiff(s) Virginia Spencer et al		2. Case Number 08-1006-CD	
3. Defendant(s) Marion Manor Inc. d/b/a Marion Manor II et al		4. Type of Writ or Complaint: Summons 501859	
SERVE → AT	5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold. Thomas C Neff, Sr. d/b/a Marion Manor II		
	6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code) 2465 Circleville #112, State College, PA		
7. Indicate unusual service: <input type="checkbox"/> Reg Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Deputize <input type="checkbox"/> Post <input type="checkbox"/> Other			
Now, _____ 20____, I SHERIFF OF CENTRE COUNTY, PA., do hereby deputize the Sheriff of _____ County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff. _____ Sheriff of Centre County			
8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE			
NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.			
9. Print/Type Name and Address of Attorney/Originator Wilkes & McHugh P. A. ONE NO. DALE MABRY HWY-STE 800 TAMPA FL. 33609		10. Telephone Number (813) 873-0026	11. Date
		12. Signature	
SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE			
13. I acknowledge receipt of the writ or complaint as indicated above.		SIGNATURE of Authorized CCSD Deputy of Clerk and Title	
		14. Date Filed	
		15. Expiration/Hearing Date	
TO BE COMPLETED BY SHERIFF			
16. Served and made known to Thomas Neff, on the 14 day of July, 20 2008, at 6:35 PM o'clock, _____ m., at 2465 Circleville #112, State College, PA, County of Centre Commonwealth of Pennsylvania, in the manner described below: <input type="checkbox"/> Defendant(s) personally served. <input type="checkbox"/> Adult family member with whom said Defendant(s) resides(s). Relationship is defendant <input type="checkbox"/> Adult in charge of Defendant's residence. <input type="checkbox"/> Manager/Clerk of place of lodging in which Defendant(s) resides(s). <input type="checkbox"/> Agent or person in charge of Defendant's office or usual place of business. _____ and officer of said Defendant company. Other _____			
On the _____ day of _____, 20____, at _____ o'clock, _____ M. Defendant not found because: <input type="checkbox"/> Moved <input type="checkbox"/> Unknown <input type="checkbox"/> No Answer <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____			
Remarks:			
Advance Costs 75.00	Docket 9.00	Service 27.00	Sur Charge 0.00
Affidavit 4.00	Mileage 35.00	Postage	Misc.
Total Costs 75.00		Costs Due or Refund 0.00	
17. AFFIRMED and subscribed to before me this 15 day of July 2008 Corinne Peters		So Answer.	
18. Signature of Dep. Sheriff		19. Date 7/15/08	
21. Signature of Sheriff		22. Date	
Notarial Seal Corinne H. Peters, Notary Public My Commission Expires _____		SHERIFF OF CENTRE COUNTY	
Amount Pd.		Page	
24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED AUTHORITY AND TITLE		25. Date Received	

SHERIFF'S OFFICE

CENTRE COUNTY

Wilkes & McHugh P. A.

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN				INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. please type or print legibly. Do Not detach any copies.			
1. Plaintiff(s) Virginia Spencer et al				2. Case Number 08-1006-CD			
3. Defendant(s) Marion Manor Inc. d/b/a Marion Manor II et al				4. Type of Writ or Complaint: Summons 501859			
SERVE → AT {				5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold. Karen Arnold Neff administrator			
				6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code) 2465 Circleville #112, State College, PA			
7. Indicate unusual service: <input type="checkbox"/> Reg Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Deputize <input type="checkbox"/> Post <input type="checkbox"/> Other							
Now, _____ 20____, I SHERIFF OF CENTRE COUNTY, PA., do hereby deputize the Sheriff of _____ County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff. _____ Sheriff of Centre County							
8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE							
NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.							
9. Print/Type Name and Address of Attorney/Originator Wilkes & McHugh P. A. ONE NO. DALE MABRY HWY-STE 800 TAMPA FL. 33609				10. Telephone Number (813) 873-0026		11. Date	
				12. Signature			
SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE							
13. I acknowledge receipt of the writ or complaint as indicated above.		SIGNATURE of Authorized CCSD Deputy of Clerk and Title		14. Date Filed		15. Expiration/Hearing Date	
TO BE COMPLETED BY SHERIFF							
16. Served and made known to <u>Thomas Neff</u> , on the <u>14</u> day of <u>July</u> , 20 <u>2008</u> , at <u>6:35 PM</u> o'clock, <u>_____</u> m., at <u>2465 Circleville #112, State College, PA</u> , County of Centre							
Commonwealth of Pennsylvania, in the manner described below: <input type="checkbox"/> Defendant(s) personally served. <input type="checkbox"/> Adult family member with whom said Defendant(s) resides(s). Relationship is <u>co-defendant</u> <input type="checkbox"/> Adult in charge of Defendant's residence. <input type="checkbox"/> Manager/Clerk of place of lodging in which Defendant(s) resides(s). <input type="checkbox"/> Agent or person in charge of Defendant's office or usual place of business. <u>_____</u> and officer of said Defendant company. Other _____							
On the _____ day of _____, 20____, at _____ o'clock, _____ M.							
Defendant not found because: <input type="checkbox"/> Moved <input type="checkbox"/> Unknown <input type="checkbox"/> No Answer <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____							
Remarks:							
Advance Costs 75.00		Docket 9.00		Service 27.00		Sur Charge 0.00	
Affidavit 4.00		Mileage 35.00		Postage		Misc.	
Total Costs 75.00		Costs Due or Refund 0.00					
17. AFFIRMED and subscribed to before me this <u>15</u> day of <u>July</u> , 20 <u>08</u>				So Answer.			
20. <u>Corinne H. [Signature]</u> Notary Public Bellefonte, Centre County, PA				18. Signature of Dep. Sheriff <u>[Signature]</u>		19. Date <u>7/15/08</u>	
23. My Commission Expires <u>_____</u>				21. Signature of Sheriff <u>[Signature]</u>		22. Date <u>_____</u>	
				SHERIFF OF CENTRE COUNTY			
				Amount Pd. _____ Page _____			
24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED AUTHORITY AND TITLE						25. Date Received	

SHERIFF'S OFFICE

Wilkes & McHugh P. A.

CENTRE COUNTY

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN		INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. please type or print legibly. Do Not detach any copies.	
1. Plaintiff(s) Virginia Spencer et al		2. Case Number 08-1006-CD	
3. Defendant(s) Marion Manor Inc. d/b/a Marion Manor II et al		4. Type of Writ or Complaint: Summons 501859	
SERVE → AT	5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold. Karen Arnold Neff d/b/a Marion Manor II		
	6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code) 2465 Circleville #112, State College, PA		
7. Indicate unusual service: <input type="checkbox"/> Reg Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Deputize <input type="checkbox"/> Post <input type="checkbox"/> Other			
Now, _____ 20____, I SHERIFF OF CENTRE COUNTY, PA., do hereby deputize the Sheriff of _____ County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff. _____ Sheriff of Centre County			
8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE			
NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN -- Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.			
9. Print/Type Name and Address of Attorney/Originator Wilkes & McHugh P. A. ONE NO. DALE MABRY HWY-STE 800 TAMPA FL. 33609		10. Telephone Number (813) 873-0026	11. Date
		12. Signature	
SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE			
13. I acknowledge receipt of the writ or complaint as indicated above.		SIGNATURE of Authorized CCSD Deputy of Clerk and Title	
		14. Date Filed	15. Expiration/Hearing Date
TO BE COMPLETED BY SHERIFF			
16. Served and made known to Thomas Neff, on the 14 day of July, 20 2008, at 6:35 PM o'clock, _____ m., at 2465 Circleville #112, State College, PA, County of Centre			
Commonwealth of Pennsylvania, in the manner described below: <input type="checkbox"/> Defendant(s) personally served. <input type="checkbox"/> Adult family member with whom said Defendant(s) resides(s). Relationship is co-defendant <input type="checkbox"/> Adult in charge of Defendant's residence. <input type="checkbox"/> Manager/Clerk of place of lodging in which Defendant(s) resides(s). <input type="checkbox"/> Agent or person in charge of Defendant's office or usual place of business. _____ and officer of said Defendant company. Other _____			
On the _____ day of _____, 20____, at _____ o'clock, _____ M. Defendant not found because: <input type="checkbox"/> Moved <input type="checkbox"/> Unknown <input type="checkbox"/> No Answer <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____			
Remarks:			
Advance Costs 75.00	Docket 9.00	Service 27.00	Sur Charge 0.00
Affidavit 4.00	Mileage 35.00	Postage	Misc.
Total Costs 75.00	Costs Due or Refund 0.00		
17. AFFIRMED and subscribed to before me this 15 day of July 2008		So Answer.	
20. day of July 2008		18. Signature of Dep. Sheriff	19. Date 7/15/08
23. Corinne H. Peters, Notary Public, Centre County, PA		21. Signature of Sheriff	22. Date
Notarial Seal Corinne H. Peters, Notary Public My Commission Expires _____		SHERIFF OF CENTRE COUNTY	
24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED AUTHORITY AND TITLE.		Amount Pd.	Page
25. Date Received			



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641
FAX (814) 765-5915
ROBERT SNYDER
CHIEF DEPUTY
MARILYN HAMM
DEPT. CLERK
CYNTHIA AUGHENBAUGH
OFFICE MANAGER
KAREN BAUGHMAN
CLERK TYPIST
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 104356

TERM & NO. 08-1006-CD

VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of
VIRGINIA WILKINSON

PRAECIPE & SUMMONS

vs.

MARION MANOR, INC. d/b/a MARION MANOR II al

SERVE BY: 07/31/08
COURT DATE:

MAKE REFUND PAYABLE TO WILKES & MCHUGH, P.A.

SERVE: MARION MANOR, INC. d/b/a MARION MANOR II

ADDRESS: 2465 CIRCLEVILLE #112, STATE COLLEGE, PA

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF CENTRE COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, July 08, 2008.

RESPECTFULLY,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641
FAX (814) 765-5915
ROBERT SNYDER
CHIEF DEPUTY
MARILYN HAMM
DEPT. CLERK
CYNTHIA AUGHENBAUGH
OFFICE MANAGER
KAREN BAUGHMAN
CLERK TYPIST
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 104356

TERM & NO. 08-1006-CD

VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of
VIRGINIA WILKINSON

PRAECIPE & SUMMONS

vs.

MARION MANOR, INC. d/b/a MARION MANOR II al

SERVE BY: 07/31/08
COURT DATE:

MAKE REFUND PAYABLE TO WILKES & MCHUGH, P.A.

SERVE: THOMAS C. NEFF, SR., d/b/a MARION MANOR, II

ADDRESS: 2465 CIRCLEVILLE #112, STATE COLLEGE, PA

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF CENTRE COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, July 08, 2008.

RESPECTFULLY,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641
FAX (814) 765-5915
ROBERT SNYDER
CHIEF DEPUTY
MARILYN HAMM
DEPT. CLERK
CYNTHIA AUGHENBAUGH
OFFICE MANAGER
KAREN BAUGHMAN
CLERK TYPIST
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 104356

TERM & NO. 08-1006-CD

VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of
VIRGINIA WILKINSON

PRAECIPE & SUMMONS

VS.

MARION MANOR, INC. d/b/a MARION MANOR II al

SERVE BY: 07/31/08
COURT DATE:

MAKE REFUND PAYABLE TO WILKES & MCHUGH, P.A.

SERVE: KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II

ADDRESS: 1465 CIRCLEVILLE #112, STATE COLLEGE, PA

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF CENTRE COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, July 08, 2008.

RESPECTFULLY,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641
FAX (814) 765-5915
ROBERT SNYDER
CHIEF DEPUTY
MARILYN HAMM
DEPT. CLERK
CYNTHIA AUGHENBAUGH
OFFICE MANAGER
KAREN BAUGHMAN
CLERK TYPIST
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 104356

TERM & NO. 08-1006-CD

VIRGINIA SPENCER and CAROL ECKLEY Executrices of the Estate of
VIRGINIA WILKINSON

PRAECIPE & SUMMONS

VS.

MARION MANOR, INC. d/b/a MARION MANOR II al

SERVE BY: 07/31/08
COURT DATE:

MAKE REFUND PAYABLE TO WILKES & MCHUGH, P.A.

SERVE: KAREN ARNOLD NEFF, d/b/a MARION MANOR II

ADDRESS: 2465 CIRCLEVILLE #112, STATE COLLEGE, PA

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF CENTRE COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, July 08, 2008.

RESPECTFULLY,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

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

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,
456 Ridge Avenue
Curwensville, PA

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II
551 State Street
Curwensville, Pa 16833

KAREN ARNOLD NEFF, d/b/a
MARION MANOR II
551 State Street
Curwensville, PA 16833

THOMAS C. NEFF, SR., d/b/a
MARION MANOR, II
551 State Street
Curwensville, Pa 16833

KAREN ARNOLD NEFF,
ADMINISTRATOR
MARION MANOR, II.
551 State Street
Curwensville, Pa 16833

Defendants.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

No. 2008-¹⁰⁰⁶~~0006~~ CD

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUL 01 2008

Attest.

William A. Brown
Prothonotary/
Clerk of Courts

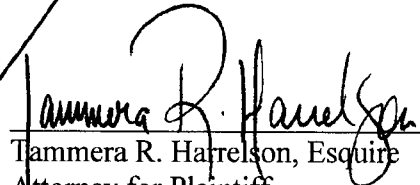
PRAECIPE TO REISSUE WRIT OF SUMMONS
(4Y Professional Malpractice)

TO THE PROTHONOTARY:

Kindly Reissue the Writ of Summons in the above-captioned matter of record with the
Court.

WILKES & McHUGH, PA.

BY:



Tammera R. Harrelson, Esquire
Attorney for Plaintiff

Supreme Court ID No.: 202869

1650 Market Street, Suite 3175

Philadelphia, PA 19103

Telephone: (215) 972- 0811

Facsimile: (215) 972- 0580

tharrelson@wilkesmchugh.com

Date: 6-26-04

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

SUMMONS

Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson

Vs.

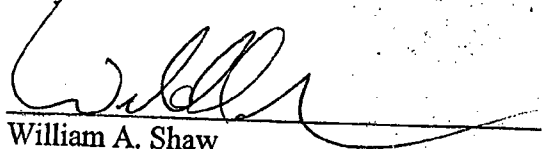
NO.: 2008-01006-CD

Marion Manor, Inc. d/b/a Marion Manor, II,
Karen Arnold Neff, d/b/a Marion Manor, II
Thomas C. Neff, Sr., d/b/a Marion Manor, II
Karen Arnold Neff, Administrator Marion Manor, II

TO: MARION MANOR, INC.
MARION MANOR II
KAREN ARNOLD NEFF
THOMAS C. NEFF, SR.
KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II

To the above named Defendant(s) you are hereby notified that the above named
Plaintiff(s) has/have commenced a Civil Action against you.

Date: 6/2/2008

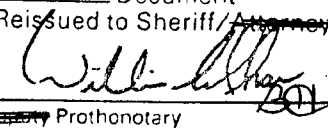

William A. Shaw
Prothonotary

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

Issuing Attorney:

Tammera L. Harrelson
Wilkes & McHugh, P.A.
Philadelphia, PA 19103
215-972-0811

7/1/08 Document
~~Reinstated~~/Reissued to Sheriff/Attorney
for service.


Prothonotary

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

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,
456 Ridge Avenue
Curwensville, PA

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II
551 State Street
Curwensville, Pa 16833

KAREN ARNOLD NEFF, d/b/a
MARION MANOR II
551 State Street
Curwensville, PA 16833

THOMAS C. NEFF, SR., d/b/a
MARION MANOR, II
551 State Street
Curwensville, Pa 16833

KAREN ARNOLD NEFF,
ADMINISTRATOR
MARION MANOR, II.
551 State Street
Curwensville, Pa 16833

Defendants.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

No. 2008-¹⁰⁰⁶~~0006~~-CD

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUL 01 2008

Attest.

William A. Brown
Prothonotary/
Clerk of Courts

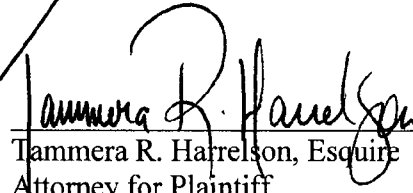
PRAECIPE TO REISSUE WRIT OF SUMMONS
(4Y Professional Malpractice)

TO THE PROTHONOTARY:

Kindly Reissue the Writ of Summons in the above-captioned matter of record with the
Court.

WILKES & McHUGH, PA.

BY:



Tammera R. Harrelson, Esquire
Attorney for Plaintiff

Supreme Court ID No.: 202869

1650 Market Street, Suite 3175

Philadelphia, PA 19103

Telephone: (215) 972- 0811

Facsimile: (215) 972- 0580

tharrelson@wilkesmchugh.com

Date: 6-26-04

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

SUMMONS

Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson

Vs.

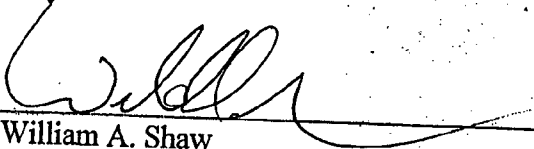
NO.: 2008-01006-CD

Marion Manor, Inc. d/b/a Marion Manor, II,
Karen Arnold Neff, d/b/a Marion Manor, II
Thomas C. Neff, Sr., d/b/a Marion Manor, II
Karen Arnold Neff, Administrator Marion Manor, II

TO: MARION MANOR, INC.
MARION MANOR II
KAREN ARNOLD NEFF
THOMAS C. NEFF, SR.
KAREN ARNOLD NEFF, ADMINISTRATOR MARION MANOR, II

To the above named Defendant(s) you are hereby notified that the above named
Plaintiff(s) has/have commenced a Civil Action against you.

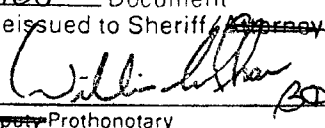
Date: 6/2/2008


William A. Shaw
Prothonotary

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

Issuing Attorney:

Tammera L. Harrelson
Wilkes & McHugh, P.A.
Philadelphia, PA 19103
215-972-0811

7/1/08 Document
Reinstated/Reissued to Sheriff/Agency
for service.

Deputy Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

COMPLAINT IN CIVIL ACTION

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795
Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, PA, 15219

(412) 434-1110

(412) 434-4882

JURY TRIAL DEMANDED

FILED

NOV 20 2008

William A. Shaw
Prothonotary/Clerk of Courts

1 copy to

Att

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

JURY TRIAL DEMANDED

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.,

Defendants.

NOTICE TO DEFEND

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 in Civil Action and Notice to Defend 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 claim or relief requested by Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN;ARNOLD
NEFF,ADMINISTRATOR;MARION
MANOR, II.

Defendant

COMPLAINT IN CIVIL ACTION

Pursuant to the Pennsylvania Rules of Civil Procedure, and the Clearfield County local rules of court, Plaintiffs, as executrices of the estate of Virginia Wilkinson, by their counsel, Wilkes & McHugh, P.A. and Michael T. Collis, files this Complaint in Civil Action:

I. PARTIES

1. Virginia Spencer is an adult individual residing at 264 Carl Road, Curwensville, Clearfield County, Pennsylvania. Mrs. Spencer brings this case in her capacity as the executrix of the estate of Virginia Wilkinson (hereinafter, "Mrs. Wilkinson").

2. Carol Eckley is an adult individual residing at 217 Grand Trunk Road, Flinton, Cambria County, Pennsylvania. Mrs. Eckley brings this case in her capacity as the executrix of the estate of Mrs. Wilkinson.

3. On April 28, 2008, Mrs. Eckley and Mrs. Spencer were appointed the executrices of the estate of Virginia Wilkinson, by the Register of Wills of Clearfield County, Pennsylvania.

4. Defendant, Marion Manor II (hereinafter, "Facility") is a personal care home/assisted living facility with a principal place of business at 122 Schofield Street Extension, Curwensville, Clearfield County, Pennsylvania. One of the claims that Plaintiffs are asserting against the Facility is a professional liability claim.

5. Marion Manor, Inc. is a Pennsylvania Corporation with a business address at P.O. Box 334 Curwensville, Clearfield County, Pennsylvania, and at all times relevant herein, owned, managed and controlled the Facility

6. Defendant, Karen Arnold Neff (hereinafter, "Mrs. Neff") is an adult individual and was at all times relevant herein the owner and administrator of the personal care facility/assisted living facility known as Marion Manor II, with a mailing address of 551 State Street, Curwensville, Clearfield County, Pennsylvania. One of the claims that Plaintiffs are asserting against Mrs. Neff is a professional liability claim.

7. Defendant, Thomas C. Neff, Sr. (hereinafter, "Mr. Neff") is an adult individual and was at all times relevant herein the owner of the personal care facility/assisted living facility known as Marion Manor II with a mailing address of 551 State Street, Curwensville, Clearfield County, Pennsylvania. One of the claims Plaintiffs are asserting against Mr. Neff is a professional liability claim.

8. Upon presenting information and belief, at all relevant times hereto, Defendants collectively operated and/or managed the Facility.

II. JURISDICTION AND VENUE

9. Jurisdiction and venue are proper in this Honorable Court insofar as the cause of action arose in Clearfield County, Pennsylvania, and all Defendants conduct business there. See, Pa.R.C.P. No. 1006.

III. FACTS

10. On or about April 23, 2004, Virginia Wilkinson was admitted to the Facility where she remained until September 30, 2006.

11. Mrs. Wilkinson was admitted to the Facility because:

- a. She could not care for herself;
- b. Her family was not able to care for her at that time;
- c. She required assistance with daily activities of living, which Defendants agreed to provide in exchange for money;
- d. She was deemed to be at high risk for suffering from falls;
- e. She was cognitively impaired;

12. In exchange for compensation, Defendants were to provide Mrs. Wilkinson with room, cleaning, laundry and linen service, storage of medications as well as assistance with the self administration of medications, scheduled bathing, oral hygiene, hair grooming, dressing, social activities and appointment assistance.

13. Mrs. Wilkinson's medical history and assessment at the time of admission included a history of diabetes and short term memory loss. Her plan of care included accuchecks, reorientation and peer interaction.

14. On June 20, 2006 Mrs. Wilkinson's behavior changed and she began experiencing respiratory difficulty. She was transferred to Clearfield Hospital where it was determined that

she was suffering from a urinary tract infection and an exacerbation of a preexisting condition of congestive heart failure.

15. On or about June 27, 2006 the staff at the Facility noted a mark on the bridge of Mrs. Wilkinson's nose. By June 28th, the mark developed into a bruise that extended down her nose to below both of her eyes. On June 28, 2006, Mrs. Wilkinson was transferred back to Clearfield Hospital with complaints of pain in her neck, back and knee.

16. At Clearfield Hospital, x-rays were taken a sling was applied to Mrs. Wilkinson's right arm.

17. On August 13, 2006 Mrs. Wilkinson again began experiencing shortness of breath. She was transferred to Clearfield Hospital where she was diagnosed with another urinary tract infection/sepsis and congestive heart failure.

18. On September 16, 2006, Mrs. Wilkinson was transferred to Clearfield Hospital due to complaints of vaginal bleeding. She was diagnosed with vaginal bleeding and another urinary tract infection. She was advised to follow up with her obstetrician/gynecologist.

19. On September 30, 2006, Mrs. Wilkinson was transferred to Clearfield Hospital with complaints of right hip pain. Upon examination a 9 cm glass vaginal dilator was located in her vagina. In addition, a one (1) centimeter laceration was located near the lip of the glass.

20. As a result of the aforementioned find, an investigation was conducted by the Clearfield County Area Agency on the Aging and the Pennsylvania Department of Public Welfare.

21. As a result of the aforementioned investigations it was learned that among other things, Mrs. Wilkinson's medications were not being administered in accordance with their

schedule and that in fact her chart and logs indicated that she was being provided medication when she was not in the Facility, but rather at Clearfield Hospital.

22. Furthermore, it was determined during the aforementioned investigation that the Facility 1) failed to perform criminal background checks on staff members; 2) failed to develop written procedures for the safe storage, access security, distribution and use of medications and medical equipment.

21. At all relevant times, Defendants managed the operation, planning and quality control issues of the Facility.

22. The control exercised over the Facility included: budgeting, training, staffing, human resource management, and creating and implementing all policies and procedures followed (or supposed to be followed) by the Facility's staff.

23. Defendants also exercised control over quality care assessment and compliance, licensure, certification, and all financial, tax, and accounting issues through control of the Facility's fiscal policies.

24. Defendants managed the Facility so as to maximize profits, without concern for the health and safety of the residents, including Mrs. Wilkinson.

25. In so doing, Defendants sacrificed the quality of care provided to the residents, including Mrs. Wilkinson.

26. In their effort to maximize profits, Defendants knowingly and intentionally reduced staffing levels below the level necessary to provide adequate care and supervision to the residents.

27. Defendants knowingly caused staffing levels at the Facility to be set at a level such that the personnel on duty at any given time could not reasonably tend to the needs of their assigned residents.

28. Defendants established staffing levels that created reckless staff-to-resident ratios.

29. Defendants consciously disregarded resident acuity levels in setting staffing levels, and also disregarded the minimum time required to perform essential day-to-day assisted living functions.

30. Defendants' conduct, as set forth herein, was designed solely to advance Defendants' financial motive, and exhibited a reckless indifference to the residents' health and well-being.

31. Defendants' acts, as set forth herein, directly caused injury to Mrs. Wilkinson, and were known, or should have been known, to be dangerous by Defendants.

IV. COUNT ONE

NEGLIGENCE

**VIRGINIA SPENCER AND CAROL ECKLEY, EXECUTRICES OF THE
ESTATE OF VIRGINIA WILKINSON, vs. MARION MANOR, INC. D/B/A
MARION MANOR II; KAREN ARNOLD NEFF, D/B/A MARION MANOR II; THOMAS
C. NEFF, SR., D/B/A MARION MANOR, II; KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR, II.**

32. Plaintiff incorporates paragraph 1 through 31 of their Complaint herein by reference as if the same were more fully set forth.

33. At all material times, Defendants were acting through their agents, employees, and/or servants, who were in turn acting within the scope and course of their employment, under the direct supervision and control of the Defendants.

34. Defendants owed duties of care to Mrs. Wilkinson, as set forth herein. Specifically, Defendants owed duties to provide Mrs. Wilkinson with competent assisted living services, such as would be provided by a reasonable and prudent caregiver under similar circumstances, as set forth herein.

35. Defendants owed duties to Mrs. Wilkinson to prevent her from suffering from any falls, to take steps to minimize the risk of injury if she were to fall, to supervise her, to assist her in maintaining her hygiene, to assist her with her with medications and to provide to her a safe environment free from abuse and neglect.

36. Defendants breached their duties by:

- a. Failing to hire appropriately trained staff;
- b. Failing to appropriately train the staff that was hired and/or retained;
- c. Allowing or encouraging unskilled or untrained individuals to care for Mrs. Wilkinson;
- d. Failing to comply with their own policies and procedures in providing care to Mrs. Wilkinson;
- e. Failing to provide Mrs. Wilkinson with a safe and secure environment in which she would be free of physical and sexual assault;
- f. In failing to do appropriate criminal background checks on their staff;
- g. In causing Mrs. Wilkinson to be sexually assaulted;
- h. Failing to timely consult Mrs. Wilkinson's physician after she began suffering respiratory difficulties as well as behavioral changes;
- i. Failing to arrange for a timely transfer of Mrs. Wilkinson to an emergency room or other medical facility where her condition could be timely evaluated and stabilized;
- j. Failing to provide the appropriate medications including pain medication;
- k. Failing to provide safe, humane, comfortable, and supportive residential settings for Mrs. Wilkinson, an elderly individual who required assistance

and supervision with activities of daily living, in violation of 55 Pa. Code §2600.1;

- l. Abusing Mrs. Wilkinson by neglecting her, in the manner set forth herein, which resulted in the physical injuries described herein, in violation of 55 Pa. Code §2600.4, and 55 Pa. Code §2600.42;
- m. Failing to truthfully report the injuries sustained by Mrs. Wilkinson to the Pennsylvania Department of Welfare, in violation of 55 Pa. Code §2600.16(3);
- n. Failing to adequately staff the assisted living facility to meet the needs of the residents, including Mrs. Wilkinson, in violation of 55 Pa Code §§2600.57 and 2600.60;
- o. Failing to provide Mrs. Wilkinson with assistance for her to access outside healthcare services, in violation of 55 Pa. Code §2600.42(i);
- p. Failing to perform an appropriate medical evaluation of Mrs. Wilkinson, in order to determine whether or not she was an appropriate candidate for assisted living at the facility, in violation of 55 Pa Code §§2600.141, and 2600.225
- q. Failing to perform an appropriate assessment of Mrs. Wilkinson's mobility status, in violation of 55 Pa. Code §2600.226;
- r. Accepting Mrs. Wilkinson into the Facility, which is one that is only licensed to provide assisted living services, when Defendants knew, or should have known, that they could not meet her needs;
- s. Failing to develop a staff training plan relating to fall risks and fall prevention, in violation of 55 Pa. Code §2600.66;
- t. Failing to administer pain medication after Mrs. Wilkinson complained of severe pain over several hours, in violation of 55 Pa. Code §2600.188(a)(1);
- u. In failing to prevent Mrs. Wilkinson from continuing to suffer urinary tract infections;
- v. In failing to recognize the signs and symptoms of urinary tract infections;
- w. In failing to recognize the signs and symptoms of congestive heart failure;
- x. In failing to prevent Mrs. Wilkinson from developing congestive heart failure.

37. As a direct and proximate result of Defendants' negligence and recklessness, either directly or through their agents, servants and/or employees, as set forth herein, Mrs. Wilkinson suffered severe physical injuries, including a sexual assault, conscious pain and suffering, mental anguish, humiliation, loss of capacity for enjoyment of life, expense of otherwise unnecessary hospitalization, and aggravation of her pre-existing medical conditions, as set forth herein.

38. Defendants' conduct, as pled herein, constitutes neglect of a care dependent person and is outrageous, willful, wanton, and exhibited a reckless indifference to Mrs. Wilkinson's health, safety and well-being.

39. Defendants' conduct, as set forth herein, justifies an award of punitive damages, so as to make an example of the Defendants and encourage others to not repeat their conduct.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in their favor and against the Defendants, in an amount in excess of the arbitration limit, together with punitive damages, costs, and any other relief that this Honorable Court deems just, given the circumstances.

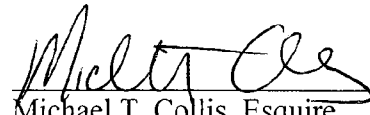
JURY TRIAL DEMANDED

Respectfully submitted,

WILKES & McHUGH, P.A.

Dated: November 17th, 2008

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

VERIFICATION

I, Virginia Spencer and Carol Eckley, as executrices of the estate of Virginia Wilkinson certify that the averments of fact made in the foregoing Complaint in Civil Action are true and correct to the best of my knowledge, information, and belief.

I understand that the averments of fact in said document are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Dated: Nov. 20, 2008

Virginia Spencer
Virginia Spencer

Carol Eckley
Carol Eckley

CERTIFICATE OF SERVICE

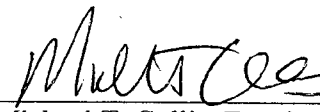
I hereby certify that a true and correct copy of the foregoing Complaint in Civil Action was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 17th day of November, 2008, to the following:

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:



Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ARNOLD NEFF,
ADMINISTRATOR MARION MANOR,
II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

**CERTIFICATE OF MERIT AS TO
DEFENDANT, KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION
MANOR II**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795
Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

FILED

NOV 20 2008
10/31/08
William A. Shaw
Prothonotary/Clerk of Courts

1 cert to
Att

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ;ARNOLD
NEFF,ADMINISTRATOR;MARION
MANOR, II.

Defendant

CERTIFICATE OF MERIT

I, Michael T. Collis, Esquire, attorney for the Plaintiff, certify that:

☒ an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this defendant in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

☒ the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

☐ expert testimony of an appropriate licensed professional is unnecessary for prosecution of

the claim against this defendant.

Date: November 17th, 2008

Respectfully submitted,

WILKES & McHUGH, P.A.

By:



Michael T. Collis, Esquire
Counsel for Plaintiff

CERTIFICATE OF SERVICE

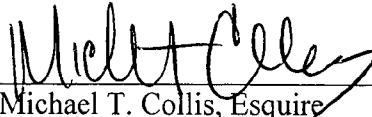
I hereby certify that a true and correct copy of the foregoing Certificate of Merit was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 17th day of November, 2008, to the following:

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

FILED

NOV 20 2008

0/3:40/0
William A. Shaw
Prothonotary/Clerk of Courts

**CERTIFICATE OF MERIT AS TO
DEFENDANT, KAREN ARNOLD
NEFF, d/b/a MARION MANOR II**

1 Cert to Att

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795
Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, PA, 15219

(412) 434-1110

(412) 434-4882

JURY TRIAL DEMANDED

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

VIRGINIA SPENCER and CAROL ECKLEY, Executrices of the Estate of VIRGINIA WILKINSON,	CIVIL DIVISION No. 2008-01006-CD
---	---

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ;ARNOLD
NEFF,ADMINISTRATOR;MARION
MANOR, II.

Defendant

CERTIFICATE OF MERIT

I, Michael T. Collis, Esquire, attorney for the Plaintiff, certify that:

☒ an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this defendant in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

☒ the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

☐ expert testimony of an appropriate licensed professional is unnecessary for prosecution of

the claim against this defendant.

Date: November 17th, 2008

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

CERTIFICATE OF SERVICE

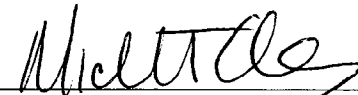
I hereby certify that a true and correct copy of the foregoing Certificate of Merit was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 17th day of November, 2008, to the following:

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

FILED *EW*

NOV 20 2008

0/3:40/c
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF MERIT AS TO
DEFENDANT, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR II

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795
Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, PA, 15219

(412) 434-1110

(412) 434-4882

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION
No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN; ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.

Defendant

CERTIFICATE OF MERIT

I, Michael T. Collis, Esquire, attorney for the Plaintiff, certify that:

☒ an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this defendant in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

☒ the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

☐ expert testimony of an appropriate licensed professional is unnecessary for prosecution of


the claim against this defendant.

Date: November 17th, 2008

Respectfully submitted,

WILKES & McHUGH, P.A.

By:



Michael T. Collis, Esquire
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Certificate of Merit was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 17th day of November, 2008, to the following:

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

**CERTIFICATE OF MERIT AS TO
DEFENDANT, MARION MANOR,
INC., d/b/a MARION MANOR II**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795
Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

FILED *KE*

NOV 20 2008

0/3:40/W

William A. Shaw
Prothonotary/Clerk of Courts

sent to Art

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ;ARNOLD
NEFF,ADMINISTRATOR;MARION
MANOR, II.

Defendant

CERTIFICATE OF MERIT

I, Michael T. Collis, Esquire, attorney for the Plaintiff, certify that:

☒ an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this defendant in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

☒ the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

☐ expert testimony of an appropriate licensed professional is unnecessary for prosecution of

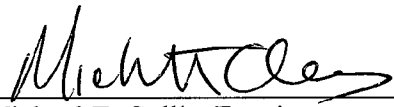
the claim against this defendant.

Date: November 17th, 2008

Respectfully submitted,

WILKES & McHUGH, P.A.

By:



Michael T. Collis, Esquire
Counsel for Plaintiff

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing Certificate of Merit was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 17th day of November, 2008, to the following:

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:



Michael T. Collis, Esquire
Counsel for Plaintiff

UN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTIONS
TO PLAINTIFFS' COMPLAINT
IN CIVIL ACTION**

Filed on behalf of Defendants:
Marion Manor, Inc. d/b/a Marion
Manor II, Karen Arnold Neff d/b/a
Marion Manor II, Thomas C. Neff,
Sr., d/b/a/ Marion Manor II, and
Karen Arnold Neff, Administrator,
Marion Manor II


Counsel of Record for This Party:

William J. Mundy, Esquire
Pa.I.D. No. 57679
Burns White & Hickton LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700

To Plaintiffs:

*You are hereby notified to file a written response to the
Preliminary Objections within 20 days of service hereof
or a default judgment may be entered against you.*

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White & Hickton LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3300


Jennifer L. McPeak, Esquire
Counsel for All Defendants

FILED No cc-
m/12:43pm (610)
DEC 08 2008

5
William A. Shaw
Prothonotary/Clerk of Courts

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

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

JURY TRIAL DEMANDED

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

**PRELIMINARY OBJECTIONS TO PLAINTIFFS'
COMPLAINT IN CIVIL ACTION**

AND NOW, come Defendants, Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; Thomas C. Neff, Sr., d/b/a/ Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II, by and through their attorneys, Burns, White & Hickton, and file the within Preliminary Objections to Plaintiffs' Complaint averring as follows:

I. BACKGROUND

1. This action was initiated by Plaintiffs, Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson (hereinafter referred to as "Plaintiffs") by the filing of a Praecipe for Writ of Summons against Defendants: Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; Thomas C. Neff, Sr., d/b/a/ Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II (hereinafter the "Defendants"), on or about July 1, 2008.

2. On November 21, 2008, Plaintiffs filed a one count Complaint asserting claim sounding in professional negligence.

3. Plaintiffs' Complaint seeks compensatory and punitive damages. (See, Plaintiffs' Complaint attached hereto as Exhibit "A.")

4. Plaintiffs' Complaint alleges that Virginia Wilkinson was admitted to Marion Manor II on or about April 23, 2004, and remained a resident there until September 30, 2006. Complaint, ¶ 10.

5. Plaintiffs' Complaint alleges that at the time of her admission, Mrs. Wilkinson had a medical history significant for diabetes and short-term memory loss. *Id.*, ¶ 13.

6. On June 20, 2006 Ms. Wilkinson's behavior changed and she began experiencing respiratory difficulty. She was subsequently transferred to Clearfield Hospital, where it was determined that she was suffering from a urinary tract infection and exacerbation of her pre-existing congestive heart failure. *Id.*, ¶ 14.

7. On June 27, 2006, staff at Marion Manor noted a mark on the bridge of Mrs. Wilkinson's nose, by June 28, 2006, the mark had developed into a bruise and extended down her nose to below both of her eyes. *Id.*, ¶ 15.

8. On that date, Mrs. Wilkinson was transferred to Clearfield Hospital with complaints of pain in neck, back and knee. *Id.* At Clearfield Hospital, x-rays were taken and a sling was applied to Mrs. Wilkinson's right arm. *Id.*, ¶¶ 15-16.

9. On August 13, 2006, Mrs. Wilkinson experienced shortness of breath and was again transferred to Clearfield Hospital and was diagnosed with urinary tract infection, sepsis and congestive heart failure. *Id.*, ¶ 17.

10. On September 26, 2006, Mrs. Wilkinson was transferred to Clearfield Hospital due to complaints of vaginal bleeding. *Id.*, ¶ 18.

11. She was diagnosed with vaginal bleeding and a urinary tract infection and was advised to follow-up with her obstetrician/gynecologist. *Id.*

12. On September 30, 2006, Mrs. Wilkinson was transferred to Clearfield Hospital with complaints of right hip pain. Upon examination a nine (9) centimeter glass vaginal dilator was located in her vagina. In addition, approximately one (1) centimeter laceration was located near the lip of the glass. *Id.*, ¶¶ 18-19.

13. Plaintiffs' Complaint notes that, following the discovery on the dilator, an investigation was conducted by the Clearfield County Area Agency on Aging and the Pennsylvania Department of Welfare. *Id.*, ¶ 20.

14. Plaintiffs' further allege that, as a result of these investigations, "it was learned that Mrs. Wilkinson's medication was not being administered in accordance with their schedule and her chart and logs indicated that she was being provided medication when she was not in the facility but, rather at Clearfield Hospital." *Id.*, ¶ 21.

15. It is alleged that the investigation also revealed that the facility failed to perform criminal background checks on staff members and failed to develop written procedures for safe storage, access, security, distribution and use of medications and medical equipment. *Id.*, ¶ 22.

16. Plaintiffs' Complaint also contends Mrs. Wilkinson was sexually assaulted. *Id.*, ¶¶ 36-37.

17. This conclusory allegation is unsupported by Plaintiffs' Complaint as there are no facts plead which establish that Ms. Wilkinson was the victim of sexual assault. Plaintiffs rely instead on the ipso facto deduction that the dilator incident was the result of a sexual assault.

18. The inclusion of this scandalous and impertinent material can only serve to inflame the fact finder and impugn the character and reputation of the defendants through

negative implication. As such, any and all allegations relating to sexual assault of Ms. Wilkinson in Plaintiffs' Complaint must be stricken from the same.

19. Further, Plaintiffs make a claim for punitive damages against the Defendants.

20. Pursuant to both Pennsylvania case law and statutory law, however, Plaintiffs' claims for punitive damages fail as a matter of law as they, inter alia, fail to plead any facts which indicate the Defendants possessed the requisite mens rea for the imposition of punitive damages.

21. Finally, Defendants submit that Plaintiffs' Complaint be dismissed with respect to Defendant, Thomas C. Neff, Sr. on the grounds that the allegations within Plaintiffs' Complaint are insufficient to establish a right of relief as to this defendant.

II. ARGUMENT

A. THE INCLUSION OF SCANDALOUS AND IMPERTINENT AVERMENT IN PLAINTIFFS' COMPLAINT SHOULD BE STRICKEN.

22. Pa.R.C.P. 1028(2) provides for the filing of Preliminary Objections based on "inclusion or scandalous or impertinent matter."

23. Allegations are considered to be impertinent, and thus subject to being stricken from a complaint when they are immaterial and inappropriate to the proof of the cause of action. *Common Cause/Pennsylvania v. Com.*, 710 A.2d 108 (Pa. Commw. 1998)

24. As noted above, Plaintiffs' Complaint, in specifying the allegations of negligence, as to the defendants, makes the following claims:

36. Defendants breached their duties by: ...

- e. Failing to provide Mrs. Wilkinson with a safe and secure environment in which she would be free of physical and sexual assault; ...
- g. In causing Mrs. Wilkinson to be sexually assaulted;...

- l. Abusing Mrs. Wilkinson by neglecting her, in the manner set forth herein which resulted in the physical injuries described herein , in violation of 55 Pa. Code §2600.4 and 55 Pa. Code §2600.42; ...
- m. Failing to truthfully report the injuries sustained by Mrs. Wilkinson to the Pennsylvania Department of Welfare, in violation of 55 Pa. Code §2600.16(3)...

37. As a direct and proximate result of Defendants' negligence and recklessness, either directly or through their agents, servants and/or employees, as set forth herein, Mrs. Wilkinson suffered severe physical injuries, including a sexual assault, ...

Complaint, ¶¶ 36-37.

25. There is no evidence, pled, and it is submitted that none could be, that Ms. Wilkerson was sexually assaulted during her residency at Marion Manor. Rather, these allegations are unsupported supposition by Plaintiffs.

26. The inclusion of this material is impertinent and, is solely included to inflame a finder of fact.

27. The averments at issue can only serve to impune the character and reputation of the defendants through negative implication, and as such must be stricken.

B. PLAINTIFFS' CLAIM FOR PUNITIVE DAMAGES SHOULD BE STRICKEN AS A MATTER OF LAW AS TO THE DEFENDANTS.

28. Plaintiffs' Complaint contains a claim for punitive damages.

29. Plaintiffs' Complaint fails to set forth any facts which would support a claim for punitive damages.

30. Pennsylvania law is clear that punitive damages are only recoverable against a Defendant for "conduct that is outrageous...because of the defendant's evil motive or reckless indifference to the rights of others." SHV Coal, Inc. v. Continental Grain Co., 526 Pa. 489, 587 A.2d 702 (1991).

31. “Punitive damages may not be awarded for misconduct which constitutes ordinary negligence such as inadvertence, mistake and errors of judgment.” *McDaniel v. Merck*, 533 A.2d 436, 444 (Pa. Super. 1997).

32. Likewise, punitive damages are not awardable for conduct that rises to the level of gross negligence. *Slappo v. J’s Development Associates*, 791 A.2d 409, 417 (Pa. Super. 2002).

33. To be entitled to punitive damages, a plaintiff must demonstrate, through specific facts, that a defendant’s conduct was “malicious, wanton, reckless or oppressive.” *Chambers v. Montgomery*, 192 A.2d 355, 358 (Pa. 1963).

34. Also, to impose punitive damages against healthcare providers arising out of the actions of its agents, for whom it is vicariously liable, a plaintiff must offer facts to show that the defendants “knew of and allowed” the conduct of its agents that justified the awarding of punitive damages. 40 P.S. § 1303.505(c) the “M-Care Act.”

35. In the instant case, Plaintiffs has failed to plead any facts against the Defendants which would indicate that the Defendants acted with the intent or the state of mind necessary for Plaintiffs to maintain a claim for punitive damages, either under Pennsylvania Common Law or pursuant to the guidelines set forth in the aforementioned “M-Care Act.”

36. As such, Plaintiffs’ claim for punitive damages should be dismissed, with prejudice.

C. **PLAINTIFFS’ COMPLAINT MUST BE DISMISSED WITH RESPECT TO DEFENDANT THOMAS C. NEFF, SR. AS HE OWED NO DUTY OF CARE TO MS. WILKINSON**

37. Rule 1028(a)(4) of the Pennsylvania Rules of Civil Procedure provides that preliminary objections are warranted if the pleading fails to state a cause of action upon which relief can be granted.

38. Preliminary objections on the grounds of legal insufficiency should be sustained when it appears to a certainty that the law permits no recovery under the allegations pled and any doubts in the determination should be resolved by overruling the objection. *Willett v. Pennsylvania Medical Catastrophe Fund*, 549 Pa. 613, 702 A.2d 850 (1997).

39. In Plaintiffs' Complaint, it is alleged that Defendants owed duties to provide Ms. Wilkinson with competent assisted living services which would be provided by a reasonable and prudent caregiver under similar circumstances. Complaint, ¶ 34. It is further alleged that Defendants breached these duties, and, as a direct and proximate result of the collective Defendants' negligence, Ms. Wilkinson suffered injuries. *Id.*, ¶ 37.

40. Under Pennsylvania law, the elements of negligence are: (1) a duty or obligation recognized by the law, requiring the defendant to conform to a standard of conduct; (2) a breach of that duty; (3) a causal connection between the conduct and the resulting injury; and (4) actual loss or damage resulting to the interests of another.

41. It is well-settled under Pennsylvania law that where no duty exists, no liability can be imposed. *Boyce v. United States Steel Corp.*, 446 Pa. 226, 285 A.2d 459, 461 (1971).

42. There are no factual representations made by Plaintiffs to support that Defendant, Thomas C. Neff, Sr. owed a duty of care to Ms. Wilkinson.

43. Thomas C. Neff, Sr. the owner of Marion Manor II. Mr. Neff did not have occasion to oversee, manage, or to be involved with resident care at Marion Manor II. . Mr. Neff is not a care-giver, and did not provide care to Ms. Wilkinson.

44. Failure of the Plaintiffs to allege and inability to establish that Defendant Thomas C. Neff, Sr. owed any duty of care to Ms. Wilkinson demonstrates that the Plaintiffs has not sufficiently pled, and cannot prove, a cause of action in negligence, and said claim must be dismissed.

WHEREFORE, Defendants, respectfully request that this Court sustain their Preliminary Objections.

Respectfully submitted,

BURNS, WHITE & HICKTON, LLC

By:

A handwritten signature in black ink, appearing to read "Jennifer L. McPeak", is written over a horizontal line.

Jennifer L. McPeak, Esquire
Attorney for Defendants

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

COMPLAINT IN CIVIL ACTION

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795
Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

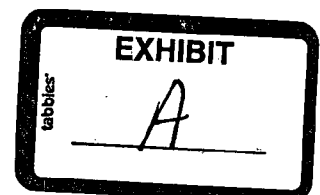
JURY TRIAL DEMANDED

I hereby certify this to be a true
and correct copy of the original
statement filed in this case.

NOV 20 2008

Attest.

William T. Shaw
Prothonotary/
Clerk of Courts



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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

JURY TRIAL DEMANDED

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.,

Defendants.

NOTICE TO DEFEND

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 in Civil Action and Notice to Defend 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 claim or relief requested by Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION
No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN; ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.

Defendant

COMPLAINT IN CIVIL ACTION

Pursuant to the Pennsylvania Rules of Civil Procedure, and the Clearfield County local rules of court, Plaintiffs, as executrices of the estate of Virginia Wilkinson, by their counsel, Wilkes & McHugh, P.A. and Michael T. Collis, files this Complaint in Civil Action:

I. PARTIES

1. Virginia Spencer is an adult individual residing at 264 Carl Road, Curwensville, Clearfield County, Pennsylvania. Mrs. Spencer brings this case in her capacity as the executrix of the estate of Virginia Wilkinson (hereinafter, "Mrs. Wilkinson").

2. Carol Eckley is an adult individual residing at 217 Grand Trunk Road, Flinton, Cambria County, Pennsylvania. Mrs. Eckley brings this case in her capacity as the executrix of the estate of Mrs. Wilkinson.

3. On April 28, 2008, Mrs. Eckley and Mrs. Spencer were appointed the executrices of the estate of Virginia Wilkinson, by the Register of Wills of Clearfield County, Pennsylvania.

4. Defendant, Marion Manor II (hereinafter, "Facility") is a personal care home/assisted living facility with a principal place of business at 122 Schofield Street Extension, Curwensville, Clearfield County, Pennsylvania. One of the claims that Plaintiffs are asserting against the Facility is a professional liability claim.

5. Marion Manor, Inc. is a Pennsylvania Corporation with a business address at P.O. Box 334 Curwensville, Clearfield County, Pennsylvania, and at all times relevant herein, owned, managed and controlled the Facility

6. Defendant, Karen Arnold Neff (hereinafter, "Mrs. Neff") is an adult individual and was at all times relevant herein the owner and administrator of the personal care facility/assisted living facility known as Marion Manor II, with a mailing address of 551 State Street, Curwensville, Clearfield County, Pennsylvania. One of the claims that Plaintiffs are asserting against Mrs. Neff is a professional liability claim.

7. Defendant, Thomas C. Neff, Sr. (hereinafter, "Mr. Neff") is an adult individual and was at all times relevant herein the owner of the personal care facility/assisted living facility known as Marion Manor II with a mailing address of 551 State Street, Curwensville, Clearfield County, Pennsylvania. One of the claims Plaintiffs are asserting against Mr. Neff is a professional liability claim.

8. Upon presenting information and belief, at all relevant times hereto, Defendants collectively operated and/or managed the Facility.

II. JURISDICTION AND VENUE

9. Jurisdiction and venue are proper in this Honorable Court insofar as the cause of action arose in Clearfield County, Pennsylvania, and all Defendants conduct business there. See, Pa.R.C.P. No. 1006.

III. FACTS

10. On or about April 23, 2004, Virginia Wilkinson was admitted to the Facility where she remained until September 30, 2006.

11. Mrs. Wilkinson was admitted to the Facility because:

- a. She could not care for herself;
- b. Her family was not able to care for her at that time;
- c. She required assistance with daily activities of living, which Defendants agreed to provide in exchange for money;
- d. She was deemed to be at high risk for suffering from falls;
- e. She was cognitively impaired;

12. In exchange for compensation, Defendants were to provide Mrs. Wilkinson with room, cleaning, laundry and linen service, storage of medications as well as assistance with the self administration of medications, scheduled bathing, oral hygiene, hair grooming, dressing, social activities and appointment assistance.

13. Mrs. Wilkinson's medical history and assessment at the time of admission included a history of diabetes and short term memory loss. Her plan of care included accuchecks, reorientation and peer interaction.

14. On June 20, 2006 Mrs. Wilkinson's behavior changed and she began experiencing respiratory difficulty. She was transferred to Clearfield Hospital where it was determined that

she was suffering from a urinary tract infection and an exacerbation of a preexisting condition of congestive heart failure.

15. On or about June 27, 2006 the staff at the Facility noted a mark on the bridge of Mrs. Wilkinson's nose. By June 28th, the mark developed into a bruise that extended down her nose to below both of her eyes. On June 28, 2006, Mrs. Wilkinson was transferred back to Clearfield Hospital with complaints of pain in her neck, back and knee.

16. At Clearfield Hospital, x-rays were taken a sling was applied to Mrs. Wilkinson's right arm.

17. On August 13, 2006 Mrs. Wilkinson again began experiencing shortness of breath. She was transferred to Clearfield Hospital where she was diagnosed with another urinary tract infection/sepsis and congestive heart failure.

18. On September 16, 2006, Mrs. Wilkinson was transferred to Clearfield Hospital due to complaints of vaginal bleeding. She was diagnosed with vaginal bleeding and another urinary tract infection. She was advised to follow up with her obstetrician/gynecologist.

19. On September 30, 2006, Mrs. Wilkinson was transferred to Clearfield Hospital with complaints of right hip pain. Upon examination a 9 cm glass vaginal dilator was located in her vagina. In addition, a one (1) centimeter laceration was located near the lip of the glass.

20. As a result of the aforementioned find, an investigation was conducted by the Clearfield County Area Agency on the Aging and the Pennsylvania Department of Public Welfare.

21. As a result of the aforementioned investigations it was learned that among other things, Mrs. Wilkinson's medications were not being administered in accordance with their

schedule and that in fact her chart and logs indicated that she was being provided medication when she was not in the Facility, but rather at Clearfield Hospital.

22. Furthermore, it was determined during the aforementioned investigation that the Facility 1) failed to perform criminal background checks on staff members; 2) failed to develop written procedures for the safe storage, access security, distribution and use of medications and medical equipment.

21. At all relevant times, Defendants managed the operation, planning and quality control issues of the Facility.

22. The control exercised over the Facility included: budgeting, training, staffing, human resource management, and creating and implementing all policies and procedures followed (or supposed to be followed) by the Facility's staff.

23. Defendants also exercised control over quality care assessment and compliance, licensure, certification, and all financial, tax, and accounting issues through control of the Facility's fiscal policies.

24. Defendants managed the Facility so as to maximize profits, without concern for the health and safety of the residents, including Mrs. Wilkinson.

25. In so doing, Defendants sacrificed the quality of care provided to the residents, including Mrs. Wilkinson.

26. In their effort to maximize profits, Defendants knowingly and intentionally reduced staffing levels below the level necessary to provide adequate care and supervision to the residents.

27. Defendants knowingly caused staffing levels at the Facility to be set at a level such that the personnel on duty at any given time could not reasonably tend to the needs of their assigned residents.

28. Defendants established staffing levels that created reckless staff-to-resident ratios.

29. Defendants consciously disregarded resident acuity levels in setting staffing levels, and also disregarded the minimum time required to perform essential day-to-day assisted living functions.

30. Defendants' conduct, as set forth herein, was designed solely to advance Defendants' financial motive, and exhibited a reckless indifference to the residents' health and well-being.

31. Defendants' acts, as set forth herein, directly caused injury to Mrs. Wilkinson, and were known, or should have been known, to be dangerous by Defendants.

IV. COUNT ONE

NEGLIGENCE

**VIRGINIA SPENCER AND CAROL ECKLEY, EXECUTRICES OF THE
ESTATE OF VIRGINIA WILKINSON, vs. MARION MANOR, INC. D/B/A
MARION MANOR II; KAREN ARNOLD NEFF, D/B/A MARION MANOR II; THOMAS
C. NEFF, SR., D/B/A MARION MANOR, II; KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR, II.**

32. Plaintiff incorporates paragraph 1 through 31 of their Complaint herein by reference as if the same were more fully set forth.

33. At all material times, Defendants were acting through their agents, employees, and/or servants, who were in turn acting within the scope and course of their employment, under the direct supervision and control of the Defendants.

34. Defendants owed duties of care to Mrs. Wilkinson, as set forth herein. Specifically, Defendants owed duties to provide Mrs. Wilkinson with competent assisted living services, such as would be provided by a reasonable and prudent caregiver under similar circumstances, as set forth herein.

35. Defendants owed duties to Mrs. Wilkinson to prevent her from suffering from any falls, to take steps to minimize the risk of injury if she were to fall, to supervise her, to assist her in maintaining her hygiene, to assist her with her with medications and to provide to her a safe environment free from abuse and neglect.

36. Defendants breached their duties by:

- a. Failing to hire appropriately trained staff;
- b. Failing to appropriately train the staff that was hired and/or retained;
- c. Allowing or encouraging unskilled or untrained individuals to care for Mrs. Wilkinson;
- d. Failing to comply with their own policies and procedures in providing care to Mrs. Wilkinson;
- e. Failing to provide Mrs. Wilkinson with a safe and secure environment in which she would be free of physical and sexual assault;
- f. In failing to do appropriate criminal background checks on their staff;
- g. In causing Mrs. Wilkinson to be sexually assaulted;
- h. Failing to timely consult Mrs. Wilkinson's physician after she began suffering respiratory difficulties as well as behavioral changes;
- i. Failing to arrange for a timely transfer of Mrs. Wilkinson to an emergency room or other medical facility where her condition could be timely evaluated and stabilized;
- j. Failing to provide the appropriate medications including pain medication;
- k. Failing to provide safe, humane, comfortable, and supportive residential settings for Mrs. Wilkinson, an elderly individual who required assistance

and supervision with activities of daily living, in violation of 55 Pa. Code §2600.1;

- l. Abusing Mrs. Wilkinson by neglecting her, in the manner set forth herein, which resulted in the physical injuries described herein, in violation of 55 Pa. Code §2600.4, and 55 Pa. Code §2600.42;
- m. Failing to truthfully report the injuries sustained by Mrs. Wilkinson to the Pennsylvania Department of Welfare, in violation of 55 Pa. Code §2600.16(3);
- n. Failing to adequately staff the assisted living facility to meet the needs of the residents, including Mrs. Wilkinson, in violation of 55 Pa. Code §§2600.57 and 2600.60;
- o. Failing to provide Mrs. Wilkinson with assistance for her to access outside healthcare services, in violation of 55 Pa. Code §2600.42(i);
- p. Failing to perform an appropriate medical evaluation of Mrs. Wilkinson, in order to determine whether or not she was an appropriate candidate for assisted living at the facility, in violation of 55 Pa. Code §§2600.141, and 2600.225
- q. Failing to perform an appropriate assessment of Mrs. Wilkinson's mobility status, in violation of 55 Pa. Code §2600.226;
- r. Accepting Mrs. Wilkinson into the Facility, which is one that is only licensed to provide assisted living services, when Defendants knew, or should have known, that they could not meet her needs;
- s. Failing to develop a staff training plan relating to fall risks and fall prevention, in violation of 55 Pa. Code §2600.66;
- t. Failing to administer pain medication after Mrs. Wilkinson complained of severe pain over several hours, in violation of 55 Pa. Code §2600.188(a)(1);
- u. In failing to prevent Mrs. Wilkinson from continuing to suffer urinary tract infections;
- v. In failing to recognize the signs and symptoms of urinary tract infections;
- w. In failing to recognize the signs and symptoms of congestive heart failure;
- x. In failing to prevent Mrs. Wilkinson from developing congestive heart failure.

37. As a direct and proximate result of Defendants' negligence and recklessness, either directly or through their agents, servants and/or employees, as set forth herein, Mrs. Wilkinson suffered severe physical injuries, including a sexual assault, conscious pain and suffering, mental anguish, humiliation, loss of capacity for enjoyment of life, expense of otherwise unnecessary hospitalization, and aggravation of her pre-existing medical conditions, as set forth herein.

38. Defendants' conduct, as pled herein, constitutes neglect of a care dependent person and is outrageous, willful, wanton, and exhibited a reckless indifference to Mrs. Wilkinson's health, safety and well-being.

39. Defendants' conduct, as set forth herein, justifies an award of punitive damages, so as to make an example of the Defendants and encourage others to not repeat their conduct.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in their favor and against the Defendants, in an amount in excess of the arbitration limit, together with punitive damages, costs, and any other relief that this Honorable Court deems just, given the circumstances.

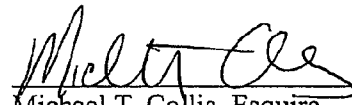
JURY TRIAL DEMANDED

Respectfully submitted,

WILKES & McHUGH, P.A.

Dated: November 17th, 2008

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

VERIFICATION

I, Virginia Spencer and Carol Eckley, as executrices of the estate of Virginia Wilkinson certify that the averments of fact made in the foregoing Complaint in Civil Action are true and correct to the best of my knowledge, information, and belief.

I understand that the averments of fact in said document are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Dated: Nov. 20, 2008

Virginia Spencer
Virginia Spencer

Carol Eckley
Carol Eckley

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Complaint in Civil Action was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 17th day of November, 2008, to the following:

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

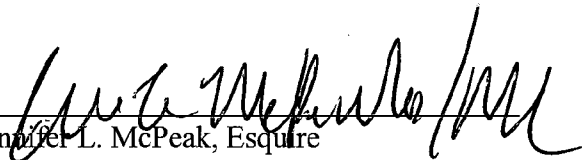
By: 
Michael T. Collis, Esquire
Counsel for Plaintiff

20 42

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within
PRELIMINARY OBJECTIONS TO PLAINTIFFS' COMPLAINT IN CIVIL ACTION
was served upon all counsel of record via first class mail, postage prepaid, this 5th day of
December, 2008:

Michael Collis, Esquire
WILKES & MCHUGH, P.A.
525 William Penn Place
Pittsburgh, Pennsylvania 15219
(Attorney for Plaintiffs)



Jennifer L. McPeak, Esquire

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

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

CIVIL DIVISION

No. 2008-01006-CD

JURY TRIAL DEMANDED

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

ORDER OF COURT

AND NOW, this ____ day of _____, 2008, upon consideration of the
Defendants' Preliminary Objections to Plaintiffs' Complaint and their Brief in Support of said
Preliminary Objections, it is hereby ORDERED, ADJUDGED, and DECREED that the same are
GRANTED, and:

- (1) The averments contained in paragraphs 36 and 37 Plaintiffs' Complaint, relating
to a sexual assault of Ms. Wilkinson are stricken from Plaintiffs' Complaint
- (2) Plaintiffs' claims for punitive damages are hereby dismissed; and,
- (3) Plaintiffs' Complaint is dismissed, with prejudice, as to Defendant, Thomas C.
Neff, Sr.

_____.J.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

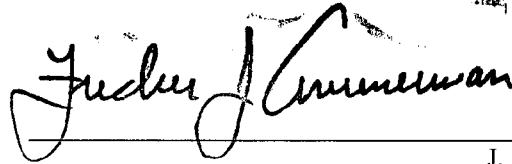
ORDER OF COURT

AND NOW, to wit this 9th day of DECEMBER 2008, it is hereby

ORDERED that a hearing on Defendants' Preliminary Objections to Plaintiffs' Complaint and

Brief in Support is scheduled for the 16th day of January at 2009 m. in
2:30 p.m.

Courtroom 1 before the undersigned.


J.

FILED
DEC 10 2008

302
01/10/2009
Atty McPeak
(60)
William A. Shaw
Prothonotary/Clerk of Courts

FILED

DEC 10 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/10/08

X You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

No. 2008-1006-CD

TERM, 2008

**NOTICE OF SERVICE OF
DEFENDANTS' FIRST SET OF
INTERROGATORIES AND
REQUEST FOR PRODUCTION
DOCUMENTS DIRECTED TO
PLAINTIFF**

Filed by behalf of all Defendants

Counsel of Record for This Party:

William J. Mundy, Esquire
Pa.I.D. No. 57679
Burns White & Hickton LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (facsimile)

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White & Hickton LLC
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212
412-995-3000
412-995-3305 (facsimile)

5
FILED *no cc*
m 11:12 3/1
DEC 11 2008
WJ
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

No. 2008-1006-CD

TERM, 2008

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

**NOTICE OF SERVICE OF DEFENDANTS' FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF**


TO: Prothonotary

The undersigned hereby certifies that the original of Defendants' First Set of
Interrogatories and Request for Production of Documents was served on counsel of record, this
9th day of December, 2008.

Respectfully submitted,

BURNS, WHITE & HICKTON, LLC

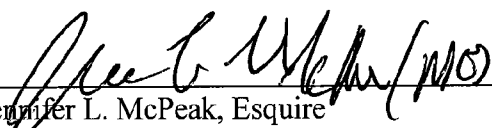
By:


Jennifer L. McPeak, Esquire
Attorney for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **NOTICE OF SERVICE OF DEFENDANTS' FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF** was served upon all counsel of record via first class mail, postage prepaid, this 9th day of December, 2008:

Michael Collis, Esquire
WILKES & MCHUGH, P.A.
525 William Penn Place
Pittsburgh, Pennsylvania 15219
(Attorney for Plaintiff)



Jennifer L. McPeak, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA WILKINSON,
Plaintiffs

vs

MARION MANOR, INC. d/b/a MARION MANOR II,
KAREN ARNOLD NEFF d/b/a MARION MANOR II,
THOMAS C. NEFF, SR., d/b/a MARION MANOR II,
and KAREN ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR II,
Defendants

No. 08-1006-CD

FILED

JAN 26 2009

0/9:45/um

William A. Shaw
Prothonotary/Clerk of Courts

CERT. TO ATTY'S

HARRISON/COLLINS

MCPECK &

MUNDY

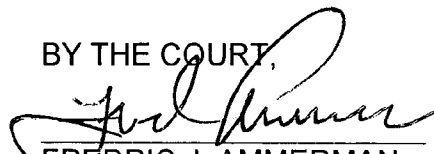
CD

ORDER

AND NOW, this 23rd day of January, 2009, following argument on the
Defendants' Preliminary Objections and the Court's review of the parties' briefs; it is the
ORDER of this Court as follows:

1. The Defendants' Preliminary Objection relative the alleged inclusion of
scandalous and impertinent averment is granted in part and denied in part.
The averments as set forth in paragraph 36(g) are hereby dismissed and
stricken. However, the remainder of this Preliminary Objection is hereby
denied;
2. Defendants' Preliminary Objection in the nature of a demurrer to the
Plaintiffs' request for punitive damages is hereby denied;
3. Defendants' Preliminary Objections requesting dismissal of Defendant
Thomas C. Neff, Sr. is hereby granted. Thomas C. Neff, Sr. is hereby
removed as a party defendant in the case.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendants.

**NOTICE OF SERVICE OF
PLAINTIFF'S FIRST WRITTEN
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF
DOCUMENTS DIRECTED TO ALL
DEFENDANTS**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795
Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, PA, 15219

(412) 434-1110

(412) 434-4882

JURY TRIAL DEMANDED

FILED NO CC
M12.44
FEB 06 2009 (60)

5
William A. Shaw
Prothonotary/Clerk of Courts

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

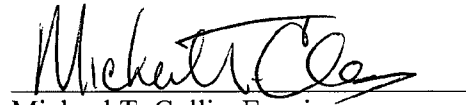
MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

**NOTICE OF SERVICE OF
PLAINTIFF'S FIRST WRITTEN INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO ALL DEFENDANTS**

Kindly be advised that on the 3rd of February, 2009, Plaintiff, by and through counsel, Wilkes & McHugh, P.A. and Michael T. Collis, has served Plaintiff's First Written Interrogatories and Request for Production of Documents Directed to All Defendants upon Defendants through Defendants' counsel, Michelle L. McPeak, by placing the same in the United States Mail, postage prepaid.

Respectfully submitted,



Michael T. Collis, Esquire
Pa. I.D. No. 53795
Wilkes & McHugh, P.A.
525 William Penn Place
Suite 3110
Pittsburgh, Pennsylvania 15219
(412) 434-1110

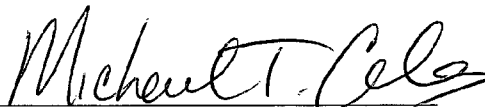
Dated: February 3, 2009

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Service of Plaintiff's First Written Interrogatories and Request for Production of Documents was served upon all defendants, by first-class United States mail, postage prepaid, addressed as follows, on the date indicated:

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Dated: February 3, 2009


Michael T. Collis, Esquire
Pa. I.D. No. 53795
Wilkes & McHugh, P.A.
525 William Penn Place
Suite 3110
Pittsburgh, Pennsylvania 15219
(412) 434-1110
(412) 434-4882 (facsimile)

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

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

JURY TRIAL DEMANDED

ANSWER AND NEW MATTER

Filed on behalf of Defendants:
Marion Manor, Inc. d/b/a Marion
Manor II, Karen Arnold Neff d/b/a
Marion Manor II, and
Karen Arnold Neff, Administrator,
Marion Manor II

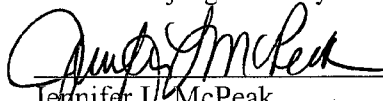
Counsel of Record for This Party:

William J. Mundy, Esquire
Pa.I.D. No. 57679
Burns White & Hickton LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700

NOTICE TO PLEAD:

To Plaintiffs:

You are hereby notified to file a written response to
the Answer and New Matter within 20 days of service hereof
or a default judgment may be entered against you.



Jennifer L. McPeak
Counsel for all Defendants

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White & Hickton LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000

FILED NOCC
m1:01/01
FEB 20 2009 @

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

CIVIL DIVISION

No. 2008-01006-CD

JURY TRIAL DEMANDED

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

ANSWER AND NEW MATTER

AND NOW, come Defendants, Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II, by and through their attorneys, Burns, White & Hickton, and file the within Answer and New Matter and aver as follows:

I. PARTIES

1. After reasonable investigation, Defendants are without sufficient information to form a belief as to the truth or falsity of the averments contained in Paragraph No. 1 of Plaintiffs' Complaint. Accordingly, the same is denied.

2. After reasonable investigation, Defendants are without sufficient information to form a belief as to the truth or falsity of the averments contained in Paragraph No. 1 of Plaintiffs' Complaint. Accordingly, the same is denied.

3. After reasonable investigation, Defendants are without sufficient information to form a belief as to the truth or falsity of the averments contained in Paragraph No. 1 of Plaintiffs' Complaint. Accordingly, the same is denied.

4. The averments contained in Paragraph 4 of Plaintiffs' Complaint are denied. Marion Manor II was, at all times relevant hereto, a licensed personal care home located at 122 Schofield Street Extension, Curwensville, Clearfield County, Pennsylvania. The remaining averments are denied.

5. The averments contained in Paragraph 5 of Plaintiffs' Complaint are denied. At all times relevant hereto, Marion Manor, Inc., was a Pennsylvania Corporation with a business address of P.O. Box 334, Curwensville, Clearfield County, Pennsylvania. Marion Manor, Inc., owned and operated Marion Manor II. The remaining averments are denied.

6. The averments contained in Paragraph 6 of Plaintiffs' Complaint are denied. At all times relevant to the allegations set forth in the Complaint, Karen Neff was administrator of Marion Manor II, a personal care home. Ms. Neff is a co-owner of Marion Manor, Inc. The remaining averments are denied.

7. By Order of Court, Thomas C. Neff, Sr., is dismissed as a party to this action. To the extent a response is required, the averments contained in Paragraph 7 of Plaintiffs' Complaint are denied. At all times relevant hereto, Thomas C. Neff, Sr., was an officer of Marion Manor, Inc., which owned and operated Marion Manor II, a personal care home. Mr. Neff did not have any involvement in the day to day operations of Marion Manor, II and did not provide direct services to residents. The remaining averments are denied.

8. The averments contained in Paragraph 8 of Plaintiffs' Complaint are denied.

II. JURISDICTION AND VENUE

9. The averments set forth in Paragraph 9 of Plaintiffs' Complaint are conclusions of law to which no responsive pleading is required.

III. FACTS

10. Denied as stated. The averments contained in Paragraph 10 of Plaintiffs' Complaint are admitted only insofar as they are consistent with Plaintiff's medical records. Any deviation from Plaintiff's medical records is denied.

11. Denied as stated. The averments contained in Paragraph 11 of Plaintiffs' Complaint are admitted only insofar as they are consistent with Plaintiff's medical records. Any deviation from Plaintiff's medical records is denied.

12. Denied as stated. The averments contained in Paragraph 12 of Plaintiffs' Complaint are admitted only insofar as they are consistent with Plaintiff's medical records. Any deviation from Plaintiff's medical records is denied.

13. Denied as stated. The averments contained in Paragraph 13 of Plaintiffs' Complaint are admitted only insofar as they are consistent with Plaintiff's medical records. Any deviation from Plaintiff's medical records is denied.

14. Denied as stated. The averments contained in Paragraph 14 of Plaintiffs' Complaint are admitted only insofar as they are consistent with Plaintiff's medical records. Any deviation from Plaintiff's medical records is denied.

15. Denied as stated. The averments contained in Paragraph 15 of Plaintiffs' Complaint are admitted only insofar as they are consistent with Plaintiff's medical records. Any deviation from Plaintiffs' medical records is denied.

16. Denied as stated. The averments contained in Paragraph 16 of Plaintiffs' Complaint are admitted only insofar as they are consistent with Plaintiff's medical records. Any deviation from Plaintiff's medical records is denied.

17. Denied as stated. The averments contained in Paragraph 17 of Plaintiffs' Complaint are admitted only insofar as they are consistent with Plaintiff's medical records. Any deviation from Plaintiff's medical records is denied.

18. Denied as stated. The averments contained in Paragraph 18 of Plaintiffs' Complaint are admitted only insofar as they are consistent with Plaintiff's medical records. Any deviation from Plaintiff's medical records is denied.

19. Denied as stated. The averments contained in Paragraph 19 of Plaintiffs' Complaint are admitted only insofar as they are consistent with Plaintiff's medical records. Any deviation from Plaintiff's medical records is denied.

20. The averments contained in Paragraph 20 of Plaintiffs' Complaint are admitted.

21. Denied as stated. The averments set forth in Paragraph 21 of Plaintiffs' Complaint are admitted only insofar as they are consistent with the ultimate findings of the Department of Public Welfare. Any deviation from the same is denied.

22. Denied as stated. The averments set forth in Paragraph 22 of Plaintiffs' Complaint are admitted only insofar as they are consistent with the ultimate findings of the Department of Public Welfare. Any deviation from the same is denied.

21. [misnumbered in Plaintiffs' Complaint] The averments set forth in Paragraph 21 of Plaintiffs' Complaint are denied.

22. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 22 of Plaintiffs' Complaint are denied.

23. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 23 of Plaintiffs' Complaint are denied.

24. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 24 of Plaintiffs' Complaint are denied.

25. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 25 of Plaintiffs' Complaint are denied.

26. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 26 of Plaintiffs' Complaint are denied.

27. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 27 of Plaintiffs' Complaint are denied.

28. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 28 of Plaintiffs' Complaint are denied.

29. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 29 of Plaintiffs' Complaint are denied.

30. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 30 of Plaintiffs' Complaint are denied.

31. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 31 of Plaintiffs' Complaint are denied.

IV. COUNT I – NEGLIGENCE

Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson v. Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II

32. [misnumbered in Plaintiffs' Complaint] Defendants incorporate their answers to Paragraphs 1 through 31 as if the same were set forth at length herein.

33. [misnumbered in Plaintiffs' Complaint] Denied as stated. At this time, to the best of Defendants' knowledge and belief, Defendants' agents, employees and servants were acting within the scope and course of their employment. To the extent that it is discovered that employees of Defendants were acting outside the course and scope of their employment, this allegation is denied.

34. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 34 of Plaintiffs' Complaint state conclusions of law to which no responsive pleading is required. By way of further answer, Defendants adhered to the standard of care at all times relevant hereto and provided Mrs. Wilkinson with care that would be provided by a reasonable and prudent caregiver.

35. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 35 of Plaintiffs' Complaint state conclusions of law to which no responsive pleading is required. By way of further answer, Defendants adhered to the standard of care at all times relevant hereto and provided Mrs. Wilkinson with care that would be provided by a reasonable and prudent caregiver.

36 (a-f) (h-x). [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 36 of Plaintiffs' Complaint are denied. By way of further answer, Defendants adhered to the standard of care at all times relevant hereto and provided Mrs. Wilkinson with care that would be provided by a reasonable and prudent caregiver.

37. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 37 of Plaintiffs' Complaint are denied. It is denied that Defendants were negligent or reckless at any time relevant hereto. By way of further answer, Defendants adhered to the standard of care at all times relevant hereto and provided Mrs. Wilkinson with care that would be provided by a reasonable and prudent caregiver.

38. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 38 of Plaintiffs' Complaint are denied. It is denied that Defendants were willful, wanton or exhibited a reckless indifference to Mrs. Wilkinson at any time relevant hereto. By way of further answer, Defendants adhered to the standard of care at all times relevant hereto and provided Mrs. Wilkinson with care that would be provided by a reasonable and prudent caregiver.

39. [misnumbered in Plaintiffs' Complaint] The averments contained in Paragraph 38 of Plaintiffs' Complaint are denied. It is denied that Defendants were willful, wanton or exhibited a reckless indifference to Mrs. Wilkinson at any time relevant hereto. By way of further answer, Plaintiffs are not entitled to an award of punitive damages.

WHEREFORE, Defendants, Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II demand judgment in their favor and against the Plaintiffs and demand that Plaintiffs' Complaint be dismissed with prejudice.

V. NEW MATTER

40. [misnumbered in Plaintiffs' Complaint] Paragraphs 1 through 39 of Plaintiffs' Complaint are hereby incorporated as though set forth fully at length herein.

41. [misnumbered in Plaintiffs' Complaint] Plaintiffs' claims are barred in whole or in part by the applicable statute of limitations.

42. [misnumbered in Plaintiffs' Complaint] Plaintiffs' Complaint fails to state claims upon which relief may be granted under Pennsylvania law.

43. [misnumbered in Plaintiffs' Complaint] Plaintiffs' claims are barred and/or reduced by Plaintiffs' and/or Plaintiffs' contributory and/or comparative negligence and/or assumption of risk as a result of their actions or inaction, including but not limited to, failure to

follow all the instructions and/or advice of Plaintiffs' healthcare providers, failure to promptly and accurately report to the healthcare providers information pertaining to Plaintiffs' health status, failure to participate in care plan meetings, and in such other manner as may be revealed during discovery in the case.

44. [misnumbered in Plaintiffs' Complaint] Defendants at no time, negligently or otherwise, caused or contributed to any of the injuries or damages purportedly suffered by Plaintiff.

45. [misnumbered in Plaintiffs' Complaint] Plaintiffs' injuries, if any, were the result of occurrences unrelated to, and not caused by, Plaintiffs' care or treatment.

46. [misnumbered in Plaintiffs' Complaint] Any injury and/or illness suffered by Plaintiff was caused by persons other than the Defendants or their agents, employees or servants and/or by those over whom Defendants had no control or responsibility to control.

47. [misnumbered in Plaintiffs' Complaint] To the extent the evidence may show that other persons, partnerships, corporations, or other legal entities caused or contributed to Plaintiffs' injuries, the conduct of Defendants and/or their agents, servants or employees was not the proximate cause of such injuries.

48. [misnumbered in Plaintiffs' Complaint] Any acts or omissions by Defendants or their agents, servants or employees alleged to constitute negligence were not substantial contributing factors to the injuries and/or damages alleged in Plaintiffs' Complaint.

49. [misnumbered in Plaintiffs' Complaint] The acts or omissions of others relating to the care and treatment of Plaintiff Decedent constitute intervening and/or superseding causes of the injuries and/or damages alleged to have been sustained by Plaintiff.

50. [misnumbered in Plaintiffs' Complaint] The sole responsibility for any damages sustained by Plaintiff rests with the Plaintiff or third parties over whom Defendants had no

control, no duty to control, no reason to control, no ability to control, or individuals acting outside the course and scope of their employment.

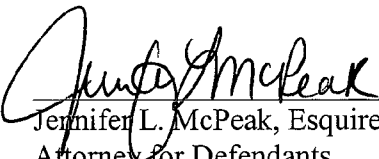
51. [misnumbered in Plaintiffs' Complaint] To the extent any of the averments set forth in Plaintiffs' Complaint purport to set forth a basis for recovery pursuant to a corporate theory of liability, as a matter of law, no such duties exist as to individuals or to personal care homes.

52. [misnumbered in Plaintiffs' Complaint] Defendants incorporate the provisions of the Health Care Services Malpractice Act / MCARE Act to the extent they are applicable to the facts and circumstances of this case.

WHEREFORE, Defendants, Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II demand judgment in their favor and against the Plaintiffs and demand that Plaintiffs' Complaint be dismissed with prejudice.

Respectfully submitted,

BURNS, WHITE & HICKTON, LLC

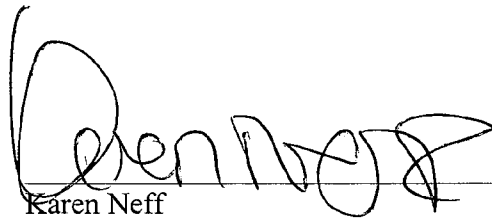
By: 
Jennifer L. McPeak, Esquire
Attorney for Defendants

VERIFICATION

I, **Karen Neff, individually and on behalf of Marion Manor, Inc.**, state that I have read the foregoing **Answer and New Matter** which has been drafted with the assistance of counsel. The factual statements contained therein are true and correct to the best of my information, knowledge and belief, with respect to **Marion Manor, Inc.** although the language is that of counsel and, to the extent that the contents of the foregoing document is that of counsel, I have relief upon counsel in making this Verification.

This statement is made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false statements, I may be subject to criminal penalties.

Dated: 2-10-09

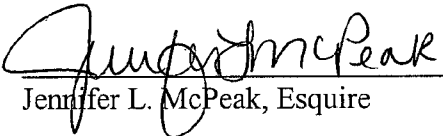


Karen Neff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **ANSWER AND NEW MATTER** was served upon all counsel of record via first class mail, postage prepaid, this 18 day of February, 2009:

Michael Collis, Esquire
WILKES & MCHUGH, P.A.
525 William Penn Place
Pittsburgh, Pennsylvania 15219
(Attorney for Plaintiffs)


Jennifer L. McPeak, Esquire

JH

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

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

JURY TRIAL DEMANDED

**MOTION TO COMPEL
PLAINTIFFS' ANSWERS TO
DEFENDANTS' FIRST SET OF
INTERROGATORIES AND
REQUEST FOR PRODUCTION
OF DOCUMENTS**

Filed on behalf of Defendants

Counsel of Record for This Party:

William J. Mundy, Esquire
Pa.I.D. No. 57679
Burns White & Hickton LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White & Hickton LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000

4
FILED ICC 144y.
m/12:20um
MAR - 5 2009

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

CIVIL DIVISION

No. 2008-01006-CD

JURY TRIAL DEMANDED

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

**MOTION TO COMPEL PLAINTIFFS' ANSWERS TO DEFENDANTS' FIRST SET OF
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**

AND NOW, come Defendants, Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II, by and through their attorneys, Burns, White & Hickton, and files the within Preliminary Motion to Compel Plaintiff's Answers to Defendant's First Set of Interrogatories and Request for Production of Documents and in support thereof avers as follows:

1. Plaintiffs have has filed suit against Defendants, Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II, for alleged claims of professional malpractice arising out of their care of Virginia Wilkinson.

2. Defendant, Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II, served upon Plaintiffs Defendants' First Set of Interrogatories and Request for Production of Documents on December 9, 2008 (Exhibit "A", Notice of Service).

3. As of this date, Plaintiffs have failed to respond to Defendants' outstanding discovery.

4. On February 23, 2009, counsel for Defendants inquired as to the status of Plaintiffs' outstanding discovery. (Exhibit B: Letter of February 23, 2009). As of this date, Defendants have not received Plaintiffs' responses or any response from Plaintiffs' counsel as to when Plaintiffs' responses will be provided.

5. Defendants are prejudiced in their defense of this matter due to Plaintiffs' failure to respond to discovery.


6. Accordingly, for the foregoing reasons, Defendants, Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II, respectfully request that this Court grant their Motion to Compel and direct Plaintiffs to file full and complete responses to Defendants' First Set of Interrogatories and Request for Production of Documents.

WHEREFORE, Defendants, Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II, respectfully request that this Honorable Court grant their Motion to Compel and enter an Order directing Plaintiffs to file full and complete responses to Defendants' First Set of Interrogatories and Request for Production of Documents.

Respectfully submitted,

BURNS, WHITE & HICKTON, LLC

By:


Jennifer L. McPeak, Esquire
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

No. 2008-1006-CD

TERM, 2008

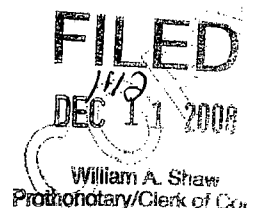
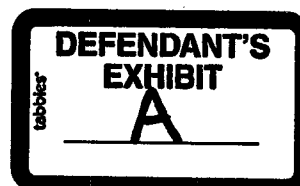
**NOTICE OF SERVICE OF
DEFENDANTS' FIRST SET OF
INTERROGATORIES AND
REQUEST FOR PRODUCTION
DOCUMENTS DIRECTED TO
PLAINTIFF**

Filed by behalf of all Defendants

Counsel of Record for This Party:

William J. Mundy, Esquire
Pa.I.D. No. 57679
Burns White & Hickton LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (facsimile)

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White & Hickton LLC
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212
412-995-3000
412-995-3305 (facsimile)



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

No. 2008-1006-CD

TERM, 2008

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

**NOTICE OF SERVICE OF DEFENDANTS' FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF**

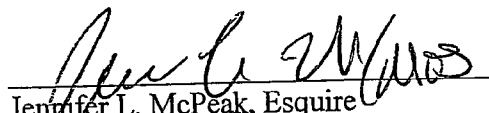
TO: Prothonotary

The undersigned hereby certifies that the original of Defendants' First Set of
Interrogatories and Request for Production of Documents was served on counsel of record, this
9th day of December, 2008.

Respectfully submitted,

BURNS, WHITE & HICKTON, LLC

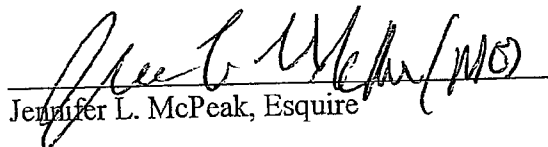
By:


Jennifer L. McPeak, Esquire
Attorney for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **NOTICE OF SERVICE OF DEFENDANTS' FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF** was served upon all counsel of record via first class mail, postage prepaid, this 9th day of December, 2008:

Michael Collis, Esquire
WILKES & MCHUGH, P.A.
525 William Penn Place
Pittsburgh, Pennsylvania 15219
(Attorney for Plaintiff)


Jennifer L. McPeak, Esquire



BURNS, WHITE & HICKTON

A LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

Jennifer L. McPeak
Attorney at Law

(412) 995-3125
(412) 995-3305 (fax)
jlmcpeak@bwhllc.com

Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

(412) 995-3000 • FAX (412) 995-3300

February 23, 2009

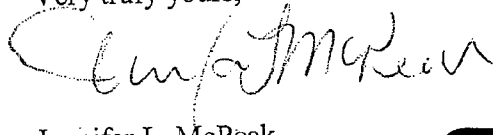
Michael Collis, Esquire
WILKES & MCHUGH, P.A.
525 William Penn Place
Pittsburgh, Pennsylvania 15219

Re: Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia
Wilkinson v. Marion Manor et al.
No. 2008-1006-CD
Our File No.: 11263-183486

Dear Mr. Collis:

On or about December 4, 2008, we served upon Plaintiffs Defendants' First Set of Interrogatories and Request for Production of Documents. As of this date, Plaintiffs' responses are outstanding. I would ask that you provide your responses in the near future so that a Motion to Compel is not necessary. I would also ask that you provide me with dates for your clients' deposition. I would like to schedule the depositions of Virginia Spencer and Carol Eckley.

Very truly yours,



Jennifer L. McPeak

JLM:pm



502 Carnegie Center
Suite 103
Princeton, NJ 08540

(609) 987-0616 • FAX (609) 987-0070

100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428

(484) 567-5700 • FAX (484) 567-5701

The Maxwell Centre
32-20th Street
Wheeling, WV 26003

(304) 233-9500 • FAX (304) 233-1363

The Brandywine Building
1000 N. West Street, Suite 1230
Wilmington, DE 19801

(302) 295-4921 • FAX (302) 295-4801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

CIVIL DIVISION

No. 2008-01006-CD

JURY TRIAL DEMANDED

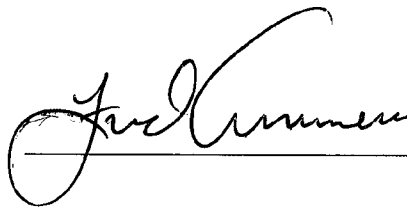
v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

ORDER OF COURT

AND NOW, to wit, on this 9th day of March, 2009, it is hereby
ORDERED, ADJUDGED and **DECREED** that Defendants' Motion to Compel Plaintiffs'
Answers to Defendants' First Set of Interrogatories and Request for Production of Documents is
hereby **GRANTED**. It is ordered that Plaintiffs shall file full and complete responses to
Defendants' First Set of Interrogatories and Request for Production of Documents within twenty
(20) days of the date of this Order.

_____, J.

FILED ICC
01323 Bk Amy McPeak
MAR 09 2009
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

CIVIL DIVISION

No. 2008-01006-CD

JURY TRIAL DEMANDED

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

SCHEDULING ORDER

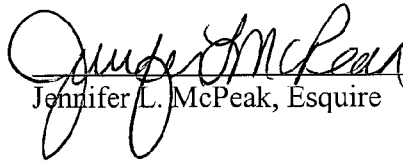
AND NOW, to wit, on this ____ day of _____, 2009, it is hereby
ORDERED, that Defendants' Motion to Compel Plaintiffs' Answers to Defendants First Set of
Interrogatories and Request for Production of Documents will be heard on
_____, 2009.

_____, J.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **MOTION TO COMPEL PLAINTIFFS' ANSWERS TO DEFENDANTS' FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS** was served upon all counsel of record via first class mail, postage prepaid, this 4th day of March, 2009:

Michael Collis, Esquire
WILKES & MCHUGH, P.A.
525 William Penn Place
Pittsburgh, Pennsylvania 15219
(Attorney for Plaintiffs)


Jennifer L. McPeak, Esquire

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

REPLY TO NEW MATTER

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795

Defendants.

Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

\$

FILED No CC
m19:5357
MAR 09 2009 (60)
William A. Shaw
Prothonotary/Clerk of Courts

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

REPLY TO NEW MATTER

AND NOW, comes the Plaintiffs VIRGINIA SPENCER and CAROL ECKLEY, Executrices of the Estate of VIRGINIA WILKINSON, by and through Michael T. Collis, and the law firm of Wilkes & McHugh, P.A. and files this Reply to New Matter and in support thereof avers the following:

1. Paragraph 41 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. To the extent that a response is deemed required, it is denied that Plaintiff's claims are barred by the applicable statute of limitations. Strict proof to the contrary demanded.

2. Paragraph 42 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. To the extent that a response is deemed required, it is denied that Plaintiff's claims fail to state a claim upon which relief can be granted.

3. Paragraph 43 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. To the extent that a response is deemed required, it is denied that Plaintiff's claims are barred and/or reduced by the Plaintiff's contributory and/or comparative negligence and/or assumption of the risk as a result of her actions and/or inactions, including but not limited to, failure to follow instructions and/or advise of Plaintiff's healthcare providers, failure to promptly and accurately report to the healthcare providers information pertaining to Plaintiff's health status, failure to participate in care plan meetings, and any such other manner as may be revealed during discovery in this case. On the contrary Plaintiff and Plaintiff's decedent acted reasonably under all circumstances. The injuries sustained by Plaintiff's decedent were caused solely and exclusively by the Defendant's negligence as pled in Plaintiff's complaint which is incorporated herein by reference.

4. Paragraph 44 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. To the extent that a response is deemed required, it is denied that Defendants' negligence did not cause or contribute to the injuries suffered by Plaintiff's decedent. Strict proof to the contrary demanded.

5. Paragraph 45 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. To the extent that a response is deemed required, it is denied that Plaintiff's injuries were the result of occurrences unrelated to, and not caused by, Plaintiffs' decedent's care and treatment. On the contrary, all of injuries sustained by Plaintiffs' decedent

was the caused solely and exclusively by the Defendant's negligence as pled in Plaintiff's complaint which is incorporated herein by reference.

6. Paragraph 46 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. To the extent that a response is deemed required, it is denied that Plaintiff's injuries were caused by persons other than the Defendants or their agents, employees or servants and/or by those over whom Defendants had no control or responsibility to control. On the contrary, the injuries sustained by Plaintiffs' decedent were caused solely and exclusively by the Defendants' agents, servants and/or employees. Strict proof to the contrary is demanded.

7. Paragraph 47 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. To the extent that a response is deemed required, it is denied that Defendants' conduct was not the proximate cause of Plaintiffs' decedent's injuries. Strict proof to the contrary demanded.

8. Paragraph 48 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. To the extent that a response is deemed required, it is denied that Defendants' conduct was not a substantial factor in causing Plaintiffs' decedent's injuries. Strict proof to the contrary demanded.

9. Paragraph 49 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. To the extent that a response is deemed required, it is denied that other's acts or omissions were a superseding intervening cause of the injuries sustained by Plaintiffs' decedent. Strict proof to the contrary demanded.

10. Paragraph 50 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. To the extent that a response is deemed required, it is denied

that the sole responsibility for the damages sustained by Plaintiff rested with the Plaintiff or third parties over whom the Defendants had no control, no duty to control, no reason to control or no ability to control and/or by individuals acting outside the course and scope of their employment. On the contrary, the injuries alleged, were caused by Defendants' conduct in failing to provide a safe and secure environment for Plaintiff's decedent as alleged more particularly in Plaintiff's complaint which is incorporated herein by reference. Strict proof to the contrary is demanded.

11. Paragraph 51 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required. Moreover, Plaintiff has not pled a corporate negligence theory.

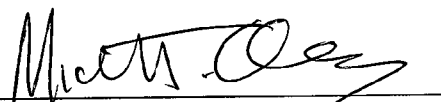
12. Paragraph 52 of Defendants' new matter is a legal conclusion to which a responsive pleading is not required.

WHEREFORE, Plaintiffs demand judgment in their favor and in accordance with their prayer for relief in their complaint which is incorporated herein by reference.

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

CERTIFICATE OF SERVICE

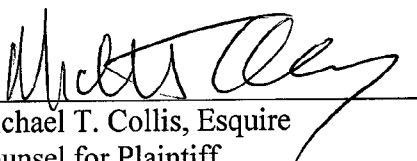
I hereby certify that a true and correct copy of the foregoing Reply to New Matter was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 6th day of March, 2009, to the following:

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

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

Filed on behalf of Defendants

Counsel of Record for This Party:

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns White & Hickton, LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White & Hickton, LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000

JURY TRIAL DEMANDED

FILED
MAR 09 2009
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

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

TO: Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
525 William Penn Place
Suite 3110
Pittsburgh, PA 15219

TAKE NOTICE that Defendants by and through their attorneys, Burns, White & Hickton, William J. Mundy, Esquire and Jennifer L. McPeak, Esquire, intend to serve Subpoenas identical to the ones that are 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 objections to the Subpoenas. If no objections are made, the Subpoenas may be served.

BURNS, WHITE & HICKTON

Dated: 3/5/09

BY: Jennifer L. McPeak

Jennifer L. McPeak, Esquire
Attorneys for Defendants

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: DEPARTMENT OF PUBLIC WELFARE

(Name of Person or Entity)

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

SEE ATTACHED EXHIBIT "A"

(Address)

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:

NAME: JENNIFER L. MCPEAK, ESQUIRE/BURNS, WHITE & HICKTON

ADDRESS: 106 ISABELLA STREET
PITTSBURGH, PA 15212

TELEPHONE: 412-995-3000

SUPREME COURT ID # 78194

ATTORNEY FOR: DEFENDANTS

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division

DATE: Thursday, February 26, 2009

Seal of the Court

Deputy

EXHIBIT "A"

Re: Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia Wilkinson
v.
Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff
d/b/a Marion Manor II, Thomas C. Neff, Sr., d/b/a Marion
Manor, II and Karen Arnold Neff, Administrator, Marion
Manor, II
Our File Number: 11263/183486 (JLM)

Dale Jenkins, Esquire
Commonwealth of Pennsylvania
Department of Public Welfare
Office of General Counsel
3rd Floor West
Health & Welfare Building
Harrisburg, PA 17120

**PLEASE PRODUCE COPIES OF ANY AND ALL
INVESTIGATIVE REPORTS, CITATIONS,
VIOLATIONS, NOTES, MEDICAL RECORDS, EXPERT
REPORTS, STATEMENTS, PHOTOGRAPHS,
AFFIDAVITS, AND RECORDINGS RELATING TO
VIRGINIA WILKINSON AND THE MARION MANOR II
FACILITY LOCATED AT 1223 SCHOFIELD ST.
EXT., CURWENSVILLE, PA 16833 DATING FROM
9/30/06 THROUGH THE PRESENT TIME.**

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: PENNSYLVANIA STATE POLICE

(Name of Person or Entity)

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

SEE ATTACHED EXHIBIT "A"

(Address)

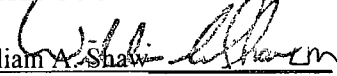
You may deliver or mail legible copies of the documents or produce things requested by
this subpoena, together with the certificate of compliance, to the party making this request at the
address listed above. You have the right to seek in advance the reasonable cost of preparing the
copies or producing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

NAME: JENNIFER L. MCPHEAK, ESQUIRE/BURNS, WHITE & HICKTON
ADDRESS: 106 ISABELLA STREET
PITTSBURGH, PA 15212
TELEPHONE: 412-995-3000
SUPREME COURT ID # 78194
ATTORNEY FOR: DEFENDANTS

BY THE COURT:


William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, February 26, 2009
Seal of the Court

Deputy

EXHIBIT "A"

Re: Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia Wilkinson
v.
Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff
d/b/a Marion Manor II, Thomas C. Neff, Sr., d/b/a Marion
Manor, II and Karen Arnold Neff, Administrator, Marion
Manor, II
Our File Number: 11263/183486 (JLM)

Commissioner
Pennsylvania State Police
Subpoena Unit
1800 Elmerton Avenue
Harrisburg, PA 17110

**PLEASE PRODUCE COPIES OF ANY AND ALL
INVESTIGATIVE REPORTS, CITATIONS,
VIOLATIONS, NOTES, MEDICAL RECORDS, EXPERT
REPORTS, STATEMENTS, PHOTOGRAPHS,
AFFIDAVITS, AND RECORDINGS RELATING TO
VIRGINIA WILKINSON AND THE MARION MANOR II
FACILITY LOCATED AT 1223 SCHOFIELD ST.
EXT., CURWENSVILLE, PA 16833 DATING FROM
9/30/06 THROUGH THE PRESENT TIME.**

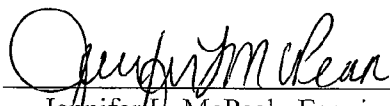
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Notice of Intent was served upon all counsel of record via first class mail, postage prepaid, this 5 day of March, 2009:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
525 William Penn Place
Suite 3110
Pittsburgh, PA 15219

BURNS, WHITE & HICKTON

BY: _____


Jennifer L. McPeak, Esquire
Attorneys for Defendants

FILED

APR 06 2009

M/ 9:30/4 (610)

William A. Shaw

Prothonotary/Clerk of Courts

1 cent to Att

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

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

Filed on behalf of Defendants

Counsel of Record for This Party:

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns White & Hickton, LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White & Hickton, LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

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

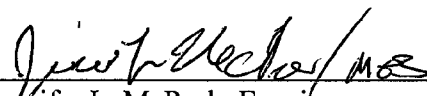
TO: Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
525 William Penn Place
Suite 3110
Pittsburgh, PA 15219

TAKE NOTICE that Defendants by and through their attorneys, Burns, White & Hickton, William J. Mundy, Esquire and Jennifer L. McPeak, Esquire, intend to serve a Subpoenas 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 objections to the Subpoena. If no objections are made, the Subpoena may be served.

BURNS, WHITE & HICKTON

BY: _____


Jennifer L. McPeak, Esquire
Attorneys for Defendants

Dated: April 2, 2009

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: CLEARFIELD COUNTY AREA AGENCY ON AGING
(Name of Person or Entity)

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

SEE ATTACHED EXHIBIT "A"

(Address)

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:

NAME: JENNIFER L. MCPEAK, ESQUIRE/BURNS, WHITE & HICKTON

ADDRESS: 106 ISABELLA STREET
PITTSBURGH, PA 15212

TELEPHONE: 412-995-3138

SUPREME COURT ID # 78194

ATTORNEY FOR: DEFENDANTS

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, February 26, 2009
Seal of the Court

Deputy

EXHIBIT "A"

Re: Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia Wilkinson
v.
Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff
d/b/a Marion Manor II, Thomas C. Neff, Sr., d/b/a Marion
Manor, II and Karen Arnold Neff, Administrator, Marion
Manor, II
Our File Number: 11263/183486 (JLM)

John Kordish
Executive Director
Clearfield County Area Agency on Aging
103 North Front Street
Clearfield, PA 16830

**PLEASE PRODUCE COPIES OF ANY AND ALL
INVESTIGATIVE REPORTS, CITATIONS,
VIOLATIONS, NOTES, MEDICAL RECORDS, EXPERT
REPORTS, STATEMENTS, AUDIOTAPES,
VIDEOTAPES, PHOTOGRAPHS, AFFIDAVITS, AND
RECORDINGS RELATING TO VIRGINIA WILKINSON
AND THE MARION MANOR II FACILITY LOCATED AT
1223 SCHOFIELD ST. EXT., CURWENSVILLE, PA
16833 DATING FROM 9/30/06 THROUGH THE
PRESENT TIME.**

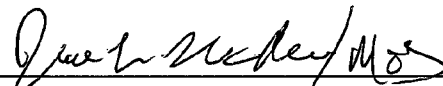
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Notice of Intent was served upon all counsel of record via first class mail, postage prepaid, this 2nd day of April, 2009:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
525 William Penn Place
Suite 3110
Pittsburgh, PA 15219

BURNS, WHITE & HICKTON

BY: _____



Jennifer L. McPeak, Esquire
Attorneys for Defendants

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendants.

**NOTICE OF SERVICE OF ANSWERS
AND OBJECTIONS TO DEFENDANTS'
INTERROGATORIES AND
RESPONSES TO REQUESTS FOR
PRODUCTION OF DOCUMENTS**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795
Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

FILED NO CC
APR 17 2009
William A. Shaw
Prothonotary/Clerk of Courts

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

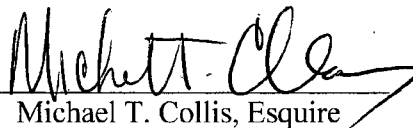
NOTICE OF SERVICE

Kindly be advised that on the 14th day of April, 2009, Plaintiff by and through counsel, Wilkes & McHugh, P.A. and Michael T. Collis, has served Answers and Objections to Defendants' Interrogatories and Responses to Requests for Production of Documents upon counsel for Defendant, by placing the same in the United States Mail, postage prepaid.

Date: April 14, 2009

WILKES & McHUGH, P.A.

BY:



Michael T. Collis, Esquire
Counsel for Plaintiff

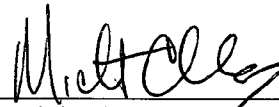
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Notice of Service was mailed to counsel for Defendant as listed below this 14th day of April, 2009, by United States first class mail, postage pre-paid.

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

WILKES & McHUGH, P.A.

BY: _____



Michael T. Collis, Esquire
Counsel for Plaintiff

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

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

NO.: 2008-01006-CD

**CERTIFICATE PRE-REQUISITE TO
SERVICE OF SUBPOENAS
PURSUANT TO RULE 4009.22**

Filed on behalf of:
Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia
Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. I.D. No. 53795

Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, Pennsylvania 15219

(412) 434-1110
(412) 434-4882 (facsimile)

JURY TRIAL DEMANDED

FILED

MAY 26 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

NO.: 2008-01006-CD


**CERTIFICATE PREREQUISITE TO SERVICE OF
SUBPOENAS TO PRODUCE PURSUANT TO RULE 4009.22**

As a prerequisite to service of Subpoenas for Production of Documents and Things pursuant to Rule 4009.22, Plaintiff certifies that:

1. Notices of Intent to serve the Subpoenas, with of a copy of the Subpoena attached thereto, were mailed or delivered to each party at least twenty (20) days prior to the date on which the Subpoenas were sought to be served.
2. A copy of the Notices of Intent, including the proposed Subpoenas, are attached to this Certificate.
3. The Subpoenas which will be served are identical to the Subpoenas which are attached to the Notices.

Dated: May 22, 2009

Respectfully Submitted,


Michael T. Collis, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

NO.: 2008-01006-CD

**PLAINTIFF'S NOTICE OF INTENT TO
SERVE SUBPOENA TO PRODUCE
DOCUMENTS OR THINGS FOR
DISCOVERY PURSUANT TO RULE
4009.22 UPON THE PENNSYLVANIA
STATE POLICE**

Filed on behalf of:
Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia
Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. I.D. No. 53795

Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, Pennsylvania 15219

(412) 434-1110
(412) 434-4882 (facsimile)

JURY TRIAL DEMANDED


CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Plaintiff's Notice of Intent to Serve Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 Upon the Pennsylvania State Police was mailed to counsel for Defendants as listed below this 9th day of April, 2009, by United States first class mail, postage pre-paid.

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: Pennsylvania State Police
(Name of Person or Entity)

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

See attached

525 William Penn Place
Suite 3110 (Address)

Pittsburgh, PA 15219

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:

NAME: Michael T. Collis

ADDRESS: 525 William Penn Place, Suite 3110

Pittsburgh, PA 15219

TELEPHONE: 412-434-1110

SUPREME COURT ID # 53795

ATTORNEY FOR: Plaintiff

BY THE COURT:

William J. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, March 12, 2009
Seal of the Court

Deputy

Any and all investigative reports, photos or other documents that are produced within the course of an investigation regarding complainant Virginia Wilkinson. The alleged sexual abuse took place at Marion Manor II in September 2006 and was investigated by Trooper Mostyn.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Certificate Pre-Requisite to Subpoenas to Produce Documents Pursuant to Rule 4009.22 upon the Pennsylvania State Police was mailed to counsel for Defendants as listed below this 22nd day of May, 2009, by United States first class mail, postage pre-paid.

Jennifer L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

WILKES & McHUGH, P.A.

BY: Michael Collis
Michael T. Collis, Esquire
Counsel for Plaintiff

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

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

**NOTICE OF SERVICE OF
ANSWERS TO PLAINTIFFS'
FIRST WRITTEN
INTERROGATORIES AND
REQUEST FOR PRODUCTION
OF DOCUMENTS DIRECTED
TO ALL DEFENDANTS**

Filed on behalf of Defendants

Counsel of Record for These Parties:

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns, White & Hickton, LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns, White & Hickton, LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000

JURY TRIAL DEMANDED

FILED NO CC
JUN 08 2009
William A. Shaw
Prothonotary/Clerk of Courts

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

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

v.

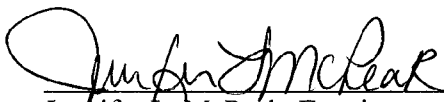
MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF, SR.,
d/b/a MARION MANOR, II and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

NOTICE OF SERVICE

The undersigned hereby certifies that the Answers to Plaintiffs' First Written Interrogatories and Request for Production of Documents Directed to All Defendants were served this 4th day of June, 2009, via First Class Mail upon all counsel of record.

BURNS, WHITE & HICKTON, LLC

By: 
Jennifer L. McPeak, Esquire
Attorney for Defendants

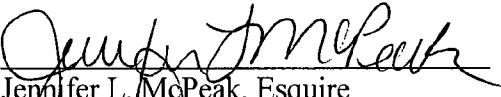
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Notice of Service was served upon all counsel of record via first class mail, postage prepaid, this 4th day of June, 2009:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
525 William Penn Place
Suite 3110
Pittsburgh, PA 15219

BURNS, WHITE & HICKTON, LLC

By:


Jennifer L. McPeak, Esquire
Attorney for Defendants

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

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

NO.: 2008-01006-CD

**CERTIFICATE PRE-REQUISITE TO
SERVICE OF SUBPOENAS
PURSUANT TO RULE 4009.22**

Filed on behalf of:

Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia
Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. I.D. No. 53795

Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, Pennsylvania 15219

(412) 434-1110

(412) 434-4882 (facsimile)

JURY TRIAL DEMANDED

FILED *no cc*
10/13/09
AUG 19 2009
William A. Shaw
Prothonotary/Clerk of Courts

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

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

NO.: 2008-01006-CD

**CERTIFICATE PREREQUISITE TO SERVICE OF
SUBPOENAS TO PRODUCE PURSUANT TO RULE 4009.22**

As a prerequisite to service of Subpoenas for Production of Documents and Things pursuant to Rule 4009.22, Plaintiff certifies that:

1. Notices of Intent to serve the Subpoenas, with of a copy of the Subpoena attached thereto, were mailed or delivered to each party at least twenty (20) days prior to the date on which the Subpoenas were sought to be served.
2. A copy of the Notices of Intent, including the proposed Subpoenas, are attached to this Certificate.
3. The Subpoenas which will be served are identical to the Subpoenas which are attached to the Notices.

Dated: August 17, 2009

Respectfully Submitted,


Michael T. Collis, Esquire

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Certificate Pre-Requisite to Subpoenas to Produce Documents Pursuant to Rule 4009.22 upon Helpmates Incorporated was mailed to counsel for Defendants as listed below this 17th day of August, 2009, by United States first class mail, postage pre-paid.

Jennifer L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

WILKES & McHUGH, P.A.

BY:


Michael T. Collis, Esquire
Counsel for Plaintiff

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

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

NO.: 2008-01006-CD

**PLAINTIFF'S NOTICE OF INTENT TO
SERVE SUBPOENA TO PRODUCE
DOCUMENTS OR THINGS FOR
DISCOVERY PURSUANT TO RULE
4009.22 UPON HELPMATES
INCORPORATED**

Filed on behalf of:
Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia
Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. I.D. No. 53795

Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, Pennsylvania 15219

(412) 434-1110
(412) 434-4882 (facsimile)

JURY TRIAL DEMANDED

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

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

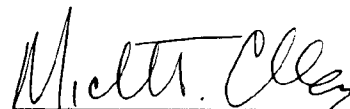
NO.: 2008-01006-CD

**PLAINTIFFS' NOTICE OF INTENT TO SERVE SUBPOENA
TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.22 UPON HELPMATES INCORPORATED**

Plaintiffs, Virginia Spencer and Carol Eckley, intend 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.

WILKES & McHUGH, P.A.

By:



Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

*

*

*

No. 2008-01006-CD

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

TO: Helpmates Incorporated
(Name of Person or Entity)

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

Any/all documentation with regard to Virginia Wilkinson includ-
ding but not limited to nursing notes, daily logs, bills, etc.

(Address)


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:

NAME: Michael T. Collis
ADDRESS: 525 William Penn Place, Suite 3110
Pittsburgh, PA 15219
TELEPHONE: 412-434-1110
SUPREME COURT ID # 53795
ATTORNEY FOR: Plaintiff

BY THE COURT:


William A. Shaw *cm*
Prothonotary/Clerk, Civil Division

DATE: Thursday, March 12, 2009
Seal of the Court

Deputy

FILED²⁰

SEP 22 2010

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF,
SR., d/b/a MARION MANOR II and KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

**REQUEST FOR PRODUCTION OF
EXPERT REPORTS**

Filed on behalf of All Defendants

Counsel of Record for These Parties:

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000
412-995-3300 (Fax)

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns White LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (Fax)

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY, CIVIL DIVISION
Executrices of the Estate of VIRGINIA
WILKINSON,

No. 2008-01006-CD

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF,
SR., d/b/a MARION MANOR II and KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR II,

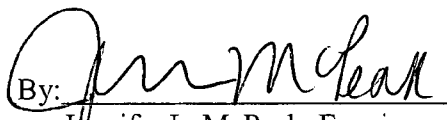
Defendants.

REQUEST FOR PRODUCTION OF EXPERT REPORTS

Pursuant to Pennsylvania Rules of Civil procedure 1042.28(b), you are requested within one-hundred and eighty (180) days of service of this report to furnish all expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence you have made against Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, Thomas C. Neff, Sr., d/b/a Marion Manor II and Karen Arnold Neff, Administrator, Marion Manor II. Please serve copies of any and all expert reports on all other parties.

Respectfully submitted,

BURNS WHITE LLC

By: 
Jennifer L. McPeak, Esquire
Counsel for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **Request for Production of Expert Reports** was served upon all counsel of record via U.S. First-Class Mail, postage prepaid, this 20th day of September, 2010:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
525 William Penn Place
Suite 3110
Pittsburgh, PA 15219

BURNS WHITE LLC

By: _____

Jennifer L. McPeak, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

NOTICE OF CHANGE OF ADDRESS

vs.

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795

Defendants.

Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

FILED ^{Cal} No
m11240301 CC
JAN 13 2011
Copy to
CIA
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

PRAECIPE FOR CHANGE OF ADDRESS

TO THE PROTHONOTARY:


Effective December 30, 2010, please change the address off record for Plaintiff's counsel
of the above-captioned matter to:

Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street, Suite 912
Pittsburgh, PA 15219

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Change of Address was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 10th day of January, 2011, to the following:

Jennifer L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendants.

**NOTICE OF SERVICE OF
PLAINTIFF'S SECOND WRITTEN
INTERROGATORIES DIRECTED TO
ALL DEFENDANTS**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795
Wilkes & McHugh, P.A.
437 Grant Street, Suite 912
Pittsburgh, PA, 15219

(412) 434-1110

(412) 434-4882

JURY TRIAL DEMANDED

S
FILED *NO*
MT:1730
MAR 07 2011 *CC*
WAS
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the Estate of
VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

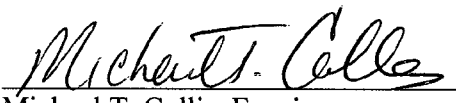
Defendant

NOTICE OF SERVICE OF
PLAINTIFF'S SECOND WRITTEN INTERROGATORIES
DIRECTED TO ALL DEFENDANTS

Kindly be advised that on the 3rd of March, 2011, Plaintiffs, by and through counsel, Wilkes & McHugh, P.A. and Michael T. Collis, have served Plaintiff's Second Written Interrogatories Directed to All Defendants upon Defendants through Defendants' counsel, Jennifer L. McPeak, by placing the same in the United States Mail, postage prepaid.

Respectfully submitted,

Dated: 3/3/2011

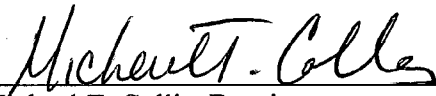

Michael T. Collis, Esquire
Pa. I.D. No. 53795
Wilkes & McHugh, P.A.
437 Grant Street, Suite 912
Pittsburgh, Pennsylvania 15219
(412) 434-1110

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Service of Plaintiff's Second Written Interrogatories was served upon all defendants, by first-class United States mail, postage prepaid, addressed as follows, on the date indicated:

Jennifer L. McPeak, Esquire
Burns White
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Dated: 3/3/2011


Michael T. Collis, Esquire
Pa. I.D. No. 53795
Wilkes & McHugh, P.A.
437 Grant Street, Suite 912
Pittsburgh, Pennsylvania 15219
(412) 434-1110
(412) 434-4882 (facsimile)

FILED No CC.

4 m/12:24un
APR 01 2011

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF,
SR., d/b/a MARION MANOR II and KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

**NOTICE OF SERVICE OF ANSWERS TO
PLAINTIFFS' SECOND WRITTEN
INTERROGATORIES DIRECTED TO
ALL DEFENDANTS**

Filed on behalf of All Defendants

Counsel of Record for These Parties:

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000
412-995-3300 (Fax)

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns White LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (Fax)

JURY TRIAL DEMANDED

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

VIRGINIA SPENCER and CAROL ECKLEY, CIVIL DIVISION
Executrices of the Estate of VIRGINIA
WILKINSON,

No. 2008-01006-CD

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, THOMAS C. NEFF,
SR., d/b/a MARION MANOR II and KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR II,

Defendants.

**NOTICE OF SERVICE OF ANSWERS TO PLAINTIFFS' SECOND
WRITTEN INTERROGATORIES DIRECTED TO ALL DEFENDANTS**

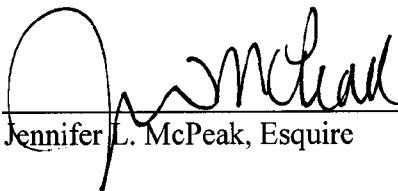
To: Prothonotary

I hereby certify that on the 30 day of March, 2011, Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, Thomas C. Neff, Sr., d/b/a Marion Manor II And Karen Arnold Neff, Administrator, Marion Manor II, served its Answers to Plaintiffs' Second Written Interrogatories Directed to All Defendants by mailing the same to their counsel of record as follows:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street
Suite 912
Pittsburgh, PA 15219

Respectfully submitted,

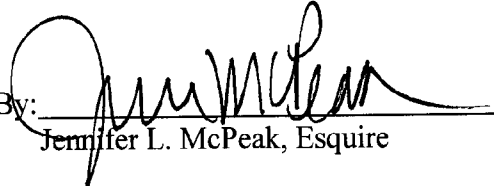
BURNS WHITE LLC

By: 
Jennifer L. McPeak, Esquire
Counsel for All Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **Notice of Service of Answers to Plaintiffs' Second Written Interrogatories Directed to All Defendants** was served upon all counsel of record via U.S. First-Class mail, postage prepaid, this 30 day of March, 2011:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street
Suite 912
Pittsburgh, PA 15219
(Counsel for Plaintiffs)

By:  _____
Jennifer L. McPeak, Esquire

FILED

MAY 02 2011

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION
MANOR II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

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

Filed on behalf of Defendants

Counsel of Record for These Parties:

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000
412-995-3300 (Fax)

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns White LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (Fax)

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY, Executrices of the Estate of VIRGINIA WILKINSON,	CIVIL DIVISION No. 2008-01006-CD
---	---

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION
MANOR II,

Defendants.

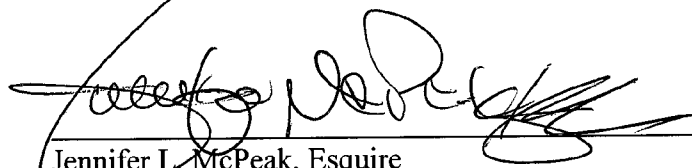
**DEFENDANTS OBJECTION TO PLAINTIFFS' NOTICE OF INTENT TO
SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS
FOR DISCOVERY PURSUANT TO RULE 4009.21**

AND NOW, come the Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, by and through their counsel of record, Burns White LLC, Jennifer L. McPeak, Esquire and William J. Mundy, Esquire, and respectfully submit this Objection to Plaintiffs' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 on the following grounds:

1. Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, object to the production of the documents sought in the subpoena (attached as Exhibit A) on the grounds of relevance; and

2. Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, object to the production of the documents sought in the subpoena on the grounds it seeks confidential information and is a violation of privacy.

Respectfully submitted,



Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194

*Counsel for Defendants, Marion Manor, Inc. d/b/a
Marion Manor II, Karen Arnold Neff d/b/a Marion
Manor II, and Karen Arnold Neff, Administrator,
Marion Manor II*

BURNS WHITE LLC
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212
(412) 995.3000
jlmcpeak@burnswwhite.com

APR 11 2011

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

NO.: 2008-01006-CD

**PLAINTIFF'S NOTICE OF INTENT TO
SERVE SUBPOENA TO PRODUCE
DOCUMENTS OR THINGS FOR
DISCOVERY PURSUANT TO RULE
4009.22 UPON GUARDIAN ELDER
CARE AT CURWENSVILLE PA, L.L.C.**

Filed on behalf of:
Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia
Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. I.D. No. 53795

Wilkes & McHugh, P.A.
437 Grant Street, Suite 912
Pittsburgh, Pennsylvania 15219

(412) 434-1110
(412) 434-4882 (facsimile)

JURY TRIAL DEMANDED

DEFENDANT'S
EXHIBIT

A

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

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

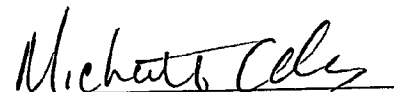
NO.: 2008-01006-CD

**PLAINTIFFS' NOTICE OF INTENT TO SERVE SUBPOENA
TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.22 UPON GUARDIAN ELDER CARE AT
CURWENSVILLE PA, L.L.C.**

Plaintiffs, Virginia Spencer and Carol Eckley, intend 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.

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

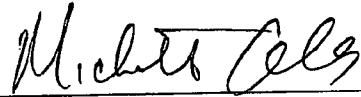
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Plaintiff's Notice of Intent to Serve Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 Upon Guardian Elder Care at Curwensville, PA, L.L.C. was mailed to counsel for Defendants as listed below this 8th day of April, 2011, by United States first class mail, postage pre-paid.

Jennifer McPeak, Esquire
Burns White
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

WILKES & McHUGH, P.A.

By:



Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: Guardian Elder Care at Curwensville PA, LLC
(Name of Person or Entity)

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

See attached Exhibit "A"

(Address)

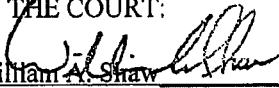
You may deliver or mail legible copies of the documents or produce things requested by
this subpoena, together with the certificate of compliance, to the party making this request at the
address listed above. You have the right to seek in advance the reasonable cost of preparing the
copies or producing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

NAME: Michael Collis, Esquire
ADDRESS: 437 Grant Street, Suite 912
Pittsburgh, PA 15219
TELEPHONE: 412-434-1110
SUPREME COURT ID # 53795
ATTORNEY FOR: Plaintiffs

BY THE COURT:


William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, March 12, 2009
Seal of the Court

Deputy

EXHIBIT "A"

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the
Estate of VIRGINIA WILKINSON,
vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD NEFF,
d/b/a MARION MANOR II; KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION MANOR, II

Christy E. Gray
Guardian Elder Care at Curwensville, L.L.C.
D/b/a Marion Manor II
1223 Schofield Street, Ext.
Curwensville, PA 16833

For each person employed at the Marion Manor II during the Virginia Wilkinson's residency, 4/1/2004 through 10/1/2006 please produce copies of any and all employee files, including:

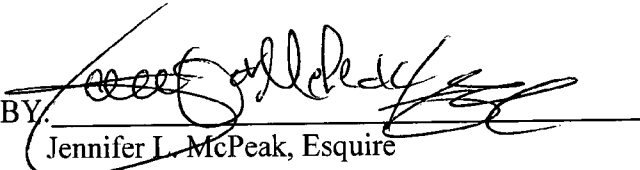
- (i) applications for employment,
- (ii) employment verification forms,
- (iii) documents that evince, relate to, or bear significantly upon the employee's criminal background information,
- (iv) licensing certification information,
- (v) documents that evince, relate to, or bear significantly upon disciplinary information, including but not limited to reprimands and/or complaints by third parties,
- (vi) documents that evince, relate to, or bear significantly upon any complaints registered by any employee,
- (vii) documents that evince, relate to, or bear significantly upon performance evaluations,
- (viii) documents that evince, relate to, or bear significantly upon exit interviews, and
- (ix) termination of employment and resignation letters.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **Defendants Objection to Plaintiffs' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21** was served upon counsel of record via U.S. First-Class mail, postage prepaid, this 29th day of April, 2011:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street
Suite 912
Pittsburgh, PA 15219

BURNS WHITE LLC

BY. 
Jennifer L. McPeak, Esquire

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

**CERTIFICATE PREREQUISITE TO
SERVICE OF A
SUBPOENA TO PRODUCE
PURSUANT TO RULE 4009.22**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795

Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

FILED NO CC
MAY 02 2011
William A. Shaw
Prothonotary/Clerk of Courts

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

**CERTIFICATE PREREQUISITE TO SERVICE OF A
SUBPOENA TO PRODUCE PURSUANT TO RULE 4009.22**

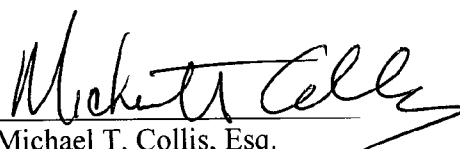
As a prerequisite to service of a subpoena for production of documents and things pursuant to Rule 4009.22, Plaintiffs certify that:

- (1) A notice of intent to serve the subpoena with of 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.

Dated: 7/24/11

Respectfully Submitted,


Michael T. Collis, Esq.
Wilkes & McHugh, P.A.
437 Grant Street, Suite 912
Pittsburgh, PA 15219

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **Certificate Pre-Requisite to Service of Subpoena Pursuant to Rule 4009.22** was mailed to counsel for Defendant as listed below this 29th day of April, 2011, by United States first class mail, postage pre-paid.

Jennifer L. McPeak, Esquire
Burns, White
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

WILKES & McHUGH, P.A.

BY: Michael T. Collis
Michael T. Collis, Esquire
Counsel for Plaintiffs

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

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II.

Defendants.

CIVIL DIVISION

NO.: 2008-01006-CD

**PLAINTIFF'S NOTICE OF INTENT TO
SERVE SUBPOENA TO PRODUCE
DOCUMENTS OR THINGS FOR
DISCOVERY PURSUANT TO RULE
4009.22 UPON GUARDIAN ELDER
CARE AT CURWENSVILLE PA, L.L.C.**

Filed on behalf of:
Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia
Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. I.D. No. 53795

Wilkes & McHugh, P.A.
437 Grant Street, Suite 912
Pittsburgh, Pennsylvania 15219

(412) 434-1110
(412) 434-4882 (facsimile)

JURY TRIAL DEMANDED

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

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II.

Defendants.

CIVIL DIVISION

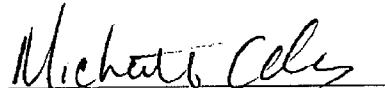
NO.: 2008-01006-CD

**PLAINTIFFS' NOTICE OF INTENT TO SERVE SUBPOENA
TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.22 UPON GUARDIAN ELDER CARE AT
CURWENSVILLE PA, L.L.C.**

Plaintiffs, Virginia Spencer and Carol Eckley, intend 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.

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

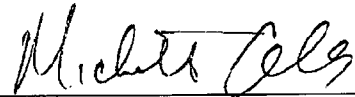
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Plaintiff's Notice of Intent to Serve Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 Upon Guardian Elder Care at Curwensville, PA, L.L.C. was mailed to counsel for Defendants as listed below this 8th day of April, 2011, by United States first class mail, postage pre-paid.

Jennifer McPeak, Esquire
Burns White
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

WILKES & McHUGH, P.A.

By:



Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: Guardian Elder Care at Curwensville PA, LLC
(Name of Person or Entity)

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

See attached Exhibit "A"

(Address)

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:

NAME: Michael Collis, Esquire
ADDRESS: 437 Grant Street, Suite 912
Pittsburgh, PA 15219
TELEPHONE: 412-434-1110
SUPREME COURT ID # 53795
ATTORNEY FOR: Plaintiffs

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, March 12, 2009
Seal of the Court

Deputy

EXHIBIT "A"

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the
Estate of VIRGINIA WILKINSON,
vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD NEFF,
d/b/a MARION MANOR II; KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION MANOR, II

Christy E. Gray
Guardian Elder Care at Curwensville, L.L.C.
D/b/a Marion Manor II
1223 Schofield Street, Ext.
Curwensville, PA 16833

For each person employed at the Marion Manor II during the Virginia Wilkinson's residency, 4/1/2004 through 10/1/2006 please produce copies of any and all employee files, including:

- (i) applications for employment.
- (ii) employment verification forms.
- (iii) documents that evince, relate to, or bear significantly upon the employee's criminal background information,
- (iv) licensing certification information,
- (v) documents that evince, relate to, or bear significantly upon disciplinary information, including but not limited to reprimands and/or complaints by third parties,
- (vi) documents that evince, relate to, or bear significantly upon any complaints registered by any employee,
- (vii) documents that evince, relate to, or bear significantly upon performance evaluations,
- (viii) documents that evince, relate to, or bear significantly upon exit interviews, and
- (ix) termination of employment and resignation letters.

FILED

JUN 03 2011

W/10:15/

William A. Shaw

Prothonotary/Clerk of Courts

no 9c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION
MANOR II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

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

Filed on behalf of Defendants

Counsel of Record for These Parties:

Jennifer L. McPeak, Esquire

Pa. I.D. No. 78194

Burns White LLC

106 Isabella Street

Four Northshore Center

Pittsburgh, PA 15212

412-995-3000

412-995-3300 (Fax)

William J. Mundy, Esquire

Pa. I.D. No. 57679

Burns White LLC

100 Four Falls, Suite 515

1001 Conshohocken State Road

West Conshohocken, PA 19428

484-567-5700

484-567-5701 (Fax)

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY, CIVIL DIVISION
Executrices of the Estate of VIRGINIA
WILKINSON, No. 2008-01006-CD

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION
MANOR II,

Defendants.

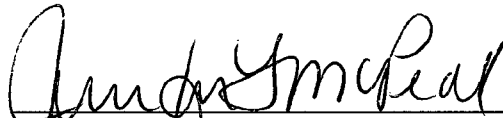
**DEFENDANTS OBJECTION TO PLAINTIFFS' NOTICE OF INTENT TO
SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS
FOR DISCOVERY PURSUANT TO RULE 4009.21**

AND NOW, come the Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, by and through their counsel of record, Burns White LLC, Jennifer L. McPeak, Esquire and William J. Mundy, Esquire, and respectfully submit this Objection to Plaintiffs' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 on the following grounds:

1. Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, object to the production of the documents sought in the subpoena (attached as Exhibit A) on the grounds of relevance; and

2. Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, object to the production of the documents sought in the subpoena on the grounds it seeks confidential information and is a violation of HIPAA.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer L. McPeak", written over a horizontal line.

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194

*Counsel for Defendants, Marion Manor, Inc. d/b/a
Marion Manor II, Karen Arnold Neff d/b/a Marion
Manor II, and Karen Arnold Neff, Administrator,
Marion Manor II*

BURNS WHITE LLC
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212
(412) 995.3000
jlmcpk@burnswhite.com

MAY 18 2011

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

**NOTICE OF INTENT TO SERVE A
SUBPOENA TO PRODUCE**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

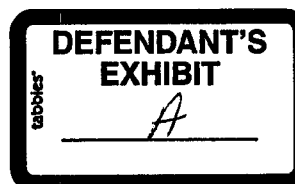
Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795

Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED



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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION
No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

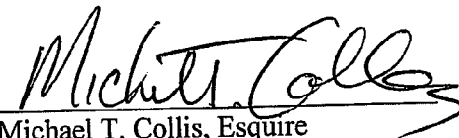
NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE

Plaintiffs, Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson, intend 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,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: Guardian Elder Care at Curwensville, PA, LLC d/b/a
Marion Manor II
(Name of Person or Entity)

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

See Attached Exhibit "A"

(Address)

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:

NAME: Michael T. Collis, Esq.
ADDRESS: 437 Grant St., Ste. 912
Pittsburgh, PA 15219
TELEPHONE: 412-434-1110
SUPREME COURT ID # 53795
ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, March 12, 2009
Seal of the Court

Deputy

EXHIBIT "A"

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the
Estate of VIRGINIA WILKINSON,
vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD NEFF,
d/b/a MARION MANOR II; KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION MANOR, II

Christy E. Gray
Guardian Elder Care at Curwensville, L.L.C.
D/b/a Marion Manor II
1223 Schofield Street, Ext.
Curwensville, PA 16833

To Custodian of Records:

Please forward a complete **BLACK & WHITE COPY** of the **COMPLETE** medical record for **John Bruce Griffith (DOB 9/10/1948)** within **TWENTY (20) days**, including but not limited to:

1. Admission Sheets/Transfer Sheet, e.g., nursing home, ambulance, hospital.
2. Hospital Discharge Summary (if any)
3. Physicians' Orders
4. Physicians' Progress Notes
5. Nursing Admission Assessment and Monthly Summaries
6. Discharge Plans and Care Plans
7. Nursing Notes
8. Decubitus and/or Skin Reports
9. Medication Sheets, Treatment Sheets, Graphs, I&O Charts, Flow Sheets, ADL/PCR Sheets, etc. (**ALL SIDES & PAGES**)
10. Chronological Drug Reviews
11. Nutritional Assessments and Notes; Weight Records
12. Lab and X-Ray reports
13. Restorative Programs and Notes
14. Activity Records
15. Social Service Records
16. Physical Therapy Records
17. Occupational Therapy Records
18. Speech Therapy Records
19. Permits & Releases
20. Duplications of Photographs and Correspondence.
21. Complete copy of Narcotic Log

ANY AND ALL INCIDENT/OCCURRENCE REPORTS

CERTIFICATE OF SERVICE

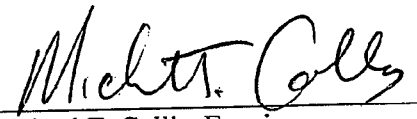
I hereby certify that a true and correct copy of the foregoing **Notice Of Intent To Serve A Subpoena To Produce** was provided to all parties of record via U.S. First-Class Mail, postage pre-paid, this 17th day of May, 2011, to the following:

Jennifer L. McPeak, Esquire
Burns White
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:

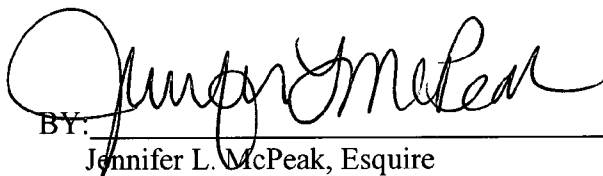

Michael T. Collis, Esquire
Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **Defendants Objection to Plaintiffs' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21** was served upon counsel of record via U.S. First-Class mail, postage prepaid, this 31 day of May, 2011:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street
Suite 912
Pittsburgh, PA 15219

BURNS WHITE LLC

BY: 
Jennifer L. McPeak, Esquire

CA

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

**MOTION TO RULE ON
DEFENDANTS' OBJECTIONS TO
PLAINTIFFS' SUBPOENAS**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795

Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

FILED
JUN 20 2011

William A. Shaw
Prothonotary/Clerk of Courts

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrixes of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION
No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

**MOTION TO RULE ON DEFENDANTS' OBJECTIONS
TO PLAINTIFFS' SUBPOENAS**

AND NOW, comes the Plaintiffs, Virginia Spencer and Carol Eckley, as Executrixes of the Estate of Virginia Wilkinson, deceased, by and through her undersigned counsel, Michael T. Collis, Esquire, and Wilkes & McHugh, P.A., and file the instant Motion to Rule on Defendants' Objections to Plaintiffs' Subpoenas.

1. In the instant assisted living neglect and abuse action, Plaintiffs aver that their deceased mother, Virginia Wilkinson, suffered numerous injuries while a resident at Marion Manor II ("Facility"), a personal care home that was owned and operated by all named Defendants during Ms. Wilkinson's residency. Most notably, Ms. Wilkinson suffered a sexual assault while she was a resident at the Facility in September of 2006.

2. Specifically, a glass tube was found in Ms. Wilkinson's vagina after she was transferred to Clearfield Hospital from the Facility with complaints of right hip pain. At the

Hospital, Ms. Wilkinson was found to have vaginal lacerations.

3. Plaintiffs are now requesting that this Honorable Court overrule Defendants' objections to two subpoenas that Plaintiffs intend to serve upon Guardian Elder Care at Curwensville PA, L.L.C. ("Guardian"), the entity that now owns and operates the Facility.

4. As to the first subpoena, Plaintiffs served their Notice of Intent to Serve Subpoena to Produce Documents or Things upon Guardian on April 8, 2011.¹ This subpoena sought employee-related documents for those employed at the Facility during Mrs. Wilkinson's residency, including but not limited to documents evincing, relating to, or bearing significantly upon the employee's criminal background information, documents evincing any disciplinary action or reprimands leveled against any employee, documents evincing any complaints registered by any employee, documents evincing or relating to performance evaluations, and documents relating to termination of employment and resignation letters.

5. Defendants served objections to this subpoena on or about April 29, 2011.² Defendants objected to the first subpoena on the grounds of relevance, that it sought confidential information, and is a violation of privacy.

6. However, these documents are indeed relevant, especially the documents relating to the employee's criminal background information and criminal background check (if there was one performed).

7. Plaintiffs aver that their mother suffered a sexual assault while she was at the Facility. As such, Plaintiffs are entitled to investigate whether the employees at the Facility were properly screened prior to employment, as the lack of criminal background checks would show

¹ Plaintiff's Notice of Intent to Serve Subpoena, with the underlying subpoena included, is attached hereto as Exhibit "A."

² Defendants' Objection to Plaintiff's Notice of Intent to Serve Subpoena (relating to the first subpoena) is attached hereto as Exhibit "B."

that the Facility was not properly investigating its employees prior to hiring them to provide care for the residents, including Ms. Wilkinson.

8. In addition, Plaintiffs believe, and therefore aver, that the documents requested may contain evidence that the Defendants were on notice of the issues that affected Ms. Wilkinson's care, such as complaints about employees, performance evaluations and termination information.

9. Plaintiffs are entitled and obligated to investigate the claims brought in this case, including gathering relevant information related to potential witnesses, and responsive documentation should not be hidden under the guise of employee privacy.

10. In a similar context to this case, judges in numerous nursing home negligence and abuse lawsuits filed in various counties around Pennsylvania have held that most of the same documents requested by Plaintiff's subpoena are discoverable.³ Plaintiffs aver that the same logic applies to this matter.

11. In the nursing home context, courts have consistently permitted discovery of the identity of all employees who were suspended or terminated for providing improper care to any resident during the plaintiff's residency.⁴ A logical extension includes production of written complaints made by employees or third parties regarding the deponents and written reprimands given to the deponents for providing improper care to any resident. Again, Plaintiffs aver that this reasoning should apply equally to the assisted living/personal care realm, especially in this instance so that Plaintiffs may fully investigate the circumstances surrounding their mother's sexual assault that occurred at the Facility.

³ True and correct copies of numerous Orders of Court signed by Judges Strassburger and Wettick in Allegheny County; Judges Caruso and Ober in Westmoreland County; and Judges Durham and Pagano in Delaware County are collectively attached hereto as Exhibit "C."

⁴ See Exhibit C.

12. Plaintiffs also seek production of exit interview forms and resignation letters, limited to the extent that either contain information indicating that the deponent observed insufficient staffing levels, neglect, or other systemic problems that placed Defendants on notice of facility-wide problems that would potentially relate to the circumstances surrounding the sexual assault of Ms. Wilkinson.

13. In sum, Plaintiffs aver that the requested information is relevant, and not violative of employee privacy. Therefore Defendants objections to the first subpoena should be overruled.

14. As to the second subpoena, Plaintiffs served their Notice of Intent to Serve Subpoena to Produce Documents or Things upon Guardian on May 17, 2011.⁵ This subpoena sought the entire medical chart for John Bruce Griffith ("Griffith"), who was a resident at the Facility at the same time Ms. Wilkinson. Upon information and belief, Griffith resided across the hall from Ms. Wilkinson at the Facility.

15. Defendants served objections to this subpoena on or about May 31, 2011.⁶ Defendants objected to the second subpoena on the grounds of relevance, that it sought confidential information, and is a violation of HIPAA.

16. In response to Defendants' relevance objection, Plaintiffs aver that Griffith, a mentally disabled resident of the Facility, may have been involved in Ms. Wilkinson's sexual assault.

17. Indeed, Griffith is mentioned multiple times in the police report that followed this

⁵ Plaintiff's Notice of Intent to Serve Subpoena, with the underlying subpoena included, is attached hereto as Exhibit "D."

⁶ Defendants' Objection to Plaintiff's Notice of Intent to Serve Subpoena (relating to the second subpoena) is attached hereto as Exhibit "E."

incident. He was even interviewed by the police.⁷

18. The police report also notes that Ms. Wilkinson's daughter, Virginia Spencer (Plaintiff), informed the interviewing officer that Griffith was moved from his room soon after the incident.⁸

19. Griffith's complete medical chart would show exactly when he was transferred or moved from his room at the Facility. If he was indeed moved soon after the incident with Ms. Wilkinson, that would constitute circumstantial evidence that Griffith was somehow involved or even perpetrated the assault and that the Facility knew about it or at least suspected that he was involved.

20. Of note, all of Ms. Wilkinson's daughters testified that they suspected that it was possible that Griffith was at least involved, based upon their knowledge of Griffith and his history of mental illness.⁹

21. As to Defendants' further objection based upon HIPAA, Plaintiffs aver that since Defendants do not currently own the Facility, they have no standing to raise a HIPAA objection, as they are not the "covered entity" specified by the HIPAA regulations. See 45 C.F.R. 164.500 *et. seq.*

22. Additionally, the HIPAA regulations specifically allow covered entities to release protected health information in response to a court order. 45 C.F.R. 164.512(e). Thus, Defendants HIPAA objection is without merit on several grounds.

23. In sum, Griffith's medical chart is clearly relevant to this case and the production of which would not be a violation of HIPAA.

⁷ The relevant portions of the police report are attached hereto as Exhibit "F."

⁸ See Exhibit F.

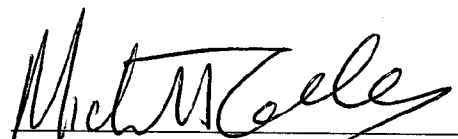
⁹ See portions of the deposition testimony of Carol Eckley, Ellen Coulter, and Virginia Spencer, attached collectively hereto as Exhibit "G."

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant the instant Motion, for the reasons set forth herein.

Respectfully submitted,

WILKES & McHUGH, P.A.

By:

A handwritten signature in black ink, appearing to read "Michael T. Collis", written over a horizontal line.

Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II.

Defendants.

CIVIL DIVISION

NO.: 2008-01006-CD

**PLAINTIFF'S NOTICE OF INTENT TO
SERVE SUBPOENA TO PRODUCE
DOCUMENTS OR THINGS FOR
DISCOVERY PURSUANT TO RULE
4009.22 UPON GUARDIAN ELDER
CARE AT CURWENSVILLE PA, L.L.C.**

Filed on behalf of:
Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia
Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. I.D. No. 53795

Wilkes & McHugh, P.A.
437 Grant Street, Suite 912
Pittsburgh, Pennsylvania 15219

(412) 434-1110
(412) 434-4882 (facsimile)

JURY TRIAL DEMANDED

PLAINTIFF'S
EXHIBIT
A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

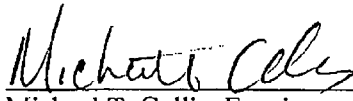
NO.: 2008-01006-CD

**PLAINTIFFS' NOTICE OF INTENT TO SERVE SUBPOENA
TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.22 UPON GUARDIAN ELDER CARE AT
CURWENSVILLE PA, L.L.C.**

Plaintiffs, Virginia Spencer and Carol Eckley, intend 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.

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: Guardian Elder Care at Curwensville PA, LLC
(Name of Person or Entity)

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

See attached Exhibit "A"

(Address)

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:

NAME: Michael Collis, Esquire
ADDRESS: 437 Grant Street, Suite 912
Pittsburgh, PA 15210
TELEPHONE: 412-434-1110
SUPREME COURT ID # 53795
ATTORNEY FOR: Plaintiffs

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, March 12, 2009
Seal of the Court

Deputy

EXHIBIT "A"

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the
Estate of VIRGINIA WILKINSON,
vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD NEFF,
d/b/a MARION MANOR II; KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION MANOR, II

Christy E. Gray
Guardian Elder Care at Curwensville, L.L.C.
D/b/a Marion Manor II
1223 Schofield Street, Ext.
Curwensville, PA 16833

For each person employed at the Marion Manor II during the Virginia Wilkinson's residency, 4/1/2004 through 10/1/2006 please produce copies of any and all employee files, including:

- (i) applications for employment.
- (ii) employment verification forms.
- (iii) documents that evince, relate to, or bear significantly upon the employee's criminal background information,
- (iv) licensing certification information,
- (v) documents that evince, relate to, or bear significantly upon disciplinary information, including but not limited to reprimands and/or complaints by third parties,
- (vi) documents that evince, relate to, or bear significantly upon any complaints registered by any employee,
- (vii) documents that evince, relate to, or bear significantly upon performance evaluations,
- (viii) documents that evince, relate to, or bear significantly upon exit interviews, and
- (ix) termination of employment and resignation letters.

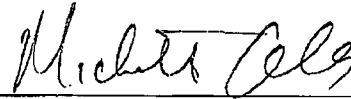
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Plaintiff's Notice of Intent to Serve Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 Upon Guardian Elder Care at Curwensville, PA, L.L.C. was mailed to counsel for Defendants as listed below this 8th day of April, 2011, by United States first class mail, postage pre-paid.

Jennifer McPeak, Esquire
Burns White
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

WILKES & McHUGH, P.A.

By:



Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY, CIVIL DIVISION
Executrices of the Estate of VIRGINIA
WILKINSON,

No. 2008-01006-CD

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION
MANOR II,

Defendants.

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

Filed on behalf of Defendants

Counsel of Record for These Parties:

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000
412-995-3300 (Fax)

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns White LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (Fax)

JURY TRIAL DEMANDED

PLAINTIFF'S
EXHIBIT

B

MAY - 2 2011

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION
MANOR II,

Defendants.

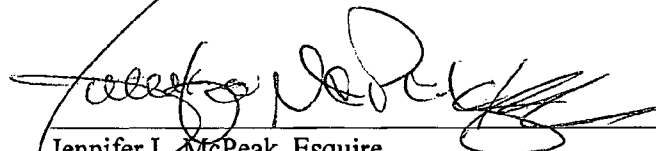
**DEFENDANTS OBJECTION TO PLAINTIFFS' NOTICE OF INTENT TO
SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS
FOR DISCOVERY PURSUANT TO RULE 4009.21**

AND NOW, come the Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, by and through their counsel of record, Burns White LLC, Jennifer L. McPeak, Esquire and William J. Mundy, Esquire, and respectfully submit this Objection to Plaintiffs' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 on the following grounds:

1. Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, object to the production of the documents sought in the subpoena (attached as Exhibit A) on the grounds of relevance; and

2. Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, object to the production of the documents sought in the subpoena on the grounds it seeks confidential information and is a violation of privacy.

Respectfully submitted,



Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194

*Counsel for Defendants, Marion Manor, Inc. d/b/a
Marion Manor II, Karen Arnold Neff d/b/a Marion
Manor II, and Karen Arnold Neff, Administrator,
Marion Manor II*

BURNS WHITE LLC
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212
(412) 995.3000
jlmcp@burnswhite.com

APR 11 2011

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

NO.: 2008-01006-CD

**PLAINTIFF'S NOTICE OF INTENT TO
SERVE SUBPOENA TO PRODUCE
DOCUMENTS OR THINGS FOR
DISCOVERY PURSUANT TO RULE
4009.22 UPON GUARDIAN ELDER
CARE AT CURWENSVILLE PA, L.L.C.**

Filed on behalf of:
Virginia Spencer and Carol Eckley,
Executrices of the Estate of Virginia
Wilkinson

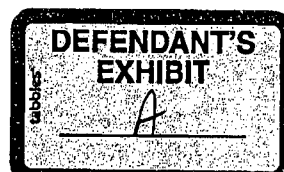
Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. I.D. No. 53795

Wilkes & McHugh, P.A.
437 Grant Street, Suite 912
Pittsburgh, Pennsylvania 15219

(412) 434-1110
(412) 434-4882 (facsimile)

JURY TRIAL DEMANDED



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II; KAREN
ARNOLD NEFF, ADMINISTRATOR,
MARION MANOR, II,

Defendants.

CIVIL DIVISION

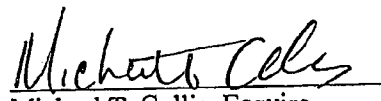
NO.: 2008-01006-CD

**PLAINTIFFS' NOTICE OF INTENT TO SERVE SUBPOENA
TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.22 UPON GUARDIAN ELDER CARE AT
CURWENSVILLE PA, L.L.C.**

Plaintiffs, Virginia Spencer and Carol Eckley, intend 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.

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

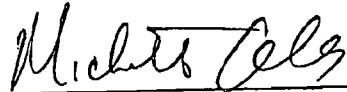
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Plaintiff's Notice of Intent to Serve Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 Upon Guardian Elder Care at Curwensville, PA, L.L.C. was mailed to counsel for Defendants as listed below this 8th day of April, 2011, by United States first class mail, postage pre-paid.

Jennifer McPeak, Esquire
Burns White
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

WILKES & McHUGH, P.A.

By:



Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: Guardian Elder Care at Curwensville PA, LLC
(Name of Person or Entity)

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

See attached Exhibit "A"

(Address)

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:

NAME: Michael Collis, Esquire
ADDRESS: 437 Grant Street, Suite 912
Pittsburgh, PA 15219
TELEPHONE: 412-434-1110
SUPREME COURT ID # 53795
ATTORNEY FOR: Plaintiffs

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, March 12, 2009
Seal of the Court

Deputy

EXHIBIT "A"

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the
Estate of VIRGINIA WILKINSON,
vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD NEFF,
d/b/a MARION MANOR II; KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION MANOR, II

Christy E. Gray
Guardian Elder Care at Curwensville, L.L.C.
D/b/a Marion Manor II
1223 Schofield Street, Ext.
Curwensville, PA 16833

For each person employed at the Marion Manor II during the Virginia Wilkinson's residency, 4/1/2004 through 10/1/2006 please produce copies of any and all employee files, including:

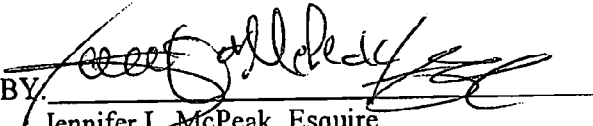
- (i) applications for employment,
- (ii) employment verification forms,
- (iii) documents that evince, relate to, or bear significantly upon the employee's criminal background information,
- (iv) licensing certification information,
- (v) documents that evince, relate to, or bear significantly upon disciplinary information, including but not limited to reprimands and/or complaints by third parties,
- (vi) documents that evince, relate to, or bear significantly upon any complaints registered by any employee,
- (vii) documents that evince, relate to, or bear significantly upon performance evaluations,
- (viii) documents that evince, relate to, or bear significantly upon exit interviews, and
- (ix) termination of employment and resignation letters.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **Defendants Objection to Plaintiffs' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21** was served upon counsel of record via U.S. First-Class mail, postage prepaid, this 29th day of April, 2011:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street
Suite 912
Pittsburgh, PA 15219

BURNS WHITE LLC

BY: 
Jennifer L. McPeak, Esquire

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA

KAREN BRESTENSKY, EXECUTRIX
OF THE ESTATE OF SHIRLEY R. ERB

CIVIL DIVISION

GD No. 2005-10908

Plaintiff,

v.

HARMARVILLAGE CARE CENTER, LLC
d/b/a HARMARVILLAGE CARE CENTER;
GRANE HEALTH CARE COMPANY; GRANE
ASSOCIATES; TREBRO INCORPORATED

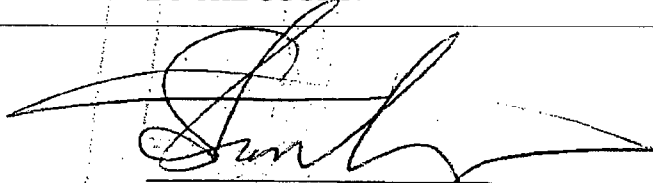
Defendants.

ORDER OF COURT

AND NOW, this 15th day of May, 2006, upon consideration of
Plaintiff's Motion to Compel More Specific Answers and Responses to Discovery
Requests, it is hereby ORDERED, ADJUDGED and DECREED that said Motion is
granted ^{in part}. Defendants are hereby ordered to disclose the documents referenced in
Plaintiff's aforementioned Motion within thirty (30) days, or face sanctions deemed
appropriate by this Court.

Supply 3(a)(d)(f)(h)(i) and (j)

BY THE COURT:



Honorable R. Stanton Wetlick, J.

PLAINTIFF'S
EXHIBIT

C

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA

CIVIL DIVISION

THOMAS E. SHAFFER, as Executor of the)
Estate of OLIVE L. SHAFFER,)

Plaintiff,)

vs.)

No. 4749 of 2005

GRANE HEALTHCARE COMPANY;)

GRANE ASSOCIATES; TREBRO INC., and)

and HARMON HOUSE CARE CENTER LLC)

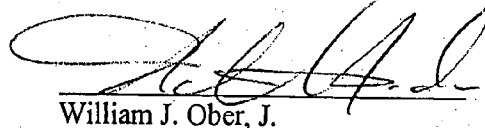
d/b/a/ HARMON HOUSE CARE CENTER,)

Defendant.)

ORDER

NOW, this 21st day of March 2007, upon consideration of Plaintiff's Motion to Compel More Specific Answers and Responses to Plaintiff's Discovery Requests, it is hereby ORDERED, ADJUDGED and DECREED that said motion is GRANTED as per discussions held at the presentment of this Motion. The Plaintiff's document request E (Hallowich personnel file) is GRANTED for the reasons that the Peer Review Protection Act is not applicable to these facts and the documents requested were not a type prepared solely for the purposes of peer review. See Lindsay v. Bosta, et al., 147 P.L.J. 237 (1999). Defendants are hereby ORDERED to provide Plaintiff with Specific Answers and Responses to the discovery request cited in Plaintiff's Motion within twenty (20) days of the date of this Order, or suffer further sanctions as deemed to be appropriate by this Court.

BY THE COURT:



William J. Ober, J.

Attest:

Prothonotary

CC: Peter D. Giglione, Esquire
John A. Bass, Esquire

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY PENNSYLVANIA

DONNA JEAN SCHULTHEIS, as
Administratrix, of the Estate of
BETTY JEAN SPROCH, Deceased,

Plaintiff,

vs.

EXTENDICARE HEALTH FACILITIES,
INC., d/b/a EDGEWOOD NURSING
CENTER, EXTENDICARE HEALTH
SERVICES, INC., a Wisconsin Corporation,
and EXTENDICARE, INC., a Canadian
Corporation,

Defendants.

CIVIL DIVISION

No. 2978 of 2005

The Honorable Gary Caruso

FILED IN
PROTHONOTARY'S OFFICE

MAR 02 2009

CLERK

ORDER

AND NOW, this 24th day of February, 2009, upon Motion by Plaintiff, and unopposed by Defendant, it is ORDERED that this Court's prior Orders of February 5, 2008 and April 1, 2008, dealing with Motions to Compel Production of certain portions of Defendants' employees' personnel files are hereby withdrawn and replaced by the following Order:

It is hereby ORDERED that within thirty (30) days of the date of this Order that Defendant will produce the following portions of the personnel files of the individuals that are identified in Defendants' Responses to Interrogatories No. 2 and No. 34 to Plaintiff's First Set of Interrogatories and Request for Production of Documents to All Defendants with the exception of Gabriella Bigenho, R.N. and Pamela McKlveen, L.P.N.:

- 1.) All documents evincing the in-service/staff development training sessions attended for the time period of two years prior to, and through, the residency;

2.) Written complaints made by employees or third parties concerning patient care during the residency and any other writing referring to the particular resident;

3.) Written reprimands for providing improper care or for failure to supervise, train, or hire qualified or competent staff for a two year period prior to, and through, the residency;

4.) Regarding performance evaluations, writings critical of the employee for providing improper care to any resident and/or competent staff for the period of two years prior to, and through the residency;

5.) Job applications;

6.) Forms evincing the fact that the employee's prior work histories and/or references were checked;

7.) Forms evincing the fact that the employee's criminal backgrounds were checked;

8.) Copies of the employee's licenses and/or proof of certification;

9.) With regard to exit interview forms and resignation letters, information indicating that the employee observed insufficient staffing levels, neglect, or other systemic problems that placed defendants on notice of facility-wide problems.

From any and all produced documents, Defendants will redact the employee's home and/or cellular telephone numbers and the first five digits of the employee's social security number. Defendants will produce the personnel files of other current and/or former employees as defined by Bradley, as well as those current and/or former employees, as defined by Bradley, who will be called to testify by either party at trial as identified two weeks prior to the time of trial

BY THE COURT:


J.

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

BARBARA PIERCE, As Administratrix of the
ESTATE OF MORRIS JOSEPH PIERCE,
Deceased

NO. 06-6375

vs.

HEALTH CARE AND RETIREMENT CORP.
OF AMERICA, d/b/a WALLINGFORD
NURSING & REHAB. CENTER

And

HCRC, Inc.

And

MANOR CARE, INC. a/k/a MANOR CARE, INC.
F/k/a HCR MANOR CARE

ORDER

AND NOW, this 20th day of March, 2008, upon consideration of Plaintiff's Motion to Strike Objections and Compel More Specific Discovery Responses and any response thereto, it is hereby ORDERED and DECREED that said Motion is GRANTED. Defendants are ordered to produce full and complete Responses, without objections, to Request for Production of Documents (Set 1) Nos. 6, 34-42, 52 and 53 and Request for Production of Documents and Interrogatories (Set 2) Nos. 1-3 and Interrogatories 2, 4, and 6 within 20 days of the date of the Order. The names of any and all patients other than Plaintiff Pierce shall be redacted. The information provided as to Defendants' employees shall be limited to those employees who treated or came in contact with Plaintiff Pierce.

BY THE COURT:

MAR 25 2008


KATHRYNANN W. DURHAM, J.

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

GWENDOLYN MARTIN
MICHAEL HELTON, Administrators of the
Estate of NETTIE O. HELTON a/k/a
NETTIE HELTON

05-5771

vs.

MANORCARE OF AMERICA, INC.
MANORCARE, INC.
MANORCARE HEALTH SERVICES, INC.
d/b/a MANORCARE HEALTH SERVICES
YEADON
HCR MANORCARE, INC.
HEALTHCARE & RETIREMENT
CORPORATION OF AMERICA
CARMELLA KENNEDY, D.O.N.
JILL MARIE DAMIANI, R.N.

ORDER

AND NOW, this 5th day of May, 2008, upon consideration of the Application for
Amendment of all Defendants filed February 19, 2008, it is hereby **ORDERED** and **DECREED**
that said Motion is **GRANTED** as follows:

It is hereby **ORDERED** and **DECREED** that the Defendants shall produce the
disciplinary records, resignation letters, termination letters and written complaints pertaining to
and/or generated by the following individuals:

1. Carmelia Kennedy, Director of Nursing;
2. C. Caporelli, Assistant Director of Nursing;
3. M. Mills, Assistant Director of Nursing;
4. LaKeisha Harris;
5. LaQuitha Risper;
6. Sharon Staedt;
7. Emilia Kamara;

8. Shawn Gilbert;
9. April Hayes;
10. Kay Foster;
11. C. Russo;
12. J. Holmes;
13. E. Cadent;
14. F. Witherspoon;
15. Anita Yumang;
16. Karen Parkes;
17. S. Johnson;
18. B. Rowland;
19. Robin Carwise;
20. Asha Fofanah;
21. R.C. McBride;
22. Michelle Horn;
23. Ebony Coates;
24. O. Debeye;
25. Ketty Honoré; and
26. The nurse who authorized the notes on June 3, 2003 (10:15 p.m.), June 9, 2003 (11 p.m.) and June 10, 2003 (4 a.m.)

It is **FURTHER ORDERED** that this Court's Order of January 18, 2008, is hereby **VACATED**.

It is **FURTHER ORDERED** and **DECREED** that the Defendants shall provide copies of all incident reports (with the names of all other residents besides Nettie Helton redacted) relating to medication errors, failing to obtain ordered laboratory/diagnostic tests and skin tears for incidents that occurred between October 1, 2002 until July 5, 2003.

BY THE COURT:



GEORGE A. PAGANO, J.

FILED JM
2008 MAY -6 AM 11:12
OFFICE OF
JUDICIAL SUPPORT
JUDICIARY CO. PA.
DELETED

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY
CIVIL DIVISION
PENNSYLVANIA

DONNA JEAN SCHULTHEIS, AS
ADMINISTRATRIX OF THE ESTATE
OF BETTY JEAN SPROCH,
PLAINTIFF,

VS.

NO. 2978 OF 2005

EXTENDICARE HEALTH FACILITIES,
INC., ET. AL,
DEFENDANTS,

DECISION AND ORDER

This matter is before the Court as the result of a Motion to Compel Discovery filed on behalf of the plaintiff. This case involves allegation of negligence on the part of the defendants resulting in the death of the plaintiff's decedent.

In the Motion to Compel the plaintiff requests that the Court Order the defendants to produce the following for employees and/or former employees identified by the defendants in response to Interrogatory No. 2 and Interrogatory No. 34:

1. employment applications
2. employment verification forms
3. documents that evince or relate to, or bear significantly upon the employee's criminal background information
4. licensing certification information
5. documents that evince or relate to, or bear significantly upon any complaints registered by employee
6. documents that evince or relate to, or bear significantly upon disciplinary information, including but not limited to reprimands and/or complaints by third parties

7. documents that evince, relate to, or bear significantly upon performance evaluations
8. documents that evince, relate to, or bear significantly upon exit interviews; and
9. termination of employment and resignation letters.

Information of the nature that is being requested is generally considered to be confidential. In this regard the Court must determine if the request creates an unreasonable burden upon the defendants. The Court must enter into a balancing test to determine if the needs of the plaintiff for the information outweigh the confidentiality concerns. If it is determined that some of the information should be turned over, the Court must also take such reasonable steps to protect the confidentiality of the records as is possible, while allowing proper use of the information to prosecute the action.

This Court has carefully considered the requests made by the plaintiff in conjunction with the allegations of the plaintiff made in the Amended Complaint. It appears that the pertinent allegations contained in the complaint that are connected to the information requested are:

1. the defendants reduced staffing levels to maximize profits
2. the defendants failed to hire appropriately trained staff
3. the defendants failed to appropriately train the staff
4. the facility was understaffed
5. the defendants allowed unskilled or untrained individuals to care for the plaintiff's decedent.

In the regard the Court finds that the following information could lead to the discovery of relevant evidence even though the same may or may not be admissible at trial.

1. the employment applications of those persons identified in Interrogatories 2 and 34;
2. the employment verification forms for said person;

3. the documents that evince or relate to said employees criminal background information;
4. licensing certification information for said persons;
5. documents that evince, or relate to disciplinary information with regard to said persons, but only that information which relates to discipline for the failure to participate in training, failure to report to work or failing to properly care for a patient;
6. documents that evince or relate to complaints made about said persons' care of patients made by third persons, patients or fellow employees;
7. documents that contain information that is critical of the performance of said persons, such as performance evaluations;
8. any portion of a termination letter of said persons that states as a reason for termination the persons failure to properly care for and treat patients.
9. any portion of a resignation letter that states that a reason for resignation is understaffing or overwork.

The only documents that are to contain the name, address or other identifying information of the employee are to be the documents set forth in numbers 1.2. and 3 above. All other documents are to be redacted so that they do not include identifying information of the employee. Once this information is received by the plaintiff's counsel, if plaintiff's counsel desires to have the redacted information disclosed, counsel must seek court approval upon good cause shown.

This information shall be made available only to Ruben J. Krisztal, Esq. and shall be for his eyes only. It shall not be disseminated to any other person.

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY
CIVIL DIVISION
PENNSYLVANIA

DONNA JEAN SCHULTHEIS, AS
ADMINISTRATRIX OF THE ESTATE
OF BETTY JEAN SPROCH,
PLAINTIFF,

VS.

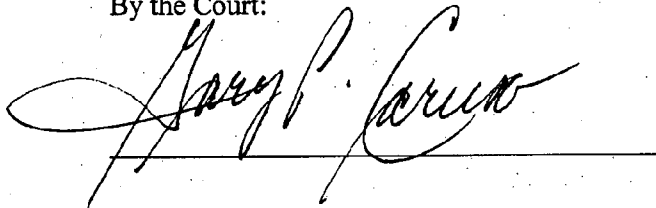
NO. 2978 OF 2005

EXTENDICARE HEALTH FACILITIES,
INC., ET. AL,
DEFENDANTS,

ORDER

And now this 5th day of February, 2008, it is hereby Ordered and Decreed that
within twenty-five (25) days the defendants will provide the discovery in accordance with
the foregoing Decision of this Court.

By the Court:

A handwritten signature in black ink, appearing to read "Gary P. Caruso", is written over a horizontal line.

Attest:



D



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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

**NOTICE OF INTENT TO SERVE A
SUBPOENA TO PRODUCE**

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795

Defendants.

Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

PLAINTIFF'S
EXHIBIT

D

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

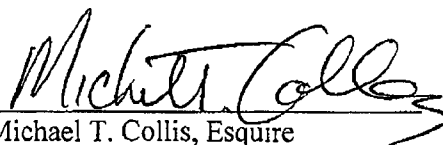
NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE

Plaintiffs, Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson, intend 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,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: Guardian Elder Care at Curwensville, PA, LLC d/b/a
Marion Manor II
(Name of Person or Entity)

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

See Attached Exhibit "A"

(Address)

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:

NAME: Michael T. Collis, Esq.
ADDRESS: 437 Grant St., Ste. 912
Pittsburgh, PA 15219
TELEPHONE: 412-434-1110
SUPREME COURT ID # 53795
ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, March 12, 2009
Seal of the Court

Deputy

EXHIBIT "A"

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the
Estate of VIRGINIA WILKINSON,
vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD NEFF,
d/b/a MARION MANOR II; KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION MANOR, II

Christy E. Gray
Guardian Elder Care at Curwensville, L.L.C.
D/b/a Marion Manor II
1223 Schofield Street, Ext.
Curwensville, PA 16833

To Custodian of Records:

Please forward a complete **BLACK & WHITE COPY** of the **COMPLETE** medical record for **John Bruce Griffith (DOB 9/10/1948)** within **TWENTY (20) days**, including but not limited to:

1. Admission Sheets/Transfer Sheet, e.g., nursing home, ambulance, hospital.
2. Hospital Discharge Summary (if any)
3. Physicians' Orders
4. Physicians' Progress Notes
5. Nursing Admission Assessment and Monthly Summaries
6. Discharge Plans and Care Plans
7. Nursing Notes
8. Decubitus and/or Skin Reports
9. Medication Sheets, Treatment Sheets, Graphs, I&O Charts, Flow Sheets, ADL/PCR Sheets, etc. **(ALL SIDES & PAGES)**
10. Chronological Drug Reviews
11. Nutritional Assessments and Notes; Weight Records
12. Lab and X-Ray reports
13. Restorative Programs and Notes
14. Activity Records
15. Social Service Records
16. Physical Therapy Records
17. Occupational Therapy Records
18. Speech Therapy Records
19. Permits & Releases
20. Duplications of Photographs and Correspondence
21. Complete copy of Narcotic Log

ANY AND ALL INCIDENT/OCCURRENCE REPORTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Notice Of Intent To Serve A Subpoena To Produce** was provided to all parties of record via U.S. First-Class Mail, postage pre-paid, this 17th day of May, 2011, to the following:

Jennifer L. McPeak, Esquire
Burns White
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By: Michael T. Collis
Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the Estate of VIRGINIA
WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION
MANOR II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

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

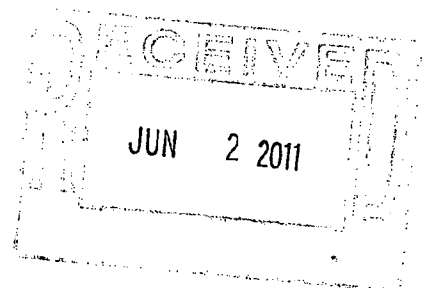
Filed on behalf of Defendants

Counsel of Record for These Parties:

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000
412-995-3300 (Fax)

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns White LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (Fax)

JURY TRIAL DEMANDED



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY, CIVIL DIVISION
Executrices of the Estate of VIRGINIA
WILKINSON,

No. 2008-01006-CD

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION
MANOR II,

Defendants.

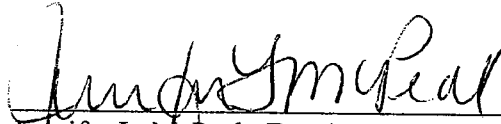
**DEFENDANTS OBJECTION TO PLAINTIFFS' NOTICE OF INTENT TO
SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS
FOR DISCOVERY PURSUANT TO RULE 4009.21**

AND NOW, come the Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, by and through their counsel of record, Burns White LLC, Jennifer L. McPeak, Esquire and William J. Mundy, Esquire, and respectfully submit this Objection to Plaintiffs' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 on the following grounds:

1. Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, object to the production of the documents sought in the subpoena (attached as Exhibit A) on the grounds of relevance; and

2. Defendants, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, and Karen Arnold Neff, Administrator, Marion Manor II, object to the production of the documents sought in the subpoena on the grounds it seeks confidential information and is a violation of HIPAA.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer L. McPeak", written over a horizontal line.

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194

*Counsel for Defendants, Marion Manor, Inc. d/b/a
Marion Manor II, Karen Arnold Neff d/b/a Marion
Manor II, and Karen Arnold Neff, Administrator,
Marion Manor II*

BURNS WHITE LLC
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212
(412) 995.3000
jlmcpeak@burnswwhite.com

MAY 18 2011

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

NOTICE OF INTENT TO SERVE A
SUBPOENA TO PRODUCE

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795

Defendants.

Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

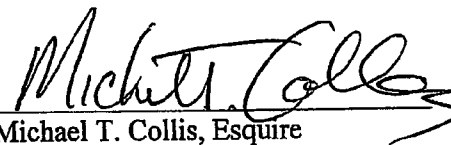
NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE

Plaintiffs, Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson, intend 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,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

Guardian Elder Care at Curwensville, PA, LLC d/b/a
TO: Marion Manor II
(Name of Person or Entity)

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

See Attached Exhibit "A"

(Address)

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:

NAME: Michael T. Collis, Esq.

ADDRESS: 437 Grant St., Ste. 912

Pittsburgh, PA 15219

TELEPHONE: 412-434-1110

SUPREME COURT ID # 53795

ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, March 12, 2009
Seal of the Court

Deputy

EXHIBIT "A"

VIRGINIA SPENCER and CAROL ECKLEY,
Executrices of the
Estate of VIRGINIA WILKINSON,
vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD NEFF,
d/b/a MARION MANOR II; KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION MANOR, II

Christy E. Gray
Guardian Elder Care at Curwensville, L.L.C.
D/b/a Marion Manor II
1223 Schofield Street, Ext.
Curwensville, PA 16833

To Custodian of Records:

Please forward a complete **BLACK & WHITE COPY** of the **COMPLETE** medical record for **John Bruce Griffith (DOB 9/10/1948)** within **TWENTY (20) days**, including but not limited to:

1. Admission Sheets/Transfer Sheet, e.g., nursing home, ambulance, hospital.
2. Hospital Discharge Summary (if any)
3. Physicians' Orders
4. Physicians' Progress Notes
5. Nursing Admission Assessment and Monthly Summaries
6. Discharge Plans and Care Plans
7. Nursing Notes
8. Decubitus and/or Skin Reports
9. Medication Sheets, Treatment Sheets, Graphs, I&O Charts, Flow Sheets, ADL/PCR Sheets, etc. (**ALL SIDES & PAGES**)
10. Chronological Drug Reviews
11. Nutritional Assessments and Notes; Weight Records
12. Lab and X-Ray reports
13. Restorative Programs and Notes
14. Activity Records
15. Social Service Records
16. Physical Therapy Records
17. Occupational Therapy Records
18. Speech Therapy Records
19. Permits & Releases
20. Duplications of Photographs and Correspondence.
21. Complete copy of Narcotic Log

ANY AND ALL INCIDENT/OCCURRENCE REPORTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Notice Of Intent To Serve A Subpoena To Produce** was provided to all parties of record via U.S. First-Class Mail, postage pre-paid, this 17th day of May, 2011, to the following:

Jennifer L. McPeak, Esquire
Burns White
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:

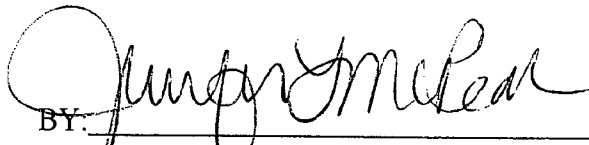
Michael T. Collis
Michael T. Collis, Esquire
Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **Defendants Objection to Plaintiffs' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21** was served upon counsel of record via U.S. First-Class mail, postage prepaid, this 31 day of May, 2011:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street
Suite 912
Pittsburgh, PA 15219

BURNS WHITE LLC

BY: 

Jennifer L. McPeak, Esquire

SP7-0051 (3-96) PENNSYLVANIA STATE POLICE CONTINUATION SHEET <input type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input checked="" type="checkbox"/>		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		DATE(S) DAY(S) OF INCIDENT 9/22/06-9/30/06-SAT		INCIDENT NO. C03-0880380	
		TIME(S) OF INCIDENT 0001-2400 hrs.		JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>			
ATTACHMENTS <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER		<input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> STATEMENT FORMS <input type="checkbox"/> RIGHTS WARN WAIVER		DISP: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPT CLEARED <input type="checkbox"/> DEATH OF ACTOR <input type="checkbox"/> VICTIM REFUSED TO COOPERATE <input type="checkbox"/> PROSECUTION DECLINED <input type="checkbox"/> JUVENILE CUSTODY <input type="checkbox"/> EXTRADITION DENIED <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEARUP			
1. ORIENTATION		PAPSP8900 / WARREN				2. DATE OF REPORT 01/26/08	
3. OFFENSE		I.D.S.I.		4. VICTIM Virginia Mac WILKINSON			
5. NARRATIVE <p>I interviewed John Bruce GRIFFITH, W/N/M, age 59 (DOB 09/10/48)(Patient #49202) of 33 Main Drive N. Warren, PA 16365 (814-723-5500) on 01/26/08 at 0900 hrs. in the WSH Security Office. Mr. GRIFFITH confirmed that he used to live at the Marian Manor (II) in Clearfield County and does remember living across the hallway from the Victim 01. He stated that he never went into the Victim's room but would sometimes walk by and waive "hello" to her. He added that never once would she respond to his greeting. He recalled that one time he walked by her room and saw her sitting in a chair. He described her face as "completely black, like someone had beaten her." He explained that this bothered him very much and that he went up to the "owner" (Karen NEFF) and asked her "what happen to Mrs. WILKINSON?" Her response to him was "we don't know what happened to her." Mr. GRIFFITH stated that he couldn't believe how bad her face looked and it stayed that way for a long time. He added that "if I'm not mistaken, that happened to her a second time but not to the same extent." Mr. GRIFFITH attempted to recollect more details but was unable to do so. He then told me that he did not know of the Victim to have any type of falling problem. He never saw her fall nor did he ever hear of anyone saying that she has a tendency to do the same. He offered to me that he feels the entire staff at the manor is very kind and professional in fact they seem to go out of their way to help the residents there. Mr. GRIFFITH never hinted any knowledge of any type of sexual assault on the Victim nor was he aware of any type of sexual activity that the Victim may have been involved in. Mr. GRIFFITH appeared genuine during the interview and appeared to be concerned for the Victim's condition. He stated to me, "I'm surprised the family didn't make a big deal out of her injuries (to her face) sooner."</p> <p>I asked Mr. GRIFFITH if he knew what a glass vile (test tube) looked like. He acknowledged that he did know what one was. I asked him if he remembers ever seeing one or something similar to one at anytime during his stay at the manor. He replied that he had not.</p> <p>Mr. GRIFFITH did not appear to be deceitful during the interview nor did he show any signs of delusion. I spoke to hospital authorities who stated that Mr. GRIFFITH has been a model patient and has earned his "privileges" which included a room transfer to level II (less secured). No related or unrelated problems have been reported with regards to Mr. GRIFFITH during his stay at the Warren State Hospital. Staff members shared with me that occasionally Mr. GRIFFITH'S thoughts become delusional but nothing too extreme.</p>							
6. OFFICER'S NAME/SIGNATURE/BADGE NO.		7. INVS RECM.		8. SUPV INIT/BADGE NO.		9. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR	
TPR. Jeffrey A. WALTERS		189 <input checked="" type="checkbox"/> CONT <input type="checkbox"/> TERM		25966		10. PAGE 14	

2009-05-21

PSP/SPU.000017

2009-06-09

PLAINTIFF'S
EXHIBIT

F

PSP/SPU.000017

SP 2009-05-21 PENNSYLVANIA STATE POLICE		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>	
ATTACHMENTS: <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER		<input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> RIGHTS WAIVING AND WAIVER		DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED- DATE	
1. DATE OF REPORT 08/23/07		2. DATE OF REPORT 08/23/07			
3. OFFENSE INVOLUNTARY DEVIATE SEXUAL INTERCOURSE		4. VICTIM Virginia Mae WILKINSON			
5. NARRATIVE <p>On 06/28/07 at approx. 1105 hrs. I spoke with the victim's daughter Virginia Irene SPENCER, W/N-F-52, DOB: 01/15/55 of 284 Carl Rd. Curwensville, Rd. 16833 Ph. # (814) 236-3767. She related in substance: I'm convinced that my mom didn't do it to herself, as she has arthritis. I always checked her drawers and I never saw that item. Jody YARGER said something like this is usually done patient to patient not staff to patient. I know that sometimes the residents there would wander into other rooms. I know that John GRIFFITH was across the hall from my mother during the summer. I didn't say anything but I was concerned about him. I know that he can be violent, and rant and rave. They moved his room not long after this and I found that strange.</p>					
6. INVESTIGATOR [Signature]		7. REVIEW, RECM <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.		8. SUPERVISOR <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR	
9. PAGE 17		10. PAGE 17			

DEPARTMENT HEADQUARTERS

2009-05-21

PSP/SPU.000014

2009-06-09

PSP/SPU.000014

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA
CIVIL DIVISION

* * * * *

*
VIRGINIA SPENCER *
and CAROL ECKLEY, * Case No.
EXECUTRIXES of the * 2008-01006-CD
ESTATE OF VIRGINIA *
WILKINSON, *
Plaintiffs *
vs. *
MARION MANOR, INC., *
d/b/a MARION MANOR *
II, KAREN ARNOLD *
NEFF, ADMINSTRATOR *
MARION MANOR II, *
Defendants *

* * * * *

DEPOSITION OF
CAROL ECKLEY
August 13, 2009

Any reproduction of this transcript
is prohibited without authorization
by the certifying agency.

1 A. Well, we speculated how did it
2 get there.

3 Q. Right. And I understand that's
4 been no --- no one actually knows how
5 it got there?

6 A. No, we don't know where it came
7 from.

8 Q. I guess my question is, what did
9 you speculate? What kind of theories
10 that you were talking about as to how
11 it occurred? Did you talk about who
12 you think did it? I don't know how
13 else to ask it.

14 A. We wonder who did it.

15 Q. Who did you wonder?

16 A. Well, there was one person in
17 particular up there we thought of right
18 away.

19 Q. Okay. Who was that?

20 A. That was the Griffith boy. He
21 had a room directly across her hall,
22 you know, the hall from her.

23 Q. Well, why did you think it was
24 him?

25 A. He was kind of weird.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA
CIVIL DIVISION

* * * * *

*
VIRGINIA SPENCER *
and CAROL ECKLEY, * Case No.
EXECUTRIXES of the * 2008-01006-CD
ESTATE OF VIRGINIA *
WILKINSON, *
Plaintiffs *
vs. *
MARION MANOR, INC., *
d/b/a MARION MANOR *
II, KAREN ARNOLD *
NEFF, ADMINSTRATOR *
MARION MANOR II, *
Defendants *

COPY

* * * * *

DEPOSITION OF
ELLEN COULTER
August 13, 2009

Any reproduction of this transcript
is prohibited without authorization
by the certifying agency.

1 Q. Did you notice in the medical
2 records from the September 30th
3 incident state that there's no evidence
4 of a sexual assault?

5 A. I don't think it said that. I
6 don't know. I don't remember. I don't
7 think it said that, but I don't know.
8 I'd have to look at the records again.

9 Q. I know you told me how you think
10 that this incident took place, was
11 there any discussion as to who had done
12 it?

13 A. We thought John Griffith maybe.
14 He was right across the hall, he was a
15 young man, and he was mental. Why they
16 would leave him in there with all these
17 old people is beyond me.

18 Q. When you say he was young, do
19 you know ---?

20 A. He was my husband's age, so he
21 probably was maybe 57, 58. I'm sure he
22 was strong, stronger than an old 87
23 year old. Well, 85 year old woman.

24 Q. Any other reason why you
25 believed it was John Griffith?

1 A. Well, he was weird. Right after
2 this happened, they put him in Warren.
3 He went to college and his first year
4 of college got into drugs, burnt his
5 brain out and he's been in and out of
6 DuBois Regional, off and on all of his
7 life, never held down a job. He lived
8 a few doors down from me and I'll tell
9 you, the guy was weird. He's scary.

10 Q. You said before ---.

11 A. Pardon?

12 Q. Before you used the term he was
13 mental. What do you mean by that?

14 A. Well, all you had to do was look
15 at him. He had on hats or something
16 here, I don't know why. And he had a
17 funny look about him. And I knew him
18 because --- I knew him from high
19 school, and I knew what happened to him
20 with the drugs and he had to live with
21 his mother all those years. It was
22 pathetic is what it was. It was just
23 absolutely sad. A very, very sad case.

24 Q. You said that he went into
25 Warren State Hospital at one point.

1 Other than that do you know of any
2 mental health treatment that he had
3 received?

4 A. I just know --- I used to work
5 for his neighbor, Mrs. Timko. And she
6 told me one time --- she told me what
7 happened to him, that's how I knew it.
8 And she told me --- she was close
9 friends to his mother. And she had
10 told that he was in and out of DuBois
11 being evaluated all the time, you know.
12 And I don't know if he was --- he was
13 probably admitted, too. I don't know
14 that he was ever at Warren after --- I
15 just heard that he was in Warren after
16 this happened with mother, that he's in
17 Warren now.

18 Q. Do you know if the state police
19 investigated him?

20 A. They were supposed to.

21 Q. Do you know what they concluded?

22 A. They think that he wasn't any
23 --- couldn't do any harm to anybody, I
24 guess. But anybody can put a good face
25 on. Plus, if he went up to Warren, I'm

1 sure he was pretty well drugged up. My
2 dad was in Warren and I know what they
3 do to you up there, they give you
4 drugs.

5 Q. Do you know of any past
6 incidents with him involving hurting
7 anyone?

8 A. No. I know one thing, he scared
9 me. I would never have gone into a
10 house by myself with him.

11 Q. Prior to this incident, you knew
12 that his room was across from your
13 mother's?

14 A. I never knew it was across from
15 his mother's --- from mom.

16 Q. Did you learn that at some
17 point?

18 A. Yeah, after this happened.

19 Q. How did you learn?

20 A. Ginny told me.

21 Q. Do you know how Ginny learned?

22 A. No.

23 Q. So you had never seen him in any
24 of the times you visited?

25 A. I saw him out in the foyer,

1 because I always went up in the day. I
2 didn't go up at night.

3 Q. So you knew he was living there?

4 A. I only ever saw him once or
5 twice.

6 Q. Was there any other people that
7 you or the state police or the Area
8 Agency on Aging suspected of doing
9 this?

10 A. I didn't know any of the girls'
11 names. I know that one girl was really
12 mean looking. She's really tall. I
13 don't know what her name was. She had
14 brown hair and she was tall and she was
15 a big girl, but she wasn't very nice.
16 She always had a mean look on her face.
17 I don't know who she was. She would
18 come in to mom's room and she wouldn't
19 even acknowledge you. I don't know who
20 she was.

21 Q. There was this one girl that you
22 said was mean looking, you didn't
23 actually think that she had done this
24 though?

25 A. I don't know. I don't know her,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA
CIVIL DIVISION

* * * * *

*
VIRGINIA SPENCER *
and CAROL ECKLEY, * Case No.
EXECUTRIXES of the * 2008-01006-CD
ESTATE OF VIRGINIA *
WILKINSON, *
Plaintiffs *
vs. *
MARION MANOR, INC., *
d/b/a MARION MANOR *
II, KAREN ARNOLD *
NEFF, ADMINSTRATOR *
MARION MANOR II, *
Defendants *

* * * * *

DEPOSITION OF
VIRGINIA SPENCER
August 13, 2009

Any reproduction of this transcript
is prohibited without authorization
by the certifying agency.

1 was a person who has a history of
2 mental disease.

3 BY ATTORNEY MCPEAK:

4 Q. And what was his name?

5 A. John Griffith.

6 Q. How did you know he had a
7 history of mental disease?

8 A. He lived in Curwensville. He
9 grew up on Ridge Avenue, a mile and a
10 half from us where we lived. He went
11 to school with my older brothers and
12 sisters and was a very, very
13 intelligent man --- person. He was
14 different. He was a different kind of
15 a guy and he got into drugs and we felt
16 that he --- the drugs really just did
17 something to him mentally.

18 Q. Was that the basis for your
19 suspicion that it could have been him?

20 A. That and knowing that, yes, he
21 did --- from hearsay, he was in a play
22 at the Cass (phonetic) Building. He
23 was one of the characters and I was
24 told that he was not going to be
25 allowed to be an actor anymore because

1 he would throw ranting --- rant and
2 rave with people. So I figured, you
3 know, he was aggressive. But you know,
4 he's just a very unkempt --- when I
5 mentioned his name, Jody Yarger says
6 well --- she said, well, why do you
7 think it could be him. And I gave her
8 the kind of answer as right now and she
9 says, well, we know John Griffith and
10 that's about all she said. Perhaps she
11 knew some information, but she wasn't
12 going to share it.

13 Q. Okay. So your basis for your
14 belief that Mr. Griffith could be
15 responsible, is, like you said, he had
16 a history of mental illness, you had
17 known him from growing up in the area,
18 he was different, you knew he had been
19 into drugs, believed he had been into
20 drugs?

21 A. Yes. And we had also heard that
22 he had been in a mental institution on
23 and off. And I was thinking about who
24 could --- you know, somebody would have
25 to be pretty strong to do something

1 like that and he did not appear to have
2 any physical problems at all. I don't
3 know why he was there.

4 Q. Did you have any information or
5 belief that he had any prior sexual
6 assault history, for lack of a better
7 word?

8 A. No.

9 Q. No?

10 A. No.

11 Q. Did Jody Yarger ever share with
12 you what she knew about him?

13 A. I don't think so.

14 Q. During this discussion, was
15 there ever any other theories discussed
16 other than your thought that it could
17 be John Griffith?

18 A. Other than him?

19 Q. Yes.

20 A. Well, we thought that perhaps
21 this object would have been in the home
22 itself in someplace and we thought,
23 well, Karen's father was a doctor in
24 town in Curwensville and he was a
25 family --- perhaps a family

Order

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing Motion to Rule on Defendants' Objections to Plaintiffs' Subpoenas was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 16 day of June, 2011, to the following:

Jennifer L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

VIRGINIA SPENCER and
CAROL ECKLEY, Executrixes of the
Estate of VIRGINIA WILKINSON
Plaintiffs,

NO. 2008-1006-C.D.

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR II
Defendants,

FILED

JUN 21 2011

William A. Shaw
Prothonotary/Clerk of Courts

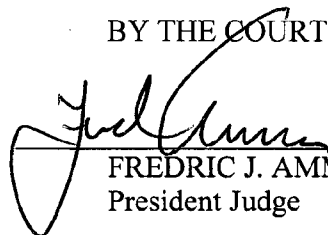
3 came to
ATTN

ORDER

AND NOW, this 21 day of June, 2011, upon review and consideration of the Plaintiff's Motion to Rule on Defendant's Objections to Plaintiff's Subpoenas, it is the ORDER of this court that hearing on said motion shall be and is hereby scheduled for **Friday, August 19, 2011 at 2:30 PM** in Courtroom No. 1, of the Clearfield County Courthouse, Clearfield, Pennsylvania.

Thirty minutes have been reserved for this proceeding.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED
JUN 21 2011
William A. Shaw
Prothonotary/Clerk of Courts

DATE: _____
☒ You are responsible for serving all appropriate parties.
The Prothonotary's office has provided service to the following parties:
____ Plaintiff(s) _____ Defendant(s) Attorney
____ Plaintiff(s) _____ Defendant(s) Attorney
____ Other _____
Special Instructions: _____

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

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

Filed on behalf of Defendants

Counsel of Record for This Party:

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000
412-995-3300 (Fax)

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns White LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (Fax)

JURY TRIAL DEMANDED

FILED NO CC
JUN 30 2011 GK
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

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

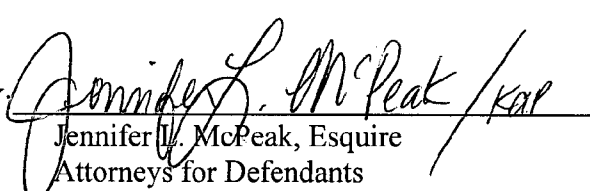
TO: Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street
Suite 912
Pittsburgh, PA 15219

TAKE NOTICE that Defendants intend to serve Subpoenas identical to the ones that are 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 objections to the Subpoenas. If no objections are made, the Subpoenas may be served.

BURNS WHITE LLC

BY:


Jennifer L. McPeak, Esquire
Attorneys for Defendants

Dated: June 28, 2011

Deputy

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc., d/b/a
Marion Manor II, Karen Arnold Neff
d/b/a Marion Manor II, Thomas C. Neff Sr.
d/b/a Marion Manor II; Karen Arnold Neff,
Administrator, Marion Manor II
Defendant(s)

No. 2008-01006-CD

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

TO: THE CUSTODIANS OF MEDICAL RECORDS OF PHUONG T. WIRTHS, D.O. AND
HENRY G. DELATORRE, M.D. (Name of Person or Entity)

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

Virginia Wilkinson's medical records dating from 1970 through 1999.

Burns White, 106 Isabella Street, Pittsburgh, PA 15212

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:

NAME: Jennifer L. McPeak, Esquire
ADDRESS: Burns White
106 Isabella Street, Pittsburgh, PA 15212
TELEPHONE: 412-995-3138
SUPREME COURT ID # 78194
ATTORNEY FOR: Defendants

BY THE COURT:



Prothonotary/Clerk, Civil Division

DATE: Monday, June 20, 2011
Seal of the Court

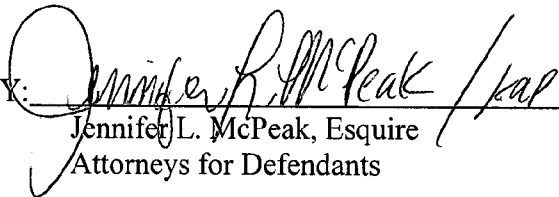
WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan, 2014
Clearfield Co., Clearfield, PA

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Notice of Intent was served upon all counsel of record via first class mail, postage prepaid, this 28th day of June, 2011:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street
Suite 912
Pittsburgh, PA 15219

BURNS WHITE LLC

BY:  _____
Jennifer L. McPeak, Esquire
Attorneys for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

**PLAINTIFFS' OBJECTIONS TO
DEFENDANTS' NOTICE OF INTENT
TO SERVE SUBPOENAS TO
PRODUCE DOCUMENTS AND
THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.21**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795

Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

FILED

JUL 08 2011
W 10:50/2
William A. Shaw
Prothonotary/Clerk of Courts

no 4c

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION
No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

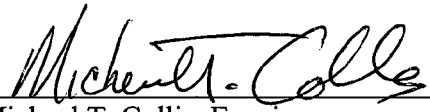
**PLAINTIFFS' OBJECTIONS TO DEFENDANTS' NOTICE OF INTENT TO SERVE
SUBPOENAS TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.21**

AND NOW, come the Plaintiffs, Virginia Spencer and Carol Eckley, as Executrices of the Estate of Virginia Wilkinson, deceased, by and through their undersigned counsel, Michael T. Collis, Esquire, and Wilkes & McHugh, P.A., and hereby file the instant Objections to Defendants' Notice of Intent to Serve Subpoenas to Produce Documents and Things for Discovery Pursuant to Rule 4009.21.

1. Plaintiffs, Virginia Spence and Carol Eckley, object to the production of the documents sought in the proposed subpoenas (attached hereto as **Exhibit "A"**) on the grounds that the same are overly broad, too remote in time, and not reasonably calculated to lead to the discovery of relevant evidence.

Respectfully submitted,

WILKES & McHUGH, P.A.

By: 
Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: THE CUSTODIAN OF MEDICAL RECORDS AT CLEARFIELD HOSPITAL
(Name of Person or Entity)

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

Virginia Wilkinson's medical records dating from 1980 through 2003.

Burns White, 106 Isabella Street, Pittsburgh, PA 15212
(Address)

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:

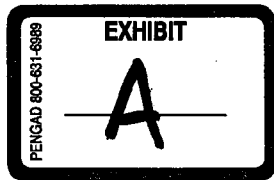
NAME: Jennifer L. McPeak, Esquire
ADDRESS: Burns White
106 Isabella Street, Pittsburgh, PA 15212
TELEPHONE: 412-995-3138
SUPREME COURT ID # 78194
ATTORNEY FOR: Defendants

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Monday, November 23, 2009
Seal of the Court

Deputy



COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc., d/b/a
Marion Manor II, Karen Arnold Neff
d/b/a Marion Manor II, Thomas C. Neff Sr.
d/b/a Marion Manor II; Karen Arnold Neff,
Administrator, Marion Manor II
Defendant(s)

No. 2008-01006-CD

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

TO: THE CUSTODIANS OF MEDICAL RECORDS OF PHUONG T. WIRTHS, D.O. AND
HENRY G. DELATORRE, M.D. (Name of Person or Entity)

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

Virginia Wilkinson's medical records dating from 1970 through 1999.

Burns White, 106 Isabella Street, Pittsburgh, PA 15212

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:

NAME: Jennifer L. McPeak, Esquire
ADDRESS: Burns White
106 Isabella Street, Pittsburgh, PA 15212
TELEPHONE: 412-995-3138
SUPREME COURT ID # 78194
ATTORNEY FOR: Defendants

BY THE COURT:


Prothonotary/Clerk, Civil Division

DATE: Monday, June 20, 2011
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan, 2014
Clearfield Co., Clearfield, PA

CERTIFICATE OF SERVICE

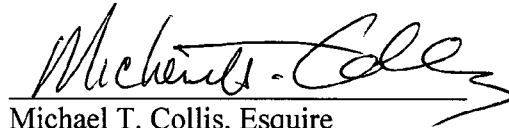
I hereby certify that a true and correct copy of the foregoing Objections to Subpoenas was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 5th day of July, 2011, to the following:

Jennifer L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrixes of the Estate
of VIRGINIA WILKINSON,

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR, II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

William A. Shaw
Prothonotary/Clerk of Courts

FILED cc Atty
M 11:50 am McPeak
JUL 21 2011

**MOTION TO RULE ON
PLAINTIFFS' OBJECTIONS
TO DEFENDANTS'
SUBPOENAS**

Filed on behalf of Defendants:

Counsel of Record for this Party:

William J. Mundy, Esquire
Pa.I.D. No. 57679
Burns White & Hickton LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (facsimile)

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White & Hickton LLC
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212
412-995-3000
412-995-3305 (facsimile)

JURY TRIAL DEMANDED

Motion

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrixes of the Estate
of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR, II,

Defendant.

**MOTION TO RULE ON PLAINTIFFS'
OBJECTIONS TO DEFENDANTS' SUBPOENAS**

AND NOW, comes Defendants, Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; and Karen Arnold Neff, Administrator, Marion Manor II, by and through their attorneys, Burns White LLC and Jennifer L. McPeak, Esquire, and file the instant Motion to Rule on Plaintiffs' Objections to Defendants' Subpoenas.

1. This action was initiated by Plaintiffs, Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson (hereinafter referred to as "Plaintiffs") by the filing of a Praecipe for Writ of Summons against Defendants: Marion Manor, Inc. d/b/a Marion Manor II; Karen Arnold Neff d/b/a Marion Manor II; Thomas C. Neff, Sr., d/b/a/ Marion Manor II; and, Karen Arnold Neff, Administrator, Marion Manor II (hereinafter the "Defendants"), on or about July 1, 2008. On November 21,

2008, Plaintiffs filed a one count Complaint asserting claim sounding in professional negligence.

2. Plaintiffs allege that their deceased mother, Virginia Wilkinson, suffered injuries while a resident at Marion Manor II ("Facility") including an alleged sexual assault, after Ms. Wilkinson was transferred to Clearfield Hospital with complaints of right hip pain and upon examination a nine (9) centimeter glass vaginal dilator was located in her vagina.¹ This conclusory allegation is unsupported by Plaintiffs' Complaint as there are no *facts* plead which establish that Ms. Wilkinson was the victim of sexual assault. Plaintiffs rely instead on the ipso facto deduction that the dilator incident was the result of a sexual assault.

3. Defendants are now requesting that this Honorable Court overrule Plaintiffs' objections to the two subpoenas that Defendants intend to serve upon the custodian of records at Clearfield Hospital ("Hospital") and the Custodians of Medical Records of Phuong T. Wirths, D.O. and Henry G. Delatorre, M.D. ("Doctors") the entities holding Ms. Wilkinson's medical records.

4. Defendants served their Notice of Intent to Serve Subpoenas to Produce Documents or Things upon the custodian of records for the Hospital and on the custodian of records for the Doctors on June 30, 2011.²

5. Plaintiffs served objections to these subpoenas on or about July 5, 2011.³ Plaintiffs objected to the subpoenas on the grounds that they are overly broad, too remote in time, and not reasonably calculated to lead to the discovery of relevant evidence.

¹ Plaintiffs' Complaint ¶¶ 18-19 attached hereto as Exhibit "A".

² Defendants' Notice of Intent to Serve Subpoena, with the underlying subpoena included, is attached hereto as Exhibit "B".

6. Defendants aver that the medical records requested by Defendants in the subpoenas are definitely relevant to the defense of this case and that the documents requested are not overly broad or remote in time.

7. Defendants believe that the documents requested may contain evidence that Ms. Wilkinson was prescribed the use of the glass dilator by one of her treating physicians at some time in the past, that her medical records may reference the dilator and/or that the medical records may describe past medical issues relevant to the dilator and this case.

8. As Ms. Wilkinson's treating physicians may have prescribed or mentioned the glass dilator going back to the 1970's and 1980's until 2003, Defendants are requesting documents encompassing those dates. This time period is not overly broad or remote in time, because the use of glass dilators decreased in the mid 1980's as hard plastic models replaced glass versions.⁴ Therefore, it is likely that Ms. Wilkinson was prescribed the glass dilator or that her medical records could mention the dilator in the 1970's and 1980's up to 2003.

9. In conclusion, Defendants aver that the requested information is relevant and not overly broad or remote in time. Therefore, Plaintiffs objections to Defendants' subpoenas should be overruled.

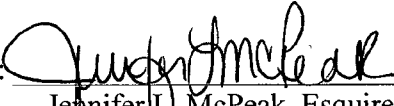
WHEREFORE, Defendants respectfully request that this Honorable Court grant the instant Motion, for the reasons set forth herein.

³ Plaintiffs' Objection to Plaintiffs' Notice of Intent to Serve Subpoenas to Produce Documents and Things is attached hereto as Exhibit "C".

⁴ Center for Young Women's Health- Children's Hospital Boston. Information on MRKH Treatment Options and Dilators Available at http://www.youngwomenshealth.org/mrkh_treatment_options.html (last visited 7/11/2011).

Respectfully submitted,

BURNS WHITE LLC

BY: 
Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Attorney for Defendants, Marion
Manor, Inc. d/b/a Marion Manor II,
Karen Arnold Neff d/b/a Marion
Manor II, and Karen Arnold Neff,
Administrator, Marion Manor II

BURNS WHITE LLC
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212
(412) 995-3000
jlmcpeak@burnswwhite.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

COMPLAINT IN CIVIL ACTION

vs.

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795
Wilkes & McHugh, P.A.
525 William Penn Place, Suite 3110
Pittsburgh, PA, 15219

Defendants.

(412) 434-1110
(412) 434-4882

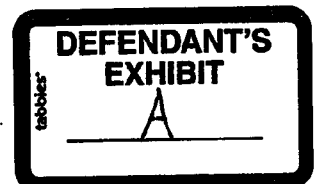
JURY TRIAL DEMANDED

I hereby certify that this is a true
and correct copy of the original
statement filed in this case.

NOV 20 2008

Attest.

William L. Shaw
Prothonotary/
Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION
No. 2008-01006-CD

Plaintiffs,

JURY TRIAL DEMANDED

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II,

Defendants.

NOTICE TO DEFEND

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 in Civil Action and Notice to Defend 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 claim or relief requested by Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION
No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
THOMAS C. NEFF, SR., d/b/a MARION
MANOR, II; KAREN; ARNOLD
NEFF, ADMINISTRATOR; MARION
MANOR, II.

Defendant

COMPLAINT IN CIVIL ACTION

Pursuant to the Pennsylvania Rules of Civil Procedure, and the Clearfield County local rules of court, Plaintiffs, as executrices of the estate of Virginia Wilkinson, by their counsel, Wilkes & McHugh, P.A. and Michael T. Collis, files this Complaint in Civil Action:

I. PARTIES

1. Virginia Spencer is an adult individual residing at 264 Carl Road, Curwensville, Clearfield County, Pennsylvania. Mrs. Spencer brings this case in her capacity as the executrix of the estate of Virginia Wilkinson (hereinafter, "Mrs. Wilkinson").

2. Carol Eckley is an adult individual residing at 217 Grand Trunk Road, Flinton, Cambria County, Pennsylvania. Mrs. Eckley brings this case in her capacity as the executrix of the estate of Mrs. Wilkinson.

3. On April 28, 2008, Mrs. Eckley and Mrs. Spencer were appointed the executrices of the estate of Virginia Wilkinson, by the Register of Wills of Clearfield County, Pennsylvania.

4. Defendant, Marion Manor II (hereinafter, "Facility") is a personal care home/assisted living facility with a principal place of business at 122 Schofield Street Extension, Curwensville, Clearfield County, Pennsylvania. One of the claims that Plaintiffs are asserting against the Facility is a professional liability claim.

5. Marion Manor, Inc. is a Pennsylvania Corporation with a business address at P.O. Box 334 Curwensville, Clearfield County, Pennsylvania, and at all times relevant herein, owned, managed and controlled the Facility

6. Defendant, Karen Arnold Neff (hereinafter, "Mrs. Neff") is an adult individual and was at all times relevant herein the owner and administrator of the personal care facility/assisted living facility known as Marion Manor II, with a mailing address of 551 State Street, Curwensville, Clearfield County, Pennsylvania. One of the claims that Plaintiffs are asserting against Mrs. Neff is a professional liability claim.

7. Defendant, Thomas C. Neff, Sr. (hereinafter, "Mr. Neff") is an adult individual and was at all times relevant herein the owner of the personal care facility/assisted living facility known as Marion Manor II with a mailing address of 551 State Street, Curwensville, Clearfield County, Pennsylvania. One of the claims Plaintiffs are asserting against Mr. Neff is a professional liability claim.

8. Upon presenting information and belief, at all relevant times hereto, Defendants collectively operated and/or managed the Facility.

II. JURISDICTION AND VENUE

9. Jurisdiction and venue are proper in this Honorable Court insofar as the cause of action arose in Clearfield County, Pennsylvania, and all Defendants conduct business there. See, Pa.R.C.P. No. 1006.

III. FACTS

10. On or about April 23, 2004, Virginia Wilkinson was admitted to the Facility where she remained until September 30, 2006.

11. Mrs. Wilkinson was admitted to the Facility because:

- a. She could not care for herself;
- b. Her family was not able to care for her at that time;
- c. She required assistance with daily activities of living, which Defendants agreed to provide in exchange for money;
- d. She was deemed to be at high risk for suffering from falls;
- e. She was cognitively impaired;

12. In exchange for compensation, Defendants were to provide Mrs. Wilkinson with room, cleaning, laundry and linen service, storage of medications as well as assistance with the self administration of medications, scheduled bathing, oral hygiene, hair grooming, dressing, social activities and appointment assistance.

13. Mrs. Wilkinson's medical history and assessment at the time of admission included a history of diabetes and short term memory loss. Her plan of care included accuchecks, reorientation and peer interaction.

14. On June 20, 2006 Mrs. Wilkinson's behavior changed and she began experiencing respiratory difficulty. She was transferred to Clearfield Hospital where it was determined that

she was suffering from a urinary tract infection and an exacerbation of a preexisting condition of congestive heart failure.

15. On or about June 27, 2006 the staff at the Facility noted a mark on the bridge of Mrs. Wilkinson's nose. By June 28th, the mark developed into a bruise that extended down her nose to below both of her eyes. On June 28, 2006, Mrs. Wilkinson was transferred back to Clearfield Hospital with complaints of pain in her neck, back and knee.

16. At Clearfield Hospital, x-rays were taken a sling was applied to Mrs. Wilkinson's right arm.

17. On August 13, 2006 Mrs. Wilkinson again began experiencing shortness of breath. She was transferred to Clearfield Hospital where she was diagnosed with another urinary tract infection/sepsis and congestive heart failure.

18. On September 16, 2006, Mrs. Wilkinson was transferred to Clearfield Hospital due to complaints of vaginal bleeding. She was diagnosed with vaginal bleeding and another urinary tract infection. She was advised to follow up with her obstetrician/gynecologist.

19. On September 30, 2006, Mrs. Wilkinson was transferred to Clearfield Hospital with complaints of right hip pain. Upon examination a 9 cm glass vaginal dilator was located in her vagina. In addition, a one (1) centimeter laceration was located near the lip of the glass.

20. As a result of the aforementioned find, an investigation was conducted by the Clearfield County Area Agency on the Aging and the Pennsylvania Department of Public Welfare.

21. As a result of the aforementioned investigations it was learned that among other things, Mrs. Wilkinson's medications were not being administered in accordance with their

schedule and that in fact her chart and logs indicated that she was being provided medication when she was not in the Facility, but rather at Clearfield Hospital.

22. Furthermore, it was determined during the aforementioned investigation that the Facility 1) failed to perform criminal background checks on staff members; 2) failed to develop written procedures for the safe storage, access security, distribution and use of medications and medical equipment.

21. At all relevant times, Defendants managed the operation, planning and quality control issues of the Facility.

22. The control exercised over the Facility included: budgeting, training, staffing, human resource management, and creating and implementing all policies and procedures followed (or supposed to be followed) by the Facility's staff.

23. Defendants also exercised control over quality care assessment and compliance, licensure, certification, and all financial, tax, and accounting issues through control of the Facility's fiscal policies.

24. Defendants managed the Facility so as to maximize profits, without concern for the health and safety of the residents, including Mrs. Wilkinson.

25. In so doing, Defendants sacrificed the quality of care provided to the residents, including Mrs. Wilkinson.

26. In their effort to maximize profits, Defendants knowingly and intentionally reduced staffing levels below the level necessary to provide adequate care and supervision to the residents.

27. Defendants knowingly caused staffing levels at the Facility to be set at a level such that the personnel on duty at any given time could not reasonably tend to the needs of their assigned residents.

28. Defendants established staffing levels that created reckless staff-to-resident ratios.

29. Defendants consciously disregarded resident acuity levels in setting staffing levels, and also disregarded the minimum time required to perform essential day-to-day assisted living functions.

30. Defendants' conduct, as set forth herein, was designed solely to advance Defendants' financial motive, and exhibited a reckless indifference to the residents' health and well-being.

31. Defendants' acts, as set forth herein, directly caused injury to Mrs. Wilkinson, and were known, or should have been known, to be dangerous by Defendants.

IV. COUNT ONE

NEGLIGENCE

**VIRGINIA SPENCER AND CAROL ECKLEY, EXECUTRICES OF THE
ESTATE OF VIRGINIA WILKINSON, vs. MARION MANOR, INC. D/B/A
MARION MANOR II; KAREN ARNOLD NEFF, D/B/A MARION MANOR II; THOMAS
C. NEFF, SR., D/B/A MARION MANOR, II; KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR, II.**

32. Plaintiff incorporates paragraph 1 through 31 of their Complaint herein by reference as if the same were more fully set forth.

33. At all material times, Defendants were acting through their agents, employees, and/or servants, who were in turn acting within the scope and course of their employment, under the direct supervision and control of the Defendants.

34. Defendants owed duties of care to Mrs. Wilkinson, as set forth herein. Specifically, Defendants owed duties to provide Mrs. Wilkinson with competent assisted living services, such as would be provided by a reasonable and prudent caregiver under similar circumstances, as set forth herein.

35. Defendants owed duties to Mrs. Wilkinson to prevent her from suffering from any falls, to take steps to minimize the risk of injury if she were to fall, to supervise her, to assist her in maintaining her hygiene, to assist her with her medications and to provide to her a safe environment free from abuse and neglect.

36. Defendants breached their duties by:

- a. Failing to hire appropriately trained staff;
- b. Failing to appropriately train the staff that was hired and/or retained;
- c. Allowing or encouraging unskilled or untrained individuals to care for Mrs. Wilkinson;
- d. Failing to comply with their own policies and procedures in providing care to Mrs. Wilkinson;
- e. Failing to provide Mrs. Wilkinson with a safe and secure environment in which she would be free of physical and sexual assault;
- f. In failing to do appropriate criminal background checks on their staff;
- g. In causing Mrs. Wilkinson to be sexually assaulted;
- h. Failing to timely consult Mrs. Wilkinson's physician after she began suffering respiratory difficulties as well as behavioral changes;
- i. Failing to arrange for a timely transfer of Mrs. Wilkinson to an emergency room or other medical facility where her condition could be timely evaluated and stabilized;
- j. Failing to provide the appropriate medications including pain medication;
- k. Failing to provide safe, humane, comfortable, and supportive residential settings for Mrs. Wilkinson, an elderly individual who required assistance

and supervision with activities of daily living, in violation of 55 Pa. Code §2600.1;

- l. Abusing Mrs. Wilkinson by neglecting her, in the manner set forth herein, which resulted in the physical injuries described herein, in violation of 55 Pa. Code §2600.4, and 55 Pa. Code §2600.42;
- m. Failing to truthfully report the injuries sustained by Mrs. Wilkinson to the Pennsylvania Department of Welfare, in violation of 55 Pa. Code §2600.16(3);
- n. Failing to adequately staff the assisted living facility to meet the needs of the residents, including Mrs. Wilkinson, in violation of 55 Pa. Code §§2600.57 and 2600.60;
- o. Failing to provide Mrs. Wilkinson with assistance for her to access outside healthcare services, in violation of 55 Pa. Code §2600.42(i);
- p. Failing to perform an appropriate medical evaluation of Mrs. Wilkinson, in order to determine whether or not she was an appropriate candidate for assisted living at the facility, in violation of 55 Pa. Code §§2600.141, and 2600.225
- q. Failing to perform an appropriate assessment of Mrs. Wilkinson's mobility status, in violation of 55 Pa. Code §2600.226;
- r. Accepting Mrs. Wilkinson into the Facility, which is one that is only licensed to provide assisted living services, when Defendants knew, or should have known, that they could not meet her needs;
- s. Failing to develop a staff training plan relating to fall risks and fall prevention, in violation of 55 Pa. Code §2600.66;
- t. Failing to administer pain medication after Mrs. Wilkinson complained of severe pain over several hours, in violation of 55 Pa. Code §2600.188(a)(1);
- u. In failing to prevent Mrs. Wilkinson from continuing to suffer urinary tract infections;
- v. In failing to recognize the signs and symptoms of urinary tract infections;
- w. In failing to recognize the signs and symptoms of congestive heart failure;
- x. In failing to prevent Mrs. Wilkinson from developing congestive heart failure.

37. As a direct and proximate result of Defendants' negligence and recklessness, either directly or through their agents, servants and/or employees, as set forth herein, Mrs. Wilkinson suffered severe physical injuries, including a sexual assault, conscious pain and suffering, mental anguish, humiliation, loss of capacity for enjoyment of life, expense of otherwise unnecessary hospitalization, and aggravation of her pre-existing medical conditions, as set forth herein.

38. Defendants' conduct, as pled herein, constitutes neglect of a care dependent person and is outrageous, willful, wanton, and exhibited a reckless indifference to Mrs. Wilkinson's health, safety and well-being.

39. Defendants' conduct, as set forth herein, justifies an award of punitive damages, so as to make an example of the Defendants and encourage others to not repeat their conduct.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in their favor and against the Defendants, in an amount in excess of the arbitration limit, together with punitive damages, costs, and any other relief that this Honorable Court deems just, given the circumstances.

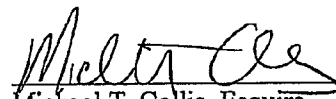
JURY TRIAL DEMANDED

Respectfully submitted,

WILKES & McHUGH, P.A.

Dated: November 17th, 2008

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

VERIFICATION

I, Virginia Spencer and Carol Eckley, as executrices of the estate of Virginia Wilkinson certify that the averments of fact made in the foregoing Complaint in Civil Action are true and correct to the best of my knowledge, information, and belief.

I understand that the averments of fact in said document are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Dated: Nov. 20, 2008

Virginia Spencer
Virginia Spencer

Carol Eckley
Carol Eckley

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Complaint in Civil Action was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 17th day of November, 2008, to the following:

Michelle L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By: 
Michael T. Collis, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
MANOR, II.

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

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

Filed on behalf of Defendants

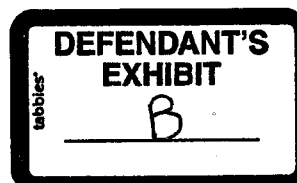
Counsel of Record for This Party:

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194
Burns White LLC
106 Isabella Street
Four Northshore Center
Pittsburgh, PA 15212
412-995-3000
412-995-3300 (Fax)

William J. Mundy, Esquire
Pa. I.D. No. 57679
Burns White LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, PA 19428
484-567-5700
484-567-5701 (Fax)

JURY TRIAL DEMANDED

COPY
FILED
JUN 30 2011



William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and
CAROL ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

v.

MARION MANOR, INC. d/b/a MARION
MANOR II, KAREN ARNOLD NEFF d/b/a
MARION MANOR II, and KAREN
ARNOLD NEFF, ADMINISTRATOR, MARION
MANOR, II.

Defendants.

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

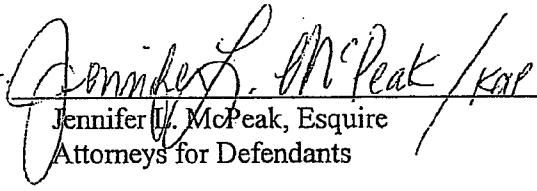
TO: Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street
Suite 912
Pittsburgh, PA 15219

TAKE NOTICE that Defendants intend to serve Subpoenas identical to the ones that are 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 objections to the Subpoenas. If no objections are made, the Subpoenas may be served.

BURNS WHITE LLC

BY


Jennifer L. McPeak, Esquire
Attorneys for Defendants

Dated: June 28, 2011

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

*

*

*

No. 2008-01006-CD

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

TO: THE CUSTODIAN OF MEDICAL RECORDS AT CLEARFIELD HOSPITAL
(Name of Person or Entity)

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

Virginia Wilkinson's medical records dating from 1980 through 2003.

Burns White, 106 Isabella Street, Pittsburgh, PA 15212
(Address)

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:

NAME: Jennifer L. McPeak, Esquire
ADDRESS: Burns White
106 Isabella Street, Pittsburgh, PA 15212
TELEPHONE: 412-995-3138
SUPREME COURT ID # 78194
ATTORNEY FOR: Defendants

BY THE COURT:


William A. Shaw

Prothonotary/Clerk, Civil Division

DATE: Monday, November 23, 2009
Seal of the Court

Deputy

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc., d/b/a
Marion Manor II, Karen Arnold Neff
d/b/a Marion Manor II, Thomas C. Neff Sr.
d/b/a Marion Manor II, Karen Arnold Neff,
Administrator, Marion Manor II
Defendant(s)

No. 2008-01006-CD

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

TO: THE CUSTODIANS OF MEDICAL RECORDS OF PHUONG T. WIRTHS, D.O. AND
HENRY G. DELATORRE, M.D. (Name of Person or Entity)

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

Virginia Wilkinson's medical records dating from 1970 through 1999.

Burns White, 106 Isabella Street, Pittsburgh, PA 15212

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:

NAME: Jennifer L. McPeak, Esquire
ADDRESS: Burns White
106 Isabella Street, Pittsburgh, PA 15212
TELEPHONE: 412-995-3138
SUPREME COURT ID # 78194
ATTORNEY FOR: Defendants

BY THE COURT:


Prothonotary/Clerk, Civil Division

DATE: Monday, June 20, 2011
Seal of the Court


WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan, 2014
Clearfield Co., Clearfield, PA

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Notice of Intent was served upon all counsel of record via first class mail, postage prepaid, this 28th day of June, 2011:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
The Frick Building
437 Grant Street
Suite 912
Pittsburgh, PA 15219

BURNS WHITE LLC

BY: 
Jennifer L. McPeak, Esquire
Attorneys for Defendants

JUL 08 2011

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendants.

**PLAINTIFFS' OBJECTIONS TO
DEFENDANTS' NOTICE OF INTENT
TO SERVE SUBPOENAS TO
PRODUCE DOCUMENTS AND
THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.21**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

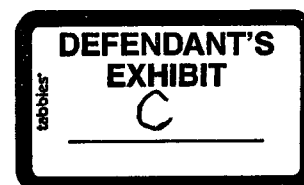
Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795

Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the :
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION
No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

**PLAINTIFFS' OBJECTIONS TO DEFENDANTS' NOTICE OF INTENT TO SERVE
SUBPOENAS TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.21**

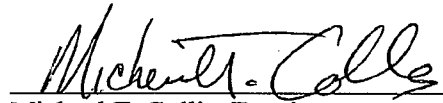
AND NOW, come the Plaintiffs, Virginia Spencer and Carol Eckley, as Executrices of the Estate of Virginia Wilkinson, deceased, by and through their undersigned counsel, Michael T. Collis, Esquire, and Wilkes & McHugh, P.A., and hereby file the instant Objections to Defendants' Notice of Intent to Serve Subpoenas to Produce Documents and Things for Discovery Pursuant to Rule 4009.21.

1. Plaintiffs, Virginia Spence and Carol Eckley, object to the production of the documents sought in the proposed subpoenas (attached hereto as **Exhibit "A"**) on the grounds that the same are overly broad, too remote in time, and not reasonably calculated to lead to the discovery of relevant evidence.

Respectfully submitted,

WILKES & McHUGH, P.A.

By:

A handwritten signature in cursive script, appearing to read "Michael T. Collis", written over a horizontal line.

Michael T. Collis, Esquire
Counsel for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer
Carol Eckley
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc.
Marion Manor II
Karen Arnold Neff
Thomas C. Neff
Defendant(s)

No. 2008-01006-CD

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

TO: THE CUSTODIAN OF MEDICAL RECORDS AT CLEARFIELD HOSPITAL
(Name of Person or Entity)

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

Virginia Wilkinson's medical records dating from 1980 through 2003.

Burns White, 106 Isabella Street, Pittsburgh, PA 15212
(Address)

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:

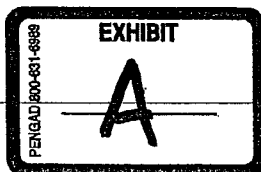
NAME: Jennifer L. McPeak, Esquire
ADDRESS: Burns White
106 Isabella Street, Pittsburgh, PA 15212
TELEPHONE: 412-995-3138
SUPREME COURT ID # 78194
ATTORNEY FOR: Defendants

BY THE COURT:

William A. Shaw *lm*
Prothonotary/Clerk, Civil Division

DATE: Monday, November 23, 2009
Seal of the Court

Deputy



COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Virginia Spencer and
Carol Eckley, Executrices of the Estate of
Virginia Wilkinson
Plaintiff(s)

Vs.

Marion Manor, Inc., d/b/a
Marion Manor II, Karen Arnold Neff
d/b/a Marion Manor II, Thomas C. Neff Sr.
d/b/a Marion Manor II; Karen Arnold Neff,
Administrator, Marion Manor II
Defendant(s)

No. 2008-01006-CD

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

TO: THE CUSTODIANS OF MEDICAL RECORDS OF PHUONG T. WIRTHS, D.O. AND
HENRY G. DELATORRE, M.D. (Name of Person or Entity)

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

Virginia Wilkinson's medical records dating from 1970 through 1999.

Burns White, 106 Isabella Street, Pittsburgh, PA 15212

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:

NAME: Jennifer L. McPeak, Esquire
ADDRESS: Burns White
106 Isabella Street, Pittsburgh, PA 15212
TELEPHONE: 412-995-3138
SUPREME COURT ID # 78194
ATTORNEY FOR: Defendants

BY THE COURT:


Prothonotary/Clerk, Civil Division

DATE: Monday, June 20, 2011
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan, 2014
Clearfield Co., Clearfield, PA

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Objections to Subpoenas was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 5th day of July, 2011, to the following:

Jennifer L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:

Michael T. Collis
Michael T. Collis, Esquire
Counsel for Plaintiff

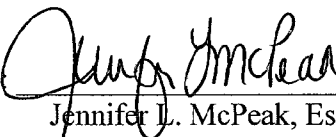
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Rule on Plaintiffs' Objections to Defendants' Subpoenas was provided to all parties of records via U.S. First Class Mail, postage pre-paid, this 19 day of July, 2011, to the following:

Michael T. Collis, Esquire
Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA 15219

Respectfully submitted,

BURNS WHITE LLC

BY 

Jennifer L. McPeak, Esquire
Pa. I.D. No. 78194

Attorney for Defendants, Marion
Manor, Inc. d/b/a Marion Manor II,
Karen Arnold Neff d/b/a Marion
Manor II, and Karen Arnold Neff,
Administrator, Marion Manor II

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

VIRGINIA SPENCER and CAROL ECKLEY,
Executrixes of the Estate of VIRGINIA
WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a MARION
MANOR II; KAREN ARNOLD NEFF, d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, ADMINISTRATOR, MARION
MANOR, II,

Defendants

FILED

JUL 26 2011

William A. Shaw
Prothonotary/Clerk of Courts

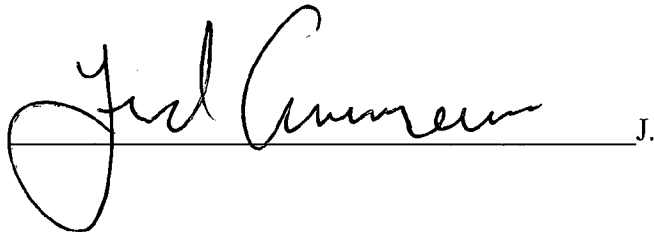
2 cert to

Att

SCHEDULING ORDER

AND NOW, this 25 day of July, 2011, upon consideration of the Motion to Rule on Plaintiffs' Objections to Defendants' Subpoenas in the above-captioned matter, it is the Order of Court that argument/hearing has been scheduled for the 19th day of August, 2011, at 2:30 P.M., in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

 J.

FILED
JUL 26 2011
William A. Shaw
Prothonotary/Clerk of Courts

DATE: _____
____ You are responsible for serving all appropriate parties.
____ The Prothonotary's office has provided service to the following parties:
____ Plaintiff(s) _____ Plaintiff(s) Attorney _____
____ Defendant(s) _____ Defendant(s) Attorney _____ Other
____ Special Instructions: _____

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

VIRGINIA SPENCER and CAROL :
ECKLEY, Executrixes of the :
Estate of VIRGINIA WILKINSON:

-VS-

No. 08-1006-CD

MARION MANOR, INC., d/b/a :
MARION MANOR II; KAREN :
ARNOLD NEFF, d/b/a MARION :
MANOR II; KAREN ARNOLD :
KNEFF, ADMINISTRATOR, :
MARION MANOR :

FILED
AUG 22 2011
William A. Shaw
Prothonotary/Clerk of Courts
iCCA#ys:
Harrelson
Mundy
McPeak
Collis

ORDER

AND NOW, this 19th day of August, 2011, following argument by counsel on the Defendant's Objections to Plaintiffs' Subpoenas and Plaintiffs' Objections to Defendant's Subpoenas, it is the ORDER of this Court as follows:

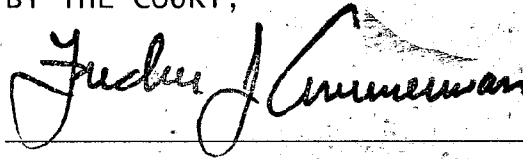
1. The Plaintiffs' Objections to Defendant's Subpoenas relative the decedent's medical history from the Clearfield Hospital, Dr. Wirths and Dr. Delatorre are hereby dismissed. Defendants shall have the right to subpoena medical records back to 1970, should any records exist;

2. The Defendant's Objection to Plaintiffs' Subpoenas requesting names and personnel files of employees from April of '04 through September 30, 2006, are hereby dismissed.

The Court has ruled in this fashion due to the parties indicating that Marion Manor and Marion Manor II are no longer in existence and the facilities are now owned and operated by Guardian Elder Care.

Nothing in this Order shall serve to preclude representatives of Guardian Elder Care from objecting to the Plaintiffs' subpoenas based upon any legal issue or that any or all of the records are no longer in existence.

BY THE COURT,

A handwritten signature in cursive script, appearing to read "Judge J. Curran", written over a horizontal line.

President Judge

FILED

AUG 22 2011

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/22/11

☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiffs,

vs.

**PETITION FOR LEAVE TO APPROVE
SETTLEMENT PURSUANT TO
TITLE 20 P.A.C.S. SECTION 3323 AND
ORDER OF DISTRIBUTION**

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Defendants.

Michael T. Collis, Esquire
Pa. ID # 53795

Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

FILED No cc
m 11/30/21
AUG 24 2012
William A. Shaw
Prothonotary/Clerk of Courts

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION
No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

**PETITION FOR LEAVE TO APPROVE SETTLEMENT PURSUANT TO
TITLE 20 PA.C.S. SECTION 3323 AND ORDER OF DISTRIBUTION**

AND NOW, come the Plaintiffs, Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson, by and through Michael T. Collis, Esquire and the law firm of Wilkes & McHugh, P.A., and petitions this Court for leave to compromise the claim of the Plaintiffs and for an Order of Distribution, and in support thereof avers as follows:

1. Petitioners, Virginia Spencer and Carol Eckley, were appointed Executrices of the Estate of Virginia Wilkinson on April 28, 2008. A true and correct copy of said Letters Testamentary is attached hereto as Exhibit "A."

2. Plaintiff was a resident of Marion Manor II (hereinafter "Facility"), a skilled nursing facility located at 122 Schoefield Street Extension, Curwensville, Pennsylvania 16833. The Plaintiff alleges that Plaintiff's decedent's injuries were caused by Defendant's negligence, abuse, and neglect relative to the care and treatment she received while a resident at the Facility.

3. The law firm of Wilkes & McHugh, P.A. was engaged by the Petitioner to investigate the circumstances surrounding Plaintiff Decedent's injuries. Following the investigation, suit was filed on behalf of the Petitioner in the Commonwealth of Pennsylvania, Court of Common Pleas of Clearfield County, at docket number 2008-01006-CD.

4. After considerable negotiations an offer of settlement was made condition on the release of the named Defendants. By agreement of the parties, and for consideration payable, the parties agreed to settle the claims for \$85,000.00. A release to that effect is attached to this Petition and marked as Exhibit "B."

5. Medicare has asserted a lien against the settlement proceeds in this matter. By correspondence of August 27, 2009, CMS advised counsel that they were claiming conditional payments in the amount of \$19,686.12. (See attached letter marked as Exhibit "C")

6. Petitioners have not received a final letter from CMS advising them of the final lien amount. Petitioner does not anticipate additional charges beyond those asserted in Exhibit "C".

7. Petitioners and the law firm of Wilkes & McHugh, P.A entered into a contingency fee agreement for 40% percent of any settlement or verdict in this case. Pursuant to the fee agreement, attorneys fees are \$34,000.00. Counsel has agreed to reduce their fee to \$21,240.67.

8. Counsel for Petitioner will escrow \$30,000.00 to pay the lien amount asserted by Medicare. The amount escrowed by counsel will cover the subrogation claim from Medicare. Counsel will distribute to the estate 50% of the balance of the escrow after the subrogation lien amount and any additional costs are paid. The remaining 50%, not to exceed the balance

remaining on the contract rate of 40% will be distributed to Wilkes & McHug, P.A. for the reduction in attorneys' fees.

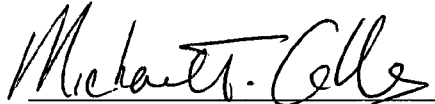
9. A Certificate of Counsel for the Petitioners certifying that the proposed compromise is in the best interest of the Estate of Virginia Wilkinson and the Petitioner is attached and marked as Exhibit "D."

10. Petitioner proposes distribution of the settlement proceeds as follows. A Settlement Statement is attached and marked as Exhibit "E":

Attorneys' Fees:	\$21,240.67
Costs Advanced:	12,090.20
Ingenix/United HC AARP:	428.45
Medicare (to be held in escrow):	<u>30,000.00</u>
To Estate of Virginia Wilkinson:	\$21,240.68

WHEREFORE, for the above-stated reasons, it is respectfully requested that leave be granted to Petitioners to compromise the claim on behalf of the Estate of Virginia Wilkinson and that an Order for Distribution be entered.

Respectfully Submitted,


Michael T. Collis, Esquire
Attorney for Plaintiff

SHORT CERTIFICATE - LETTERS TESTAMENTARY

Certificate of Appointment of Co-Executrices

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

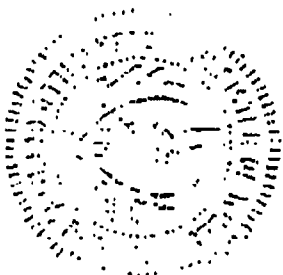
} SS:

The undersigned, Register for the Probate of Wills and granting Letters of Administration in and for the County of Clearfield, in the Commonwealth of Pennsylvania.

DO HEREBY CERTIFY and made known, that on the 28th day of April, 2008, Letters Testamentary on the estate of VIRGINIA MAE WILKINSON, A/K/A VIRGINIA M. WILKINSON, deceased, were granted to CAROL ECKLEY and VIRGINIA SPENCER, Co-Executrices, named in the will, they having first been qualified well and truly to administer the same. I further certify that said letters are in full force and effect at the present time, and entitled to full faith and credit.

Date of Death: February 19, 2008
File #: 1708-0252
Social Security No.: 159-56-1286

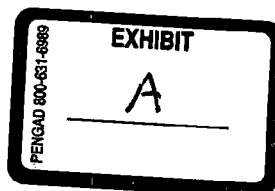
Given under my hand and seal of office this 28th
day of April in the year of our Lord, 2008



Maureen E. Imbrie

Register of Wills

MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 2012



FULL AND FINAL RELEASE

FOR AND IN CONSIDERATION of the sum of Eighty-Five Thousand Dollars (\$85,000.00) to the undersigned, Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson, in hand paid by PCH Mutual Insurance Company on behalf of its insureds, Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, Thomas C. Neff, Sr., d/b/a Marion Manor II and Karen Arnold Neff, Administrator, Marion Manor II, and their agents, servants and/or employees, the receipt of which is hereby acknowledged, the undersigned, being of lawful age, hereby fully and forever release, acquit and discharge Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, Thomas C. Neff, Sr., d/b/a Marion Manor II and Karen Arnold Neff, Administrator, Marion Manor II, PCH Mutual Insurance Group, and Magnolia LTC Management Services, Inc., their agents, servants, employees, attorneys, investigators, representatives, shareholders, affiliates, successors, insurers, assigns and related entities from any and all actions, causes of action, claims and demands of whatsoever kind or nature on account of any and all known and unknown injuries, losses and damages by the undersigned sustained, received or in any way related to the care and treatment of Decedent, Virginia Wilkinson, while a resident of Marion Manor located at or about 1223 Schofield Street Ext., Curwensville, Pennsylvania, 16833, hereinafter referred to as "incident," for which injuries, losses and damages the undersigned claim the said Marion Manor, Inc. d/b/a Marion Manor II, Karen Arnold Neff d/b/a Marion Manor II, Thomas C. Neff, Sr., d/b/a Marion Manor II and Karen Arnold Neff, Administrator, Marion Manor II, to be legally liable, and on account of which suit was brought at No. 2008-01006-CD in the Court of Common Pleas of Clearfield County, it being understood and agreed that the acceptance of said sum is in full

EXHIBIT

B

PENGAD 800-631-6988

accord and satisfaction of a disputed claim and that the payment of said sum is not an admission of liability.

In further consideration for the payment set forth above, the undersigned represent and covenant that they will dismiss any pending actions with prejudice and will refrain from filing or promoting others to file, any other actions, lawsuits, proceedings, claims, charges, or complaints arising in whole or in part out of the incident, or in any way connected to the incident with any local, state, or federal agency, self-regulatory organization, arbitration forum, court, or other entity.

It is further understood and agreed that this release does not, and is not intended to, release or discharge any claim or potential claim against any other person or entity not identified herein, including, but not limited to, any claim or potential claim against any other nursing home, any surgeon or doctor, or their professional association, nurses, or independent contractors, any therapy company or pharmaceutical company, consultants, or any hospital except those specifically provided herein.

It is expressly understood and agreed that this release and settlement is intended to cover and does cover not only all now known injuries, losses and damages related to this matter, but any future injuries, losses and damages not now known or anticipated, but which may later develop or be discovered, including all the effects and consequences thereof.

The terms of this Full and Final Release shall remain confidential unless required by law, order of court, or as necessary to complete probate and settlement of the case.

The releasing parties consent to the continuing jurisdiction of the Pennsylvania state courts with respect to the enforcement of this confidentiality provision, including, without

limitation, any remedies or other relief available to the released parties for breach of this provision.

And the undersigned hereby declare that they fully understand the terms of this settlement; that the amount stated herein is the sole consideration of this release and that the undersigned voluntarily accept said sum for the purpose of making a full and final compromise, adjustment and settlement of all claims for injuries, losses and damages resulting or to result from said incident.

The undersigned agree to direct their attorneys to set aside and hold in trust the estimated or known amounts of any Medicare and/or Medicaid liens or any other lien and will not release such funds to any other parties until the liens have been satisfied or an agreement has been reached with Medicare and/or Medicaid or any other lien holder. Further, the undersigned agree to provide the released parties with a copy of any and all letters from lien holders regarding receipt and satisfactions of funds for liens. Further, the undersigned agree to satisfy from the proceeds of this settlement and be solely responsible for any and all liens, rights of subrogation, losses, liability, actions, damages, causes of action, judgments, costs and expenses, including attorneys fees, whatsoever made by or sustained by and/or arising from any person, corporation, partnership, state or federal government, governmental agency, hospital, or any other medical provider, health care provider, disability or insurance benefits provider, workers compensation carrier, Medicare provider, and Medicaid provider or any other entity arising in whole or in part out of the care and treatment of Virginia Wilkinson while a resident of Marion Manor or in any way connected to the care and treatment of Virginia Wilkinson while a resident of Marion Manor.

Plaintiffs' decedent, Virginia Wilkinson, has been identified as a Medicare recipient. Therefore, the PARTIES have fully considered and protected Medicare's interest as a secondary payor in this settlement for any incurred bills paid by Medicare for the care and treatment of Virginia Wilkinson while a resident of Marion Manor to Medicare. The PARTIES acknowledge that Medicare's interests in reimbursement for any incurred medical expenses that have been paid by Medicare have either already been satisfied and Medicare has acknowledged such satisfaction or will be satisfied by Plaintiffs, Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson, from the settlement proceeds payable under this Agreement. Satisfaction of Medicare's interests from the proceeds payable under this Agreement shall be the sole and exclusive responsibility of Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson, by and through their attorneys, Wilkes & McHugh, P.A., and Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson, agree to provide proof of such satisfaction to the PARTIES upon request. Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson, agree that the duties stated in this paragraph are non-delegable and failure to perform such duties shall provide the releasing parties with a right to recover any monies paid caused by the failure to satisfy Medicare's interests including any additional expenses incurred and attorney fees.

The PARTIES acknowledge and understand that releasing parties are required to report any payment to a Medicare beneficiary in settlement of a claim under a liability insurance policy or self insurance to Medicare (CMS). Settlement proceeds payable under this Agreement shall be reported to Medicare (CMS).

Additionally, the PARTIES acknowledge that many common medical expenses are not payable or reimbursable under the federal Medicare program. These medical expenses, not

covered by Medicare, have been taken into consideration and are included in the total settlement amount.

Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson, waive any claims for damages and agree to defend, indemnify, protect and hold the releasing parties harmless from any causes of action of any kind or nature including, but not limited to, a private cause of action provided in the MSP, 42 U.S.C. Section 1395 (b) (3) (A), should Medicare deny coverage for any reason, including the failure to allocate adequate money for Medicare covered medical expenses in this settlement and/or to otherwise protect Medicare's interest.

As further consideration and inducement for this settlement, the undersigned agree to defend, indemnify, protect and hold the releasing parties harmless from any and all liens, rights of subrogation, indemnification claims, contribution claims, losses, liability, actions, damages, causes of action, judgments, costs and expenses, including attorneys fees, whatsoever made by or sustained by or arising from any person, corporation, partnership, state or federal government, governmental agency, hospital, or any other medical provider, health care provider, disability or insurance benefits provider, workers compensation carrier, Medicare provider, and Medicaid provider or any other entity arising in whole or in part out of the care and treatment of Virginia Wilkinson while a resident of Marion Manor, or in any way connected to the care and treatment of Virginia Wilkinson while a resident of Marion Manor.

The undersigned represent and warrant that no other person or entity has any interest in the claims, demands, obligations, or causes of action referred to in this AGREEMENT; that they have the sole right and exclusive authority to execute this AGREEMENT and to receive the sums specified in it; and that there has not been, nor will there be, an assignment or other transfer of

any claim, interest right which the undersigned may have arising in whole or in part out of the care and treatment of Virginia Wilkinson while a resident of Marion Manor; or in any way connected to the care and treatment of Virginia Wilkinson while a resident of Marion Manor.

It is further understood and agreed that this is the complete release agreement and that there are no written or oral understandings or agreements, directly or indirectly, connected with this release and settlement that are not incorporated herein.

The undersigned hereby declare that they have the benefit of advice from their attorneys, or the opportunity to seek advice of counsel, and the terms of this agreement have been completely read and are fully understood and voluntarily accepted for the purpose of making a full and final compromise of any and all claims arising in whole or in part, or in any way connected to the incident.

The undersigned hereby acknowledge and agree that undersigned expressly waive and assume the risk of any and all claims for damages against the releasing parties which exist as of this date but of which the undersigned does not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect undersigned's decision to enter into this AGREEMENT. The undersigned understand that this claim is being settled as a business decision only and that payment of the sums specified herein are being made as a complete compromise of matters involving disputed issues of law and fact and the undersigned thereby assumes the risk that the facts or law may be otherwise than undersigned believes.

This agreement shall be construed that wherever applicable the use of the singular number shall include the plural number and shall be binding upon and inure to the successors, assigns, heirs, executors, administrators, and legal representatives of the respective parties hereto.

I HAVE READ THIS AGREEMENT AND UNDERSTAND AND AGREE TO THE
TERMS AND CONDITIONS CONTAINED IN IT.

BY: X Virginia Spencer
Virginia Spencer, Executrix of the Estate
of Virginia Wilkinson

BY: Carol Eckley
Carol Eckley, Executrix of the Estate
of Virginia Wilkinson

ACKNOWLEDGMENT

Commonwealth of Pennsylvania

County of Clearfield

SS:

On this 14th day of Aug., 2012, before me personally appeared
Virginia Spencer Executrix of the Estate of Virginia Wilkinson, to me known to be the person
named in and who executed the above release and acknowledged that she executed same as her
free act and deed.

Witness my hand and notarial seal the date aforesaid.

Margaret E. Ingle
Notary Public

My commission expires: _____

RECORDER OF DEEDS

MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 2016

ACKNOWLEDGMENT

Commonwealth of Pennsylvania

County of Clearfield

SS:

On this 14th day of Aug, 2012, before me personally appeared Carol Eckley, Executrix of the Estate of Virginia Wilkinson, to me known to be the person named in and who executed the above release and acknowledged that she executed same as her free act and deed.

Witness my hand and notarial seal the date aforesaid.

Margaret E. Inla

Notary Public

My commission expires: _____

RECORDER OF DEEDS

**MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 2016**



Learn about your letter at www.msprc.info

233 1 AB 0.360

***AUTO**ALL FOR AADC 335- R:233 T:5 P:7 PC:3 F:38001

WILKES AND MCHUGH

ATTN WILLIAM MURRAY

1 N DALE MABRY HWY STE 800

TAMPA FL 33609-2755

XX

08/24/2009



RE: Name of Beneficiary: WILKINSON, VIRGINIA M

HIC#: 193051457D

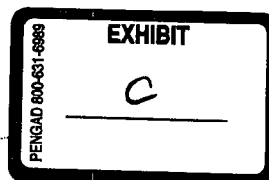
Date of Injury/Illness/Incident: 06/20/2006

Dear ESTATE OF VIRGINIA M WILKINSON:

Please note that, if we know that you have an attorney or other individual representing you in this matter, we are sending him/her a copy of this letter. If you have an attorney or other representative for this matter and his/her name is not shown as a "cc" at the end of this letter (indicating that he/she is receiving a copy), please contact us immediately. If you have any questions regarding this letter and are represented by an attorney or other person in this matter, you may wish to talk to your representative before contacting us.

This letter follows a previous letter notifying you/your attorney of Medicare's priority right of recovery as defined under the Medicare Secondary Payer provisions. Because you were involved in an automobile, slip and fall, medical malpractice, or some other type of liability claim, the medical expenses are subject to reimbursement to Medicare from proceeds received pursuant to a third party liability settlement, award, judgment, or recovery.

RCLGP1



However, we request that you/your attorney refrain from sending any monies to Medicare prior to submission of settlement information and receipt of a demand/recovery calculation letter from our office. This will eliminate underpayments, overpayments, and/or associated delays.

Currently, Medicare has paid \$19,686.12 in conditional payments related to your claim. Attached you/your attorney will find a listing of claims that comprise this total. Please take a look at this listing and let us know if you/your attorney disagree with the inclusion of any claim in whole or in part and explain the reasons why you/your attorney disagree(s).

Please be advised that we are still investigating this case file to obtain any other outstanding Medicare conditional payments. Therefore, the enclosed listing of current conditional payments (including a response of a zero amount) is not a final listing and will need to be updated once we receive final settlement information from you. It would be in your best interest to keep Medicare's payments and the statutory obligation to satisfy Medicare in mind when the final dollar amount is negotiated and accepted in resolution of the claim with the third party.

If the case has settled, please furnish our office with a copy of:

- 1) The settlement agreement from the third party payer showing the total amount of the settlement, signed and dated, AND
- 2) Your closing statement reflecting the actual amount of the attorney's fees and costs (excluding medical bills).

Thank you for your assistance and cooperation in this matter. If you have any questions regarding this matter, please contact us at 1-866-677-7220 (TTY/TDD: 1-866-677-7294 for the hearing and speech impaired).

Sincerely,

Medicare Secondary Payer Recovery Contractor
PO BOX 33828
DETROIT MI 48232-5828

Enclosures: Payment Summary Form
cc: WILKES AND MCHUGH

SGLLCPNGHP

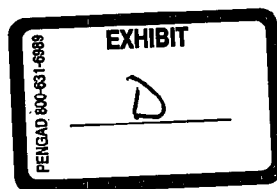
CERTIFICATE OF COUNSEL

I, Michael T. Collis, Esquire, as counsel for the Petitioners, Virginia Spencer and Carol Eckley, Executrices of the Estate of Virginia Wilkinson certifies that it is my opinion that the offer and compromise as set forth in the within Petition is in the best interest of Plaintiff.

WILKES & McHUGH, P.A.

Dated: 8/22/12

BY: Michael T. Collis
Michael T. Collis, Esquire
Counsel for Plaintiff



**** SETTLEMENT STATEMENT ****
Wilkinson, Virginia (PA) (08-148)

May 15, 2012

Total Recovery from Settlement:		\$85,000.00
Attorneys' Fees: 40.00%		
Wilkes and McHugh, P.A. (reduced from \$24,480.00)	15,293.29	
Marcus & Mack, P.A. (reduced from \$9,520.00)	5,947.38	
Less Total Attorneys' Fees:		21,240.67
Costs Advanced: (Itemization Attached)	12,090.20	
Less Total Costs Advanced:		12,090.20
 Balance Due After Attorneys' Fees, Expenses and Costs:		 \$51,669.13
Liens/Letters of Protection:		
Ingenix/United HC AARP (does not include potential reduction)	428.45	
Medicare (Estimate)	30,000.00	
Less Total Liens/Letters of Protection:		30,428.45
 Total Due to Client:		 \$21,240.68

The final amounts for liens against the estate are unknown at this time. As such, we are holding \$30,428.45 until the liens have been resolved. After all outstanding obligations have been met, including but not limited to liens and any outstanding and uncollected costs, 50% balance remaining in the account will be distributed to the estate. The remaining 50%, not to exceed the balance remaining on the contract rate of 40%, will be used to compensate Wilkes & McHugh, P.A. and Marcus & Mack, P.A. for the above reduction in attorneys' fees.

We, Carol Eckley and Virginia Spencer, as Co-Executrices of the Estate of Virginia Mae Wilkinson, a/k/a Virginia M. Wilkinson, acknowledge that the sums shown above are due and owing to the attorneys and lienholders identified in the foregoing accounting. As such, we, Carol Eckley and Virginia Spencer, as Co-Executrices of the Estate of Virginia Mae Wilkinson, a/k/a Virginia M. Wilkinson agree to accept a check in the amount of \$21,240.68 as full and final settlement of our claims as Co-Executrices of the Estate of Virginia Mae Wilkinson, a/k/a Virginia M. Wilkinson against MARION MANOR, INC. d/b/a MARION MANOR II ; KAREN ARNOLD NEFF, d/b/a MARION MANOR II; KAREN ARNOLD NEFF, ADMINISTRATOR, MARION MANOR, II. This is also authorization for a representative of the law firm of Wilkes & McHugh, P.A., to sign our names to the settlement check in order to process the check without any delay. We recognize that there may exist claims against the estate. In addition, probate attorneys' fees and personal representative fees, if any, will be deducted prior to the distribution to the beneficiaries. We also understand and agree that the settlement check will be processed out of the Tampa, Florida office of Wilkes & McHugh, P.A.

The settlement of this case was made with the undersigned's consent and approval. We acknowledge having read this Settlement Statement and having had an opportunity to ask questions of my attorneys concerning the contents hereof (including, but not limited to, attorneys' fees, costs, liens and the remaining lien reserve following payment of all liens) prior to signing it. We, the undersigned, have read and fully understand its contents. We have reviewed the settlement and disbursements above. It has been explained to our satisfaction and we approve of same.

Virginia Spencer
Virginia Spencer, as Co-Executrix of the Estate of Virginia Mae Wilkinson, a/k/a Virginia M. Wilkinson

Aug. 14, 2012
Dated

Carol Eckley
Carol Eckley, as Co-Executrix of the Estate of Virginia Mae Wilkinson, a/k/a Virginia M. Wilkinson

Aug 14, 2012
Dated

Marcus & Mack, P.A.

Michael T. Collier By:
Wilkes and McHugh, P.A.



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition to Approve Settlement was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 22nd day of August, 2012, to the following:

Jennifer L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:

A handwritten signature in black ink, appearing to read "Michael T. Collis", written over a horizontal line.

Michael T. Collis, Esquire
Counsel for Plaintiff

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

FILED

AUG 28 2012

William A. Shaw
Prothonotary/Clerk of Courts

I came to court

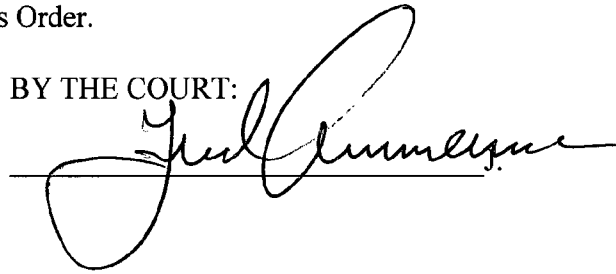
ORDER OF DISTRIBUTION

AND NOW, to-wit, this 27 day of August, 2012, upon consideration of the within Petition, it is hereby ORDERED, ADJUDGED and DECREED that leave be, and is hereby GRANTED to the Petitioners, Virginia Spencer and Carol Eckley, as Executrices of the Estate of Virginia Spencer to compromise the settlement in the above-captioned lawsuit by payment on behalf of Defendants in the sum of \$85,000.00 and it is further ORDERED that distribution of said amount is to be made as follows:

Attorneys' Fees:	\$21,240.67
Costs Advanced:	12,090.20
Ingenix/United HC AARP:	428.45
Medicare (to be held in escrow):	30,000.00
To Estate of Virginia Wilkinson:	\$21,240.68

Settlement checks shall be forwarded to Petitioner's Counsel for proper distribution within twenty (20) calendar days for the date of this Order.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Judge Annemarie", is written over a horizontal line. The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

FILED

AUG 28 2012

**William A. Shaw
Prothonotary/Clerk of Courts**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

Plaintiffs,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendants.

CIVIL DIVISION

No. 2008-01006-CD

**PRAECIPE TO SETTLE AND
DISCONTINUE WITH PREJUDICE**

Filed on behalf of Plaintiffs, Virginia
Spencer and Carol Eckley, Executrices of
the Estate of Virginia Wilkinson

Counsel of Record for this Party:

Michael T. Collis, Esquire
Pa. ID # 53795

Wilkes & McHugh, P.A.
Frick Building, Suite 912
437 Grant Street
Pittsburgh, PA, 15219

(412) 434-1110
(412) 434-4882

JURY TRIAL DEMANDED

FILED

No CC.

ml 2:08pm
OCT 05 2012

Copy to
CIA

William A. Shaw
Notary/Clerk of Courts

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

VIRGINIA SPENCER and CAROL
ECKLEY, Executrices of the
Estate of VIRGINIA WILKINSON,

CIVIL DIVISION

No. 2008-01006-CD

Plaintiff,

vs.

MARION MANOR, INC. d/b/a
MARION MANOR II; KAREN ARNOLD
NEFF, d/b/a MARION MANOR II;
KAREN ARNOLD NEFF,
ADMINISTRATOR, MARION MANOR,
II,

Defendant

**PRAECIPE TO SETTLE AND DISCONTINUE
WITH PREJUDICE**

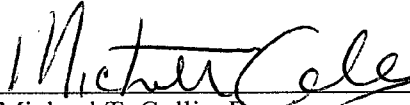
TO THE PROTHONOTARY:

Kindly marked the above-captioned case settled and discontinued with prejudice as to all
Defendants.

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff

CERTIFICATE OF SERVICE

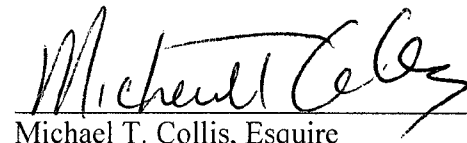
I hereby certify that a true and correct copy of the foregoing Praeceptum to Settle and Discontinue With Prejudice was provided to all parties of records via U.S. First-Class Mail, postage pre-paid, this 3rd day of October, 2012, to the following:

Jennifer L. McPeak, Esquire
Burns White & Hickton
Four Northshore Center
106 Isabella Street
Pittsburgh, PA 15212

Respectfully submitted,

WILKES & McHUGH, P.A.

By:


Michael T. Collis, Esquire
Counsel for Plaintiff