

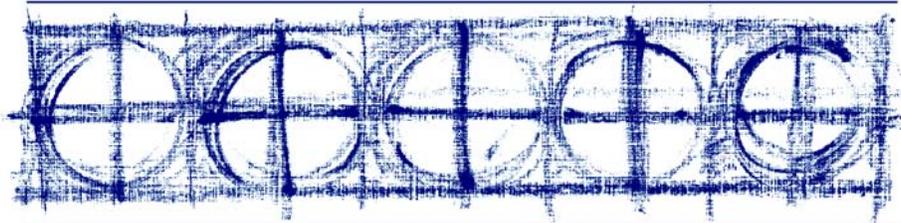
Idaho Law Foundation Law Related Education Program

2012

# Idaho High School Mock Trial Program

Case Materials

IDAHO LAW FOUNDATION



*Helping the profession serve the public*

# Table of Contents

---

Version Changes .....	1
Version 1.0 .....	1
Version 2.0 .....	1
Introduction & Acknowledgements .....	2
Complaint and Demand for Jury Trial .....	3
Answer .....	8
Stipulations .....	12
Witness Statements .....	13
Plaintiff Witness Statements.....	13
Asa Price, CNA .....	13
Harper Allen, State Nursing Home Regulator.....	17
Reese Carter .....	21
Defense Witness Statements .....	25
Cameron Moore .....	25
Parker Clark, Nursing Home Administrator.....	29
Jo Morgan .....	34
Exhibits .....	37
Exhibit 1: Hailey Police Department Incident Report.....	38
Exhibit 2: Incident Report #1 .....	39
Exhibit 3: Incident Report #2 .....	40
Exhibit 4: Violation Notice .....	41
Exhibit 5: Bingo Cage Specifications.....	42
Exhibit 6: Map of Accident Scene .....	43
Exhibit 7: News Article .....	44
Exhibit 8: Excerpts from St. Cam’s Policy Handbook.....	45
Exhibit 9: Intake Form .....	46
Exhibit 10: St. Cam’s Resident Bill of Rights .....	48
Exhibit 11: Selected Statutory Provisions Regarding Long Term Care Facilities .....	50

Jury Instructions .....	58
Instruction No. 1 .....	58
Instruction No. 2 .....	59
Instruction No. 3 .....	59
Instruction No. 4 .....	59
Instruction No. 5 .....	60
Instruction No. 6 .....	60
Instruction No. 7 .....	60
Instruction No. 8 .....	61
Instruction No. 9 .....	61
Instruction No. 10 .....	61
Instruction No. 11 .....	62
Instruction No. 12 .....	62
Instruction No. 13 .....	63
Instruction No. 14 .....	63

# Version Changes

---

## VERSION 1.0

Version 1.0, dated November 22, 2011 does not include any changes.

## VERSION 2.0

Version 2.0, dated January 15, 2012 includes the following changes:

1. The wording of stipulation 4 (page 12) caused problems with team admitting evidence without laying foundation. The wording has been changed from: “*All exhibits included in the case materials are authentic and accurate and the proper chain of custody with regard to the exhibits has been maintained*” to: “*While all exhibits included in the case materials are authentic and accurate representations and the proper chain of custody with regard to the exhibits has been maintained, teams must still use the proper procedures for admitting exhibits into evidence.*”
2. On page 26, line 46 Morgan was referred to as him. This has been changed to him/her.
3. Exhibit 1, paragraph 5 (page 38) stated that Asa “couldn’t get anybody to pay attention to the fact that Morgan was a program.” This has been changed to problem.
4. Exhibit 2 (page 39) refers to the location as the Dinging Room. This should have said Dining Room. **NOTE:** The exhibit cannot be changed at this point so teams are to operate as though the exhibit says Dining Room.
5. Exhibit 3 (page 40) refers to Ryan Callahan as “he” throughout the exhibit. This should have said s/he. **NOTE:** The exhibit cannot be changed at this point so teams are to operate as though the exhibit says s/he.
6. Exhibit 7 (page 44) is dated as March 15, 2010. It should be dated as March 15, 2011. **NOTE:** The exhibit cannot be changed at this point so teams are to operate as through the exhibit is dated March 15, 2011.

## Introduction & Acknowledgements

---

Welcome to the *2012 Idaho High School Mock Trial* season!

This year we are excited to give mock trial teams the opportunity to try a civil case that involves an accident at St. Camillus Care Facility in Hailey, Idaho in which one Ryan Clanahan dies after being hit over the head with a bingo cage. This original case was developed over the last several months by the **Mock Trial Subcommittee** who spent many hours putting together what we think is a spectacular case. We hope you agree!

Without the help of the **Mock Trial Subcommittee** of the Law Related Education Program these case materials could never have come to fruition. The Law Related Education Program would like to thank Committee members **Laura Chess, Greg Dickison, Mike Fica, Katherine Georger, Russ Johnson, and Jessica Lorello** for all their hard work and support.

As you participate in this year's mock trial season, please remember the nearly 200 volunteers who make this competition possible each year. Your Teacher Sponsor and Attorney Coach will likely spend countless hours helping to prepare you for competition. You will also meet judges and coordinators who gladly give of their free time to support the mock trial program. Make sure you take the time to thank all these volunteers for their commitment to making the mock trial program a wonderful experience for you.

Please feel free to contact Carey Shoufler at (208) 334-4500 or [cshoufler@isb.idaho.gov](mailto:cshoufler@isb.idaho.gov) with any questions or concerns at any time throughout the season. Best of luck to you and your team as you prepare for the 2012 mock trial season.

Cheers!



Carey A. Shoufler

Law Related Education Director

# Complaint and Demand for Jury Trial

---

Taylor Sniffen, Esq.  
Sniffen & Greenberg, LLP  
Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF BLAINE

REESE CARTER,	)	Case No. MT2012
Individually and as Personal	)	
Representative of the Estate of	)	
Ryan Clanahan	)	
	)	
	)	
	)	
	)	
vs.	)	<b>COMPLAINT AND DEMAND</b>
	)	<b>FOR JURY TRIAL</b>
	)	
	)	
ST. CAMILLUS CARE FACILITY	)	
An Idaho Corporation	)	
	)	
	)	
	)	

---

Plaintiff, Reese Carter, individually, and as Personal Representative of the Estate of Ryan Clanahan, by and through his/her attorneys, files this Complaint against Defendant St. Camillus Care Facility, by complaining and alleging as follows:

### JURISDICTION AND VENUE

- 1) Plaintiff, Reese Carter (“Plaintiff” or “Carter”) is a resident of the state of California.
- 2) Defendant, St. Camillus Care Facility (“Defendant” or “St. Camillus” or “St. Cam’s”) is an Idaho non-profit corporation, whose principal place of business is located in Hailey, Idaho.
- 3) Defendant is subject to the jurisdiction of Idaho state courts under Idaho Code § 5-514(b).

4) The Idaho State District Court for the Fifth Judicial District of Blaine County has original jurisdiction over this matter under Idaho Code § 1-705 and venue is appropriate within Blaine County under Idaho Code § 5-404.

### **GENERAL ALLEGATIONS**

5) St. Camillus is a privately funded, long term care facility for elderly and disabled residents.

6) St. Camillus provides rehabilitation services for long and short-term stays, occupational therapy, and specialized behavior care, including traumatic brain injury and dementia care.

7) Marion Morgan (“Morgan”) is 86 years old and has been a resident of St. Camillus since December 2009, when s/he started showing the early signs of Alzheimer’s disease.

8) After placement at St. Camillus, Morgan was cited by staff on over a dozen separate occasions for drunk and disorderly conduct that often turned violent. However, St. Camillus simply ignored his/her behavior because s/he was a paying customer that did not rely on Medicare or Medicaid to cover his/her stay at the facility.

9) On or about January 10, 2011, Ryan Clanahan (“Clanahan”), 27 years old, entered St. Camillus for rehabilitative services related to a brain injury Clanahan suffered as a result of a car accident.

10) On the evening of March 23, 2011, St. Camillus hosted its weekly bingo game in the game room located on the first floor of the facility.

11) Both Morgan and Clanahan participated in the March 23, 2011 bingo night.

12) Two residents reported that Morgan smelled of alcohol.

13) After several rounds of bingo were played, upon information and belief, Morgan got it in his/her head that Clanahan was cheating.

14) After the game finished, Morgan confronted Clanahan and accused him/her of cheating.

15) In a fit of rage, Morgan picked up the bingo cage and hurled it at Clanahan.

16) As a result of Morgan's uncontrolled fit of rage, Clanahan lost his/her balance and struck his head on the corner of a table.

17) Consequently, Clanahan suffered a massive stroke that put him/her in a coma.

18) After clinging to life for nearly three weeks, ultimately Clanahan died from his/her head injuries.

19) St. Camillus was aware of Morgan's drunken tirade and violent outbursts. Yet they failed to address the danger that Morgan presented, and consequently, St. Camillus caused the death of Clanahan.

20) St. Camillus' negligence has caused Carter, individually and as personal representative to Clanahan's estate, to suffer substantial present and future economic and non-economic damages including, but not limited to, personal injuries, physical and emotional pain, suffering, disability, emotional distress, medical and related expenses, lost income, loss of earning capacity, and loss of society, companionship, and consortium, all in amounts to be determined at trial.

### **COUNT I – NEGLIGENCE**

21) Plaintiff incorporates and re-alleges the allegations contained in paragraphs 1 through 20.

22) As a health care provider, Defendant St. Camillus owed Clanahan a duty of care to protect him/her from known dangers.

23) Defendant St. Camillus was aware that Morgan posed a danger to residents like Clanahan and failed to exercise reasonable care in responding to Morgan's behavior.

24) Defendant St. Camillus' failure to maintain its facility in a reasonable manner caused the death of Clanahan and resulting damages to Carter.

25) The negligence of Defendant St. Camillus proximately resulted in damage to Plaintiff in an amount to be established at the time of trial.

## **COUNT II – BREACH OF CONTRACT**

26) Plaintiff incorporates and re-alleges the allegations contained in paragraphs 1 through 25.

27) On or about January 10, 2011, Defendant St. Camillus and Clanahan entered into a contract for long term health care services.

28) The terms of the contract required Defendant St. Camillus to “take all necessary steps and precautions” to provide Clanahan with “a safe and secure environment to rehabilitate and recover from his/her physical ailments.”

29) Clanahan performed all of his/her duties under the contract to pay Defendant St. Camillus the contractually agreed about sum of money.

30) Defendant St. Camillus breached its duties under the contract by, among other things, failing to take the necessary steps to provide a safe and secure environment for Clanahan.

31) As a direct and proximate result of the breach of the contract, Clanahan was fatally injured and Plaintiff has been damaged in an amount to be proven at trial.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Reese Carter requests and prays that judgment be entered against Defendant St. Camillus as follows:

A) That Carter be awarded compensation for all injuries and damages caused by Defendant’s negligent and/or wrongful conduct;

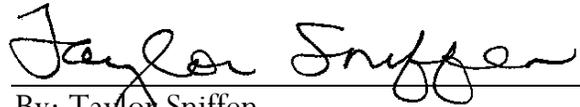
B) That Carter be awarded attorney fees and costs;

C) That Carter be awarded post-judgment interest on the amount of judgment;

D) That Carter be awarded attorney fees and costs incurred in attempting to collect on the judgment, if any; and

E) That Carter be awarded such other and further relief as the Court deems just and equitable under the circumstances.

**DATED** this 19<sup>th</sup> day of September, 2011.

A handwritten signature in cursive script that reads "Taylor Sniffen". The signature is written in black ink and is positioned above a horizontal line.

By: Taylor Sniffen

For Sniffen & Greenberg, LLP  
Attorneys for Plaintiff, Reese Carter



## **GENERAL ALLEGATIONS**

- 5) In response to Paragraph 5 of the Complaint, Defendant admits.
- 6) In response to Paragraph 6 of the Complaint, Defendant admits.
- 7) In response to Paragraph 7 of the Complaint, Defendant is without sufficient facts or information to admit or deny the allegations therein and therefore deny them.
- 8) In response to Paragraph 8 of the Complaint, Defendant denies.
- 9) In response to Paragraph 9 of the Complaint, Defendant admits.
- 10) In response to Paragraph 10 of the Complaint, Defendant admits.
- 11) In response to Paragraph 11 of the Complaint, Defendant admits.
- 12) In response to Paragraph 12 of the Complaint, Defendant is without sufficient facts or information to admit or deny the allegations therein and therefore deny them.
- 13) In response to Paragraph 13 of the Complaint, Defendant denies.
- 14) In response to Paragraph 14 of the Complaint, Defendant denies.
- 15) In response to Paragraph 15 of the Complaint, Defendant denies.
- 16) In response to Paragraph 16 of the Complaint, Defendant is without sufficient facts or information to admit or deny the allegations therein and therefore deny them.
- 17) In response to Paragraph 17 of the Complaint, Defendant is without sufficient facts or information to admit or deny the allegations therein and therefore deny them.
- 18) In response to Paragraph 18 of the Complaint, Defendant admits.
- 19) In response to Paragraph 19 of the Complaint, Defendant denies.
- 20) In response to Paragraph 20 of the Complaint, Defendant denies.

## **COUNT I - NEGLIGENCE**

- 21) In response to Paragraph 21 of the Complaint, Defendant restates all of the foregoing responses as if fully stated herein.
- 22) In response to Paragraph 22 of the Complaint, Defendant admits.
- 23) In response to Paragraph 23 of the Complaint, Defendant denies.

- 24) In response to Paragraph 24 of the Complaint, Defendant denies.
- 25) In response to Paragraph 25 of the Complaint, Defendant denies.

### **COUNT II – BREACH OF CONTRACT**

26) In response to Paragraph 26 of the Complaint, Defendant restates all of the foregoing responses as if fully stated herein.

- 27) In response to Paragraph 27 of the Complaint, Defendant admits.
- 28) In response to Paragraph 28 of the Complaint, Defendant admits.
- 29) In response to Paragraph 29 of the Complaint, Defendant admits.
- 30) In response to Paragraph 30 of the Complaint, Defendant denies.
- 31) In response to Paragraph 31 of the Complaint, Defendant denies.

### **AFFIRMATIVE DEFENSES**

32) **Contributory Negligence.** St. Camillus avers that the injuries and/or damages, if any, as alleged in the Complaint were caused by the sole and/or contributory negligence of the decedent and, therefore, the requested relief should be denied.

33) **Unavoidable Accident.** St. Camillus avers that the injuries and/or damages, if any, as alleged in the Complaint, were the result of an unavoidable accident and therefore the requested relief should be denied.

34) **Consent of Plaintiff.** St. Camillus avers that the decedent agreed to and/or participated in those actions which Plaintiff claims to have caused injury or damage. Since such participation and consent were given knowingly and voluntarily, Plaintiff's claims are invalid.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant respectfully requests that this Court grant the following relief:

- A) That Defendant not be found liable for Plaintiff's alleged injuries in this matter.

**DATED** this 12<sup>th</sup> day of October, 2011.



---

By: Micah Thompson  
For Thompson & Rush, LLP  
Attorneys for Defendant, St. Camillus

## Stipulations

---

1. The action has been separated into two trials. The only elements that need to be proven in this trial are negligence or breach of contract, and causation. The issue of damages will be addressed in a subsequent trial if necessary.
2. In a separate action, the Morgan Family has settled with Reese Carter. The settlement has been sealed by the court and the existence or substance of the case or settlement is not to be discussed as part of the case against St. Camillus.
3. Reese Carter was duly appointed and qualified as the General Personal Representative of the estate of Ryan Clanahan and has full power and authority to act on his/her behalf.
4. While all exhibits included in the case materials are authentic and accurate representations and the proper chain of custody with regard to the exhibits has been maintained, teams must still use the proper procedures for admitting exhibits into evidence.
5. If the Defendant has admitted facts in the Answer, those facts are therefore uncontested and need not be proven at trial. Therefore, all parties may refer to these uncontested facts during trial.
6. The signatures on the witness statements and all other documents are authentic.
7. The dates of witness statements are not relevant and therefore not included. No challenges based on the dates of the witness statements will be entertained. All statements were taken after the alleged incident but before trial.
8. The jury instructions have been agreed to by all parties.
9. Trial time will not permit the use of all the exhibits provided in the following materials. Each party must select and use only those exhibits that best support and illustrate that party's theory of the case.

# Witness Statements

---

## PLAINTIFF WITNESS STATEMENTS

### Asa Price, CNA

1 My name is Asa Price. I just turned 36 a couple of months ago. I have lived in Idaho most  
2 of my life. My family moved to Hailey from Missoula, Montana when I was in grade school.  
3 My dad had grown up here and we came back to help take care of my grandma after my  
4 granddad passed away.

5 In fact, St. Cam's is on land that my family had owned since the turn of the last century.  
6 We really didn't have much of a choice but to turn over the land since the County  
7 Commission said they were taking it for the public good. Eminent Domain I think they  
8 called it. Land that had been in my family for several generations gone, just like that.

9 Even though we needed the money, it really broke my dad's heart to have to give up the  
10 land. To add insult to injury, he was really mad when I started working here. Working for  
11 the enemy is what he called it. Boy howdy, was he right. But, work is work and in this  
12 economy who can turn down a decent paying job? So, for the last five years I have been  
13 working for St. Cam's. We recently had a parting of the ways.

14 I work as a certified nursing assistant. People in this business call it a CNA. I must take  
15 after my dad in some ways because I decided to focus my expertise specific to long-term  
16 health care facilities, particularly taking care of old folks. I have worked in this field for  
17 about twelve years. I got my Associate's Degree in Nursing at Stevens Henagar Online  
18 College. I got my CNA after working at a hospital for a couple of years. I just had to take a  
19 test and certify that I had worked for a certain number of hours as a nursing assistant.

20 In my job, I have learned a lot about different medical conditions and the way people act,  
21 especially the type of people who are at nursing care facilities. As a result, I know when  
22 things are managed right and I'm not afraid to let people know.

23 Since St. Cam's is located in Hailey, ID, you can imagine they have a lot of rich people  
24 who go there. And, you know how it is with rich people, they tend to get their way. You  
25 know, they can break the rules and people will pretend they didn't notice. Marion Morgan  
26 was sort of like that. I mean, s/he was nice and all, but used to be on the Board of Directors  
27 for a bank that his/her dad started. Anyway, s/he is used to getting his/her way. One of  
28 the things they let him/her do that wasn't supposed to be allowed is drink. I've seen bottles  
29 of booze in Morgan's room, and I've seen him/her stumbling around drunk.

30 It's really no big deal. I mean, I would drink if I had to stay at St. Cam's, too, but you're  
31 not supposed to – that's why I reported it to the director of St. Cam's one time, but I don't  
32 think s/he did anything about it. Probably because the Morgan family gave him/her big tips  
33 and presents on his/her birthday and at Christmas. The same with the nursing staff;  
34 everyone at St. Cam's was bribed into looking the other way.

35 Anyway, one night Morgan came stumbling into the room where they were going to  
36 play bingo. I was working that night and saw it with my own eyes. I'm pretty sure s/he had  
37 been drinking. I could tell. S/he was staggering around, slurring his/her words, and even  
38 smelled of alcohol. To any reasonable person, Morgan would have appeared to be under the  
39 influence.

40 I'm not too sure about the details of what happened, but Morgan got into it with Ryan.  
41 Something about cheating. Next thing you know, Morgan picked up the bingo cage and hit  
42 Ryan with it. It was not good. Parker Clark was there and looked really freaked out. S/he  
43 started clearing people away from Morgan right away and hustled him/her back to his/her  
44 private room so nobody could get close to or talk to him/her.

45 I heard some people talking about how Ryan "started it" but I don't really think so. I  
46 know that Ryan was an outspoken person before s/he got into the accident that sent  
47 him/her to St. Cam's, but I rarely saw that side of Ryan. S/he was always real cool to me. I  
48 was really excited when s/he came to St. Cam's. I'm a big fan of reality TV. I saw every

49 episode the season s/he was on *How Would You Demean Yourself for Money*. Ryan was the best  
50 HWYDYFM player ever; Maybe a little obnoxious at times, but I think s/he was hamming it  
51 up for the cameras – you know, that makes for better TV. In fact, Ryan even told me that a  
52 lot of what goes on in shows like HWYDYFM is part reality, part acting. Ryan would never  
53 pick a fight with anyone in real life, especially an old person. I mean, what would be the  
54 point?

55       Anyway, back to the night Morgan killed Ryan. When I saw Parker later on, I told  
56 him/her that this would not have happened if they made Morgan follow the rules like  
57 everyone else. I got fired the next week. They claimed it was because I was late to work  
58 too often. I had been put on “probation” for that about a month last year for excessive  
59 lateness but my spouse and I had just had a baby and it took a little time to adjust to our new  
60 way of life. I got the message and I was never late after being put on probation, but they  
61 fired me anyway. What a total over-reaction. I know they fired me to try and keep me  
62 quiet. I’ve told them about things they needed to fix in the past, and they have gotten really  
63 angry at me for doing so. I’m sure they think firing me will solve their problems, but  
64 they’re wrong.

65       And I did let them know that Morgan was a problem. I filed incident reports on several  
66 occasions. One time, I remember Morgan hit another resident with a fork. Another time  
67 s/he cornered Ryan and said something about how Ryan was not going to win at bingo.  
68 Morgan clearly had violent tendencies and acted in a violent way towards staff and other  
69 residents and I told Parker Clark as much.

70       There is a procedure that Parker is supposed to follow, but s/he never does. S/he is  
71 supposed to sign the report when we give it to him/her and give the person who files the  
72 report a copy with both signatures. Usually s/he just says s/he’s busy and to put it on his  
73 desk. Funny how we never get the signed copy back. Well, after the first two reports went  
74 nowhere, I got wise. I kept a copy for myself before I gave the original to Parker. I’ll admit,

75 when I was fired I got angry and crumpled them up and threw them away. But then I  
76 realized that is just what Parker would hope would happen. I got them out of the trash and  
77 gave them to Reese's attorneys. This kind of thing just has to stop.

78 I did meet Jo Morgan a couple of times. S/he visited Morgan faithfully every day. It was  
79 actually kind of sweet. S/he was obviously smitten with her/him. Can you imagine being in  
80 love with someone at that age? The only problem was that s/he couldn't see reality. I tried  
81 to talk to him/her about Morgan's violence after the first incident in the rec room, but s/he  
82 just didn't want to hear it. His/her eyes glazed over and s/he just kept staring down the hall  
83 toward Morgan's room. S/he just sort of nodded at me and kept saying, "uh-huh," but I  
84 could tell I wasn't getting anywhere. I gave up on that effort.

85 By the way, on one visit I know I saw the top of a bottle of gin in Jo's bag when s/he  
86 came to visit. I know it isn't against the rules or anything, but if anyone tries to say that  
87 Morgan didn't have access to alcohol, well, just ask Jo.

88 **WITNESS ADDENDUM**

89 I have reviewed this statement, and I have nothing of significance to add at this time. The  
90 material facts are true and correct.

91 Signed,  
  
92 Asa Price, CNA

## Harper Allen, State Nursing Home Regulator

1 My name is Harper Allen. I'm 30 years old. I grew up in Santa Cruz, California. I have  
2 to tell you, it was a great childhood. I mean, how can you not love a place where you can  
3 get out of bed and walk down to the beach to go surfing before you go to school? My dad  
4 ran an organic farm on Route 1 and my mom was a Feminist Studies professor at UC Santa  
5 Cruz. They are awesome; probably two of the best people I know.

6 Anyway, when I graduated from high school, I really didn't know what I wanted to do,  
7 so my parents encouraged me to go out and find myself. At the time, I was a big fan of the  
8 band Phish, so I became a Phish Head and started following them around the country, going  
9 to all their concerts. By the summer of 1999 I was getting sick of living out of a van and was  
10 trying to figure out where I could stay for a while.

11 Then in late summer or early fall, sometime around there, I got this sign from God or  
12 Buddha or the Universe or whoever. I saw this righteous Phish show in Boise, Idaho of all  
13 places. I swear to you, it was probably one of their best shows ever. I mean, they rocked.

14 So, I figure if Phish could play a great show in a place like Boise, maybe there was a good  
15 vibe there and I should stick around for a while and check it out. I guess like any place  
16 there's the good and the bad. I try to stay in the North End as much as possible; it's really  
17 the only place in town where I can find my people.

18 So, what was I saying? Oh yeah, so after a year in Boise, I was pretty settled in and I  
19 enrolled at Boise State where I got both my undergraduate and master's degrees in Social  
20 Work. I really think it's important to help the little guy and make sure those greedy  
21 corporate money grubbers don't get away with too much, don't you?

22 I finished school in May of 2006 and got a gig with Health and Welfare. I work in the  
23 Bureau of Facility Standards, which is a unit in Health and Welfare that makes sure people  
24 can get the health services they need and supervises care facilities, like St. Cam's. In fact, I

25 am quite familiar with St. Cam's and I can say in all of my experience with them they are  
26 one of those organizations that pretends to help people but are just in it for the money. I  
27 mean, they are no better than those private jails that just got sued.

28 In addition to my master's degree, I have a lot of training to do my job. I'm one of those  
29 people who always takes advantage of whatever professional development I can get. In fact,  
30 out of all the people in my unit, I'm the only person who has been chosen not once but  
31 twice to go to Department of Health and Human Services in Washington D.C. for special  
32 training on care facility regulation. Because of this training, I'm a nationally certified nursing  
33 home regulator.

34 In my job with BFS, I head up a team of people who inspect long-term care facilities. I  
35 am the youngest person in the history of our unit to be appointed to head up a team of  
36 inspectors. And it's because I'm good at what I do. I know that might sound arrogant, but  
37 like the man said, "It's only arrogance if you're wrong." I set out a long time ago to find my  
38 gift and I did. Last year I even received a special commendation from the governor's office  
39 for Excellence in Service to the State of Idaho. Basically I was able to receive this award  
40 because I brought in a lot of money in fines for the state. It's my job to make sure care  
41 facilities are doing what they are supposed to do and if they don't then they're going to pay.

42 So, back to my actual work; when someone complains about a facility, my team goes  
43 into action and I'm there to lead them. We're kind of like super heroes for people who are  
44 sick or old. In our work we license and certify health care providers and enforce compliance  
45 with state rules and federal regulations. We also conduct complaint investigations relating to  
46 these providers. That's how I first came into contact with St. Cam's.

47 About two years ago, the Smith family had filed a complaint alleging that their mom had  
48 died in the facility because St. Cam's was understaffed. They said that Mrs. Smith was  
49 neglected and didn't get the proper amount of attention she needed. This wasn't the first

50 time that someone had filed a complaint against St. Cam's. They had accumulated at least a  
51 half a dozen serious complaints in 10 years they have been operating in Hailey.

52 So, in partnership with the Hailey Police Department, we launched a task force –  
53 Operation Centrum Silver. We were tasked with trying to find out if St. Cam's was  
54 criminally negligent with regard to the residents of their facility. After our inspection, we  
55 found that St. Cam's did not have sufficient staff or take proper care of the residents and  
56 their facility. We were on the verge of shutting them down when all of the sudden we were  
57 told by Health and Welfare to back off and give St. Cam's a chance to turn things around.  
58 That's why I spend so much time there. It's my job to make sure they are taking care of the  
59 residents and the facility.

60 During Operation Centrum Silver I had the displeasure of coming into contact with  
61 Parker Clark. Parker Clark was convinced that my team, and me in particular, had taken a  
62 bribe from the Smith family to say that St. Cam's was at fault for Mrs. Smith's death. I  
63 realize that my bank records showed that I made a large deposit around the time of the  
64 investigation but that was only because I had made some good investments and decided to  
65 cash out right when it started to look like the market was going to crash. If you look at the  
66 court records, you will see that I was absolved of any wrong doing. Parker Clark needs to  
67 realize that it's not what you think; it's what you can prove and s/he didn't prove squat.

68 But s/he is still holding tight to something that happened in the past. S/he is just a very  
69 bitter and cynical person who thinks it's all about winning and protecting corporate America  
70 instead of coming to the right conclusion. Yeah, I'm hard on St. Cam's but it's my job to  
71 make sure they are meeting all the government regulations they are supposed to.

72 When the Ryan Clanahan case came up, my boss knew that I had experience working  
73 with the staff at St. Cam's so she sent me to investigate this incident. Our inspection of this  
74 incident involved interviews, site observation, and a records review. Our inspection  
75 uncovered major irregularities on the part of St. Cam's.

76 St. Cam's simply did not conduct the appropriate due diligence with regard to Marion  
77 Morgan. Morgan's family said that s/he had no medical issues but it was clear to anyone  
78 with a set of eyes that Morgan had indeed begun to show signs of Alzheimer's disease,  
79 including aggressive behavior. Secondly, they clearly did not conduct a background check on  
80 Morgan. It only took me about 10 minutes of searching to find out that Morgan had served  
81 some time in jail in the 1950's for a drunken driving accident in Kansas City. Lastly, when  
82 we conducted our investigation several patients and staff members, including Asa Price,  
83 reported that they had told staff, and in particular Parker Clark, that Morgan smelled of  
84 alcohol on the night he killed Ryan Clanahan and on many other occasions for that matter.  
85 Why didn't St. Cam's do anything about this?

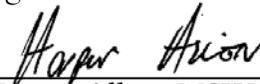
86 Given that Morgan had already cornered Ryan about past bingo matches and the  
87 increasingly aggressive personality of Morgan, the situation between Marion Morgan and  
88 Ryan Clanahan had the potential to explode. It was a tinderbox and the bingo match was  
89 the, well, match that lit a situation. St. Cam's owed it to Ryan Clanahan to make sure that  
90 match was never lit. Instead they stepped out of the way and Ryan was the one who got  
91 burned. St. Cam's owed him/her better.

92 There's one entity to blame in this situation. Plain and simple: St. Cam's caused this  
93 horrible tragedy to occur. I concur with the details of the Hailey Police Report. I stood  
94 behind my conclusions at the time and I still stand by them now.

#### 95 WITNESS ADDENDUM

96 I have reviewed this statement, and I have nothing of significance to add at this time. The  
97 material facts are true and correct.

98 Signed,

  
99 \_\_\_\_\_  
Harper Allen, MSW

## Reese Carter

1 My name is Reese Carter. Some of those paparazzi people like to report that I am 35  
2 years old, but that's just another one of their lies. I am only 29. It's just that whenever I was  
3 15 I had my agent tell people I was 21 so I could get better roles for movies and television.

4 I was born in Clay County, Kentucky but I got out of that hole just as fast as I could. I  
5 have always had dreams that were bigger than any trailer park. Not to brag on myself too  
6 much, but I have always had a lot going for me, what with all my talents and my looks. On  
7 my fifteenth birthday, I left my mama a note tellin' her I was going to make my way out to  
8 California to be in the movies.

9 So, I hitchhiked across the country, all the way to Hollywood. Once I got there I just  
10 started picking up work where I could to earn my keep. And sometimes I just got lucky and  
11 random people would help me out. Like that lady once said, "I have always depended on the  
12 kindness of strangers."

13 I worked hard until I got enough money to get an agent: Morty Finkelstein. Morty has  
14 always had my back. That's why he's still my agent today, even though I could probably  
15 afford someone a little more high rent, if you know what I mean. Morty got me guest roles  
16 on TV shows and commercials where he could. In those early days we just took whatever  
17 came our way. I'm not especially proud of some of the things that I done and some of the  
18 roles I had to take to get where I am, but hey, sometimes you gotta do what you gotta do.

19 As you know, my breakout role came when I was cast as Ash Wilson in The Depraved  
20 Departed. I know that film was controversial at the time because of all the blood and gore  
21 and violence, but what do you expect from a horror film, fields of daisies? You know what  
22 they say; there's no such thing as bad publicity.

23 Besides, if it wasn't for The Depraved Departed, I never would have met Ryan  
24 Clanahan. It was on the set of The Depraved Departed IV when I first met Ryan. S/he was

25 visiting the set and we just couldn't keep our eyes off of each other. Talk about your love at  
26 first sight. I have always thought that kind of stuff was nonsense for lesser idiots, but with  
27 Ryan I just couldn't help myself even though I had already been seeing one of my co-stars,  
28 Taylor Campbell. Ryan was just a more accomplished person, the kind of person you could  
29 have a secure future with and who wouldn't want to have a successful partner?

30 After a month of trying to decide if I should go out with Ryan or keep seeing Taylor, I  
31 met up with Ryan and some of his/her friends in Las Vegas. You've probably already read  
32 the story in People Magazine, but in case you've been livin' under a rock, Ryan and I got  
33 married after a weekend of... let's just call it fun. After that I had no choice but to break it  
34 off with Taylor, what with me being married and all.

35 Ryan and I were married for less than six months when s/he got into the car accident. I  
36 was just sick about it; I mean I had helped Ryan pick out that gorgeous car. Talk about a  
37 waste of money. And, you know, it sure was sad that s/he had that head injury. I know that  
38 evil tabloid would like to blame me for this – that Ryan was out drinking because I was  
39 having a change of heart and trying to get our marriage annulled and go back with Taylor,  
40 but that's just not the whole story.

41 Ryan had a wicked temper, especially when s/he felt like someone was accusing him/her  
42 of something s/he didn't think was true. S/he really had a hard time backing down when  
43 someone got in his/her face. I'm sure you've read about all his/her run-ins with the  
44 paparazzi. I'm sure Ryan didn't mean to break that guy's nose.

45 I just started the annulment process to get him/her to wake up and realize s/he had to  
46 grow up and get it together. There comes a time when fist fights just aren't the appropriate  
47 way to deal with your troubles. Besides, I put the annulment on hold while Ryan and I were  
48 working on a reconciliation.

49 I was on the set of a new Lifetime movie when I heard about Ryan's car accident and that  
50 following Friday, as soon as I finished up with my filming for the week I went right to Sun

51 Valley to be with him/her. I stayed by his/her side as much as I could. I mean, I still had to  
52 make a living and make my public appearances. It's what I do. It's my job. I know Ryan  
53 wouldn't want me to stop doing my job completely just to sit in a hospital all day. S/he  
54 would have done the same and I would expect nothing less. I mean, what if Ryan was no  
55 longer able to keep me in the life I've become accustomed to?

56 I think there were some people at St. Camillus Care Facility who really cared about  
57 helping Ryan, but I think the people who run that place were just thrilled to death to have a  
58 rich celebrity in their hospital. But if it had been up to me, I would have had Ryan airlifted  
59 to a hospital back in Los Angeles. St. Cam's is not exactly state of the art. What do you  
60 expect from some back water town in Idaho? They just didn't have what it takes to take  
61 proper care of my Ryan. After a month of staying there, that became clear.

62 I wasn't at St. Cam's on the night of the incident. I had stepped out to have dinner with  
63 an old friend. But I do know that Marion Morgan was trouble from the get go. I remember  
64 seeing him/her a few times when I was there with Ryan and there was just something off  
65 about him/her. S/he was either angry as a pole cat or just completely out of it. I mean s/he  
66 would have made a great extra in the new zombie movie I'm starring in. Just being around  
67 him/her made me feel about as nervous as a long tailed cat in a room full of rockin' chairs.

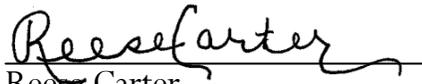
68 And it turns out that Marion Morgan had been in trouble for being a drunk and all  
69 around jerk at least a dozen times. One of the staff people, Asa Price, told me so and also  
70 told me that s/he smelled of alcohol on the night that everything happened. But St. Cam's  
71 didn't do anything about it since like me and Ryan, s/he had a lot of money.

72 So, my Ryan may have lost his/her life because of that monster, but it was the nursing  
73 home that put him/her in the position to be able to throw that bingo cage in the first place.  
74 The real shame about the whole situation is that Ryan was really starting to get better. Each  
75 time I went to see him/her, s/he seemed more and more like his/her normal old self.

76 St. Cam's let this situation happen because they didn't hold Morgan accountable for the  
77 other times s/he was actin' a fool. Of course I want St. Camillus' to pay for this. After all, I  
78 do have a certain standard of living that I'm entitled to. But most of all just want them to  
79 admit they made a mistake and do what is right to fix it so that this won't happen to anyone  
80 else.

81 **WITNESS ADDENDUM**

82 I have reviewed this statement, and I have nothing of significance to add at this time. The  
83 material facts are true and correct.

84 Signed,  
85   
Reese Carter

## DEFENSE WITNESS STATEMENTS

### Cameron Moore

1 My name is Cameron Moore. I am 24 years old and have lived in Hailey Idaho all of my  
2 life. I'm just your average, ordinary person, like everyone else around here. I graduated  
3 from Wood River High. I was kind of a wild child when I was there, but that was just after  
4 my parents got a divorce and I was going through a lot. Besides, it's hard to grow up in a  
5 family without a lot of money in a place like Hailey where there's so much wealth.

6 I got kicked out of high school for picking a fight with some preppy jerk about half way  
7 through my senior year. Even though s/he started it, no one messes with the rich people in  
8 our town. His/her family had enough money to buy his/her way out of the situation so I  
9 was gone. Still, getting kicked out of high school was a wakeup call for me. I knew it was  
10 time to turn my life around.

11 I started going to church and, lucky for me, I met my husband/wife there. S/he helped  
12 me get my life turned around. I got my GED and started going to school at the College of  
13 Southern Idaho, Blaine County campus. I am studying Hospital Management. That's one of  
14 the reasons I volunteer at St. Cam's. It gives me an opportunity to be in an environment  
15 where I want to work some day. But mostly, it gives me a chance to do something good for  
16 my community. Since I started going to church, I have realized that it's important to do nice  
17 things for other people.

18 I want to say up front that I do know some of the other people involved in this case. I  
19 grew up with Marion Morgan's granddaughter, Hannah. I have always thought the Morgans  
20 were a very nice family. I mean, they had money but they weren't stuck up about it or  
21 anything. It's been sad that lately that Marion Morgan doesn't always recognize me, but I  
22 guess that's just what happens sometimes when you start go grow older. I have very fond  
23 memories of going over to the Morgan's house to hang out with Hannah. Marion always

24 took the time to ask me how I was doing. I was really sad when Morgan's husband/wife  
25 died, but I understand s/he was really happy when s/he got married to Jo.

26 I'm not testifying on behalf of St. Cam's just because the Morgan's were nice to me  
27 when I was a kid. The fact of the matter is that I was there; I saw it happen. I think I  
28 probably saw more than anyone else and I'm here to tell you, neither Marion Morgan nor  
29 St. Cam's are at fault for what happened.

30 Just so you know, I also grew up around Parker Clarke's family. S/he has been  
31 instrumental in helping prepare me for a career in Hospital Management. But, when you  
32 come to think of it, who didn't I grow up with here? Even with all the people moving to this  
33 area, Hailey is still a pretty small town. If you threw a rock here, there's a pretty good  
34 chance that it would hit someone you know. Not that I would throw a rock at anyone. I  
35 don't do that kind of stuff anymore.

36 But, back to the night of the incident. It happened on March 23rd. I know it was the  
37 23rd because I always volunteer on Thursdays. That night they needed me to help with the  
38 weekly bingo games. I set everything up and at 7:00 on the dot everyone was ready to play.  
39 For old people, the folks at St. Cam's can be a little rowdy when it comes to their bingo.  
40 Everyone was talking loudly (of course some of that was because not all of them have the  
41 best hearing aids) and, well talking smack to each other in that old people kind of way. They  
42 sure like their mama jokes! It really didn't seem to me to be out of the ordinary. Just like  
43 any other bingo night on any other week.

44 I saw Morgan come into the game room. S/he seemed a little unsteady but I noticed that  
45 s/he didn't have his/her cane with him/her. I have known Morgan for many years and I  
46 have never known him/her to drink. Morgan sat down next to Ryan Clanahan who was just  
47 sitting there, pouting as usual. At first they both seemed to be fine, and I was kind of  
48 surprised.

49 Everyone knows that Ryan is prone to picking fights and Marion seemed to be his/her  
50 favorite target. I remember seeing Ryan cornering Marion in the hallway one afternoon.  
51 S/he could be really menacing. It think Ryan was jealous that Morgan was a self-made  
52 person who worked hard to make a life for his/her family and I just don't think Morgan had  
53 any use for some over privileged rich kid like Ryan who never worked a hard day's work in  
54 his/her life and who was at St. Cam's because of his/her own stupidity.

55 After Morgan and Ryan had been sitting there for a while, Dot Johnson came in and sat  
56 in front of the two of them. Dot's kind of a big gal so I couldn't really see past her to what  
57 Morgan and Ryan were doing but I could still hear clearly. All of the sudden, one of them  
58 stands up and starts yelling, "You cheater. That was my bingo card." I'm almost certain it  
59 was Ryan. And then Ryan pushed and was trying to hit Morgan. I mean, that's lame: a  
60 young person trying to beat up on a senior citizen. What a slime ball.

61 So, Marion got away from Ryan and came to the front of the room where the bingo cage  
62 is. In case you don't know what a bingo cage is, they are those round metal cages and you  
63 spin them around to mix up the bingo balls before you grab out a number. They aren't too  
64 big really; they only weigh a few pounds. Anyway, Morgan picked up the cage to try to  
65 protect himself/herself from Ryan who was trying to lunge across the table at Morgan.  
66 Morgan must have thrown the cage to try to protect himself/herself from Ryan's attack and  
67 the cage hit Ryan in the head. Ryan then slipped and hit his/her head on the corner of the  
68 table. S/he slumped down to the floor and just lay there. I was sure s/he was dead. S/he  
69 wasn't, but I don't think s/he ever regained consciousness.

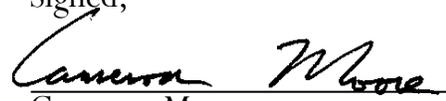
70 From what I saw, and frankly, I saw it all; this was not Morgan's fault. S/he was just  
71 trying to protect himself/herself from Ryan who had turned into an angry beast. And, I  
72 don't see how it could be the fault of St. Cam's. They certainly didn't make Ryan behave  
73 like that. This is simply the fault of a sick patient having an accident. To say otherwise is just  
74 plain nonsense. Look, it's always sad when someone dies, even people who are really just a

75 waste of space, but that doesn't mean someone has to be punished. This was just an accident  
76 and an accident that was instigated by one person: Ryan Clanahan.

77 **WITNESS ADDENDUM**

78 I have reviewed this statement, and I have nothing of significance to add at this time. The  
79 material facts are true and correct.

80 Signed,

  
Cameron Moore

81

## Parker Clark, Nursing Home Administrator

1 My name is Parker Clark. I'm 47 years old, and for the last three years I've been the  
2 administrator at St. Cam's in Hailey, Idaho. I earned a bachelor's in nursing home  
3 administration from Boise State in 1987, and an MBA from Washington State University in  
4 1989. I am current on all my certifications and continuing education requirements, and I am  
5 licensed by the State of Idaho as an administrator of a residential care and assisted living  
6 facility.

7 I was born in Hailey, and I'm thrilled to finally be back home. I've worked in some form  
8 of residential care administration my entire career, but this is the plumb job I've been after.  
9 The administrator position at St. Cam's came open five times in the ten years before I got  
10 the job, and I applied each time. I didn't even get an interview the first three times – I think  
11 they wanted someone with more experience. After all, this is Hailey, where everyone wants  
12 to work. The fourth time I got an interview, but they didn't call back. The fifth time was the  
13 charm. I submitted my application and resume, and made a couple of follow up calls, but  
14 didn't hear anything. Then one day, just about four weeks after they posted the job, they  
15 called and offered it to me. The hiring person must have remembered me from my last  
16 application and interview, because he said I was good enough – that's an exact quote:  
17 “Mr./Ms. Clark, you're good enough” – and wanted me to start the next day!

18 Like I say, I'm thrilled to be back home in Hailey. Having grown up here, I know most  
19 of the local people, and because my family was somewhat prominent I know a lot of the new  
20 comers, too. My spouse is from a prominent Chicago family, so s/he feels very comfortable  
21 in Hailey, as well. I know that outsiders think Hailey can be a pretty snobbish place, but  
22 really I don't see that at all. I mean, these are just hard working people who like to be with  
23 their own kind, like everyone else. It's just that, when they work hard, they make a lot of  
24 money. It's just the atmosphere we want to raise our children in. We have three, by the way  
25 – Aleph, Coco, and Bluebell.

26        Anyway, my job is about 75% administrative and 25% floor duty. A lot of administrators  
27 like to hide in their offices, but not me. I enjoy working with the staff and the residents.  
28 Besides, working the floor makes me a better administrator because I can see first-hand how  
29 things are going.

30        I was working the floor the night of this tragic incident. I wasn't actually scheduled, but a  
31 couple of staff had called in sick at the last minute and I had to fill in. Hey, I can't ask anyone  
32 else to do anything that I'm not willing to do myself. I was at the end of a 14-hour stint and  
33 decided to check in on the bingo game on my way out the door. It's really a kick to hear the  
34 geezers trash talk while they fill out their cards. Well, everything looked good, just a normal  
35 bingo night, when all of a sudden Ryan Clanahan just went off and started yelling at Morgan  
36 that Morgan was a cheater. They stood up, and there was some pushing, and then Morgan  
37 walked to the front of the room, grabbed the bingo cage, and threw it at Ryan. Well,  
38 Morgan is a lot bigger than Ryan, and still has a lot of strength, even for an 86-year-old.  
39 Ryan just flew backward and fell over a chair. On the way down s/he hit his/her head on  
40 the corner of a table. It must have been pretty hard, because the docs said s/he had a severe  
41 subdural hematoma. This was an especially bad injury given that s/he already had a head  
42 injury from his/her car accident. Well, Ryan was out like a light. Sadly, s/he never woke  
43 up.

44        I was shocked. There had never been any indication that Morgan was violent. Absolutely  
45 none! I don't know what Asa Price thinks s/he is trying to pull, but s/he never made any  
46 complaints about anything while s/he worked here. I understand that Asa now has three  
47 incident forms that s/he says s/he gave to me saying that Morgan assaulted another resident.  
48 That's just not true. St. Cam's has a very specific complaint procedure that everyone is  
49 trained to follow. If a staff member sees any incident involving the safety of residents, then  
50 that person completes an incident form. The incident form is submitted to me and I sign it. I  
51 give a copy to the staff member, I keep a copy, and a copy is given to the resident, so that

52 everyone involved has a copy with both signatures. The incident reports Asa has are not  
53 signed by me, which means I never received them. Privacy laws prevent me from saying  
54 exactly why Asa was fired, but let's just say that if Asa handled his/her other job duties the  
55 way s/he has handled these so-called complaints, well, it's no wonder s/he was canned.

56 Of course, bad things do happen in residential care facilities. I mean, these are old, sick  
57 people. Stuff happens. But the media like to turn everything into a horror story – if it  
58 bleeds, it leads, right? Most people don't understand how residential care facilities work and  
59 how strictly we are regulated. The State of Idaho sends in an inspection team at least once a  
60 year. There are over 150 federal and state regulatory standards we have to comply with.  
61 With that many regulations you can imagine that some of them are pretty rinky-dink, but I  
62 take them all seriously and try to make sure we are in compliance with each and every one.  
63 Each year the data that we report and that the State collects are used by Medicare to  
64 compare St. Cam's to other nursing homes using a five-star rating system. You can find it at  
65 [www.medicare.gov](http://www.medicare.gov). We have shown a lot of improvement since I took over. In the six  
66 years before I got here the overall average rating of St. Cam's was one star.

67 My first year it was two stars, and the last two years we've had three. Our staffing has  
68 been at four stars the last two years. The complaints against us and the amount of fines St.  
69 Cam's has had to pay have been way down. And I'm not done yet – I won't rest until we  
70 have five stars and no fines, but I've made a lot of progress.

71 Like I said, we have regular inspections from the state regulator's office. I see more of  
72 that hippy pothead Harper Allen than I would like. Whether someone complains or not,  
73 Harper seems to like being here. S/he's your typical government bureaucrat who won't be  
74 happy until the government controls every aspect of our life.

75 I mean on his/her last visit s/he actually complained that we changed the paper towels in  
76 the rest rooms only three times a day instead of the mandated four times. Some people,  
77 especially those government types, grab onto their one little corner of power and hold on

78 for dear life. It's ridiculous if you ask me. Besides that, I know that Harper took a bribe to  
79 try to bring St. Cam's down. I know the case was dismissed by the courts, but the courts  
80 aren't always right.

81 As I mentioned, I had no idea that Morgan could be violent. We have a strict admissions  
82 process, dictated by law. One of the requirements is a complete physical within six months  
83 before admission. Morgan's spouse showed us one that had been done five and a half months  
84 earlier that showed no signs of Alzheimer's or dementia. While I would have liked to have  
85 seen one a little more recent – I mean, things can change fast with an 86-year-old –  
86 Morgan's spouse assured me that nothing had changed. When I met with Morgan, s/he  
87 seemed to be very highly functioning. Let's face it, all of our residents are a banana or two  
88 shy of a full bunch, otherwise they wouldn't be here. But Morgan didn't seem any more off  
89 center than anyone else here. There was no reason not to let him/her in.

90 I know people are saying that we let Morgan in because s/he was private pay and loaded.  
91 But private pay is not unusual at all. In fact, the average private pay population at all nursing  
92 homes is 50%. Hailey is higher than average, about 65%, just because we tend to have a  
93 more affluent population. So to say that Morgan got special treatment or that we bent the  
94 rules for him/her just because s/he is private pay is ridiculous. Besides, private pay benefits  
95 all the residents. Because we have such a high private pay population we can offer services to  
96 all the residents that a lot of places can't offer. We don't have to skimp on staff, for  
97 example, because we don't have to stick to as tight a budget as other places. I understand  
98 Reese Carter thinks Ryan would have been better off in a different facility, but the level of  
99 care at St. Cam's is among the best in the country.

100 Once we accept a resident, we can't just get rid of them. Residents have rights. Even if  
101 we have a reason to kick them out we have to give them notice, and if they contest it the  
102 process can take weeks. If a resident is a danger to himself or others then we can start the  
103 process, but first we have to have some reason to believe the resident is a danger. Like I

104 said, Morgan just never did anything dangerous. Maybe if Asa had really seen something and  
105 actually filed an incident report we could have done something.

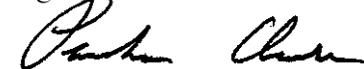
106 I also know that people are blaming St. Cam's because we let Morgan drink. Morgan was  
107 known to keep a little gin in his/her room. If we see a resident visibly intoxicated we cut  
108 them off and keep an eye on them. If we see signs that a resident has an alcohol dependency,  
109 then we address that with the resident, the family, and the medical staff. But at the end of  
110 the day, we aren't a prison. Residents have rights, including the right to privacy, and the  
111 right not to be discriminated against for exercising those rights. If a resident wants to get  
112 alcohol, there is not much we can do to stop it. We can evict a resident for endangering the  
113 health or safety of others, but we can't evict a resident just because they are difficult or  
114 obnoxious, or because we disagree with their lifestyle choices. But again, Morgan was none  
115 of those things.

116 Of course, I feel terrible for Ryan and his/her family. But there is nothing that I or  
117 anyone else could have done about it. This was just a completely unforeseeable freak  
118 accident, one, I might add that Ryan himself/herself helped to instigate. I'm sorry s/he's  
119 dead but sooner or later a person's behavior is going to catch up to them.

120 **WITNESS ADDENDUM**

121 I have reviewed this statement, and I have nothing of significance to add at this time. The  
122 material facts are true and correct.

123 Signed,



124 

---

Parker Clark

## Jo Morgan

1 My name is Jo Morgan, and I am the spouse of Marion Morgan. I was born and raised in  
2 New Jersey. I'm 67 years old. I know, I know, I am quite a bit younger than Marion, but,  
3 what can I say? Marion acts much younger than his/her years.

4 I spent most of my life working in the casinos in Atlantic City. That's how I met Marion.  
5 S/he was on one of those senior citizen trips and came to my black jack table and seemed to  
6 park there for most of the night. After my shift was over, Marion asked me out for a drink.  
7 We got to talking and realized we had a lot in common what with both of us losing our  
8 spouses in the last two years. You get to an age when companionship is really important and  
9 it sure is nice to find someone you actually really like to spend time with. It helps to keep  
10 the loneliness at bay.

11 Last fall, Marion and I decided that s/he needed to enter a nursing home. It was a very  
12 difficult decision. S/he is 86 years old, and while s/he is still physically in good shape  
13 his/her mind was starting to go. Nothing major, but he/she would forget little things, like  
14 to turn the stove off, or where we lived. Well, I did my best to ride herd, so to speak, but  
15 my health is not what it used to be. I might be the one with the good mind, but I don't have  
16 the good body, and that makes it hard to take care of Marion.

17 Marion has lived in Hailey all his/her adult life. I moved here when we were married 12  
18 years ago. Marion was already retired by then. Marion might be more senior than I am, but  
19 you wouldn't know it from that body. S/he had worked hard all his/her life and was very  
20 successful. We had a good time together and just enjoyed doing the things that retired  
21 people who don't have to worry about money get to do.

22 Anyway, when we decided Marion had to go to a nursing home, we did a lot of research.  
23 After all, Marion could afford the best, so the best is what we looked for. At first we looked  
24 all over the country, but ultimately decided not to leave Hailey. We weren't initially that  
25 excited about St. Cam's, since it had a spotty history. But after we met with Parker Clark

26 and saw how hard he was working to improve the facility, we decided it was the place for  
27 Marion.

28 It was quite an application process. One of the things Marion had to have was a physical  
29 within the six months prior to admission. Well, the most recent one was done almost six  
30 months prior. Parker Clark asked if we could get an update, but we were going on our last  
31 big trip before the move and we just didn't have time. Besides, nothing was any different.  
32 Marion looked just the same to me.

33 Now, I know that his/her past has come up, and I just want to say, Parker Clark is right  
34 – there is nothing there to be concerned about. Marion had one violent incident long, long  
35 ago, long before I knew him/her. I never saw any violent tendencies, or even a bad temper.  
36 Marion did like to drink, but he/she was always a happy drunk. It did get him/her into  
37 trouble with the law, though. His/her judgment was not always the best after he/she had a  
38 few, and he/she did get two or three DUIs. Fortunately, he/she only had one conviction.  
39 Having made a good living, he/she could afford the best when it came to legal  
40 representation, and that was a real blessing. Money does sometimes get you results that you  
41 couldn't get just on charm and good looks.

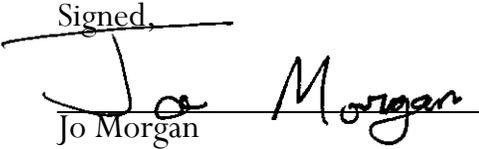
42 I visited Marion almost every day at St. Cam's. S/he was very happy there and spoke  
43 very highly of the staff and the other residents. S/he never said there were any problems  
44 with anyone. No one there ever said they had any concerns about Marion's behavior at all. I  
45 did see Asa Price at St. Cam's on several of my visits. S/he was always very courteous and  
46 helpful. S/he said Marion was doing very well adjusting to life in the nursing home.

47 When Parker Clark called me and said that Marion had got into a fight with another  
48 resident, why, I couldn't believe it. The only explanation I can give is that his/her mind  
49 must be slipping further away. When I asked Marion about it, s/he had no idea what I was  
50 talking about. S/he said that Ryan Clanahan was a very nice person, that s/he liked playing  
51 bingo with Ryan, and that s/he was looking forward to seeing Ryan at next week's game. Of

52 | course, I didn't have the heart to tell Marion that Ryan was dead, let alone that Marion was  
53 | the one who caused Ryan's fatal injury.

54 | **WITNESS ADDENDUM**

55 | I have reviewed this statement, and I have nothing of significance to add at this time. The  
56 | material facts are true and correct.

57 |  Signed,  
58 | Jo Morgan

## Exhibits

---

The subsequent pages of this section include the following exhibits:

- Exhibit 1: Hailey Police Department Incident Report
- Exhibit 2: Incident Report #1
- Exhibit 3: Incident Report #2
- Exhibit 4: Violation Notice
- Exhibit 5: Bingo Cage Specifications
- Exhibit 6: Map of Accident Scene
- Exhibit 7: News Article
- Exhibit 8: Excerpts from St. Cam's Policy Handbook
- Exhibit 9: Intake Form
- Exhibit 10: St. Cam's Resident Bill of Rights
- Exhibit 11: Selected Statutory Provisions

## EXHIBIT 1: HAILEY POLICE DEPARTMENT INCIDENT REPORT

On the evening of March 23, 2011, at 1950 hours, Det. Barrett Nelson of the Hailey Police Department responded to a report of an incident at St. Camillus Care Facility.

Upon arrival on scene, Det. Nelson tasked the other members of the department who had previously arrived with security and scene preservation and then interviewed several witnesses on scene.

The injured party, Ryan Clanahan, was unable to speak and Blaine County EMTs were departing the scene with Clanahan on a gurney.

Marion Morgan was interviewed on scene. Morgan, 86 appeared to have some unsteadiness and incoherence and was unable to explain what had happened, except to say, "That will teach him/her to cheat!"

Asa Price CNA was interviewed and indicated that Morgan had been a problem resident since s/he began staying at St. Cam's. Morgan is frequently drunk and has a past history of violence. Price indicated that "s/he knew something bad was going to happen," but s/he "couldn't get anybody to pay attention to the fact that Morgan was a problem."

Cameron Moore was also interviewed. Cameron is acquainted with Morgan and was volunteering at St. Cam's on the night of the incident, leading the bingo game. Cameron indicated that Morgan is the nicest person s/he knew, and strongly disputed that Morgan was drinking. Cameron believed that Ryan had pushed Marion, and "got what s/he deserved."

After investigation, it is apparent that Morgan was clearly not supervised appropriately. St. Cam's was understaffed and overwhelmed, and Morgan's actions appear to have been foreseeable and preventable. Morgan has a history of violence and in spite of clear indications of trouble, St. Cam's failed to adequately respond.

Will attempt to interview Ryan Clanahan when available.

No citations or arrests were made of persons at the scene, because of conflicting evidence as to the instigator of the confrontation. Transmit report of investigation to prosecutor for review of potential charges against St. Camillus.

Addendum: 4/11/11: Ryan Clanahan died of a brain injury – subdural hematoma – suffered at St. Camillus. Unable to obtain statement. Report of Investigation transmitted to prosecutor.

EXHIBIT 2: INCIDENT REPORT #1

St. Cam's Resident Incident Report

For Record:

Your Name: Asa Price

Resident/s Involved: Morgan, Jones

INCIDENT DESCRIPTION

What happened? Time: 8:45 am Date: 8/24/2010

Location: Dining Room

Resident Morgan was sitting across the table from Resident Jones. Morgan asked Jones to pass the salt. Jones apparently did not hear as Jones just kept eating. Morgan grabbed a fork and thrust it at Jones saying that s/he (Morgan) ought to "ventilate" Jones right then and there. Jones was clearly very scared. I confronted Morgan, who threw down the knife and left the table.

Injury Involved? No

Your Signature: Asa Price Time/Date Reported: 9/7/2010@10am

By signing this document you acknowledge that the statement made is true and correct to the best of your knowledge and belief, and that you have received a copy of this incident report.

Administrator Signature: \_\_\_\_\_ Time/Date Received: \_\_\_\_\_

The Administrator acknowledges receipt of this incident report from the above staff member, and has given a copy to the staff member and the resident/s involved.

The Administrator, the Staff member, and the Resident/s will meet on \_\_\_\_\_ at \_\_\_\_\_ for follow up.

Generated by CamScanner

EXHIBIT 3: INCIDENT REPORT #2

St. Cam's Resident Incident Report

For Record:

Your Name: Asa Price

Resident/s Involved: Morgan Callahan

INCIDENT DESCRIPTION

What happened? Time: 1:30 pm Date: 2/28/2011

Location: North Hallway

Resident Callahan was walking from the dining room to his private room when he passed Resident Morgan. Morgan got within inches of Callahan, blocking Callahan's path. Morgan said, "you're not going to beat me at bingo again, you Hollywood punk" Morgan then just bumped Callahan and walked away. Callahan is much smaller than Morgan. Callahan stood by the wall for a minute and looked to me to be shaking. I asked Callahan if he was okay. He said he was, and said something about not being afraid of a stupid drunk. Callahan then went to his room.

Injury Involved? No

Your Signature: Asa Price Time/Date Reported: 3/3/2011 @ 9am

By signing this document you acknowledge that the statement made is true and correct to the best of your knowledge and belief, and that you have received a copy of this incident report.

Administrator Signature: \_\_\_\_\_ Time/Date Received: \_\_\_\_\_

The Administrator acknowledges receipt of this incident report from the above staff member, and has given a copy to the staff member and the resident/s involved.

The Administrator, the Staff member, and the Resident /s will meet on \_\_\_\_\_ at \_\_\_\_\_ for follow up.

St. Cam's

EXHIBIT 4: VIOLATION NOTICE

State of Illinois  
Notice of Violation

Facility: St. John of the Triple Rock Rehab. Center

Location: 3235 East 91st St, Chicago

Date of Inspection: 11/13/2007

**VIOLATION 1:**

During inspection it was discovered that required documents were missing from the files of some residents.

**VIOLATION 2:**

Routine interviews were conducted with family members. It was reported that incident reports were not always followed up on according to established procedure.

**VIOLATION 3:**

N/A

License Revoked?  Yes  No

Probation?  Yes  No **Until:** 6/1/2008

**Disposition:** Facility will keep accurate records with required documents in each resident file. All incident reports shall be followed up on as required by regulation within 5 days of being filed. The Department shall conduct monthly inspections during the period of probation to monitor compliance.

Inspector: R. Cleophus James Date: 11/15/2007

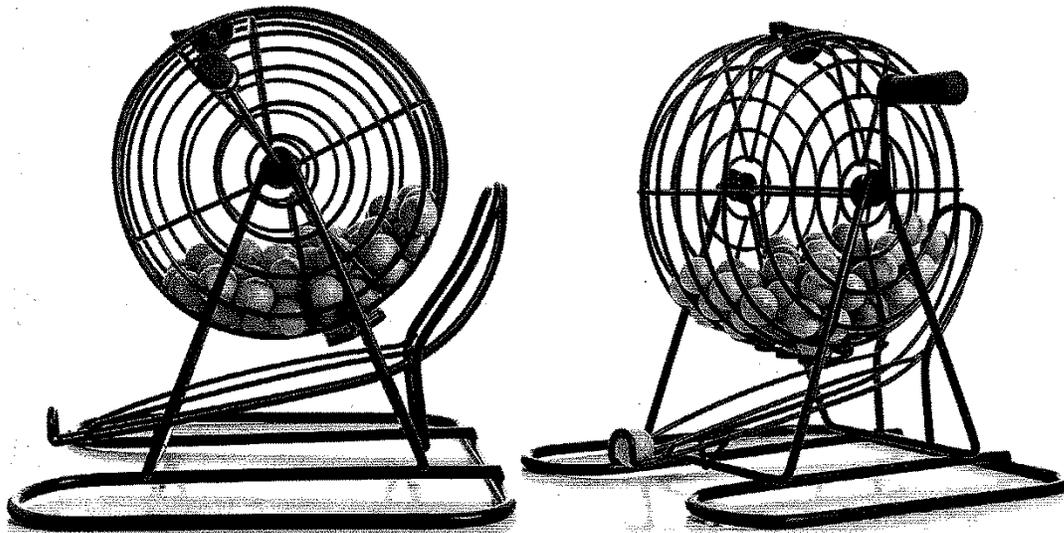
Assistant

^Administrator Signature: Parker Clark Time/Date Received: 11/15/2007

## EXHIBIT 5: BINGO CAGE SPECIFICATIONS

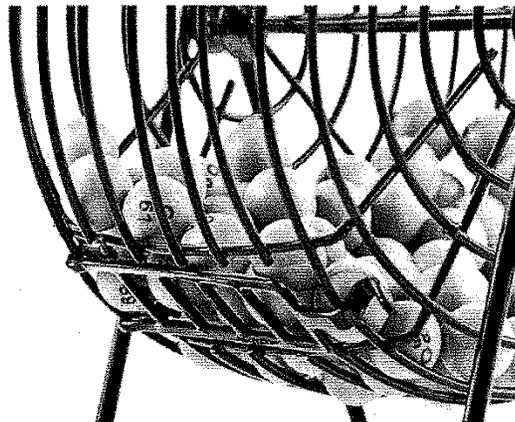
### **FESTIVAL 2000 BINGO CAGE SET**

The name says it all. This Bingo Cage Set comes with a 20" high rubberized cage and 1 set of plastic alphanumeric bingo balls.

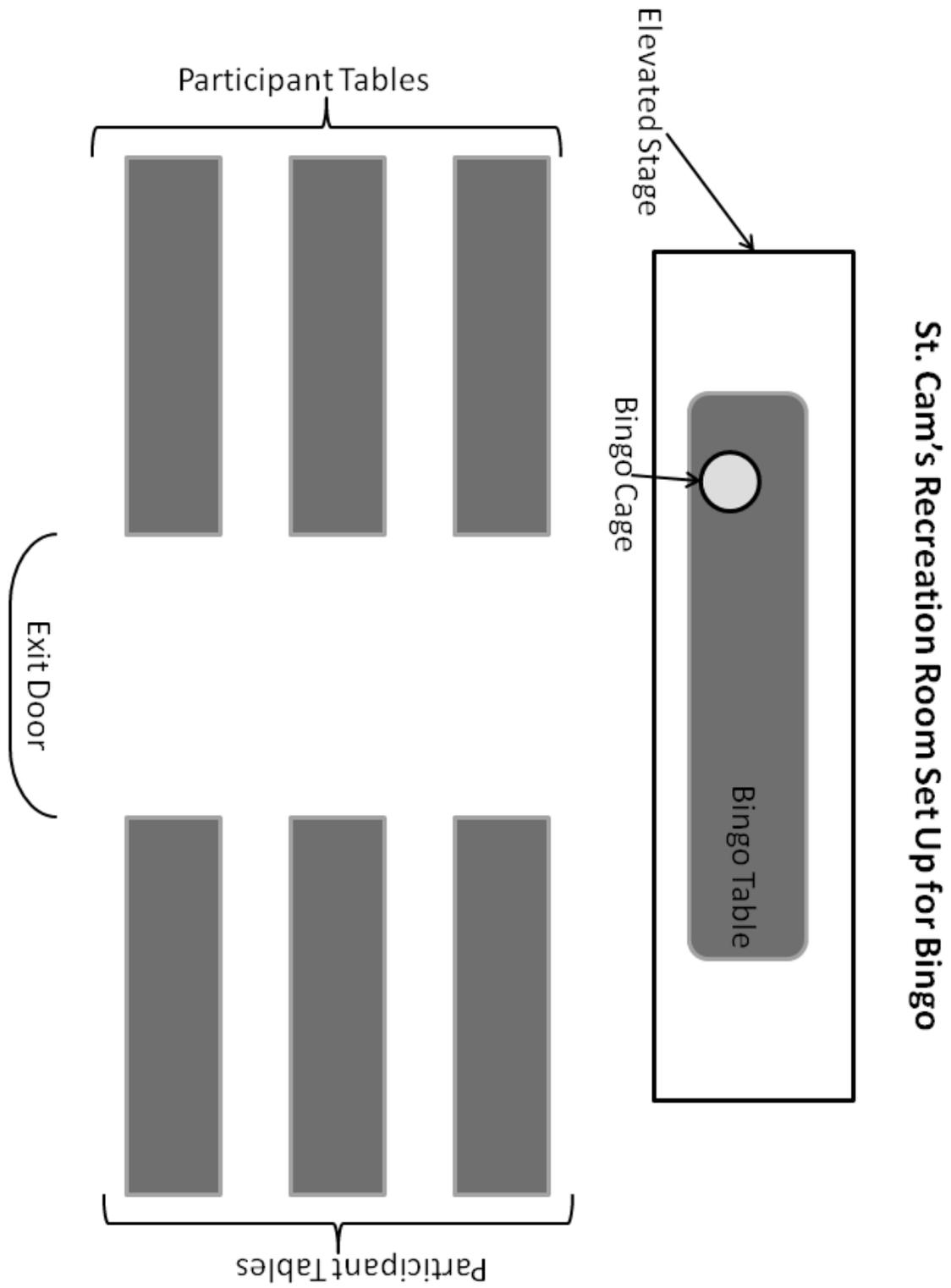


### **SPECIFICATIONS**

- 20 x 18 x 16 inches
- 5.45 pounds empty
- 7.25 pounds full
- Professional grade
- Metal with PVC coating
- Plastic handle
- Sturdy base
- 75 alphanumeric balls



# EXHIBIT 6: MAP OF ACCIDENT SCENE



## EXHIBIT 7: NEWS ARTICLE

# THE WEEKLY GOSSIP

Volume XXIV, Issue XVIII

March 15, 2010

## In or Out? Half of R<sup>2</sup> Makes the Scene

Pap R. Azzi, Editor

Looks like Reese Carter has already moved forward with his/her life. Or would that be backwards? Who's to say?

Last night, Reese, 35 year old spouse of Ryan Clanahan was seen dining at the tony Michel's Christiania Restaurant in Ketchum, Idaho with his/her ex squeeze, Taylor Campbell. Several patrons at the restaurant reported to *The Gossip* that the pair were particularly chummy for people who are both supposedly committed to other people.

You may recall that Reese has been residing part time in Sun Valley while his/her supposed significant other recuperates from a brain injury suffered after a car accident. Ryan Clanahan, a past winner of the reality television series *How Would You Demean Yourself for Money*, is in St. Camillus' Care Facility in the ultra rich Hailey, Idaho recovering from a brain injury sustained when s/he, after a night of drinking and taking drugs with friends, was driving his/her Porsche at 70 MPH on a country road North of Sun Valley and crashed into a tree.

Ryan is best known for his/her volatile temper and for picking fights with people, which is well documented from his/her appearance on the reality TV show and by his/her altercations with the paparazzi. You may recall that Ryan was forced to pay the big bucks to *Celebrity Daily* after s/he broke the nose of one of CD's photographers who tried to capture a good

shot of a drunken Ryan and Reese out on the town for their usual night of Vodka induced debauchery. Prior to his/her appearance on HWYDYFM, Ryan was a champion body builder, so I guess s/he was stronger than s/he knew. Certainly, s/he was lighter in the pocketbook after that little mishap.

But we digress here at *The Gossip*. Reese, whose only real claim to fame is co-starring in the Depraved Departed slasher flicks and whose only real talent is dating rich celebrities, must have had enough of Ryan's disruptive behavior. Heaven knows, s/he couldn't risk any loss of funds when his/her spouse can't seem to stay out of fights. The cost must have gotten too much for Reese who filed to have the marriage annulled just weeks before Ryan's tragic accident.

As you know, Reese and Ryan had married in Las Vegas after only knowing each other for less than a month. They were married for less than six months when Ryan got into his/her accident and Reese had already initiated the annulment process. While she has been visiting Ryan when it doesn't interfere with his/her latest B-movie filming schedule (after all, how would it look to abandon your brain-injured spouse?) it seems our dear Reese is already looking for another deep pocket to put her hand in. Perhaps Taylor is just the trick for our wannabe star on the rebound.

## **EXHIBIT 8: EXCERPTS FROM ST. CAM'S POLICY HANDBOOK**

### **Resident Policy No. 6.01**

The consumption or possession of alcohol by residents at St. Camillus' is strictly prohibited. If you see another resident consuming or possessing alcohol, please immediately report your observation to the facility administrator.

### **Employee Policy No. 11.01**

At St. Camillus' Care Facility, our number one priority is top quality patient care. In order to provide such care, it is imperative that all staff members comply with all of the policies in this handbook and all state and federal regulations governing our facility. Accordingly, as an employee of St. Camillus', you have an obligation to report any violations of any St. Camillus' policy and any violation of any state or federal regulation. If you are unsure of whether certain conduct violates a specific policy or regulation, please consult your immediate supervisor. All formal reports of violations shall be made to the facility administrator.

### **Employee Policy No. 11.02**

The consumption or possession of alcohol by staff members or residents at St. Camillus' is strictly prohibited. Any violation of this policy shall be reported pursuant to Policy No. 11.01. If a visitor brings any alcohol on the premises, the alcohol shall be confiscated and taken to the facility administrator immediately. The visitor shall also be advised of the prohibition of alcohol on the premises. If you see another staff member or a resident consuming or possessing alcohol, please immediately report your observation to the facility administrator.

## EXHIBIT 9: INTAKE FORM

*St. Camillus' Care Facility*  
*"Long-Term Care Where We Care About You"*

### INTAKE FORM

Contact Information:

Name: Jo Morgan  
Address: 247 Happy Valley Road  
City/State/Zip: Hailey, ID 83333  
Phone Number: (208) 555-1234  
Email Address: we don't use e-mail  
Relationship to Client: Spouse

Client Information:

Name: Marion Morgan  
Address: 247 Happy Valley Road  
City/State/Zip: Hailey, ID 83333  
Phone Number: (208) 555-1234  
Sex: Male / Female  
Date of Birth: May 24, 1924

Diagnosis (check all that apply):

<input type="checkbox"/> Alzheimer's	<input type="checkbox"/> Diabetes	<input type="checkbox"/> Mental Illness
<input type="checkbox"/> Congestive Heart Failure	<input type="checkbox"/> Emphysema	<input type="checkbox"/> Multiple Sclerosis
<input type="checkbox"/> Dementia	<input type="checkbox"/> Heart Disease	<input type="checkbox"/> Parkinson's
<input type="checkbox"/> Depression	<input type="checkbox"/> Head Injury	<input type="checkbox"/> Stroke

Assistance Needed (check all that apply):

<input type="checkbox"/> Bathing	<input type="checkbox"/> Incontinence	<input checked="" type="checkbox"/> Transportation
<input type="checkbox"/> Catheter	<input checked="" type="checkbox"/> Laundry	<input type="checkbox"/> Walking
<input checked="" type="checkbox"/> Dressing	<input checked="" type="checkbox"/> Meal Preparation	
<input type="checkbox"/> Feeding	<input type="checkbox"/> Medications	

Medial Aides Used:

Bedridden                       Oxygen                       Walker  
 Cane                                       Tube Feeding                       Wheelchair  
 Hoyer Lift                               Ventilator

Medications:

Name: Celebrex                      Dose/Frequency: 100 mg 2x a day  
Name: Aricept                      Dose/Frequency: 23 mg 1x a day  
Name: Lipitor                      Dose/Frequency: 40 mg 1x a day  
Name: \_\_\_\_\_                      Dose/Frequency: \_\_\_\_\_  
Name: \_\_\_\_\_                      Dose/Frequency: \_\_\_\_\_  
Name: \_\_\_\_\_                      Dose/Frequency: \_\_\_\_\_  
Name: \_\_\_\_\_                      Dose/Frequency: \_\_\_\_\_  
Name: \_\_\_\_\_                      Dose/Frequency: \_\_\_\_\_

Substance Abuse:

Alcohol: 3 drinks/week  
Other: no abuse                      Frequency: \_\_\_\_\_

Has the client ever been convicted of a criminal offense  Yes  No  
If yes, please provide the name of the offense, the date of the offense, and the penalty imposed:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that all of the information contained in this form is complete and accurate:  
\_\_\_\_\_  
Name Ja Morgan                      Date 4 December, 2009

## EXHIBIT 10: ST. CAM'S RESIDENT BILL OF RIGHTS

We at St. Cam's are privileged to have you as a resident at our facility. We strive to provide the best in care and services. It is important to us that you know your rights. If you have any questions about your rights or believe that your rights have been violated, tell a member of our staff right away.

- 1) Residents have the right to be free of unnecessary physical or chemical restraints. Vests, hand mitts, seat belts and other physical restraints, and antipsychotic drugs, sedatives, and other chemical restraints are impermissible, except when authorized by a physician, in writing, for a specified and limited period of time.
- 2) To assist residents, facilities must inform them of the name, specialty, and means of contacting the physician responsible for the resident's care. Residents have the right to participate in care planning meetings.
- 3) When a resident experiences any deterioration in health, or when a physician wishes to change the resident's treatment, the facility must inform the resident, and the resident's physician, legal representative or interested family member.
- 4) The resident has the right to gain access to all his or her records within one business day, and a right to copies of those records at a cost that is reasonable in that community. The facility must explain how to examine these records, or how to transfer the authority to obtain records to another person.
- 5) The facility must provide a written description of legal rights, explaining state laws regarding living wills, durable powers of attorney for health care and other advance directives, along with the facility's policy on carrying out these directives.
- 6) At the time of admission and during the stay, nursing homes must fully inform residents of the services available in the facility, and of related charges. Nursing homes may charge for services and items in addition to the basic daily rate, but only if they already have disclosed which services and items will incur an additional charge, and how much that charge will be.
- 7) The resident has a right to privacy, which is a right that extends to all aspects of care, including care for personal needs, visits with family and friends, and communication with others through telephone and mail. Residents thus must have areas for receiving private calls or visitors so that no one may intrude and to preserve the privacy of their roommates

- 8) Residents have the right to share a room with a spouse, gather with other residents without staff present, and meet state and local nursing home ombudspersons or any other agency representatives. They may leave the nursing home, or belong to any church or social group. Within the home, residents have a right to manage their own financial affairs, free of any requirement that they deposit personal funds with the facility.
- 9) Residents also can get up and go to bed when they choose, eat a variety of snacks outside of meal times, decide what to wear, choose activities, and decide how to spend their time. The nursing home must offer a choice at main meals, because individual tastes and needs vary. Residents, not staff, determine their hours of sleep and visits to the bathroom. Residents may self-administer medication.
- 10) Residents may bring personal possessions to the nursing home such as clothing, furnishings and jewelry. Residents may expect staff to take responsibility for assisting in the protection of items or locating lost items, and should inquire about facility policies for replacing missing items. Residents should expect kind, courteous, and professional behavior from staff. Staff should treat residents like adults.
- 11) Nursing home residents may not be moved to a different room, a different nursing home, a hospital, back home or anywhere else without advance notice, an opportunity for appeal and a showing that such a move is in the best interest of the resident or necessary for the health of other nursing home residents.
- 12) The resident has a right to be free of interference, coercion, discrimination, and reprisal in exercising his or her rights. Being assertive and identifying problems usually brings good results, and nursing homes have a responsibility not only to assist residents in raising individual concerns, but also to respond promptly to those concerns.

## **EXHIBIT 11: SELECTED STATUTORY PROVISIONS REGARDING LONG TERM CARE FACILITIES**

### **§ 39-3301. LEGISLATIVE INTENT AND DECLARATION**

The purpose of a residential care or assisted living facility in Idaho is to provide a humane, safe, and homelike living arrangement for adults who need some assistance with activities of daily living and personal care.

A residential care or assisted living facility shall be operated and staffed by individuals who have the knowledge and experience required to provide safe and appropriate services to all residents of the facility.

The administrator of the facility shall ensure that an objective, individualized assessment to determine resident needs is conducted, develop a comprehensive negotiated plan of care to meet those needs, deliver appropriate services to meet resident needs, and ensure resident rights are honored.

### **§ 39-3302. DEFINITIONS**

As used in this chapter:

(3) "Administrator" means an individual, properly licensed by the bureau of occupational licensing, who is responsible for day-to-day operation of a residential care or assisted living facility.

(10) "Core issues" means abuse, neglect, exploitation, inadequate care, a situation in which the facility has operated for more than thirty (30) days without a licensed administrator designated the responsibility for the day-to-day operations of the facility, inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system, and surveyors denied access to records, residents or facilities.

(16) "Inadequate care" occurs when a facility fails to provide a safe living environment or engages in violations of resident's rights.

(21) "Negotiated service agreement" means the agreement reached by the resident and/or their representative and the facility, based on the assessment, physician's orders, admission records, and desires of the resident, and which outlines services to be provided and the obligations of the facility and the resident.

(24) "Resident" means an adult who lives in a residential care or assisted living facility.

(27) "Substantial compliance" means a facility has no core issue deficiencies.

(28) "Supervision" means administrative activity which provides the following: protection, guidance, knowledge of the resident's general whereabouts, and assistance with activities of daily living. The administrator is responsible for providing appropriate supervision based on each resident's negotiated service agreement or other legal requirements.

### **§ 39-3309. NEGOTIATED SERVICE AGREEMENT**

(1) Each resident shall be provided a negotiated service agreement to provide for coordination of services and for guidance of the staff and management of the facility where the person resides. The negotiated service agreement shall be reviewed at least annually.

(3) The administrator shall consult the resident, the resident's family, friends, case manager and/or consumer coordinator, as necessary, in the development of the resident's service agreement.

### **§ 39-3313. ADMISSION AGREEMENTS**

(1) Upon admission to a residential care or assisted living facility, the facility and the resident shall enter into an admission agreement. The admission agreement shall clearly outline who is financially responsible for resident charges and shall clearly outline the facility's resident discharge policies. The agreement shall be in writing and shall be signed by both parties. The board shall promulgate rules governing admission agreements which may be integrated with the negotiated service agreement.

(2) A resident may be discharged only for the following:

- (a) A resident's failure to pay;
- (b) The facility's inability to meet the resident's needs;
- (d) The resident is a danger to himself or others.

(3) A resident shall have the right to appeal a discharge as established by department rule.

### **§ 39-3314. TERMINATION OF ADMISSION AGREEMENTS**

Admission agreements may only be terminated pursuant to rules promulgated by the board.

### **§ 39-3315. ADMISSION RECORDS**

(1) Records required for admission to a facility shall be maintained and updated for administrative purposes only and shall be confidential. Their availability shall be limited to

administration, professional consultants, the resident's physician or authorized provider, and representatives of the licensing agency. They shall include at least the following information:

- (a) Name and social security number.
- (c) Marital status and sex.
- (d) Birthplace and date of birth.
- (f) Personal physician or authorized provider.
- (g) Admission date.
- (h) Results of a physical or health status examination performed by a licensed physician or authorized provider within six (6) months prior to admission.
- (j) Religious affiliation if resident chooses to so state.
- (m) The results of any psychosocial evaluations or histories to ensure all resident needs are being met.

(2) The resident's personal or religious preferences with respect to medical treatment and medications shall be honored.

### **§ 39-3316. RESIDENT RIGHTS**

A residential care or assisted living facility must protect and promote the rights of each resident, including each of the following rights:

(1) Resident records. Each facility must maintain and keep current a record of the following information on each resident:

- (a) A copy of the resident's current negotiated service agreement and physician's order.
- (b) Written acknowledgement that the resident has received copies of the rights.
- (c) A record of all personal property and funds which the resident has entrusted to the facility, including copies of receipts for the property.
- (d) Information about any specific health problems of the resident which may be useful in a medical emergency.
- (e) The name, address and telephone number of an individual identified by the resident who should be contacted in the event of an emergency or death of the resident.

(f) Any other health-related, emergency, or pertinent information which the resident requests the facility to keep on record.

(g) The current admission agreement between the resident and the facility.

(2) Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups.

(3) Humane care and environment (dignity and respect).

(a) Each resident shall have the right to humane care and a humane environment, including the following:

(i) The right to a diet which is consistent with any religious or health-related restrictions.

(ii) The right to refuse a restricted diet.

(iii) The right to a safe and sanitary living environment.

(b) Each resident shall have the right to be treated with dignity and respect, including:

(i) The right to be treated in a courteous manner by staff.

(ii) The right to receive a response from the facility to any request of the resident within a reasonable time.

(iii) The right to be communicated with, orally and/or in writing, in a language they understand.

(4) Personal possessions. Each resident shall have the right to:

(a) Wear his own clothing.

(b) Determine his own dress or hair style.

(c) Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity.

(d) Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer for keeping personal property.

(5) Personal funds. Residents whose board and care is paid for by public assistance shall retain, for their personal use, the difference between their total income and the applicable board and care allowance established by department rules.

(a) A facility shall not require a resident to deposit his personal funds with the facility.

(b) Once the facility accepts the written authorization of the resident, it must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

(6) Management of personal funds. Upon a facility's acceptance of written authorization of a resident, the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

(a) The facility must deposit any amount of a resident's personal funds in excess of five (5) times the personal needs allowance in an interest-bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to such account. The facility must maintain any other personal funds in a noninterest-bearing account or petty cash fund.

(b) The facility must assure a full and complete separate accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

(c) Upon the death of a resident with such an account, the facility must promptly convey the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. For clients of the department, the remaining balance of funds shall be refunded to the department.

(7) Access and visitation rights. Each facility must permit:

(a) Immediate access to any resident by any representative of the department, by the state ombudsman for the elderly or his designees, or by the resident's individual physician.

(b) Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives.

(c) Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident.

(d) Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(8) Employment. Each resident shall have the right to refuse to perform services for the facility except as contracted for by the resident and the administrator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident shall be consistent with state and federal law.

(9) Confidentiality. Each resident shall have the right to confidentiality of personal and clinical records.

(10) Freedom from abuse, neglect, and restraints. Each resident shall have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints.

(11) Freedom of religion. Each resident shall have the right to practice the religion of his choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others.

(12) Control and receipt of health-related services. Each resident shall have the right to control his receipt of health-related services, including:

(a) The right to retain the services of his own personal physician, dentist and other health care professionals.

(b) The right to select the pharmacy or pharmacist of their choice so long as it meets the statute and rules governing residential care or assisted living and the policies and procedures of the residential care or assisted living facility.

(c) The right to confidentiality and privacy concerning his medical or dental condition and treatment.

(d) The right to refuse medical services based on informed decision making. Refusal of treatment does not relieve the facility of its obligations under this chapter.

(13) Grievances. Each resident shall have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(14) Participation in resident and family groups. Each resident shall have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

(15) Participation in other activities. Each resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(16) Examination of survey results. Each resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the department with respect to the facility and any plan of correction in effect with respect to the facility.

(17) Access by advocates and representatives. A residential care or assisted living facility shall permit advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to:

(a) Visit, talk with, and make personal, social and legal services available to all residents.

(b) Inform residents of their rights and entitlements, and their corresponding obligations, under state, federal and local laws by distribution of educational materials and discussion in groups and with individuals.

(c) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, and in all other matters in which residents are aggrieved, which may be provided individually, or in a group basis, and may include organizational activity, counseling and litigation.

(d) Engage in all other methods of assisting, advising and representing residents so as to extend to them the full enjoyment of their rights.

(e) Communicate privately and without restrictions with any resident who consents to the communication.

(f) Observe all common areas of the facility.

(18) Access by protection and advocacy system. A residential care or assisted living facility shall permit advocates and representatives of the protection and advocacy system designated by the governor pursuant to 42 U.S.C. section 15043 and 42 U.S.C. section 10801 et seq.

access to residents, facilities and records in accordance with applicable federal statutes and regulations.

(19) Access by the long-term care ombudsman. A residential care or assisted living facility shall permit advocates and representatives of the long-term care ombudsman program pursuant to 42 U.S.C. section 3058, section 67-5009, Idaho Code, and IDAPA 15.01.03, rules of the office on aging, access to residents, facilities and records in accordance with applicable federal and state law, rules and regulations.

### **§ 39-3317. NOTICE OF RIGHTS**

Each facility must:

- (1) Inform each resident, orally and in writing at the time of admission to the facility, of his legal rights during the stay at the facility.
- (2) Make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights).

### **§ 39-3318. FACILITY RESPONSE TO INCIDENTS AND COMPLAINTS**

(1) The residential care or assisted living facility shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the administrator or designee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken. In the case of anonymous complaints, the administrator or designee shall document the action taken or a reason why no action needs to be taken.

### **§ 39-3345. DENIAL OR REVOCATION OF A LICENSE**

The licensing agency may deny the issuance of a license or revoke any license when persuaded by a preponderance of evidence that such conditions exist as to endanger the health or safety of residents, or when the facility is not in substantial compliance with the provisions of this chapter or the rules promulgated pursuant to this chapter.

# Jury Instructions

---

## INSTRUCTION NO. 1

These instructions explain the duties of jurors and define the law that applies to this case. It is the jury's duty to determine the facts, to apply the law set forth in these instructions to those facts, and in this way to decide the case. The jury's decision should be based upon a rational and objective assessment of the evidence. It should not be based on sympathy or prejudice.

It is the judge's duty to instruct the jury on the points of law necessary to decide the case, and it is the jury's duty to follow the law as the judge instructs. The jury must consider these instructions as a whole, not picking out one and disregarding others. The order in which these instructions are given or the manner in which they are numbered has no significance as to the importance of any of them.

In determining the facts, the jury may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits admitted into evidence, and any stipulated or admitted facts. While the arguments and remarks of the attorneys may help the jury understand the evidence and apply the instructions, what they say is not evidence. If an attorney's argument or remark has no basis in the evidence, the jury should disregard it.

The production of evidence in court is governed by rule of law. At times during the trial, the judge sustained an objection to a question without permitting the witness to answer it, or to an offered exhibit without receiving it into evidence. Some evidence may have been admitted for a limited purpose. If so, the judge called your attention to this when the evidence was admitted. Remember that whenever evidence was admitted for a limited purpose, the jury must not consider such evidence for any purpose other than the limited purpose for which it was admitted the judge's rulings are legal matters, and are solely the judge's responsibility. The jury must not speculate as to the reason for any objection, which was made, or the judge's ruling thereon, and in reaching its decision the jury may not consider such a question or exhibit or speculate as to what the answer or exhibit would have shown. Remember, a question is not evidence and should be considered only as it gives meaning to the answer.

The law does not require the jury to believe all of the evidence admitted in the course of the trial. As the sole judge of the facts, the jury must determine what evidence to believe and what weight to attach to it. In so doing, the jury brings to this courtroom all of the experience and background of the jurors' lives. There is no magical formula for evaluating testimony. In their everyday affairs, the jurors must determine for themselves whom they

believe, what they believe and how much weight they attach to what they are told. The considerations the jurors use in making the more important decisions in their everyday dealings are the same considerations they should apply in their deliberations in this case.

## **INSTRUCTION NO. 2**

The Plaintiff, Reese Carter, claims that Defendant, St. Camillus, was negligent in the maintenance of its health care facility and its negligence thereby caused the death of Plaintiff's spouse and injuries to Plaintiff. The Plaintiff has the burden of proof on each of the following propositions:

1. The Defendant was negligent
2. The negligence of the Defendant was the proximate cause of the alleged injuries to Plaintiff.

Jurors will be asked to deliberate on the following question: Was the Defendant negligent, and if so, was the negligence a proximate cause of the alleged injuries to the Plaintiff?

If the jurors find from their consideration of all the evidence that each of these propositions has been proven, they should answer this question "Yes." However, if they find that any of these propositions has not been proven, then the Plaintiff has not met the burden of proof required and the jurors should answer the question "No."

## **INSTRUCTION NO. 3**

The elements of negligence are: (1) a legal duty to use due care; (2) a breach of such legal duty; and (3) the breach was the proximate or legal cause of the resulting injury. Negligence may consist of action or inaction. Liability for negligent conduct may only be imposed where there is a duty of care owed by the Defendant to the Plaintiff or to a class of which the Plaintiff is a member. A duty to the Plaintiff is an essential element, which may be imposed by law, be assumed by the Defendant, or exist by virtue of a special relationship. In determining negligence, you should consider whether party acted or failed to act as an ordinarily prudent or reasonable person would act under the circumstances.

## **INSTRUCTION NO. 4**

The word "negligence" in these instructions means the failure to use ordinary care in the management of one's person or property. The words "ordinary care" mean the care a reasonably careful person would use under circumstances similar to those shown by the evidence.

Negligence may thus consist of the failure to do something which a reasonably careful person would do, or the doing of something a reasonably careful person would not do, under circumstances similar to those shown by the evidence.

## **INSTRUCTION NO. 5**

The expression "proximate cause" means a cause that, in natural or probable sequence, produced the injury, the loss or the damage complained of. It need not be the only cause. It is sufficient if it is a substantial factor in bringing about the injury, loss or damage. It is not a proximate cause if the injury, loss or damage likely would have occurred anyway.

There may be one or more proximate causes of an injury. When the negligent conduct of two or more persons or entities contributes concurrently as substantial factors in bringing about an injury, the conduct of each may be a proximate cause of the injury regardless of the extent to which each contributes to the injury.

## **INSTRUCTION NO. 6**

When the judge says that a party has the burden of proof on a proposition, or use the expression "if you find" or "if you decide," the judge means that the jury must be persuaded by a preponderance of evidence. This means that the proposition is more probably true than not true.

## **INSTRUCTION NO. 7**

There were certain statutes and regulations in force in the State of Idaho at the time of the occurrence in question which provided that:

- A) A health care facility licensed to operate in the State of Idaho shall conduct background checks on all applicants and/or patients prior to the applicant and/or patient's placement within its facility.
- B) A health care facility licensed to operate in the State of Idaho shall report to the Idaho State Health and Welfare Department all incidents of violent, disorderly, disruptive, and dangerous behavior involving facility residents. The Department shall independently investigate all such reported incidents.
- C) A health care facility administrator shall remove residents from the general resident population that have received more than three (3) citations for misconduct and placed in a separate wing of the facility to address that misconduct.

A violation of a statute or administrative regulation is negligence, unless compliance with a statute or regulation was impossible, or something over which the party had no control, placed the individual in a position of violation of the statute, or an emergency, not of the party's own making, caused the individual to fail to obey the statute, or an excuse specifically provided for within the statute existed.

## **INSTRUCTION NO. 8**

In this case, the defendant has alleged that the plaintiff was negligent. On this defense, the defendant has the burden of proof on each of the following propositions:

1. The plaintiff was negligent.
2. The negligence of the plaintiff was a proximate cause of [his/her] own injuries.

You will be asked the following question on the jury verdict form:

Was the plaintiff negligent, and if so was the plaintiff's negligence a proximate cause of [his/her] injuries?

If you find from your consideration of all the evidence that each of these propositions has been proved, you should answer this question "Yes." However, if you find that any of these propositions has not been proved, then the defendant has not met the burden of proof required and you should answer this question "No."

## **INSTRUCTION NO. 9**

Contributory negligence or comparative responsibility shall not bar recovery in an action by any person or his legal representative to recover damages for negligence, gross negligence or comparative responsibility resulting in death or in injury to person or property, if such negligence or comparative responsibility was not as great as the negligence, gross negligence or comparative responsibility of the person against whom recovery is sought, but any damages allowed shall be diminished in the proportion to the amount of negligence or comparative responsibility attributable to the person recovering.

## **INSTRUCTION NO. 10**

In this case the parties have stipulated or agreed that the Plaintiff suffered damages as a result of the accident. The parties have agreed that the amount of damages that should be awarded, if any, will be the subject of a separate trial.

## INSTRUCTION NO. 11

The Plaintiff has alleged that the Defendant breached a contract. In order to prove a breach of contract the Plaintiff has the burden of proving each of the following propositions:

1. A contract existed between Plaintiff and Defendant;
2. The Defendant materially breached the contract; and
3. The Plaintiff has been damaged on account of the breach.

The parties stipulate or agree that a contract existed between Plaintiff and Defendant. The parties stipulate or agree that the amount of damages, if any, will be decided in a separate trial.

The terms of the contract that are in dispute are whether the Defendant, St. Camillus, breached the contract and whether Plaintiff, Reese Carter, has been damaged on account of the breach.

If the jury finds from its consideration of all the evidence that any of the propositions in this instruction has not been proved, its verdict should be for the Defendant.

## INSTRUCTION NO. 12

The jury must determine what was intended by the parties as evidenced by the contract in this case. In making this determination the jury should consider, from the evidence, the following:

1. The contract must be construed as a whole, including all of the circumstances giving rise to it, to give consistent meaning to every part of it.
2. Language must be given its ordinary meaning, unless you find from the evidence that a special meaning was intended.
3. Any communications, conduct or dealings between the contracting parties showing what they intended and how they construed the doubtful language may be considered, provided that such may not completely change the agreement or construe one term inconsistently with the remainder of the terms.
4. The contract should be construed to avoid any contradiction or absurdities.

## **INSTRUCTION NO. 13**

A “material breach of contract,” as that term is used in these instructions, means a breach that defeats a fundamental purpose of the contract.

## **INSTRUCTION NO. 14**

Evidence may be either direct or circumstantial. Direct evidence is evidence that directly proves a fact. Circumstantial evidence is evidence that indirectly proves the fact, by proving one or more facts from which the fact at issue may be inferred.

The law makes no distinction between direct and circumstantial evidence as to the degree of proof required; each is accepted as a reasonable method of proof and each is respected for such convincing force as it may carry.

In this case, certain evidence may be admitted for a limited purpose. The judge will call the jury’s attention to this when this evidence is admitted. The judge will remind the jury that whenever evidence is admitted for a limited purpose, the jury must not consider such evidence for any purpose other than the limited purpose for which it is admitted.