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August 7, 2015

**BY HAND DELIVERY**

Clerk of the Superior Court of New Jersey  
Law Division – Middlesex County  
56 Paterson Street  
New Brunswick, NJ 08903

Re: DeSimone v. Springpoint Senior Living, Inc, et al.  
Docket No.: MID-L-4958-13

Dear Sir/Madam:

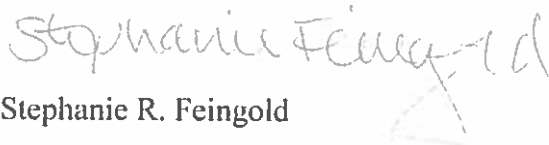
This firm represents Defendants Springpoint Senior Living, Inc., Springpoint at Monroe Village, Inc., Springpoint at Montgomery, Inc., Springpoint at Crestwood, Inc., Springpoint at Meadow Lakes, Inc., and Springpoint at the Atrium, Inc. (“Defendants”) in the above-referenced matter. Enclosed for filing please find an original and two copies of the following documents:

1. Answer to Amended Complaint; and
2. Certification of Service.

Please file the originals and return a time-stamped copy to me in the enclosed self-addressed, postage-paid envelope. Please charge any applicable filing fees to this firm’s Superior Court Account No. 140059.

Thank you in advance for your assistance. Please contact me with any questions.

Sincerely,

  
Stephanie R. Feingold

Enclosures

cc: Carl Mayer (via email and first-class mail)  
Christopher M. Placitella (via email and first-class mail) ✓  
Bruce W. Clark, Esq. (via email and first-class mail)

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*Attorneys for Defendants*

<p>WILLIAM DESIMONE, as executor of the Estate of EVELYN DESIMONE, deceased, individually in such capacities and on behalf of all others similarly situated,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>SPRINGPOINT SENIOR LIVING, INC., SPRINGPOINT AT MONROE, INC., SPRINGPOINT AT STONEBRIDGE AT MONTGOMERY, INC., SPRINGPOINT AT CRESTWOOD, SPRINGPOINT AT MEADOW LAKES, INC., SPRINGPOINT AT MONROE VILLAGE, INC., and SPRINGPOINT AT NAVESINK HARBOR, INC.</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY MIDDLESEX COUNTY LAW DIVISION</p> <p>CIVIL ACTION</p> <p>DOCKET NO. MID-L-4958-13</p> <p><b>DEFENDANTS' ANSWER TO AMENDED CLASS ACTION COMPLAINT</b></p>
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Defendants Springpoint Senior Living, Inc. ("Springpoint"), Springpoint at Montgomery, Inc. ("Stonebridge"), Springpoint at Crestwood, Inc. ("Crestwood Manor"), Springpoint at

Meadow Lakes, Inc. (“Meadow Lakes”), Springpoint at Monroe Village, Inc. (“Monroe Village”), and Springpoint at The Atrium, Inc. (“The Atrium”) (Stonebridge, Crestwood Manor, Meadow Lakes, Monroe Village, and The Atrium are collectively referred to as the “Springpoint CCRC Defendants”)<sup>1</sup>, answer Plaintiff’s Amended Complaint as follows:

### INTRODUCTION

1. Springpoint, a New Jersey non-profit company that has been providing lodging and care for New Jersey seniors for nearly 100 years, admits that it was formerly known as Presbyterian Homes and Services, Inc. Defendants deny that Springpoint owns or operates any continuing care retirement community (“CCRC”), that it wholly owns any of the Springpoint CCRC Defendants, that it conducts the admissions process with prospective residents, or that it enters contracts with residents. To the extent any subsequent paragraph alleges that Springpoint operates a CCRC or dealt with the DeSimone family during the admission process, all such allegations are denied. Defendants deny the remaining allegations of Paragraph 1.

2. Defendants admit that each Springpoint CCRC evaluates an incoming resident to determine whether he or she is appropriate for a particular level of living unit at the CCRC and that residents pay an entrance fee. Defendants deny the remaining allegations of Paragraph 2.

3. Defendants deny the allegations of Paragraph 3.

4. Defendants deny the allegations of Paragraph 4.

5. Defendants deny the allegations of Paragraph 5.

6. Defendants state that each Springpoint CCRC Defendant discloses to prospective resident’s that the entrance fee paid by a future resident for a living unit may be less than the entrance fee paid by the prospective resident, and deny the allegations of Paragraph 6.

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<sup>1</sup> Plaintiff’s caption improperly names as defendants Springpoint at Monroe, Inc., Springpoint at Stonebridge at Montgomery, Inc., and Springpoint at Navesink Harbor, Inc. The proper names of these entities are Springpoint at Monroe Village, Inc., Springpoint at Montgomery, Inc., and Springpoint at The Atrium, Inc., respectively.

7. Defendants admit that the terms of the refundable Residence and Care Agreements used by each Springpoint CCRC Defendant explicitly provide that a former resident may get a refund of “up to 90” of his or her entrance fee based on deductions detailed in the agreement and that any refund would be based on the lesser of the original entrance fee or a subsequent resident’s entrance fee. Defendants deny the remaining allegations of Paragraph 7.

8. Defendants admit that, in accordance with the terms of her Residence and Care Agreement, the refund Plaintiff received was less than 90% of the entrance fee paid by Evelyn DeSimone (“DeSimone”) and that the subsequent resident occupying her former living unit paid an entrance fee that was less than the entrance fee paid by DeSimone. Defendants deny the remaining allegations of Paragraph 8.

9. Defendants deny that payment of DeSimone’s refund was delayed and deny the remaining allegations of Paragraph 9.

10. Defendants admit that Plaintiff seeks money damages and denies the remaining allegation of Paragraph 10.

### **PARTIES**

11. Defendants admit that William DeSimone is DeSimone’s son. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 11, which are therefore denied.

12. Defendants admit that Springpoint was formerly known as Presbyterian Homes and Services, Inc. Defendants deny the remaining allegations of Paragraph 12.

13. Defendants admit that Crestwood Manor was formerly known as The Presbyterian Home at Crestwood, Inc., that it owns and operates a CCRC known as Crestwood Manor at 50

Lacey Road, Manchester, New Jersey, and that it is registered with the New Jersey Department of Community Affairs. Defendants deny the remaining allegations of Paragraph 13.

14. Defendants admit that Meadow Lakes was formerly known as The Presbyterian Home at Meadow Lakes, Inc., that it owns and operates a CCRC known as Meadow Lakes at 300 Etra Road, East Windsor, New Jersey, that the facility is partially in East Windsor and partially in Hightstown, and that it is registered with the New Jersey Department of Community Affairs. Defendants deny the remaining allegations of Paragraph 14.

15. Defendants admit that Monroe Village was formerly known as The Presbyterian Home at Monroe, Inc., that it owns and operates a CCRC known as Monroe Village at One Brainerd Drive, Monroe, New Jersey, and that it is registered with the New Jersey Department of Community Affairs. Defendants deny the remaining allegations of Paragraph 15.

16. Defendants admit that Stonebridge was formerly known as The Presbyterian Home at Montgomery, Inc., that it owns and operates a CCRC known as Stonebridge at Montgomery at 100 Hollinshead Spring Road, Skillman, New Jersey, and that it is registered with the New Jersey Department of Community Affairs. Defendants deny the remaining allegations of Paragraph 16.

17. Defendants admit that The Atrium was formerly known as The Presbyterian Home at Red Bank, Inc., that it owns and operates a CCRC known as The Atrium at Navesink Harbor at 40 Riverside Avenue, Red Bank, New Jersey, and that it is registered with the New Jersey Department of Community Affairs. Defendants deny the remaining allegations of Paragraph 17.

18. Defendants deny the allegations of Paragraph 18.

19. Defendants admit that they each act through their respective employees and agents and that certain acts by such employees and agents are within the scope of their authority. Defendants deny the remaining allegations of Paragraph 19.

20. Defendants deny the allegations of Paragraph 20.

21. Defendants deny the allegations of Paragraph 21.

**FACTS COMMON TO CLASS CERTIFICATION AND ALL COUNTS**

22. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 22, which are therefore denied.

23. Defendants admit that Elizabeth Savitsky (“Savitsky”) is DeSimone’s daughter and held power of attorney for DeSimone. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 23, which are therefore denied.

24. Defendants admit that DeSimone, Savitsky and William DeSimone visited Monroe Village in the fall of 2008 and that Monroe Village provided information to them concerning the facility’s services and amenities, fees and charges, including the terms of any entrance fee refund. Defendants deny the remaining allegations of Paragraph 24.

25. Defendants admit that Monroe Village’s sales representatives and Disclosure Statement disclosed that Monroe Village offered two contract options – a “Traditional Plan” and a “90% Refundable Plan.” Defendants deny the remaining allegations of Paragraph 25.

26. Defendants deny the allegations of Paragraph 26.

27. Defendants admit that the “Ashley” model living unit at Monroe Village had a \$159,000 Entrance Fee in October 2008. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding the thoughts and motivations of the

DeSimone family, which are therefore denied. Defendants deny the remaining allegations of Paragraph 27.

28. Defendants admit that beginning in October 2008, Evelyn DeSimone and Savitsky submitted forms as part of Monroe Village's admission process and that, while Monroe Village fully disclosed the terms of any entrance fee refund, those terms were not repeated in every document or form provided to the DeSimone family. Defendants state that any such forms speak for themselves. Defendants also admit that Savitsky later provided checks to cover the application fee, deposit and remainder of the entrance fee. Defendants deny the remaining allegations of Paragraph 28.

29. Defendants admit that Monroe Village evaluated DeSimone to determine whether she was appropriate for an independent living unit and that Monroe Village approved her for an independent living unit. Defendants deny the remaining allegations of Paragraph 29.

30. Defendants admit that, prior to signing the Residence and Care Agreement in December 2008, Savitsky spoke with Shannon Grieb concerning DeSimone's move to Monroe Village. Defendants deny the remaining allegations of Paragraph 30.

31. Defendants admit that, while Monroe Village fully disclosed to the DeSimones the terms of any entrance fee refund, those terms were not repeated in e-mails sent to the DeSimones. Defendants state that any such e-mails speak for themselves. Defendants deny the remaining allegations of Paragraph 31.

32. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations concerning Savitsky's understandings or assumptions, which are therefore denied. Defendants deny the remaining allegations of Paragraph 32.

33. Defendants admit that, while Monroe Village fully disclosed to the DeSimones the terms of any entrance fee refund, those terms were not repeated in every brochure provided to the DeSimones. Defendants state that any such brochure speaks for itself. Defendants deny the remaining allegations of Paragraph 33.

34. Defendants state that the DeSimones had the proposed Residence and Care Agreement for their review and signature for several months before it was signed and deny the remaining allegations of Paragraph 34.

35. Defendants admit the allegations of Paragraph 35.

36. Defendants admit that Paragraph 36 quotes some, but not all, relevant portions of Monroe Village's Disclosure Statement and state that the Disclosure Statement speaks for itself.

37. Defendants admit that Section VI of the Residence and Care Agreement describes in detail the terms for any refund of the entrance fee following termination after occupancy and clearly states that any refund would be based on the lesser of the original entrance fee or the entrance fee paid by the subsequent resident. The document speaks for itself. Springpoint denies the remaining allegations of Paragraph 37.

38. Defendants deny the allegations of Paragraph 38.

39. Defendants deny the allegations of Paragraph 39.

40. Defendants deny the allegations of Paragraph 40.

41. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41 as to what Savitsky read or relied on, which are therefore denied. Defendants deny that Savitsky was told anything contrary to the terms of the Residence and Care Agreement. Defendants admit the remaining allegations of Paragraph 41.



42. Defendants admit that DeSimone was hospitalized with a broken hip prior to moving into her unit at Monroe Village, that Monroe Village and the DeSimone family agreed that she could move into the health care center at Monroe Village for her rehabilitation, and that she would be considered having moved into her independent living unit, thereby gaining for DeSimone the advantage of reduced fees for her stay in the health care center. Defendants deny the remaining allegations of Paragraph 42.

43. Defendants admit that DeSimone moved into Monroe Village's health care center, that she moved furniture into her independent living unit, and, because of serious behavioral and psychological problems, that she never personally occupied her independent living unit. Defendants also admit that DeSimone died on or about April 10, 2010. Defendants deny the remaining allegations in Paragraph 43.

44. Defendants admit that John Rauner, the Executive Director of Monroe Village sent a letter to Savitsky on or about March 3, 2009 and state that the letter speaks for itself. Defendants deny the remaining allegations of Paragraph 44.

45. Defendants admit that on or about July 2, 2010, Monroe Village sent to Plaintiff a check in the amount of \$80,136, representing the amount of the entrance fee refund due to DeSimone's estate calculated in accordance with the Residence and Care Agreement. Defendants deny the remaining allegations of Paragraph 45.

46. Defendants admit that Plaintiff asked Monroe Village about the calculation of the entrance fee refund and that Monroe Village reminded him of the refund terms in the Residence and Care Agreement. Defendants also admit that Monroe Village explained to Plaintiff that the subsequent resident of DeSimone's former living unit paid an entrance fee that was less than the entrance fee paid by DeSimone and that, in accordance with the terms of the agreement, the

refund was calculated on the basis of the lesser entrance fee. Defendants deny the remaining allegations of Paragraph 46.

47. Defendants deny the allegations of Paragraph 47.

48. Defendants admit that Plaintiff discussed the entrance fee refund with John Rauner and asked that, contrary to the terms of the Residence and Care Agreement, the refund be increased. Defendants admit that Mr. Rauner again explained to Plaintiff the refund terms of the Residence and Care Agreement. Defendants deny the remaining allegations of Paragraph 48.

49. Defendants deny that any marketing materials contradicted the terms of the Residence and Care Agreement and deny that Mr. Alter or Mr. Rauner were asked to deny anything. Defendants deny the remaining allegations of Paragraph 49.

50. Defendants admit that Monroe Village continues to calculate the entrance fee refund payable to the DeSimone estate properly based on the terms of the Residence and Care Agreement. Defendants deny the remaining allegations of Paragraph 50.

51. Defendants admit that Springpoint was founded in 1916 and that it has grown since then. Defendants deny the remaining allegations of Paragraph 51.

52. Defendants admit that Springpoint and the Springpoint CCRC Defendants are leaders in their fields and are reliable sources of information about their services. Defendants state that the IRS filings referenced in Paragraph 52 speak for themselves. Defendants otherwise deny the remaining allegations of Paragraph 52.

53. Defendants admit that, other than Laura Kieslowski and Charles Mooney, the named individuals are employed by Springpoint in the listed positions. Defendants deny the remaining allegations of Paragraph 53.

54. Defendants deny the allegations in Paragraph 54.

55. The IRS document and Springpoint's website pages referenced in Paragraph 55 of the Amended Complaint speak for themselves. Defendants otherwise deny the allegations of Paragraph 55.

56. Defendants deny the allegations in Paragraph 56.

57. Defendants admit the allegations in Paragraph 57.

58. Defendants admit that CCRCs offer various levels of care, including independent living units, assisted living units and skilled nursing, to their residents depending on their individual needs. Defendants deny the remaining allegations in Paragraph 58.

59. Defendants admit that each Springpoint CCRC charges residents for various services and charges a different entrance fee depending on a resident's choice of the type of Residence and Care Agreement and the resident's choice of the type and location of living unit. Defendants admit that the entrance fee under a Traditional Residence and Care Agreement is lower than the entrance fee under a Refundable Residence and Care Agreement and that there may be refunds under both types of agreements in accordance with the terms of each agreement. Defendants also admit that residents agree to pay a monthly service fee and other charges. Defendants state that each Springpoint CCRC Disclosure Statement and Residence and Care Agreement speaks for itself and otherwise deny the allegations of Paragraph 59.

60. Defendants admit that the cited table lists certain entrance fees charged by the respective Springpoint CCRC Defendant at some point during 2009 and that entrance fees are subject to change. Defendants deny the remaining allegations of Paragraph 60.

61. Defendants deny the allegations of Paragraph 61.

62. Defendants deny the allegations of Paragraph 62.

63. Defendants state that whatever documents Plaintiff is purporting to quote from speak for themselves and otherwise deny the allegations of Paragraph 63.

64. Defendants state that whatever document Plaintiff is purporting to quote from speaks for itself and otherwise deny the allegations of Paragraph 63.

65. Defendants deny that Monroe Village's website guarantees a 90% refund of entrance fees. Defendants state that whatever documents and website pages Plaintiff is purporting to quote from speak for themselves and otherwise deny the allegations of Paragraph 65.

66. Defendants state that whatever documents Plaintiff is purporting to quote from speak for themselves and otherwise deny the allegations of Paragraph 66.

67. Defendants admit that, under the terms of the Residence and Care Agreement, a resident's entrance fee refund is based on the lesser of the original entrance fee or the entrance fee paid by the subsequent resident, Defendants deny the remaining allegations of Paragraph 67.

68. Defendants admit that "Moving Made Easy" information was available to prospective residents of Stonebridge at certain times. Defendants state that the document speaks for itself and otherwise denies the remaining allegations of Paragraph 68.

69. Defendants state that whatever document Plaintiff purports to quote from speaks for itself and otherwise denies the allegations of Paragraph 69.

70. Defendants state that whatever document Plaintiff purports to quote from speaks for itself and otherwise denies the allegations of Paragraph 70.

71. Defendants admit that residency rates periodically increase and decrease and that these changes vary between facilities. Defendants deny the remaining allegations of Paragraph 71.

72. Defendants admit that a decrease in the occupancy rate causes a decline in revenue. Defendants deny the remaining allegations in Paragraph 72.

73. Defendants admit that discounts are offered to prospective residents from time to time, and that Springpoint management has sought and obtained DCA's approval of reductions in the list price of certain living units. Defendants deny the remaining allegations in Paragraph 73.

74. Defendants deny the allegations in Paragraph 74.

75. Defendants admit that in some instances promissory notes from new residents have been accepted for deferred entrance fee payments. Defendants deny the remaining allegations in Paragraph 75.

76. Defendants deny the allegations of Paragraph 76.

77. Defendants admit that occupancy rates can be a factor in credit ratings. Defendants deny the remaining allegations of Paragraph 77.

78. Defendants admit that Fitch Ratings, Inc. downgraded the credit rating of Springpoint in August 2011. Defendants state that whatever document or website page Plaintiff purports to quote from speaks for itself and otherwise deny the remaining allegations of Paragraph 78.

79. Defendants deny the allegations of Paragraph 79.

80. Defendants deny the allegations of Paragraph 80.

81. Defendants admit that prospective residents are advised that the Residence and Care Agreement does not involve the purchase of an interest in real estate. Defendants deny the remaining allegations of Paragraph 81.

82. Defendants deny the allegations of Paragraph 82.

83. The allegations in Paragraph 83 constitute conclusions of law to which no responsive pleading is required. To the extent Paragraph 83 refers to the Continuing Care Retirement Community Regulation and Financial Disclosure Act (“CCRC Act”), the statute speaks for itself. Defendants deny these allegations to the extent they are inconsistent with the CCRC Act.

84. Defendants admit that Plaintiff quotes a selected portion, but not all, of the relevant statutory history. Defendants state that the language of the statute and statutory history speaks for itself and otherwise deny the allegations of Paragraph 84.

85. Defendants admit that Plaintiff quotes a selected portion, but not all, of the relevant statutory history. Defendants state that the language of the statute and statutory history speaks for itself and otherwise deny the allegations of Paragraph 85.

86. The allegations in Paragraph 86 constitute conclusions of law to which no responsive pleading is required. To the extent Paragraph 86 refers to the CCRC Act, the statute speaks for itself. Defendants deny these allegations to the extent they are inconsistent with the CCRC Act.

87. The allegations in Paragraph 87 constitute conclusions of law to which no responsive pleading is required. To the extent Paragraph 87 refers to the CCRC Act, the statute speaks for itself. Defendants deny these allegations to the extent they are inconsistent with the CCRC Act.

88. The allegations in Paragraph 88 include conclusions of law to which no responsive pleading is required. To the extent Paragraph 88 refers to the CCRC Act, the statute speaks for itself. Defendants deny these allegations to the extent they are inconsistent with the CCRC Act. Defendants deny the remaining allegations of Paragraph 88.

89. The allegations in Paragraph 89 constitute conclusions of law to which no responsive pleading is required. To the extent Paragraph 89 refers to the CCRC Act, the statute speaks for itself. Defendants deny these allegations to the extent they are inconsistent with the CCRC Act.

90. The allegations in Paragraph 90 constitute conclusions of law to which no responsive pleading is required. To the extent Paragraph 90 refers to the CCRC Act, the statute speaks for itself. Defendants deny these allegations to the extent they are inconsistent with the CCRC Act.

91. The allegations in Paragraph 91 constitute conclusions of law to which no responsive pleading is required. To the extent Paragraph 91 refers to the CCRC Act, the statute speaks for itself. Defendants deny these allegations to the extent they are inconsistent with the CCRC Act.

92. The allegations in Paragraph 92 constitute conclusions of law to which no responsive pleading is required. To the extent Paragraph 92 refers to the CCRC Act, the statute speaks for itself. Defendants deny these allegations to the extent they are inconsistent with the CCRC Act.

93. Defendants admit that employees of Springpoint participated in preparing each Springpoint CCRC Defendant's disclosure statement and that each disclosure statement states that it was prepared by Gary T. Puma. Defendants deny the remaining allegations in Paragraph 93.

94. Defendants admit that each of the Springpoint CCRC Defendant's respective disclosure statements contains a legend stating that the DCA had neither approved nor

disapproved the merits of the disclosure statement. Defendants deny the remaining allegations in Paragraph 94.

95. Defendants admit that the Springpoint CCRC Defendants respective disclosure statement differ in content from facility to facility on certain items. Defendants deny the remaining allegations in Paragraph 95.

96. Defendants admit that Plaintiff has quoted a portion, but not all, of the relevant sections from a Stonebridge disclosure statement. Defendants state that the documents referred to speak for themselves and otherwise deny the allegations of Paragraph 96.

97. Defendants admit that Plaintiff has quoted a portion, but not all, of the relevant sections from a Meadow Lakes disclosure statement. Defendants state that the documents referred to speak for themselves and otherwise deny the allegations of Paragraph 97.

98. Defendants admit that each Springpoint CCRC Defendant's disclosure statement includes the forms of the proposed Residence and Care Agreements that contain the detailed terms for any refund of entrance fees. Defendants deny the remaining allegations of Paragraph 98.

99. Defendants deny the allegations of Paragraph 99.

100. Defendants deny the allegations of Paragraph 100.

101. Defendants deny the allegations of Paragraph 101.

102. Defendants lack knowledge or information sufficient to form a belief as to the truth the allegations as to what information any particular consumer could find material, which are therefore denied. Defendants deny the remaining allegations of Paragraph 102.

103. Defendants deny the allegations of Paragraph 103.

104. Defendants deny the allegations of Paragraph 104.



## JURISDICTION AND VENUE

105. Defendants admit that they are each New Jersey non-profit corporations and that they operate in New Jersey. Defendants lack knowledge of information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 105, which are therefore denied.

## CLASS ACTION ALLEGATIONS

106. Paragraph 106 constitutes conclusions of law and does not state any allegations against the Defendants, and, therefore, no response is required. To the extent a response is required, Defendants deny that the proposed class can be certified or that class certification is proper and deny the remaining allegations of Paragraph 106.

107. Defendants deny the allegations of Paragraph 107.

108. Defendants deny the allegations of Paragraph 108.

109. Defendants deny the allegations of Paragraph 109.

110. Defendants deny the allegations of Paragraph 110.

111. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations as to Plaintiff's intent and understanding, which are therefore denied. Defendants deny the remaining allegations of Paragraph 111

112. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 112, which are therefore denied.

113. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 113, which are therefore denied.

114. Defendants deny the allegations of Paragraph 114.

115. Defendants deny the allegations of Paragraph 115.

116. Defendants deny the allegations of Paragraph 116.

117. Defendants deny the allegations of Paragraph 117.

### COUNT I

118. Defendants repeat their responses to the allegations of all other paragraphs of the Amended Complaint.

119. The allegations of Paragraph 119 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 119 to the extent they are inconsistent with the statute cited.

120. The allegations in Paragraph 120 constitute conclusions of law to which no responsive pleading is required. To the extent Paragraph 120 refers to the CCRC Act or administrative regulations, the statute and regulations speak for themselves. Defendants deny these allegations to the extent they are inconsistent with the CCRC Act or regulations.

121. Defendants deny the allegations of Paragraph 121.

122. Defendants deny the allegations of Paragraph 122.

123. Defendants deny the allegations of Paragraph 123.

124. The allegations of Paragraph 124 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 124 to the extent they are inconsistent with the statute cited.

125. The allegations of Paragraph 125 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 125 to the extent they are inconsistent with the statute cited.

126. The allegations of Paragraph 126 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 126 to the extent they are inconsistent with the statute cited.

127. Defendants deny the allegations of Paragraph 127.

128. Defendants deny the allegations of Paragraph 128.

129. Defendants deny the allegations of Paragraph 129.

130. The allegations of Paragraph 130 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 130 to the extent they are inconsistent with the statute cited..

131. The allegations of Paragraph 131 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 131 to the extent they are inconsistent with the statute cited.

132. Defendants deny the allegations of Paragraph 132.

133. Defendants deny the allegations of Paragraph 133.

**WHEREFORE**, Defendants respectfully demand that the Court: (1) enter judgment in favor of the Defendants and against Plaintiff on all causes of action; (2) deny class certification; (3) award Defendants their costs of suit; and (4) award such other and further relief as it deems proper.

## COUNT II

134. Defendants repeat their responses to the allegations of all other paragraphs of the Amended Complaint.

135. The allegations of Paragraph 135 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 135 to the extent they are inconsistent with the statute cited

136. The allegations of Paragraph 136 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 136 to the extent they are inconsistent with the statute cited.

137. The allegations of Paragraph 137 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 137 to the extent they are inconsistent with the statute cited.

138. Defendants deny the allegations of Paragraph 138.

139. Defendants deny the allegations of Paragraph 139.

140. Defendants deny the allegations of Paragraph 140.

141. Defendants deny they made any knowing omissions or concealments. The remaining allegations of Paragraph 141 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the remaining allegations of Paragraph 141 to the extent they are inconsistent with the statute cited.

142. The allegations of Paragraph 142 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 142 to the extent they are inconsistent with the statute cited.

143. Defendants deny the allegations of Paragraph 143.

**WHEREFORE**, Defendants respectfully demand that the Court: (1) enter judgment in favor of the Defendants and against Plaintiff on all causes of action; (2) deny class certification; (3) award Defendants their costs of suit; and (4) award such other and further relief as it deems proper.

### **COUNT III**

144. Defendants repeat their responses to the allegations of all other paragraphs of the Amended Complaint. Because Meadow Lakes is excluded from Count III, it is not included in the responses to the allegations of Paragraphs 145 through 151.

145. The allegations of Paragraph 145 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 145 to the extent they are inconsistent with the statute cited.

146. The allegations of Paragraph 146 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 135 to the extent they are inconsistent with the statute cited.

147. The allegations of Paragraph 147 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is

required, Defendants deny the allegations of Paragraph 147 to the extent they are inconsistent with the statute cited.

148. Defendants deny the allegations of Paragraph 148.

149. The allegations of Paragraph 149 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 149 to the extent they are inconsistent with the statute cited.

150. Defendants deny the allegations of Paragraph 150.

151. Defendants deny the allegations of Paragraph 151.

**WHEREFORE**, Defendants respectfully demand that the Court: (1) enter judgment in favor of the Defendants and against Plaintiff on all causes of action; (2) deny class certification; (3) award Defendants their costs of suit; and (4) award such other and further relief as it deems proper.

#### **COUNT IV**

152. Defendants repeat their responses to the allegations of all the other paragraphs of the Amended Complaint.

153. The allegations of Paragraph 153 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 153 to the extent they are inconsistent with the statute cited.

154. The allegations of Paragraph 154 constitute conclusions of law to which no responsive pleading is required. The statute and regulations speak for themselves. To the extent

that a response is required, Defendants deny the allegations of Paragraph 154 to the extent they are inconsistent with the statute and regulations cited.

155. The allegations of Paragraph 155 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 155 to the extent they are inconsistent with the statute cited.

156. Defendants deny the allegations of Paragraph 156.

157. Defendants deny the allegations in Paragraph 157.

158. The allegations of Paragraph 158 constitute conclusions of law to which no responsive pleading is required. The statute speaks for itself. To the extent that a response is required, Defendants deny the allegations of Paragraph 158 to the extent they are inconsistent with the statute cited.

159. Defendants deny the allegations of Paragraph 159.

160. Defendants deny the allegations of Paragraph 160.

**WHEREFORE**, Defendants respectfully demand that the Court: (1) enter judgment in favor of the Defendants and against Plaintiff on all causes of action; (2) deny class certification; (3) award Defendants their costs of suit; and (4) award such other and further relief as it deems proper.

#### COUNT V

161. Defendants repeat their responses to the allegations of all the paragraphs of the Amended Complaint.

162. Defendants admit that DeSimone entered into a Refundable Residence and Care Agreement with Monroe Village. Defendants are without knowledge or information sufficient to

form a belief as to the truth of the allegations relating to other putative class members.

Defendants deny the remaining allegations in Paragraph 162.

163. The allegations of Paragraph 163 constitute conclusions of law to which no responsive pleading is required. To the extent that a response is required, Defendants deny the allegations of Paragraph 163 to the extent they are inconsistent with the legal standard cited.

164. The allegations of Paragraph 164 as to a legal standard constitute conclusions of law to which no responsive pleading is required. To the extent that a response is required, Defendants deny the allegations as to legal standards to the extent they are inconsistent with the law. Defendants deny the remaining allegations of Paragraph 164.

165. Defendants deny the allegations of Paragraph 165.

166. Defendants deny that any of the Springpoint CCRC Defendants breached any implied term of its Residence and Care Agreements, that Plaintiff has standing to seek and is properly seeking the relief alleged in Paragraph 166, and that Plaintiff is entitled to such relief.

**WHEREFORE**, Defendants respectfully demand that the Court: (1) enter judgment in favor of the Defendants and against Plaintiff on all causes of action; (2) deny class certification; (3) award Defendants their costs of suit; and (4) award such other and further relief as it deems proper.

#### **COUNT VI**

167. Defendants repeat their responses to the allegations of all the paragraphs of the Amended Complaint.

168. Defendants deny the allegations of Paragraph 168.

169. Defendants deny the allegations of Paragraph 169.

170. Defendants deny the allegations of Paragraph 170.



**WHEREFORE**, Defendants respectfully demand that the Court: (1) enter judgment in favor of the Defendants and against Plaintiff on all causes of action; (2) deny class certification; (3) award Defendants their costs of suit; and (4) award such other and further relief as it deems proper.

### **COUNT VII**

171. Defendants repeat their responses to the allegations of all the paragraphs of the Amended Complaint.

172. Defendants deny the allegations of Paragraph 172.

173. Defendants deny the allegations of Paragraph 173.

174. Defendants deny the allegations of Paragraph 174.

**WHEREFORE**, Defendants respectfully demand that the Court: (1) enter judgment in favor of the Defendants and against Plaintiff on all causes of action; (2) deny class certification; (3) award Defendants their costs of suit; and (4) award such other and further relief as it deems proper.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

Plaintiffs have failed to state a claim against the Defendants upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, in that Plaintiff lacks standing to assert on behalf of himself or putative class members allegations of harm that Plaintiff did not incur.

### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, to the extent Plaintiff lacks standing to seek on his own behalf relief to which Plaintiff is not entitled.

### **FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, because Plaintiff has not been harmed by any alleged acts of any Defendants.

### **FIFTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, because they are preempted by the New Jersey Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A. 52:27D-330, *et seq.*, and by the regulations and decisions of the New Jersey Department of Community Affairs.

### **SIXTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred because the DCA reviewed and approved the Disclosure Statement, Residence and Care Agreement, and marketing materials in the form provided to Evelyn DeSimone.

### **SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's purported claims are barred, in whole or in part, by the parol evidence rule.

### **EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by fraudulent inducement.

### **NINTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by unclean hands.

### **TENTH AFFIRMATIVE DEFENSE**

The Springpoint CCRC Defendants' Disclosure Statements and Residence and Care

Agreements comply with the CCRC Act and applicable regulations.

**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, because the refund terms of the 90% Refundable Residence and Care Agreement were set forth by the express terms of the Residence and Care Agreement, which Plaintiff signed.

**TWELTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred because Defendants acted in good faith and did not make any material misrepresentations or omissions and did not directly or indirectly induce any of the acts alleged to have caused loss or damage to the Plaintiff.

**THIRTEENTH AFFIRMATIVE DEFENSE**

The Springpoint Defendants had no legal duty or obligation to inform Plaintiff regarding potential future market conditions.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by estoppel.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Defendants reserve the right to assert additional defenses that may become applicable during the course of the litigation.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Bruce Clark, Esq. is designated as trial counsel on behalf of the Defendants in the above-captioned matter.

**RULE 4:5-1 CERTIFICATION**

Pursuant to Rule 4:5-1, the undersigned attorney hereby certifies that at the time of the filing of this pleading, the matter in controversy is not the subject of any other action pending in any court or arbitration proceeding. I further certify that the foregoing statements made by me are true, and am aware that if any of the foregoing statement made by me are willfully false, I am subject to punishment.

Dated: August 7, 2015

Respectfully submitted,

Bruce Clark by SRF

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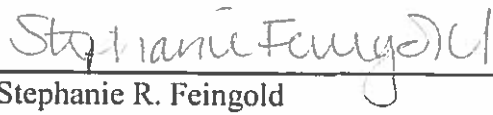
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**CERTIFICATE OF SERVICE**

I, Stephanie R. Feingold, hereby certify that I caused to be served a true and correct copy of Defendants' Answer to Amended Class Action Complaint, this 7th day of August 2015 upon all counsel of record via regular mail and email.

  
Stephanie R. Feingold