

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MARSHA WETZEL,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 1:16-cv-
v.	)	07598
	)	
GLEN ST. ANDREW LIVING COMMUNITY,	)	Hon. John Robert Blakey,
LLC; GLEN HEALTH & HOME	)	Judge Presiding.
MANAGEMENT, INC.; ALYSSA FLAVIN;	)	
CAROLYN DRISCOLL; and SANDRA CUBAS,	)	
	)	
Defendants.	)	

**ANSWER TO FIRST AMENDED COMPLAINT FOR DECLARATORY, INJUNCTIVE,  
AND OTHER RELIEF**

1. Plaintiff Marsha Wetzel (“Plaintiff” or “Marsha”) brings this complaint for declaratory, injunctive, and other relief against Defendants Glen St. Andrew Living Community, LLC; Glen Health & Home Management, Inc.; and their administrators Alyssa Flavin, Carolyn Driscoll, and Sandra Cubas (collectively, “Defendants”). Plaintiff seeks to end, and obtain redress for, Defendants’ discriminatory denial of equal housing opportunity. In support of her claims, Plaintiff alleges as follows:

**ANSWER:** Defendants admit that Plaintiff has filed the instant lawsuit, but deny all remaining allegations, and state that they did not discriminatorily deny Plaintiff any equal housing opportunity.

**INTRODUCTION**

2. Marsha moved into an apartment at Glen St. Andrew Living Community in (“GSALC”) Niles, Illinois in November 2014.

**ANSWER:** Defendants admit the allegations of the paragraph.

3. Marsha is a lesbian. She moved into GSALC after the death of her partner of 30 years, Judith Kahn (“Judy”), with whom she raised a son.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of paragraph 3 and thereby deny the same and demand strict proof thereof.

4. Throughout most of her time at GSALC, Marsha was subjected to a pattern of discrimination and harassment because of her sex and sexual orientation, including persistent verbal harassment, threats, intimidation, and three separate assaults, at the hands of other residents. She has been called countless homophobic slurs, taunted about her relationship with Judy and their child, threatened with bodily harm, bullied and intimidated in all of the communal spaces in the facility, and physically injured by other residents, all because she had a committed relationship and created a family with another woman and because she is a lesbian.

**ANSWER:** Defendants deny the allegations of the paragraph. Further answering, Defendants state that on numerous occasions Plaintiff argued with various residents and the arguments had nothing to do with Plaintiff’s sexual orientation. On numerous occasions when Plaintiff did not get her way or became agitated, Plaintiff threatened to sue residents and, at times their visiting family members and guests, for sex discrimination when no discrimination had occurred. In addition, Plaintiff would report various residents for discriminatory conduct that could not be substantiated and at times the evidence established Plaintiff had falsely reported what was happening.

Further answering Defendants state that as early as September 2, 2015, Defendants confirmed Plaintiff was reporting Herr for things he did not do. For example, in paragraph 29, Plaintiff alleges Herr knocked Plaintiff off a ramp with his walker, however, the receptionist on duty witnessed the entire incident and reported that Herr never touched Plaintiff tipped her out of her chair or knocked off the ramp, as the two passed on the ramp.

Another example occurred on January 8, 2016. Plaintiff came to the receptionist to report that Herr was sitting in the front of the building with another tenant laughing at Plaintiff. While Plaintiff was reporting the incident to the receptionist, Herr called from his room to say that he would not be coming down for dinner.

5. Marsha repeatedly complained about the sex- and sexual orientation-based harassment she has experienced to the administration of GSALC, including Executive Director Alyssa Flavin, Director of Supportive Services Carolyn Driscoll, and Regional Director of Operations Sandra Cubas (collectively, “the Administration”). Other GSALC staff and residents witnessed some of the incidents and reported them to the Administration. Defendants took no meaningful action to stop the harassment, but instead marginalized and alienated Marsha and retaliated against her for complaining about the harassment.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that Plaintiff complained that she had been harassed. Further answering, Defendants state that they investigated each of Plaintiff’s reported complaints, spoke to witnesses and the individuals alleged to have engaged in the harassment and took appropriate measures in response to the investigatory findings, all of which were documented at the time. The witnesses interviewed either contradicted or were unable to substantiate Plaintiff’s complaints, or reported that Plaintiff had instigated the confrontations. Defendants further incorporate their answers to paragraphs 4 herein.

6. The harassment and violence Marsha has experienced at GSALC because of her sex and sexual orientation was so severe and pervasive that it created a hostile housing environment, resulting in her constructive eviction from the facility. Marsha lived with tremendous fear and anxiety, and was deprived of the right to live in her home in peace. Defendants’ failure to correct and end the harassment and discrimination Marsha faced because of her sex and sexual orientation denied Marsha equal housing opportunity.

**ANSWER:** Defendants deny the allegations of the first and third sentences of the paragraph and lack sufficient information to admit or deny the second sentence of the paragraph. Further

answering, Defendants state that Plaintiff gave an interview with the Chicago Tribune on February 13, 2017 where she stated she had been living at Glen St. Andrew for two years and two months and that “there are some wonderful people here. They are sweet. They are caring.” When asked whether there was a time when she thought she might have to move out for her safety, Plaintiff replied: “No.” Defendants further incorporate their answers to Paragraphs 27 – 37, 39 – 43, 46, 51-55, and 58 - 60.

7. Marsha now brings this action for violation of her civil rights, as secured by the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended (“the Fair Housing Act” or “FHA”), 42 U.S.C. §§ 3604, 3617, and by the Illinois Human Rights Act (“MRA”), 775 111. Comp. Stat. Ann. 5/3-102, 5/3-105.1.

**ANSWER:** Defendants admit that Plaintiff has filed actions under the Fair Housing Act and the Illinois Human Rights Act, but deny the remaining allegations of the paragraph.

### **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction over this matter pursuant to 42 U.S.C. § 3613 and 28 U.S.C. §§ 1331 and 1343, because Plaintiff is an aggrieved person alleging discrimination in violation of the Fair Housing Act and because the Fair Housing Act claims alleged herein arise under the laws of the United States, including those laws providing for the protection of civil rights.

**ANSWER:** Defendants admit the Court has subject matter jurisdiction because she has filed a claim alleging violations of the federal Fair Housing Act.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) because the alleged discrimination occurred in this district and the housing property at issue is located in this district.

**ANSWER:** Defendants admit venue is proper under 28 U.S.C. §1391(b) and that Glen St. Andrew Living Community is located in this district, but deny that the alleged discrimination occurred.

10. This Court has supplemental jurisdiction over Plaintiffs' claims under the laws of the State of Illinois because they are so related to the Plaintiffs federal claims that the state and federal claims form part of the same case or controversy pursuant to 28 U.S.C. § 1367(a).

**ANSWER:** Defendants admit that the Court has authority to exercise supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a).

#### **AGGRIEVED PERSON, DEFENDANTS, AND THU SUBJECT PROPERTY**

11. Plaintiff Marsha Wetzel, age 71, is a lesbian. She is a woman who had a thirty- year intimate, committed relationship with another woman and who raised a son together with her female partner. At all times relevant to this action, Marsha lived at GSALC. Marsha has been harmed by Defendants' discrimination against her in the terms, conditions, and privileges of housing rental; discrimination against her in the provision of housing related services and facilities; creation of a hostile housing environment; threats, intimidation, and interference with her enjoyment of a dwelling; retaliation against her for complaining about the discrimination she has experienced; and constructive eviction of her from GSALC, all because of her sex and sexual orientation.

**ANSWER:** Defendants admit that Plaintiff is age 71 and that she resided at Glen St. Andrew Living Community from November 26, 2014 to October 29, 2017, but lack sufficient information to admit or deny the remaining allegations of the first and second sentence of the paragraph and thereby deny the same and demand strict proof thereof. Further answering, Defendants deny the remaining allegations of the paragraph.

12. Upon information and belief, Glen St. Andrew Living Community, LLC is an Illinois corporation that operates GSALC ("the Subject Property"), located at 7000 North Newark Avenue, Niles, Illinois. The Subject Property includes a 55-bed intermediate care unit, 47 units of assisted living, and 107 independent living apartments, which are intended as residences for older

adults. Defendant Glen St. Andrew Living Community, LLC is licensed by the State of Illinois to provide assisted living and long term care at the Subject Property.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit the third sentence of the paragraph and further state that Glen St. Andrew Living Community, LLC is a limited liability company and the Subject Property is located at 7000 North Newark Avenue, Niles, Illinois.

13. Upon information and belief, Defendant Glen Health and Home Management, Inc., manages the Subject Property. (Collectively, Defendants Glen St. Andrew Living Community, LLC and Glen Health & Home Management are the “Corporate Defendants”).

**ANSWER:** Defendants deny the allegations of the paragraph.

14. Upon information and belief, at all times relevant to this action, Defendant Alyssa Flavin (“Flavin”) was the Executive Director of the Subject Property and was employed and authorized by the Corporate Defendants to act on their behalf in the overall operation and maintenance of the Subject Property, including in taking adverse actions against residents.

**ANSWER:** Defendants admit that Defendant Flavin was the Executive Director of Glen St. Andrew Living Community during the time Plaintiff resided there, but deny the remaining allegations of the paragraph.

15. Upon information and belief, at all times relevant to this action, Defendant Carolyn Driscoll (“Driscoll”) was employed and authorized by the Corporate Defendants to serve as an agent and as the Director of Supportive Services and Director of Resident Relations at the Subject Property.

**ANSWER:** Defendants admit that Defendant Driscoll was the Director of Supportive Services and Director of Resident Relations at Glen St. Andrew Living Community for a portion of the time Plaintiff resided there, but Defendants deny the remaining allegations of the paragraph.

16. Upon information and belief, at all times relevant to this action, Defendant Sandra Cubas (“Cubas”) was employed as the Regional Director of Operations for Defendant Glen Health & Home Management, and was authorized by the Corporate Defendants to serve as their agent with responsibility for the overall operation and management of the Subject Property.

**ANSWER:** Defendants admit that Defendant Cubas was the Regional Director of Operations for Defendants Glen Health & Home Management, but Defendants deny the remaining allegations of the paragraph.

17. The Subject Property constitutes a “dwelling” within the meaning of 42 U.S.C. § 3602(b) and is not exempt from the requirements of the FHA.

**ANSWER:** Defendants state that the allegations of Paragraph 17 constitute legal conclusions, not facts, for which no answer is required.

18. The Subject Property constitutes both “real property” and a “housing accommodation” within the meaning of 775 111. Comp. Stat. Ann. 5/3-101 and is not exempt from the requirements of the IHRA.

**ANSWER:** Defendants state that the allegations of the Paragraph 18 constitute legal conclusions, not facts, for which no answer is required.

### **FACTS**

19. Marsha was born in Hammond, Indiana. She grew up in Indiana, earned a high school degree, and worked a variety of jobs, including factory work and as a security guard. Marsha has faced a variety of health issues throughout her life, including severe arthritis and

gastrointestinal issues, has had multiple leg surgeries, and has been disabled since in or about the early 1980s.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of this paragraph and thereby deny the same and demand strict proof thereof.

20. Marsha is a lesbian. She is a woman whose primary emotional and romantic attachments are to other women, and she shared an intimate committed relationship with Judith Kahn ("Judy") for thirty years.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of this paragraph and thereby deny the same and demand strict proof thereof, but admit that Plaintiff has told Defendants she is a lesbian.

21. Marsha met Judy in 1982 and they quickly fell in love. Although they could not legally marry, Marsha and Judy had a commitment ceremony in their home on May 8, 1983, after which they went on a honeymoon road trip across the United States. They built a life together, sharing three different homes. Marsha supported Judy as she completed her studies to become a psychologist. In 1993, they welcomed an adopted baby into their family, whom they named Joshua ("Josh").

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of this paragraph and thereby deny the same and demand strict proof thereof.

22. In 2011, Judy was diagnosed with stage IV colon cancer. Marsha cared for Judy throughout her illness, seeing to her every need until she entered hospice care. Judy died in November 2013.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of this paragraph and thereby deny the same and demand strict proof thereof.

23. After Judy's death, Judy's family evicted Marsha from the home she and Judy had shared. She also became estranged from Josh, who struggled emotionally after Judy's death. Marsha had lost the love of her life, was isolated from her son, and had nowhere to live. A social worker helped Marsha find an apartment to rent at GSALC.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of this paragraph and thereby deny the same and demand strict proof thereof.

24. Marsha moved into GSALC in November 2014. During her intake interview with GSALC staff member Debbie DuFore ("Debbie"), Marsha talked openly about her sexual orientation and about her life with Judy and Josh.

**ANSWER:** Defendants admit that Plaintiff moved into Glen St. Andrew Living Community in November 2014. Defendants lack sufficient information to admit or deny the remaining allegations of the paragraph and thereby deny the same and demand strict proof thereof.

25. Marsha signed a Tenant's Agreement with GSALC on November 26, 2014 to rent Apartment 204 and moved in. The Agreement set forth that, in exchange for her rental payment, GSALC would provide Marsha with a private room and bathroom, utilities, maintenance, laundry facilities, three meals a day, and access to community rooms, enrichment programs, and consultation about health care and other necessities. Upon information and belief, the Corporate Defendants are parties to the Agreement.

**ANSWER:** Defendants admit the allegations of the first sentence. Defendants state that the Tenant Agreement speaks for itself and Defendants deny the allegations to the extent they are inconsistent therewith. Defendants deny the allegations of the last sentence.

26. From the beginning of her time at GSALC, Marsha was open with other residents about her relationship with Judy, their raising Josh, and her sexual orientation.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of the paragraph and thereby deny the same and demand strict proof thereof.

27. In or about April of 2015, another GSALC resident named Robert Herr ("Bob") began verbally harassing Marsha, regularly calling her names and using homophobic slurs like "fucking dyke," "fucking faggot," "homosexual bitch," and other words to that effect when they would encounter each other in the facility. He taunted her about her relationship with Judy, and told Marsha that if she had ever had a sexual relationship with a man, she would never want a woman again, or words to that effect. Bob is a former police officer, and Marsha felt intimidated and upset by Bob's behavior.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that the male resident ("Resident 1") stated he had formerly worked as a police officer and Plaintiff stated she was formerly employed as a security guard. Further answering, Defendants state that between April 1 and July 31, 2015, Plaintiff made three reports that Resident 1 had harassed Plaintiff on the basis of her sexual orientation. Defendants investigated each complaint. No homophobic language could be substantiated in two of the three incidents and witnesses reported that Plaintiff was the aggressor and caused the confrontation. In the one instance where it was substantiated that Resident 1 used a homophobic slur, Resident 1 was immediately reproached.

28. Marsha complained about Bob's harassment to Defendants Flavin, Driscoll, and Cubas, and for a time, Bob's harassment seemed to decrease. Marsha sent a thank you note to Defendant Cubas for her help with the situation.

**ANSWER:** Defendants admit the allegations of the paragraph, except that Defendants deny that Resident 1 harassed Plaintiff.

29. Starting in or about late June 2015, Bob was out of GSALC for several weeks. Not long after he returned to GSALC in late July 2015, Marsha encountered Bob in the lobby. Marsha was going up a ramp in the lobby in the scooter she uses to move around GSALC due to her disability. Bob came down the ramp, uttered a homophobic slur, and rammed Marsha's scooter

with his walker hard enough to tip her chair and knock her off the ramp, leaving a large bruise on her arm. This incident was witnessed by a GSALC staff member - Patty Hayes ("Patty"), the receptionist-who stated at the time that she saw the whole thing, or words to that effect.

**ANSWER:** Defendants lack sufficient information to admit or deny the first sentence of the paragraph and thereby deny the same and demand strict proof thereof. Defendants deny the remaining allegations in the paragraph, except that Defendants state that an incident occurred on September 2, 2015 and that Patty Hayes, the receptionist, witnessed the entire incident and reported the same at the time. Defendants state that Hayes had a full view of the area and reported that while she could not hear what was said, she could see the parties at all times and that Resident 1 did not touch Plaintiff at any time and did not ram Plaintiff's scooter with his walker or knock her off the ramp.

30. On or about August 3, 2015, Marsha spoke to Defendant Cubas and reported Bob's behavior and the assault. Marsha believed that Patty had also reported the incident to Defendant Cubas. Defendant Cubas was aloof, told Marsha not to worry about Bob's behavior or words to that effect, and said that Patty never reported the incident. Marsha talked with Patty, who said she had reported it, but also started suggesting that maybe she did not really see anything. At some point, Marsha also showed Defendant Cubas her bruised arm and Defendant Cubas stated that she did not see a bruise at all, or words to that effect.

**ANSWER:** Defendants deny the allegations of this paragraph and repeat and reallege their answer to Paragraph 29 and incorporate the same herein.

31. After Marsha reported Bob's behavior and the assault to Defendant Cubas, Bob started harassing Marsha with greater frequency again. In addition to using slurs when he encountered her, Bob told Marsha that Defendant Flavin does whatever he tells her to, or words to that effect. Marsha complained to Defendants Flavin and Driscoll about Bob's ongoing behavior, and they argued with Marsha about the assault and called Marsha a liar. Marsha met with Defendant Driscoll on or about August 28, 2015. Defendant Driscoll and GSALC's business manager, Alona Valencia ("Alona"), called Marsha into an office and locked the door to the room behind her. Defendant Driscoll showed Marsha a copy of her tenant's agreement with several post-it arrows pointing to various provisions, and told Marsha they could not believe her because she is

a trouble maker who always lies and twists things, or words to that effect. Marsha responded that she believed she was being treated unfairly based on her sexual orientation, told them that she was having chest pains, and asked them to open the door three times before they let her leave.

**ANSWER:** Defendants deny the allegations of this paragraph, except that Defendants admit that Plaintiff continued to complain about Resident 1. Further answering, Defendants state that they investigated every complaint, but no substantiating evidence was found or contradictory evidence was found.

32. Around this same time, another GSALC resident, Elizabeth Rivera ("Elizabeth"), also began harassing Marsha, saying things like, "you look like a man," and "homosexuals will burn in hell," or words to that effect. At or about the end of September, Elizabeth made similar comments again while she rammed her wheelchair into the table where Marsha was sitting in the dining hall. The table was knocked on top of Marsha and kitchen staff had to help remove it.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that on October 12, 2015, the female resident ("Resident 2") while backing up her motorized scooter bumped the table where Plaintiff was sitting causing the table to press into Plaintiff's ribcage. The table remained standing and no sexual orientation slurs were uttered.

33. A few days thereafter, Marsha encountered Elizabeth in the elevator. Elizabeth once again made similar homophobic comments and spit at Marsha. Marsha went back to her room to change her shirt, which had become stained with Elizabeth's spit.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of the paragraph and thereby deny the same and demand strict proof thereof, but state Plaintiff did not report it.

34. Soon after, Marsha was talking about Elizabeth having spit on her with other residents out on the patio. One resident, Audrey Chase ("Audrey") thought it was funny and

directed a homophobic slur at Marsha. Marsha became angry with Audrey, and Audrey falsely reported to Defendants Flavin and Driscoll that Marsha was saying negative things about her.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of the paragraph and thereby deny the same and demand strict proof thereof. Further answering, Defendants state that on July 22, 2015 the second female resident (“Resident 3”) and another resident were upset with Plaintiff’s behavior and reported the same to Defendants. The two residents had been invited to go to a birthday lunch and Plaintiff had not been invited because they did not think Plaintiff could manage with her scooter. Plaintiff subsequently demanded that Resident 3 pick who she would be friends with. When Resident 3 refused to pick, Resident 3 reported that Plaintiff claimed she was being discriminated against because she was gay. Resident 3 stated she did not know what gay was, but that it was fine with her.

35. On another occasion in or about late summer 2015, Marsha was in the elevator with both Bob and Audrey. Bob hit the back of Marsha's scooter with his walker. Audrey told the Administration that it was Marsha who had hit Bob.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that on July 21, 2015, Plaintiff, Resident 1 and Resident 3 were in the elevator together and an argument took place between Resident 1 and Plaintiff. Resident 3 told Defendants that Plaintiff was the one bothering Resident 1.

36. When Marsha complained to Defendants Flavin and Driscoll about both Elizabeth's and Audrey's conduct, rather than addressing it, the Administration placed the blame on Marsha and responded by changing Marsha's seating in the dining room to less desirable locations. Marsha began eating in her room more often because she was afraid of what would happen in the dining room despite that GSALC was supposed to provide all of her meals. Marsha was later told by Defendant Cubas that there was an incident report for Elizabeth's behavior in the dining room. Marsha asked the Administration for a copy, but never received one.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that Plaintiff was entitled to three meals a day as part of her Tenant Agreement. Further answering, Defendants state that on September 28, 2015, two different residents reported that Resident 3 was not coming to meals because of the way Plaintiff was treating Resident 3. Resident 3 came to Defendants and reported that Plaintiff was criticizing and scolding Resident 3 for calling a staff person to assist with another resident's medical condition. Defendants met with Plaintiff on September 29, 2015 and Plaintiff denied saying anything to Resident 3. Defendants asked Plaintiff if she would be willing to move dining tables and Plaintiff agreed if she could pick her seat. After reviewing the seating chart Plaintiff was given the seat she selected. Defendants further state that the dining room is a rectangular room and that all dining tables are the same and no table is more or less desirable than another.

37. Through about the end of October 2015, Marsha had several negative interactions with Defendant Flavin, who repeatedly said Marsha was lying and told Marsha that ten people a day complain about her. Defendant Flavin also barred Marsha from spending time in the lobby for a period of time.

**ANSWER:** Defendants deny the allegations of the paragraph. Further answering, Defendants state that during the months of June, July and August 2015, Defendants numerous complaints about Plaintiff's disruptive behaviors, including but not limited to Plaintiff circling around a resident and tell the resident she did not like the resident, stalking residents, making cackling noises rather than speaking to residents, going too fast on her motorized scooter and nearly knocking into residents, as well as the incidents set forth in Defendants answers to paragraphs 34 and 36 which are repeated and realleged and incorporated herein.

On August 24, Defendants Flavin and Driscoll met with Plaintiff to discuss the pattern of residents' complaints and requested Plaintiff to stop the disruptive behaviors, but complaints continued to be reported during September.

Finally, on October 12, 2015, Plaintiff verbally abused the receptionist and brought her to near tears when the receptionist was attempting to assist Plaintiff with a request. In light of Plaintiff's abusive manner to the receptionist and other residents, Defendants Flavin and Driscoll informed Plaintiff that she temporarily was prohibited from spending extended periods of time near the receptionist or the front lobby sitting area adjacent to the receptionist.

38. Marsha had a phone call with Defendant Cubas in or about late October 2015, and soon after, spoke to her in the day room. Marsha told Defendant Cubas that if they want her to leave, she would but that they had better put it in writing that the reason is because she is gay. Defendant Cubas responded that she was not telling Marsha to leave, and Marsha said, "Then do something to help me," or words to that effect.

**ANSWER:** Defendants admit the allegations of the paragraph except Defendants deny that Marsha said "Then do something to help me," or words to that effect.

39. At the beginning of November 2015, Marsha did not receive a rent notice taped to her door as had been the usual procedure, although other residents did. Marsha went to Alona to pay her rent. Alona accepted Marsha's check, but initially would not give her a receipt. Marsha stayed in Alona's office until she received a receipt, although it did not look like the same receipt she had received every other month when she had submitted her rent. It also was not signed, as the usual receipts were. Marsha insisted that Alona sign the unusual receipt, which Alona eventually did.

**ANSWER:** Defendants deny the allegations of the paragraph. Further answering, Defendants state that Plaintiff typically paid her rent by hand delivering her check to Alona, and that on one occasion Plaintiff presented her rent check to Alona while Alona was at the reception desk.

Because Alona was not in her office at her computer, Alona gave Plaintiff a temporary receipt and when Alona returned to her office she provided Plaintiff with a formal receipt.

40. On or about November 2, 2015, Defendant Flavin told Marsha that, while she was allowed to go to the lobby to get coffee, Defendant Flavin still did not want Marsha being in the lobby. Marsha asked why everyone else, including Bob, was allowed to be in the lobby and she was not. Defendant Flavin did not respond.

**ANSWER:** Defendants deny the allegations of the paragraph. Further answering Defendants repeat and reallege the second paragraph of their answer to Paragraph 37 and incorporate the same herein. Further answering, Defendants state that as of October 19, 2015, Plaintiff ignored the restriction on her access to the reception area and began sitting in the area for long periods of time, interfering with the receptionist's work and making the receptionist and other residents uncomfortable.

41. On or about November 17, 2015, Marsha and her social worker, Kristi Kagan, had a meeting with Defendants Flavin, Driscoll, and Cubas, set up by Ms. Kagan in an attempt to improve the relationship between the Administration and Marsha. Marsha complained about the harassment and the two incidents of physical assault against her, and showed them the unusual receipt she received after not getting her rent notice. The Administration denied that the incident with Bob had occurred, said Patty had changed her story, claimed the incident with Elizabeth was an accident, said that Marsha was wrong about what was happening, and said that Marsha is the problem. Defendant Cubas stated, "I see no discrimination here," or words to that effect.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that Plaintiff and Kristi Kagan had a meeting with Defendants Cubas, Flavin and Driscoll on November 17, 2015 to discuss Plaintiff's situation. At the meeting, Defendants stated they take these matters seriously and Defendant Cubas stated she had reviewed the file and found no proof of sex or sexual orientation discrimination. Defendants informed Kagan about Plaintiff's pattern of negative behavior with other residents and the complaints that had been made against Plaintiff, and that

Plaintiff had not always been truthful with respect to reporting what had happened. Defendants admit that Plaintiff alleged she had been harassed and physically assaulted, but Defendants explained that the receptionist had witnessed the incident with Resident 1 and no physical assault occurred. Defendants further stated that when Plaintiff told Defendant Cubas about the dining room incident, Plaintiff said that Resident 2 had been backing up in her motorized scooter and bumped into the table where Plaintiff was sitting causing the table to press into Plaintiff's ribcage. Plaintiff did not report that the table turned over or that homophobic slurs were uttered. Defendants further admit that the rent receipt was discussed and that nothing unusual had taken place.

42. Through the remainder of November and December 2015, Marsha continued to experience verbal harassment from Bob. Bob also worked to alienate Marsha from other residents, including Ed Sloper ("Ed"), who began pulling his wife away whenever she spoke to Marsha because Bob had told Ed that Marsha was gay, and who began glaring at Marsha, making her feel uncomfortable in the dining room. Marsha also continued to be subjected to discriminatory and retaliatory treatment by the Administration, with Defendants Flavin and Driscoll responding to Marsha's complaints about a particular maintenance employee by ending all room cleaning for Marsha and Defendant Driscoll taunting Marsha for not having visitors on Christmas.

**ANSWER:** Defendants deny the allegations of the complaint, except that Defendants lack sufficient information to admit or deny the allegations of the second sentence of the paragraph and thereby deny the same and demand strict proof thereof. Defendants deny the remaining allegations of the paragraph. Further answering, Defendants state that on December 29, 2015, Plaintiff approached Defendants and stated she did not want her room cleaned by the housing staff and that her caregiver would clean her room. Defendants agreed, but said her room would be checked once a month for cleanliness. Plaintiff executed a written agreement to the same effect. On January 6, 2016, Plaintiff changed her mind and requested housekeeping to clean her room as long as Stella did not clean her room.

43. On January 5, 2016, Marsha was attacked from behind while she was in the mailroom. She did not see the person who hit her on the head, but heard them say "homo" as she was knocked forward over the front of her scooter. She went back to her room and cried, but did not seek medical attention. She did not report it to the staff immediately because she did not think they would believe her and because she felt that they twist everything she says.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of the paragraph and thereby deny the same and demand strict proof thereof. Defendants state that although Plaintiff had reported other incidents promptly, Plaintiff did not report the alleged incident until the following day, even though Defendants Driscoll and Flavin were in their offices at the time. Defendants state that on January 6 Plaintiff reported the incident had occurred January 5 prior to dinner between approximately 4 and 5:30 p.m. An investigation was commenced by Defendants.

Plaintiff's table mates and residents who were close to Plaintiff were interviewed. A tablemate reported that Plaintiff did not discuss the incident on January 5 even though the incident allegedly occurred just a short time before, nor did she notice any bruising around Plaintiff's eye. A second tablemate reported that Plaintiff had not mentioned the incident to her until two days after the alleged occurrence. Another resident said that Plaintiff never mentioned the incident on January 5 and that Plaintiff's eye did not appear bruised on January 5.

Defendants further state that the activity office is directly across the hall from the mail room. Three members of the activity staff were questioned, and none witnessed or were aware that anything had happened on January 5. The activity director was in the office at the time of the alleged incident and did not hear or see anything. All of the managers were interviewed about the incident, but no one witnessed or heard the incident.

Further answering, Defendants state that Plaintiff's eye appeared bruised on January 6 and Defendants immediately offered Plaintiff medical attention when she reported the incident to them, but Plaintiff refused medical attention. Defendants told Plaintiff to notify them immediately if anything like that happens because the safety of residents is of primary concern. Plaintiff mentioned that she and Herr were doing well in avoiding each other and there had been no recent problems.

44. On January 6, 2016, Marsha reported the attack to Defendants Flavin and Driscoll, who offered for her to see the on-site doctor. Marsha refused because that doctor does not accept Medicaid and she would have had to pay him in full. Marsha had a bump on her head and a black eye but did not lose consciousness or have vision problems so she did not pursue it. Below is a true and correct copy of a photograph that accurately shows how Marsha looked on January 6, 2016.



**ANSWER:** Defendants admit that Plaintiff waited until January 6 to report the incident and that Defendants offered Plaintiff medical attention which Plaintiff refused. Defendants lack sufficient information to admit or deny the allegations in the remaining sentences of the paragraph and

thereby deny the same and demand strict proof thereof. Further answering, Defendants repeat and reallege their answer to Paragraph 44 and incorporate the same herein.

45. On or about January 10, 2016, Marsha asked a staff person named Linda at the front desk for a copy of any incident reports from the mailroom assault and Linda could not find one. On or about January 12, 2016, Marsha asked Carolyn for a copy and was told residents cannot see or have copies of reports.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations in the first sentence of the paragraph and thereby deny the same and demand strict proof thereof. Defendants admit that on January 12, 2016 Plaintiff asked Defendant Driscoll for a copy of the January 6, 2016 report and that Driscoll told Plaintiff that internal reports are not provided to residents.

46. After the January 5 incident, in addition to the verbal harassment, Bob repeatedly laughed at Marsha while rubbing his head and saying “Ouch.” As a result, and because of Bob’s previous harassment of and assault on Marsha, Marsha strongly suspects he is the person who attacked her on January 5, 2016. She is extremely scared of Bob and feels threatened and intimidated by him. Marsha also encountered Bob early in the morning on or about January 18 lurking in the mailroom while she was doing her laundry. She quickly went to the lobby where there were other people, and has since stopped doing laundry early in the day in order to avoid encountering Bob while she is alone. In addition, she has stopped going to the third floor of GSALC because that is where Bob lives. She also has eaten in her room more often, rather than getting all of her meals in the dining room, the dining room in order to avoid Bob.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that Plaintiff took meals in her room from time to time and alleged sometimes it was to avoid Resident 1, and Defendants lack sufficient information to admit or deny the allegations of the first, second and sixth sentences of the paragraph and thereby deny the same and demand strict proof thereof.

Further answering, Defendants state that on January 18, 2016 Resident 1 made a report about Plaintiff shortly before 8 a.m. Resident 1 reported that he had gone to the mail room early

in the morning and Plaintiff was there and asked Resident 1 what he was looking at and started to taunt him. Resident 1 reported he did not look at Plaintiff and initially did not respond. Resident 1 stated that after a bit he told Plaintiff to go ahead and go downstairs and lie like she always did and call Defendant Cubas. Resident 1 reported that he cannot sit in the lobby or go anywhere in the building without trouble from Plaintiff and something needs to be done about it. Defendants further state that Resident 1 repeatedly took his meals in his room allegedly to avoid Plaintiff.

47. On or about January 24, 2016, Defendant Driscoll asked Marsha if Debbie from admissions knew she was gay. Marsha said yes.

**ANSWER:** Defendants deny the allegations of this paragraph.

48. In or about February 2016, Marsha's friend Kathy was receiving hospice care on the fifth floor. Marsha visited her regularly and overheard the nurses complaining about Marsha's visitation, asking something to the effect of "what are they, a gay couple?"

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of this paragraph and thereby deny the same and demand strict proof thereof.

49. Bob's verbal harassment of Marsha continued through the early months of 2016. In addition to regularly calling her names and saying things like "Judy died to get away from you," or words to that effect, he began referring to Josh as Marsha's "homosexual-raised faggot son," or words to that effect.

**ANSWER:** Defendants deny the allegations of the paragraph.

50. Marsha felt intimidated by Bob's seemingly close relationship with the Administration. On or about February 5, 2016, she saw Bob coming out of Defendant Flavin's office. Defendant Flavin had her arm around Bob's shoulder and the two of them were laughing and petting Defendant Flavin's dog. On or about April 14, 2016, Marsha saw Defendant Cubas go

over to Bob's table in the dining room, put her arm around him and pat him warmly, as the two of them talked and laughed together.

**ANSWER:** Defendants deny the allegations of the paragraph.

51. On or about March 30, 2016, Marsha and another resident, Rachael Carlin ("Rachael"), were in the dining room waiting for breakfast to be served. Bob called Marsha "fruit loop" as he passed by and walked away laughing. Rachael reported Bob's name calling to Alona. When Marsha asked Defendant Driscoll about the incident on or about April 4, Defendant Driscoll told Marsha that Rachael said she never witnessed anything.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that the female resident ("Resident 4"), Plaintiff and Resident 1 were in the dining room on March 30, 2016 and that Resident 4 stated she had not heard what Resident 1 said, and Defendant Driscoll told Plaintiff that Resident 4 said she had not heard Resident 1 call Plaintiff a fruit loop.

52. On April 19, 2016, Marsha received a letter from Defendants Cubas and Driscoll about needing to schedule a mandatory meeting within 24-48 hours to discuss an important matter. At the meeting, Defendants Cubas and Driscoll alleged that Marsha had been smoking in her room and asked Marsha to sign a letter reiterating her knowledge of the facility's smoking policy and pledging to stop violating the policy. Marsha refused to sign the letter because she had not been smoking in her room and would not sign something that suggested that she had been. Marsha told Defendants Cubas and Driscoll something to the effect of that she felt they were looking for a way to get rid of her because she is a lesbian. She asked why they do not do anything when she is called "faggot," even though they were so quick to respond to allegations about her smoking, or words to that effect. Marsha told them that she smokes outdoors only, asked Defendants Cubas and Driscoll why the smoke detector in her small room did not go off if she was allegedly smoking in it, and asked them for the names of those who reported her. Defendants Cubas and Driscoll did not respond to Marsha's questions, but told Marsha that if they received one more report about her smoking in her room, Marsha would be dismissed from GSALC.

**ANSWER:** Defendants admit the first sentence of the paragraph. Further answering, Defendants state that staff members smelled cigarette smoke outside Plaintiff's door in the early morning hours on March 15, 19, 21, 25, 26, 30 and April 5. On April 14 smoke was smelled

outside Plaintiff's door in the early afternoon. The apartments to either side of Plaintiff were vacant as of April 6 and the tenant from across the hall reported that before she moved she smelled smoke in the early morning coming from Plaintiff's apartment on a daily basis. Defendants admit that they informed Plaintiff that there had been complaints of smoke coming from Plaintiff's apartment. Plaintiff requested the names of the individuals that reported her smoking, but Defendants informed her that the names would not be revealed. Defendants reviewed the no-smoking policy, the danger smoking in the building posed to Plaintiff and the other residents and that violating the no-smoking policy was grounds for termination of the lease. Defendants asked Plaintiff to sign a letter acknowledging the no-smoking policy and a pledge not to violate it, but Plaintiff refused to sign. Plaintiff denied smoking in her apartment and said Defendants were just trying to find a way to get rid of her because she was gay. Defendants responded that her sexual orientation had nothing to do with the issue that smoking in her room is a safety concern. Defendants deny the remaining allegations of the paragraph.

53. On or about April 20, Marsha received a letter from Defendants Cubas and Driscoll, with a copy to Defendant Flavin, GSALC stating that she had been warned about smoking in her room and that she refused to sign an updated no smoking policy. The letter stated that if they smell smoke, or hear any reports of smoke, they will knock one time and then enter her room with or without her permission, and that any further violations of the no smoking policy would be grounds for termination of her lease.

**ANSWER:** Defendants admit Defendants Cubas and Driscoll sent a letter to Plaintiff on April 20, 2016 with a copy to Defendant Flavin. Defendants state that the letter speaks for itself and deny the allegations to the extent they are inconsistent therewith.

54. On April 24, 2016, Marsha was awoken at around 5:00 in the morning by a pounding on her door. She opened the door to find two staff members who said that they were from the fifth floor, that they smelled cigarette smoke coming from her room, and that they wanted to know if she was smoking. Marsha had been sleeping and had not been smoking. She offered to

let the staff members into her room to check for smoke or any remnants of a cigarette. They refused to enter. Marsha said something about how the staff members themselves smelled like smoke, and one of the staff members slapped Marsha across the face. After the staff members left, Marsha cried and went to Rachael's room. Rachael sat with Marsha while she called the police, who came to the facility and took a report. Although Marsha could describe the staff members generally, and could see that they were wearing staff name badges, she could not identify them specifically because she had not put on her glasses before she answered the door.

**ANSWER:** Defendants deny the allegations of the paragraph except that Defendants admit that on April 24, 2016 a nurse and nurse's assistant smelled a strong cigarette smoke odor coming from inside Plaintiff's apartment. They knocked softly on Plaintiff's door. Plaintiff was highly agitated and angry when she opened the door. The nurse and nurse's assistant looked inside, but did not enter though Plaintiff told them they could. Plaintiff accused the nurse and nurse's assistant of smelling like smoke. The nurse and assistant did not respond, did not touch Plaintiff and left. Further answering Defendants lack sufficient information to admit or deny whether Plaintiff went to another resident's room, and deny the same and demand strict proof thereof, but Defendants admit that Plaintiff called the police at approximately 6:09 a.m. and reported that she had been slapped. The police came to Plaintiff's apartment and did not observe any marks on Plaintiff's face.

55. On April 25, 2016, Marsha and Rachael met with Defendant Flavin about the April 24 incident. Marsha told Defendant Flavin that she did not like being hit by anyone, resident or staff. Defendant Flavin questioned whether it had really been staff members involved. Marsha repeated the information she had given the police. Defendant Flavin seemed angry that Marsha took legal steps to address this incident.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit Plaintiff and Resident 4 met with Defendant Flavin on April 25 to discuss the incident on April 24.

56. Bob was out of the facility during May, and Marsha returned to eating regularly in the dining room while he was gone. After he returned on or about June 5, he resumed his harassment. In addition to using anti-gay slurs, Bob taunted and intimidated Marsha, seemingly taking photographs of her with his phone, and standing near her in the dining hall and laughing at her. Marsha was anxious and had trouble swallowing food whenever Bob was in the dining hall with her.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of the first and last sentence of the paragraph and thereby deny the same and demand strict proof thereof. Defendants deny the remaining allegations of the paragraph.

57. On or about June 7, Marsha encountered Bob as she was coming out of the lobby and was waiting for the elevator. Bob came down hallway, calling Marsha a "faggot" and a "fucking faggot," or words to that effect and saying something about "the homosexual piece of garbage you raised."

**ANSWER:** Defendants deny the allegations of the paragraph.

58. On or about June 8, 2016, Marsha was on the patio smoking. When she attempted to go back inside, Bob was blocking the entrance with his legs and cane. When Marsha said "excuse me," Bob started yelling at her. He picked up his cane in the middle and Marsha thought he was going to hit her. Bob threatened "to rip [her] tits off," or words to that effect. He went inside and grabbed the door and held it behind him so that Marsha could not get in for a short time before letting go and walking away. Marsha felt bullied, intimidated, and scared.

**ANSWER:** Defendants deny the allegations of the paragraph.

59. Marsha wrote a complaint about Bob's behavior on the patio. In response, Defendant Flavin approached Marsha, and told her she had been smoking in the wrong place. When Marsha said that Bob was preventing her from going to the right place, Defendant Flavin said, "Bob will be Bob," or words to that effect, and told Marsha to make sure to smoke in the right place. Defendant Flavin did not address Bob's threatening behavior toward Marsha.

**ANSWER:** Defendants admit Plaintiff wrote a complaint about Resident 1's behavior on the patio, but Defendants deny the remaining allegations of the paragraph.

60. On or about June 28, Marsha was standing with an activities staff member named Lisa waiting for the elevator. Bob came out of the lobby, and walked by saying words to the effect of, "Too bad you can't walk, or you'd be the fucking grand marshal of the gay pride parade." Lisa said to Bob, "Don't talk to her like that." Bob continued, saying something to the effect of how great it is that all the gays were killed at the Pulse nightclub in Orlando. Lisa filed a report of Bob's behavior, but Marsha is unaware of any action being taken against Bob.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that Lisa was waiting near the elevator with Plaintiff.

61. After the filing of the original complaint in this matter, Marsha hoped the harassment would stop, that the administrators would take her complaints more seriously, and that her access to the full range of facilities and services at GSALC would be restored. Within days, however, the harassment persisted.

**ANSWER:** Defendants lack sufficient information to admit or deny the allegations of the paragraph, except that Defendants admit that on July 27, 2016 Plaintiff filed her complaint in federal district court.

62. Over the course of the next nine months, Marsha repeatedly complained in writing to the Administration, chronicling the ongoing verbal and physical harassment, threats, and intimidation, as well as unequal treatment by members of the staff.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that over the next nine months Plaintiff continued to make complaints.

63. The discriminatory harassment Marsha reported included verbal harassment by Ed, who called her a "fucking cunt licker" or words to that effect; harassment by a resident named Suzanne, who berated Marsha for not dating men, yelled at people talking to Marsha not to do so

because she is gay, and threatened to hit Marsha in the facility beauty shop; verbal harassment by a resident named Julie, who confronted Marsha on the patio, calling her words to the effect of "fucking lesbian" and a "fucking joke;" an incident in the hallway in the middle of the night in which Marsha heard a man's amplified voice say, "slay the gay" in a threatening manner; and multiple instances of threats and intimidation by Bob, including putting his face two inches from Marsha's as she bent down to untangle the wheel of her walker, repeatedly blocking her exit from the elevator, and, on one occasion, grabbing her walker as she attempted to exit the elevator, pushing it down the hall away from her, and saying, "fall on your face, faggot" as Marsha hobbled toward it.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit Plaintiff made complaints which speak for themselves. Further answering, Defendants state they investigated each complaint and the alleged incidents either could not be substantiated or were contradicted by others.

64. Marsha's complaints also chronicled mistreatment by the dining room staff, including instituting new policies around available beverages solely for her, failing to set her place despite all others being set, obstructing her access to her table with the juice cart, and assigning a new resident to her seat. She also complained about a receptionist giving out her private phone number and about instances of intimidation by Defendant Flavin.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants admit that Plaintiff filed complaints which speak for themselves. Further answering, Defendants state they investigated each complaint and the alleged incidents either could not be substantiated or were contradicted by others.

65. Defendants' responses to Marsha's complaints simply credited the denials of the perpetrators, refused to consider the corroboration of Marsha's contacts outside GSALC who witnessed particular events, ignored the details of her allegations, and sufficiently intimidated residents who witnessed events into changing their stories.

**ANSWER:** Defendants deny the allegations of the paragraph.

66. As a result of the harassment and discrimination Marsha experienced, she spent increased amounts of time in her room. She kept the door locked whenever she was in her room and she slept with the door barricaded so that no one could enter her room. She lived in fear that people would come into her room and hurt her or take or damage things that belonged to Judy. Marsha did not regularly sit at her table in the dining room for meals from the time of Bob's threats on June 8, 2016 through her departure from GSALC. She went to the dining room when it was closing down or closed in order to get out to the patio. She relied on the groceries her caregiver brought her for food, as well some meager food items the kitchen staff provided her, despite that her rent to GSALC was supposed to provide her with three meals a day.

**ANSWER:** Defendants deny the allegations of the complaint, except that Defendants admit that Plaintiff spent time in her room, did not regularly to come to the dining room, and used the dining room to get to the patio. Defendants admit that Plaintiff's Tenant Agreement provided for three meals and day and Defendants state that they offered to have meals sent to Plaintiff's room at no charge when she chose not to come to the dining room, but Plaintiff declined said offers. Defendants lack sufficient information to admit or deny the allegations in the second and third and last sentences of the paragraph and thereby deny the same and demand strict proof thereof.

67. As a result of the harassment and discrimination, Marsha experienced tremendous anxiety and fear. She felt unsafe and unwelcome in her own home. She lost a significant amount of weight. She worried every time she left her room. She felt shocked and degraded by the sexist and homophobic language being thrown at her so regularly, particularly comments about her relationship with Judy and their son. She felt mistreated and humiliated by the Defendants' refusal to take action to protect her.

**ANSWER:** Defendants deny the allegations of the paragraph, except that Defendants lack sufficient information to admit or deny the allegations in the second, third and fourth sentences of the paragraph.

68. Approximately one month after Defendants' final finding that Marsha's complaints were unsubstantiated, in or about early April 2017, Bob threatened to kill Marsha in an elevator, telling her he would throw her down the elevator shaft. Approximately a few weeks later, as Marsha was exiting the lobby to go outside, Bob called to her and said something to the effect that

he knew a guy who, for \$50, would put her in his crosshairs and blow her head off. There were no witnesses to either threat, and Marsha knew the Defendants would simply credit Bob's denial, as they had done repeatedly for the prior eighteen months.

**ANSWER:** Defendants deny the allegations of the paragraph.

69. After years of trying to withstand the harassment and abuse, Marsha knew she could no longer stay at GSALC. She began to look for other housing options that same month, but was limited by both the sources and amount of her income, by her limited resources and knowledge of appropriate options, and by her lack of mobility due to her disability. She began the process of qualifying for supportive living, and was able to leave GSALC in October 2017.

**ANSWER:** Defendants deny the allegations of the paragraph and state that on February 13, 2017, Plaintiff gave an interview with the Chicago Tribune where she stated she had been living at Glen St. Andrew for two years and two months and that “there are some wonderful people here. They are sweet. They are caring.” When asked whether there was a time when she thought she might have to move out for her safety, Plaintiff replied: “No.” Defendants lack sufficient information to admit or deny the allegations of the last sentence and thereby deny the same and demand strict proof thereof, but admit that Plaintiff left GSALC October 29, 2017.

70. For more than two years, Marsha was subjected to a pattern of severe and pervasive verbal and physical harassment, threats, and intimidation because of her sex and sexual orientation. This created a hostile environment that unreasonably interfered with Marsha's right to use and enjoy her home, discriminated against her in the terms, conditions, and privileges of renting a place to live at GSALC, deprived her of the right to inhabit the premises she rented, and discriminated against her in the provision of services or facilities in connection with renting a place to live at GSALC.

**ANSWER:** Defendants deny the allegations of the paragraph.

71. Marsha was subjected to this severe and pervasive verbal and physical harassment because she is a woman whose primary emotional and romantic attachments are to other women,

and because she shared an intimate, committed relationship with Judy for thirty years. Marsha would not have been subjected to this hostile housing environment if she were a man whose primary emotional and romantic attachments are to women, or if she were a man who shared an intimate, committed relationship with a woman for thirty years.

**ANSWER:** Defendants deny the allegations of the paragraph.

72. Marsha was subjected to this severe and pervasive verbal and physical harassment because she is a woman who defies sex-stereotypes, including stereotypes about the sex of the person to whom a woman should be attracted, about the sex of the person with whom a woman should have a relationship and raise children, and about how a woman should appear or act.

**ANSWER:** Defendants deny the allegations of the paragraph.

73. Marsha was subjected to this severe and pervasive verbal and physical harassment because of her association with women. If Marsha's primary emotional and romantic attachments were to men or had Judy been a man, Marsha would not have been subjected to this hostile housing environment.

**ANSWER:** Defendants deny the allegations of the paragraph.

74. Defendants utterly failed to take prompt action to correct or end the discriminatory conduct of the other residents toward Marsha despite having a duty to do so. Defendants knew that Marsha was being subjected to extensive unwelcome harassment because of her sex and sexual orientation and that this harassment was sufficiently severe and pervasive as to create a hostile environment. Defendants disregarded Marsha's complaints and those of witnesses to the verbal and physical harassment Marsha experienced. Defendants actively discouraged Marsha from taking steps to address the harassment and violence she has experienced because of her sex and sexual orientation. Any actions taken by Defendants in response penalized or harmed Marsha rather than correcting or ending the hostile environment created by the harassment and discrimination of the other residents.

**ANSWER:** Defendants deny the allegations of the paragraph.

75. Defendants also retaliated against Marsha for complaining about the illegal harassment and discrimination she was experiencing at GSALC because of her sex and sexual

orientation. The Administration responded to Marsha's complaints by limiting her access to GSALC facilities and resources, and by threatening and attempting to kick her out of GSALC. Defendants coerced, intimidated, threatened, and interfered with Marsha's exercise and enjoyment of her housing rights.

**ANSWER:** Defendants deny the allegations of the paragraph.

76. Defendants' duty and ability to correct and end the discriminatory conduct of the other residents toward Marsha stem both from their own policies and from federal and state law.

**ANSWER:** Defendants state that the allegations of Paragraph 76 constitute legal conclusions, not facts, for which no answer is required.

77. The Tenant's Agreement governing independent living apartments at GSALC sets forth that "acts or omissions that constitute a direct threat to the health and safety of other individuals" are grounds for termination of the agreement, and sets forth that the obligation not to engage in such behavior is a responsibility of each tenant. It also obligates tenants not to engage in any activity that "unreasonably interferes with the peaceful use and enjoyment of the community by other tenants or threatens to damage the community's reputation." Despite ample evidence that multiple residents engaged in acts that directly threatened Marsha's health and safety and that unreasonably interfered with Marsha's peaceful use and enjoyment of GSALC, Defendants had many tools available to them, but failed to take any significant action against any of the perpetrators of harassment, intimidation, discrimination, and violence toward Marsha.

**ANSWER:** Defendants state that the Tenant Agreement speaks for itself and Defendants deny the allegations of the paragraph to the extent they are inconsistent therewith and further deny the remaining allegations of the paragraph.

78. Defendants owed Marsha a duty to ensure her equal housing opportunity free from discrimination on the bases of sex and sexual orientation under the FHA and the IHRA, both of which make it unlawful to discriminate in making housing available, in the terms, conditions, and privileges of housing, and in providing services or facilities in connection therewith. The hostile environment created by the severe and pervasive harassment Marsha experienced based on her sex and sexual orientation and Defendants' failure to correct or end the harassment had the effect of discriminating against Marsha's rental of a dwelling in violation of both the FHA and the IHRA.

**ANSWER:** Defendants state that the first sentence states legal conclusions, not facts, for which no answer is required. Defendants deny the second sentence of the paragraph.

## **CAUSES OF ACTION**

### **COUNT I VIOLATION OF THE FAIR HOUSING ACT**

79. Plaintiff realleges and incorporates by reference all allegations contained in paragraphs 1-72 as if set forth fully herein.

**ANSWER:** Defendants repeat and reallege their answers to paragraphs 1 through 72 and incorporate the same herein.

80. Pursuant to 42 U.S.C. § 3604, the FHA prohibits a person from making unavailable or denying a dwelling to any person "because of. . . sex." It also prohibits discriminating against any person in the terms, conditions, or privileges of renting a dwelling, or in the provision of services or facilities in connection therewith "because of. . . sex."

**ANSWER:** Defendants state that the allegations of Paragraph 80 contain legal conclusions, not facts, for which no answer is required.

81. Pursuant to 42 U.S.C. § 3617, the FHA also makes it unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any right granted or protected by substantive protections of the FHA.

**ANSWER:** Defendants state that the allegations of Paragraph 81 contain legal conclusions, not facts, for which no answer is required.

82. Defendants engaged in unlawful sex discrimination in violation of the FHA, 42 U.S.C. § 3604(b). Defendants have discriminated against Marsha in the terms, conditions, and privileges of renting her apartment at GSALC, and in the provision of services and facilities in connection therewith because of Marsha's sex, including because of sexual orientation;

**ANSWER:** Defendants deny the allegations of the paragraph.

83. Defendants violated the FHA, 42 U.S.C. § 3604(b), by failing to fulfill their duty to take prompt action to correct and end the sex-based harassment suffered by Marsha at the hands of other residents;

**ANSWER:** Defendants deny the allegations of the paragraph.

84. Defendants violated the FHA, 42 U.S.C. § 3617, by failing to fulfill their duty to take prompt action to correct and end the sex-based harassment suffered by Marsha at the hands of other residents; and

**ANSWER:** Defendants deny the allegations of the paragraph.

85. Defendants retaliated against Marsha in violation of the FHA, 42 U.S.C. § 3617 by limiting her access to facilities and resources, by intimidating and threatening her, and by attempting to evict her through duplicity and fabrication because Marsha asserted her right to an equal opportunity to use and enjoy the property without being subject to sex-based harassment.

**ANSWER:** Defendants deny the allegations of the paragraph.

86. Defendants' actions were taken intentionally, willfully, and in disregard for Marsha's federally-protected rights, and constituted a discriminatory housing practice, as defined in 42 U.S.C. § 3602(f).

**ANSWER:** Defendants deny the allegations of the paragraph.

87. Marsha is an "aggrieved person" as defined in 42 U.S.C. § 3602(i).

**ANSWER:** Defendants state that the allegations in Paragraph 87 allege legal conclusions, not facts, for which no answer is required.

88. Marsha has been injured by Defendants' discriminatory conduct and has suffered damages as a result. Accordingly, under 42 U.S.C. § 3613(c), Marsha is entitled to and seeks actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

**ANSWER:** Defendants deny the allegations of the paragraph.

**COUNT II  
VIOLATION OF THE ILLINOIS HUMAN RIGHTS ACT**

89. Plaintiff realleges and incorporates by reference all allegations contained in paragraphs 1-72 as if set forth fully herein.

**ANSWER:** Defendants repeat and reallege their answers to paragraphs 1 through 72 and incorporate the same herein.

90. Pursuant to 775 111. Comp. Stat. Ann. 5/1-103, 5/3-102 (a), (b), the IHRA prohibits discrimination in making available the rental or lease of a home "because of a person's sex or sexual orientation. It also prohibits discriminatorily altering the terms, conditions, or privileges of the rental or lease of a home, and discrimination in furnishing facilities or services in connection with the rental or lease of a home "because of a person's sex or sexual orientation,

**ANSWER:** Defendants state that the allegations of Paragraph 90 contain legal conclusions, not facts, for which no answer is required.

91. Pursuant to 775 111. Comp. Stat. Ann. 5/3-105.1, the IHRA also makes it unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any right granted or protected by Article 3 of the IHRA.

**ANSWER:** Defendants state that the allegations of Paragraph 91 contain legal conclusions, not facts, for which no answer is required.

92. Defendants engaged in unlawful sex and sexual orientation discrimination in violation of the IHRA, 775 111. Comp. Stat. Ann. 5/3-102. Defendants have discriminated against

Marsha in the terms, conditions, and privileges of renting her apartment at GSALC, and in the furnishing of facilities and services in connection therewith because of Marsha's sex and sexual orientation;

**ANSWER:** Defendants deny the allegations of the paragraph.

93. Defendants violated the IHRA, 775 HI. Comp. Stat. Ann. 5/3-102, by failing to fulfill their duty to take prompt action to correct and end the sex-based and sexual orientation-based harassment suffered by Marsha at the hands of other residents;

**ANSWER:** Defendants deny the allegations of the paragraph.

94. Defendants violated the IHRA, 775 HI. Comp. Stat. Ann. 5/3-105.1, by failing to fulfill their duty to take prompt action to correct and end the sex-based and sexual orientation-based harassment suffered by Marsha at the hands of other residents; and

**ANSWER:** Defendants deny the allegations of the paragraph.

95. Defendants retaliated against Marsha in violation of the IHRA, 775 HI. Comp. Stat. Ann. 5/3-105.1, by limiting her access to facilities and resources, by intimidating and threatening her, and by attempting to evict her through duplicity and fabrication because Marsha asserted her right to an equal opportunity to use and enjoy the property without being subject to sex-based and sexual orientation-based harassment.

**ANSWER:** Defendants deny the allegations of the paragraph.

96. Defendants' actions were taken intentionally, willfully, and in disregard for Marsha's state-protected rights, and constituted unlawful discrimination and a civil rights violation, as defined in the IHRA, 775 HI. Comp. Stat. Ann. 5/1-103 (D), (Q), 5/3-102.

**ANSWER:** Defendants deny the allegations of the paragraph.

97. Marsha is an "aggrieved person" as defined in 775 HI. Comp. Stat. Ann. 5/1-103(B).

**ANSWER:** Defendants state that the allegations in Paragraph 97 allege legal conclusions, not facts, for which no answer is required

98. Marsha has been injured by Defendants' discriminatory conduct and has suffered damages as a result. Accordingly, under 775 111. Comp. Stat. Ann. 5/10-102, Marsha is entitled to and seeks actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

**ANSWER:** Defendants deny the allegations of the paragraph.

### **SEPARATE AND AFFIRMATIVE DEFENSES**

#### **First**

Defendants took no adverse action against Plaintiff.

#### **Second**

Plaintiff was not treated differently than other similarly situated tenants.

#### **Third**

There is no causal connection between Plaintiff's alleged protected activity and Defendants' actions.

#### **Fourth**

There were legitimate, nondiscriminatory reasons for Defendants' actions.

**Fifth**

Plaintiff did not suffer discrimination or harassment based on sex or sexual orientation.

**Sixth**

Defendants did not act with discriminatory intent.

**Seventh**

Defendants investigated each of Plaintiff's complaints and took appropriate action in response.

**Eighth**

Plaintiff did not suffer severe or pervasive harassment.

**Ninth**

Plaintiff's apartment was at all times habitable.

**Tenth**

Plaintiff was not constructively evicted from her apartment or the common areas.

**Eleventh**

Neither the Fair Housing Act nor the Illinois Human Rights Act impose a duty on housing providers to intervene in or end known discrimination for tenant-on-tenant harassment.

**Twelfth**

24 C.F.R. 100.7(a)(1)(iii) is unenforceable because Sections 3604(b) and 3617 of the Fair Housing Act unambiguously require Plaintiff to plead and prove discriminatory intent by the parties sought to be held liable and the Department of Housing and Urban Development had no authority to unilaterally amend the statute.

**Thirteenth**

24 C.F.R. 100.7(a)(1)(iii) is unenforceable because it is at odds with the Fair Housing Act and is not based on a permissible construction of the Act.

**Fourteenth**

No violation of the Section 3604(b) of the Fair Housing Act occurred because the alleged actions took place after Plaintiff began occupying her apartment.

**PRAYER FOR RELIEF**

WHEREFORE, Defendants pray that judgment be entered in their favor and against Plaintiff and that Defendants be awarded their costs, fees and such other relief as this court deems appropriate.

Dated: November 30, 2018

Respectfully submitted,

Glen St. Andrew Living Community, LLC,  
Glen St. Andrew Living Community Real  
Estate, LLC, Glen Health & Home

Management, Inc., Alyssa Flavin, Carolyn  
Driscoll and Sandra Cubas

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**CERTIFICATE OF SERVICE**

I, Lisa A. Hausten, hereby certify that on November 30, 2018, I caused the Answer To First Amended Complaint For Declaratory, Injunctive, And Other Relief to be filed with the Clerk of the District Court for the Northern District of Illinois, Eastern Division, by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

By: /s/ Lisa A. Hausten  
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