

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

**CINDY BANGERT, individually and as
Plaintiff ad Litem for decedent GARY
BANGERT,**

Plaintiff,

v.

**GREEN PARK LEASING CO, LLC
d/b/a GREEN PARK SENIOR LIVING
COMMUNITY**

Serve: Registered Agent
C T Corporation System 120
South Central Avenue
Clayton, MO 63105
and

GREEN PARK MGT. CO., LLC

Serve: Registered Agent:
ACFB Incorporated
200 Public Square, Suite 2300
Cleveland, OH 44114

and

**HEALTH FACILITY MANAGEMENT,
LLC D/B/A COMMUNICARE FAMILY
OF COMPANIES**

Serve: Registered Agent:
ACFB Incorporated
200 Public Square, Suite 2300
Cleveland, OH 44114

and

LASALLE RE ASSETS, LLC

Serve:
C T Corporation System
120 South Central Avenue
Clayton, MO 63105

and

Case No.:

Division:

JURY TRIAL DEMANDED

LASALLE HOLDINGS II, LLC

Serve: Registered Agent

ACFB Incorporated
41 S. High Street, Suite 2600
Columbus OH 43215

and

RRW, LLC

Serve: Registered Agent

ACFB Incorporated
41 S. High Street, Suite 2600
Columbus OH 43215

and

C.R. STOLTZ, LLC

Serve: Registered Agent:

ACFB Incorporated
200 Public Square, Suite 2300
Cleveland, OH 44114

and

SKILLED HC HOLDINGS, LLC

Serve:

ACFB Incorporated
200 Public Square, Suite 2300
Cleveland OH 44114

and

LASALLE HOLDINGS, LLC

Serve: Registered Agent

C T Corporation System
120 South Central Avenue
Clayton, MO 63105

and

**COMMUNICARE HEALTH SERVICES,
INC.**

Serve: Registered Agent:

ACFB Incorporated
200 Public Square, Suite 2300
Cleveland, OH 44114

and

**RESIDENT CARE CONSULTING CO.,
LLC**
Serve: CT Corporation System
120 S. Central Ave.
Clayton, MO 63105

and

KRISTI JORDAN
Hold Service

Defendants.

PETITION FOR DAMAGES

COMS NOW Plaintiff Cindy Bangert individually and in his representative capacity by and through his attorney, David W. Terry of the Terry Law Firm, LLC and for her causes of action against Defendants state:

PLAINTIFF

1. Gary Bangert was admitted to Green Park Senior Living Community on December 14, 2018 and left the facility on or about March 4, 2019. He died on March 5, 2019 as a direct result of negligent care he received at the Green Park Senior Living Community facility.

2. Cindy Bangert is decedent Gary Bangert’s surviving spouse and as such is a member of the class of wrongful death claimants pursuant to RSMO §537.080 and is a resident of St. Louis County, Missouri.

DEFENDANTS

Green Park Leasing Co, LLC d/b/a Green Park Senior Living Community

3. Green Park Leasing Co, LLC d/b/a Green Park Senior Living Community is an

Ohio limited liability company doing business in the State of Missouri.

4. At all relevant times, Green Park Leasing Co, LLC d/b/a Green Park Senior Living Community owned, operated, and/or did business as Green Park Senior Living Community which is a Missouri licensed nursing home located at 9350 Green Park Rd., St. Louis, MO 63123.

5. In fact, Green Park Leasing Co, LLC d/b/a Green Park Senior Living identified itself in documentation to the State of Missouri for licensing purposes as the “Operator” of this facility.

| OPERATOR INFORMATION | | | |
|---|---|--|------------|
| 3. Type of Operator (check one) | | | |
| <input type="checkbox"/> Sole Proprietorship | <input checked="" type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Limited Liability Partnership | |
| <input type="checkbox"/> General Business Corporation | <input type="checkbox"/> Nonprofit Corporation | <input type="checkbox"/> Nursing Home District | |
| <input type="checkbox"/> General Partnership | <input type="checkbox"/> Limited Partnership | | |
| <input type="checkbox"/> Other (Specify) _____ | | | |
| 4. Name of Operator | | | |
| Green Park Leasing Co, LLC | | | |
| Street Address | | | |
| 9350 Green Park Rd | | | |
| City | | State | ZIP Code |
| St. Louis | | MO | 63123-7211 |
| Mailing Address | | | |
| 4700 Ashwood Dr., Ste. 200 | | | |
| City | | State | ZIP Code |
| Cincinnati | | OH | 45241-2424 |
| Telephone Number | | Fax Number | |
| (513) 489-7100 | | (513) 530-1646 | |
| E-Mail Address | | | |
| LRENAKER@CHS-CORP.COM | | | |

6. At all relevant times, Green Park Leasing Co, LLC d/b/a Green Park Senior Living Community, (hereinafter “Green Park Senior Living”) in its capacity as owner, operator and/or manager maintained, and/or controlled – in whole or in part – the Green Park Senior Living nursing home facility.

7. Green Park Senior Living is and was at all relevant times a for-profit nursing home located in St. Louis County.

8. At all relevant times, Green Park Senior Living held itself out as a proprietary

nursing home operating under Missouri's Omnibus Nursing Home Act as a skilled nursing facility.

9. Green Park Senior Living had a duty to Gary Bangert to act within the standards of care set forth in the Missouri regulatory rules that apply to skilled nursing home facilities, including those found at 19 C.S.R. 30, *et seq.* and federal regulatory rules that apply to skilled nursing home facility, including those found in 42 C.F.R. 483, *et seq.*

10. Green Park Senior Living owed a duty to Gary Bangert to use reasonable care in the care and treatment it provided to her while she was a resident at the facility.

11. Green Park Senior Living owed a duty to Gary Bangert to provide staff members that are sufficient in number with sufficient training to meet his needs and the needs of each resident in the facility.

12. Green Park Senior Living had a duty to prepare an individualized care plan specific to meet the needs of Gary Bangert and to provide care to Gary Bangert in a manner that complied with his individualized care plan.

13. Green Park Senior Living also had a duty to comply with physician orders and to perform blood sugar checks at specific times.

14. Green Park Senior Living has been named by Medicare as a "Special Focus Facility" which, according to Medicare is one that has: 1) Had more problems than other nursing homes (about twice the average number of deficiencies); 2) Had more serious problems than most other nursing homes (including harm or injury experienced by residents); and 3) Had a pattern of serious problems that has persisted over a long period of time (as measured over the three years before the date the nursing home was first put on the SFF list). Importantly, the time period of three years covers the time that Gary Bangert was a resident at the facility.

15. In September 2018 Green Park Senior Living was cited by government inspectors for failing to comply with 42 C.F.R. 483.21 (b)(3)(i) by failing to meet professional standards when they failed to, among other things, obtain blood glucose tests and administer insulin for 13 of 31 sampled residents.

| | |
|---|--------------|
| <p>F 658 Services Provided Meet Professional Standards SS=E CFR(s): 483.21(b)(3)(i)</p> | <p>F 658</p> |
| <p>§483.21(b)(3) Comprehensive Care Plans The services provided or arranged by the facility, as outlined by the comprehensive care plan, must-</p> <p>(i) Meet professional standards of quality. This REQUIREMENT is not met as evidenced by:</p> <p>Based on observation, interview and record review, the facility failed to obtain physician orders for interventions (IV) flushes. In addition, the facility failed to obtain blood glucose test, administer insulin, obtain daily and weekly weights, apply compression stockings, apply hand splints and obtain laboratory test as ordered, for 13 out of 31 sampled residents (Residents #44, #310, #110, #81, #97, #87, #148, #151, #159, #82, #95 #94 and #20). The census was 156.</p> | |

16. In January 2019 Green Park Senior Living was cited by government inspectors for failing to comply with 42 C.F.R. 483.21 (b)(3)(i) by failing to meet professional standards when they failed to follow physician orders related to the checking of blood sugars and implementation of insulin.

17. In February 2019 Green Park Senior Living was cited by government inspectors for failing to comply with state regulatory rule 19 C.S.R. 30-85.042(37) Nursing Staff Sufficient/Qualified which states in part: ***“All facilities shall employ nursing personnel in sufficient numbers and with sufficient qualifications to provide nursing and related services which enable each resident to attain or maintain the highest practicable level of physical, mental and psychosocial well-being...”***

18. Green Park Senior Living was to correct its failure to provide a sufficient number of staff members who are qualified to provide care to facility residents no later than March 18, 2019.

19. When it underwent a follow-up inspection on March 26, 2019, government inspectors determined that Green Park Senior Living had failed to correct the staffing failures for which they were cited in February 2019.

| 17565 | | B. WING | | R-C 03/26/2019 | |
|---|---|--|---|--------------------|--|
| NAME OF PROVIDER OR SUPPLIER GREEN PARK SENIOR LIVING COMMUNITY | | STREET ADDRESS, CITY, STATE, ZIP CODE 9360 GREEN PARK ROAD SAINT LOUIS, MO 63123 | | | |
| (M) ID PREFIX TAG | SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION) | ID PREFIX TAG | PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY) | (X9) COMPLETE DATE | |
| (A404) | <p>19 CSR 30-85.042(37) Nursing Staff Sufficient/Qualified</p> <p>All facilities shall employ nursing personnel in sufficient numbers and with sufficient qualifications to provide nursing and related services which enable each resident to attain or maintain the highest practicable level of physical, mental and psychosocial well-being. Each facility shall have a licensed nurse in charge who is responsible for evaluating the needs of the residents on a daily and continuous basis to ensure there are sufficient, trained staff present to meet those needs. 1/1</p> <p>This regulation is not met as evidenced by: Class II</p> <p>This deficiency is uncorrected. For previous examples, refer to the statement of deficiencies dated 2/15/19.</p> <p>See the deficiency cited at F725.</p> | (A4044) | | | |

20. During the same March 26, 2019 follow up survey, government inspectors determined that Green Park Senior Living had also failed to comply with state regulatory rule 19 C.S.R. 30-85.042(47) which states: *“There shall be a safe and effective system of medication distribution, administration, control and use.”*

A4054 19 CSR 30-85.042(47) Safe/Effective Medication System : A4054

There shall be a safe and effective system of medication distribution, administration, control and use. I/II

This regulation is not met as evidenced by: Class II

See the deficiency cited at F684.

21. According to the 2018 Medicaid Cost Report, the “Parent Company or Controlling Entity” of Green Park Senior Living is defendant Communicare Health Services, Inc.

22. Defendants Health Care Facility Management, LLC and Resident Care Consulting, LLC are the two companies identified by Green Park Senior Living as the “Home Office Entity”, both of which have as their address 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241.

23. Green Park Senior Living had six different administrators in less than two years from July 28, 2016 through June 18, 2018. Specifically they are:

- 7/28/16 – From Dennis Marsh to R. Mitchell Bachtel
- 1/12/18 – From R. Mitchell Bachtel to Brad Grey
- 2/16/18 – From Brad Grey to Dorothea Rogers
- 4/25/18 – From Dorothea Rogers to Paul Sasser
- 5/11/18 – From Paul Sasser to Franchot Pratt
- 6/18/18 – From Franchot Pratt to Kristi Jordan

24. Kristi Jordan became Administrator on or about June 18, 2018 and remained Administrator of Green Park Senior Living through April 19, 2019 and was the

Administrator at the facility for the entirety of Gary Bangert's residency.

25. According to documentation filed with the State of Missouri by Green Park Senior Living, it appears that the Green Park Senior Living also had at least eleven changes at the Director of Nursing position from February 13, 2016 through December 4, 2018.

Specifically they are:

- 2/13/16 – From Kelly Faulstich to Gail Severs
- 2/15/16 – From Gail Severs to Dawn Barton
- 5/10/16 – From Dawn Barton to Gail Severs
- 7/12/16 – From Gail Severs to Sharron Simpson
- 11/10/16 – From Sharron Simpson to Debbie Fogelback
- 2/14/18 – From Debbie Fogelback to Dennis Anderson
- 4/30/18 – From Dennis Anderson to Rainna Barnett
- 6/11/18 – From Rainna Barnett to Michelle Baker
- 7/30/18 – From Michelle Baker to Kaleathia Shanta Davis
- 11/30/18 – From Connie Hart to Terri Green¹
- 12/4/18 – From Terri Green to Shanta Davis.

26. Each Administrator and Director of Nursing who was present during Gary Bangert's residency at Green Park Senior Living owed him a duty to use reasonable care for his safety and in the medical care that was provided.

27. Green Park Senior Living, can be served through its Registered Agent: CT Corporation System, 120 S. Central Ave., Clayton, MO 63105.

¹ The paperwork Green Park Senior Living filed with the State does not include a change in the director of nursing from Kaleathia Shanta Davis between July 30, 2018 and November 30, 2018.

Green Park Mgt. Co., LLC a/k/a Green Park Management Co., LLC

28. Green Park Mgt. Co., LLC a/k/a Green Park Management Co., LLC is an Ohio limited liability company transacting business in the State of Missouri.

29. Green Park Mgt. Co., LLC is identified in documentation to the State of Missouri for licensing purposes as the “Management Company” of the Green Park Senior Living facility.

30. In its capacity as the “Management Company” for the Green Park Senior Living facility, Green Park Mgt. Co., LLC entered into an executed contract within the State of Missouri to perform management services for the facility.

| MANAGEMENT COMPANY INFORMATION | | | |
|---|---|--------------------------|----------|
| 16. This refers to an entity other than the operator or administrator. If the operator has a contract or agreement with a separate entity to manage the facility, then it is necessary to submit a copy of the contract or agreement. | 16. Is there an executed contract or agreement between the operator and any manager or management company? | | |
| | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, then a copy of the agreement or contract is: <input type="checkbox"/> Attached <input checked="" type="checkbox"/> Previously submitted; no amendment or change | | |
| 17. If the operator has a contract or agreement with a separate entity to manage the facility, then it is necessary to indicate the name and address of the management company. | 17. Name of management company (if applicable) | | |
| | Green Park Management Co., LLC | | |
| | Street Address | | |
| | 4700 Ashwood Dr., Suite 200 | | |
| | City | State | ZIP Code |
| Cincinnati | OH | 45241-2424 | |
| Mailing Address | | | |
| same | | | |
| City | State | ZIP Code | |
| Cincinnati | OH | 45241-2424 | |
| Contact Name | | Contact Telephone Number | |
| Charles R. Stoltz | | (513) 489-7100 | |

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31. In its role as the “Management Company” for Green Park Senior Living, Green Park Mgt. Co., LLC used the real estate where the Green Park Senior Living facility is located to provide its management advice.

32. At all relevant times, Green Park Mgt. Co., LLC and/or in its capacity as owner, operator and/or manager operated, managed, maintained, and/or controlled – in whole or in part – Green Park Senior Living.

33. Green Park Mgt. Co., LLC provided Green Park Senior Living with clinical support services including the development of clinical policies and procedures to be used

within the Green Park Senior Living facility, clinical education, and health information management services.

34. Green Park Mgt. Co., LLC was substantially engaged in the decision-making process for leasing, control, management, staffing, training, fiscal budgeting, oversight, risk management, regulatory compliance, implementation and enforcement of policies and procedures, consultation with and/or operation and management of the Green Park Senior Living facility during the time period of Gary Bangert's residency.

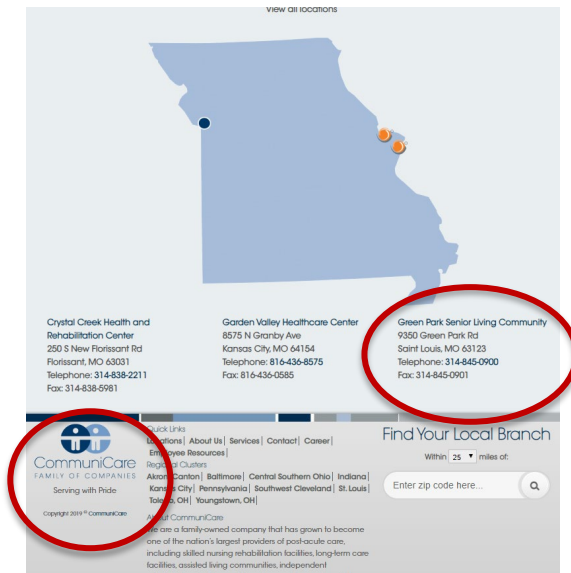
35. As a result of its substantial involvement with the Green Park Senior Living facility, Green Park Mgt. Co., LLC owed a duty to Gary Bangert to use reasonable care in the care and treatment it provided to her while she was a resident at the facility.

36. Green Park Mgt. Co., LLC has a physical address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241 and can be served at its Registered Agent: ACFB Incorporated 200 Public Square, Suite 2300, Cleveland, OH 44114.

Health Care Facility Management, LLC d/b/a Communicare Family of Companies

37. Health Care Facility Management, LLC d/b/a Communicare Family of Companies (hereinafter "Health Care Facility Management") is an Ohio limited liability company transacting business in the State of Missouri.

38. Green Park Senior Living is part of the Communicare Family of Companies as evidenced by their own website:



39. Health Care Facility Management and Green Park Senior Living are “related organizations” which means that there is common ownership of both entities (i.e. the same people or entities own both companies).

40. In what is known as a “related party transaction” which is a financial transaction between two entities with the same or common ownership, Green Park Senior Living paid Health Care Facility Management \$468,397 for “management consulting” in 2017 and \$471,672 for “management consulting” in 2018.

| TRANSACTIONS WITH RELATED ORGANIZATIONS | | | | | | |
|--|-----------------------------|-----------------|----------|-------------------|--|--------------------------|
| An adjustment may be necessary to reduce operating expenses. Provider costs for purchases from firms related to the provider by common ownership or control shall not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies that could have been purchased elsewhere. | | | | | | |
| 1. Are any of the expenses (costs) reflected in this report the result of purchases or transactions with business firms related to the provider through common ownership? | | | | | | Yes |
| If Yes, complete sections 2 and 3 below. | | | | | | |
| 2. | | | | | | |
| NAME OF RELATED ORGANIZATION OR RELATED PARTY | DESCRIPTION OF EXPENSE ITEM | SCHEDULE A or B | LINE NO. | AMOUNT OF EXPENSE | COST INCURRED BY RELATED PARTY OR ORGANIZATION | DIFFERENCE AS ADJUSTMENT |
| LaSalle RE Assets, LLC | Lease Expense | B | 103 | 1,070,221 | 1,064,616 | (5,605) |
| Resident Care Consulting, LLC | Nursing Consulting | B | 46 | 125,241 | 220,025 | 94,784 |
| Health Care Facility Mgmt, LLC | Mgmt Consult/Sala | B | 121 | 468,397 | 469,295 | 898 |
| LaSalle RE Assets, LLC | Amortization | B | 102 | 456 | 18,507 | 18,051 |
| LaSalle RE Assets, LLC | Property Taxes | B | 108 | 0 | 118,422 | 118,422 |
| LaSalle RE Assets, LLC | Mortgage Insuranc | B | 149 | 0 | 74,852 | 74,852 |
| LaSalle RE Assets, LLC | Property Insurance | B | 107 | 0 | 29,369 | 29,369 |
| | | | | | | 0 |

2017 Green Park Senior Living Cost Report

SCHEDULE G

| TRANSACTIONS WITH RELATED ORGANIZATIONS | | | | | | |
|--|-----------------------------|-----------------|----------|-------------------|--|--------------------------|
| An adjustment may be necessary to reduce operating expenses. Provider costs for purchases from firms related to the provider by common ownership or control shall not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies that could have been purchased elsewhere. | | | | | | |
| 1. Are any of the expenses (costs) reflected in this report the result of purchases or transactions with business firms related to the provider through common ownership? | | | | | | Yes |
| If Yes, complete sections 2 and 3 below. | | | | | | |
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| NAME OF RELATED ORGANIZATION OR RELATED PARTY | DESCRIPTION OF EXPENSE ITEM | SCHEDULE A or B | LINE NO. | AMOUNT OF EXPENSE | COST INCURRED BY RELATED PARTY OR ORGANIZATION | DIFFERENCE AS ADJUSTMENT |
| LaSalle RE Assets, LLC | Lease Expense | B | 103 | 1,070,221 | 1,075,146 | 4,925 |
| Resident Care Consulting, LLC | Nursing Consulting | B | 46 | 117,918 | 174,264 | 56,346 |
| Health Care Facility Mgmt, LLC | Mgmt Consult/Sala | B | 121 | 471,672 | 456,162 | (15,510) |
| LaSalle RE Assets, LLC | Amortization | B | 102 | 456 | 18,507 | 18,051 |
| LaSalle RE Assets, LLC | Property Taxes | B | 108 | 0 | 118,592 | 118,592 |
| LaSalle RE Assets, LLC | Mortgage Insuranc | B | 149 | 0 | 72,974 | 72,974 |
| LaSalle RE Assets, LLC | Property Insurance | B | 107 | 0 | 31,024 | 31,024 |
| | | | | | | 0 |
| | | | | | | 0 |

2018 Green Park Senior Living Cost Report

41. Upon information and belief Health Care Facility Management and Green Park Senior Living entered into an executed contract within the State of Missouri to permit Health Care Facility Management to perform management services for the facility and to receive hundreds of thousands of dollars for doing so.

42. Health Care Facility Management used the real estate where the Green Park Senior Living facility is located to provide its management services.

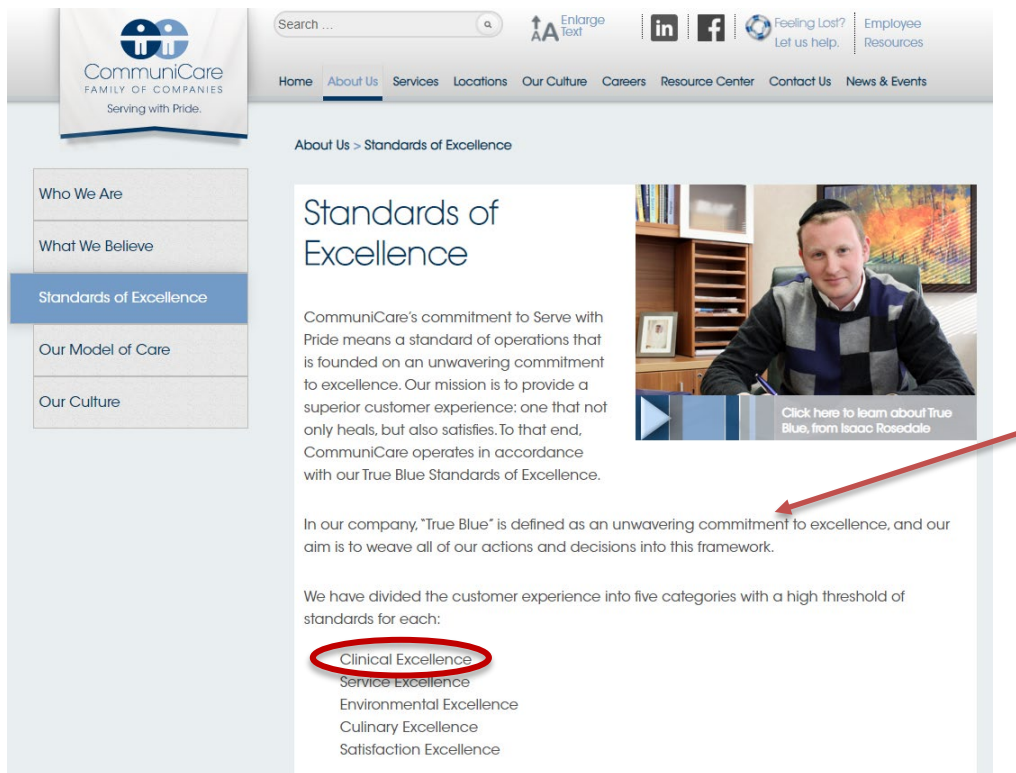
43. Health Care Facility Management and/or individuals or entities acting on its behalf owned, operated, managed, maintained, and/or controlled – in whole or in part – Green Park Senior Living.

44. Health Care Facility Management provided Green Park Senior Living with clinical support services including the development of clinical policies and procedures to be used within the Green Park Senior Living facility, clinical education, and health information management services.

45. Health Care Facility Management was substantially engaged in the decision-making process for leasing, control, management, staffing, training, fiscal budgeting, oversight, risk management, regulatory compliance, implementation and enforcement of policies and procedures, consultation with and/or operation and management of the Green Park Senior Living facility during the time period of Gary Bangert’s residency.

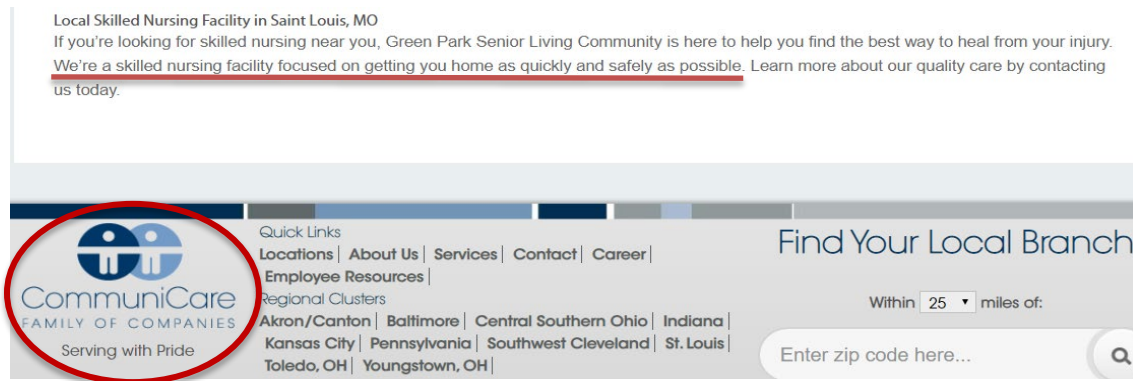
46. As a result of its substantial involvement with the Green Park Senior Living facility, Health Care Facility Management owed a duty to Gary Bangert to use reasonable care in the care and treatment it provided to her while he was a resident at the facility.

47. At all relevant times, Health Care Facility Management (**doing business as Communicare Family of Companies**) held itself out as having an “unwavering commitment to excellence” including clinical excellence.



48. At all relevant times, Health Care Facility Management held out Green Park

Senior Living as a member of the Family of Companies and stating about Green Park Senior Living that “We’re a skilled nursing facility focused on getting you home as quickly and safely as possible.”



49. Health Care Facility Management, LLC has a physical address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241 and can be served at its Registered Agent: ACFB Incorporated 200 Public Square, Suite 2300, Cleveland, OH 44114.

LaSalle Re Assets, LLC

50. LaSalle Re Assets, LLC, is a Delaware limited liability company transacting business in Missouri as a foreign limited liability company.

51. LaSalle Re Assets, LLC is the owner of the building where Green Park Senior Living is located which means that it owns, uses or possesses real estate situated in the State of Missouri.

52. LaSalle Re Assets, LLC and Green Park Senior Living are related organizations which means that there is common ownership of both entities (i.e. the same people or entities own both companies).

53. In what is known as a “related party transaction” which is a financial transaction between two entities with the same or common ownership, Green Park Senior Living paid

LaSalle Re Assets, LLC \$1,070,221 as a lease expense in 2017 and \$1,070,221 as a lease expense in 2018, according to cost reports filed with the State of Missouri for Green Park Senior Living.

| TRANSACTIONS WITH RELATED ORGANIZATIONS | | | | | | |
|--|-----------------------------|-----------------|----------|-------------------|--|--------------------------|
| An adjustment may be necessary to reduce operating expenses. Provider costs for purchases from firms related to the provider by common ownership or control shall not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies that could have been purchased elsewhere. | | | | | | |
| 1. Are any of the expenses (costs) reflected in this report the result of purchases or transactions with business firms related to the provider through common ownership? | | | | | | Yes |
| If Yes, complete sections 2 and 3 below. | | | | | | |
| 2. | | | | | | |
| NAME OF RELATED ORGANIZATION OR RELATED PARTY | DESCRIPTION OF EXPENSE ITEM | SCHEDULE A or B | LINE NO. | AMOUNT OF EXPENSE | COST INCURRED BY RELATED PARTY OR ORGANIZATION | DIFFERENCE AS ADJUSTMENT |
| LaSalle RE Assets, LLC | Lease Expense | B | 103 | 1,070,221 | 1,064,616 | (5,605) |
| Resident Care Consulting, LLC | Nursing Consulting | B | 46 | 125,241 | 220,025 | 94,784 |
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| LaSalle RE Assets, LLC | Mortgage Insuranc | B | 149 | 0 | 74,852 | 74,852 |
| LaSalle RE Assets, LLC | Property Insurance | B | 107 | 0 | 29,369 | 29,369 |
| | | | | | | 0 |
| | | | | | | 0 |
| | | | | | | 0 |

2017 Green Park Senior Living Cost Report

| TRANSACTIONS WITH RELATED ORGANIZATIONS | | | | | | |
|--|-----------------------------|-----------------|----------|-------------------|--|--------------------------|
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| 1. Are any of the expenses (costs) reflected in this report the result of purchases or transactions with business firms related to the provider through common ownership? | | | | | | Yes |
| If Yes, complete sections 2 and 3 below. | | | | | | |
| 2. | | | | | | |
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| LaSalle RE Assets, LLC | Amortization | B | 102 | 456 | 18,507 | 18,051 |
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| LaSalle RE Assets, LLC | Mortgage Insuranc | B | 149 | 0 | 72,974 | 72,974 |
| LaSalle RE Assets, LLC | Property Insurance | B | 107 | 0 | 31,024 | 31,024 |

2018 Green Park Senior Living Cost Report

54. LaSalle Re Assets, LLC, and/or individuals or entities acting on its behalf owned, operated, managed, maintained, and/or controlled – in whole or in part – Green Park Senior Living.

55. LaSalle Re Assets, LLC, as well as its owners, shareholders and members, was

substantially engaged in the leasing, control, management, staffing, fiscal budgeting, oversight, risk management, regulatory compliance, implementation and enforcement of policies and procedures, consultation with and/or operation of Green Park Senior Living during the time period of Gary Bangert's residency.

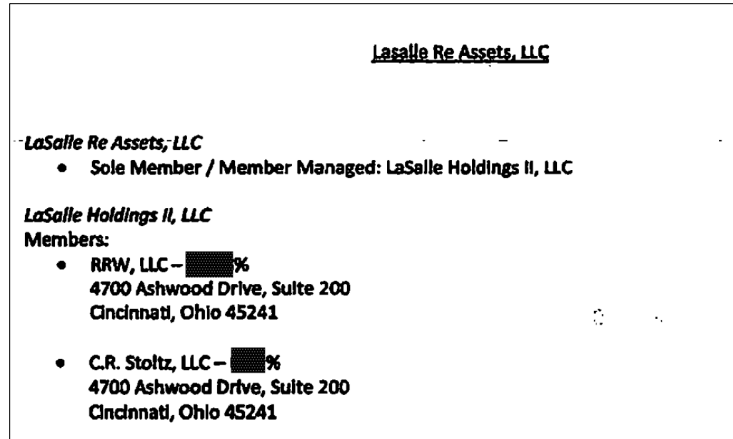
56. LaSalle Re Assets, LLC owed a duty to Gary Bangert to use reasonable care in the care and treatment it provided to him while he was a resident at the facility.

57. LaSalle Re Assets, LLC has a physical address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241 can be served at its Registered Agent: CT Corporation System, 120 South Central Ave., Clayton, MO 63105.

Lasalle Holdings II, LLC

58. Lasalle Holdings II, LLC, is an Ohio limited liability company transacting business in the State of Missouri.

59. According to licensure information provided to the State of Missouri on behalf of Green Park Senior Living, Lasalle Holdings II, LLC is the sole member of LaSalle Re Assets, LLC, which is a related organization to Green Park Senior Living and the owner of the real estate where Green Park Senior Living is located which means that it owns, uses or possesses real estate situated in the State of Missouri.



60. In its capacity as sole member of LaSalle Re Assets, LLC, which is a related organization to Green Park Senior Living and the owner of the real estate where Green Park Senior Living is located LaSalle Holdings II, LLC entered into contracts within the State of Missouri.

61. In its capacity as sole member of LaSalle Re Assets, LLC, which is a related organization to Green Park Senior Living and the owner of the real estate where Green Park Senior Living is located LaSalle Holdings II, LLC used the real estate where the Green Park Senior Living facility.

62. LaSalle Holdings II, LLC, and/or individuals or entities acting on its behalf owned, operated, managed, maintained, and/or controlled – in whole or in part – Green Park Senior Living.

63. LaSalle Holdings II, LLC provided Green Park Senior Living Community clinical support services including the development of clinical policies and procedures, clinical education, and health information management services.

64. LaSalle Holdings II, LLC was substantially engaged in the leasing, control, management, staffing, fiscal budgeting, oversight, risk management, regulatory compliance,

implementation and enforcement of policies and procedures, consultation with Green Park Senior Living during the time period of Gary Bangert's residency.

65. Lasalle Holdings II, LLC owed a duty to Gary Bangert to use reasonable care in the care and treatment it provided to her while she was a resident at the facility.

66. LaSalle Holdings II, LLC has a physical address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241 and can be served at its Registered Agent: ACFB Incorporated, 41 S. High Street, Suite 2600, Columbus OH 43215.

RRW, LLC

67. RRW, LLC is an Ohio limited liability company transacting business in the State of Missouri.

68. RRW, LLC was formed in 2011 and merged with RRW HCFM, LLC in 2017 and is the surviving entity of the two companies.

69. RRW, LLC is a partial member of defendant LaSalle Holdings II which, as identified above, is the sole member of defendant LaSalle Re Assets, LLC, which owns the real estate where Green Park Senior Living is located which means that it owns, uses or possesses real estate situated in the State of Missouri.

70. In its capacity as a partial member of defendant LaSalle Holdings II which, as identified above, is the sole member of defendant LaSalle Re Assets, LLC, which owns the real estate where Green Park Senior Living is located, RRW, LLC entered into contracts within the State of Missouri.

71. In its capacity as a partial member of defendant LaSalle Holdings II which, as identified above, is the sole member of defendant LaSalle Re Assets, LLC, which owns the real estate where Green Park Senior Living is located, RRW, LLC used the real estate where

the Green Park Senior Living facility.

72. At all relevant times, RRW, LLC, and/or individuals or entities acting on its behalf owned, operated, managed, maintained, and/or controlled – in whole or in part – Green Park Senior Living.

73. RRW, LLC provided Green Park Senior Living Community clinical support services including the development of clinical policies and procedures, clinical education, and health information management services.

74. RRW, LLC was substantially engaged in the leasing, control, management, staffing, fiscal budgeting, oversight, risk management, regulatory compliance, implementation and enforcement of policies and procedures, consultation with Green Park Senior Living during the time period of Gary Bangert’s residency.

75. RRW, LLC owed a duty to Gary Bangert to use reasonable care in the care and treatment it provided to her while he was a resident at the facility.

76. RRW, LLC has a physical address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241 and can be served at its Registered Agent: ACFB Incorporated, 41 S. High Street, Suite 2600, Columbus, OH 43215.

C.R. Stoltz, LLC

77. C.R. Stoltz, LLC is an Ohio limited liability company transacting business within the State of Missouri.

78. C.R. Stoltz, LLC is a partial member of defendant LaSalle Holdings II which, as identified above, is the sole member of defendant LaSalle Re Assets, LLC, which owns the real estate where Green Park Senior Living is located which means that it owns, uses or

possesses real estate situated in the State of Missouri.

79. C.R. Stoltz, LLC is also a partial owner of defendant LaSalle Holdings, LLC which is the owner of the Green Park Senior Living facility.

80. In its capacity as a partial member of defendant LaSalle Holdings II which, as identified above, is the sole member of defendant LaSalle Re Assets, LLC, which owns the real estate where Green Park Senior Living is located, C.R. Stoltz, LLC entered into contracts within the State of Missouri.

81. In its capacity as a partial member of defendant LaSalle Holdings II which, as identified above, is the sole member of defendant LaSalle Re Assets, LLC, which owns the real estate where Green Park Senior Living is located, C.R. Stoltz, LLC used the real estate where the Green Park Senior Living facility.

82. At all relevant times, C.R. Stoltz, LLC, and/or individuals or entities acting on its behalf owned, operated, managed, maintained, and/or controlled – in whole or in part – Green Park Senior Living.

83. C.R. Stoltz, LLC provided Green Park Senior Living clinical support services including the development of clinical policies and procedures, clinical education, and health information management services.

84. C.R. Stoltz, LLC was substantially engaged in the leasing, control, management, staffing, fiscal budgeting, oversight, risk management, regulatory compliance, implementation and enforcement of policies and procedures, consultation with Green Park Senior Living during the time period of Gary Bangert's residency.

85. C.R. Stoltz, LLC owed a duty to Gary Bangert to use reasonable care in the

care and treatment it provided to him while he was a resident at the facility.

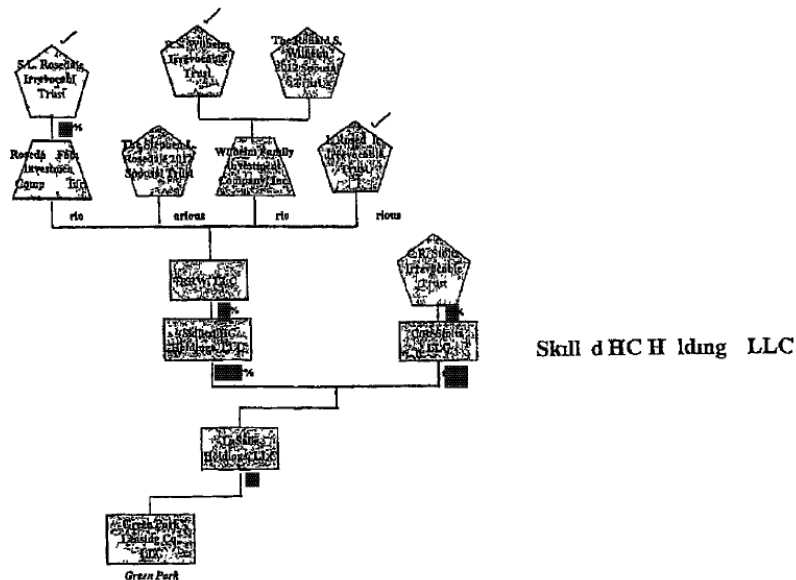
86. C.R. Stoltz, LLC has a physical address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241 and can be served at its Registered Agent: ACFB Incorporated, 200 Public Square, Suite 2300, Cleveland, Ohio 44114.

Skilled HC Holdings, LLC

87. Skilled HC Holdings, LLC is Ohio limited liability company transacting business in the State of Missouri.

88. Skilled HC Holdings, LLC is a partial owner of newly added defendant LaSalle Holdings, LLC which is the owner of Green Park Senior Living.

89. According to a diagram filed with the State of Missouri on behalf of Green Park Senior Living, the corporate structure of Skilled HC Holdings, LLC can be seen which shows its relationship to Green Park Senior Living.



90. At all relevant times, Skilled HC Holdings, LLC, and/or individuals or entities

acting on its behalf owned, operated, managed, maintained, and/or controlled – in whole or in part – Green Park Senior Living.

91. Skilled HC Holdings, LLC provided Green Park Senior Living Community clinical support services including the development of clinical policies and procedures, clinical education, and health information management services.

92. Skilled HC Holdings, LLC was substantially engaged in the leasing, control, management, staffing, fiscal budgeting, oversight, risk management, regulatory compliance, implementation and enforcement of policies and procedures, consultation with Green Park Senior Living during the time period of Gary Bangert's residency.

93. Skilled HC Holdings, LLC owed a duty to Gary Bangert to use reasonable care in the care and treatment it provided to him while he was a resident at the facility.

94. Skilled HC Holdings, LLC has a physical address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241 and can be served at its Registered Agent: ACFB Incorporated, 200 Public Square, Suite 2300, Cleveland, Ohio 44114.

LaSalle Holdings, LLC

95. LaSalle Holdings, LLC is a Delaware limited liability company transacting business in the State of Missouri.

96. LaSalle Holdings, LLC is the owner of the nursing home facility at issue in this case, Green Park Senior Living. LaSalle Holdings, LLC is itself owned by defendants Skilled HC Holding, LLC (93.48%) and C.R. Stoltz, LLC (6.52%).

PROVIDER NAME: Green Park Senior Living Community
 PERIOD OF REPORT: FROM January 1, 2018 TO December 31, 2018

SCHEDULE I

| STATEMENT OF ORGANIZATION AND OWNERSHIP | | |
|---|-----------------------------|-----------------|
| CORPORATION ORGANIZATION | | |
| Corporate Name | <u>LaSalle Holdings LLC</u> | |
| Date Incorporated | | |
| OFFICERS OF THE CORPORATION | | |
| NAME | TITLE | % OF OWNERSHIP |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| STOCKHOLDERS OWNING GREATER THAN 5% OF THE STOCK | | |
| NAME | | % OF OWNERSHIP |
| <u>LaSalle Holdings, LLC</u> | | 100.0% |
| <u>Skilled HC Holdings, LLC</u> | | 93.48% Indirect |
| <u>C.R. Stoltz, LLC</u> | | 6.52% Indirect |

97. In its capacity as the owner of the Green Park Senior Living facility, LaSalle Holdings, LLC entered into contracts within the State of Missouri.

98. In its role as owner of the Green Park Senior Living, LaSalle Holdings, LLC used the real estate where the Green Park Senior Living facility.

99. At all relevant times, LaSalle Holdings, LLC, and/or individuals or entities acting on its behalf owned, operated, managed, maintained, and/or controlled – in whole or in part – Green Park Senior Living.

100. LaSalle Holdings, LLC, as owner of the facility, provided Green Park Senior Living Community clinical support services including the development of clinical policies and procedures, clinical education, and health information management services.

101. LaSalle Holdings, LLC was substantially engaged in the leasing, control, management, staffing, fiscal budgeting, oversight, risk management, regulatory compliance, implementation and enforcement of policies and procedures, consultation with Green Park Senior Living during the time period of Gary Bangert’s residency.

102. LaSalle Holdings, LLC owed a duty to Gary Bangert to use reasonable care in

the care and treatment it provided to him while he was a resident at the facility.

103. LaSalle Holdings, LLC has a physical address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241 and can be served at its Registered Agent: CT Corporation System, 120 S. Central Ave., Clayton, MO 63105.

Communicare Health Services, LLC

104. Communicare Health Services, Inc. is an Ohio corporation transacting business in the State of Missouri.

105. Communicare Health Services, Inc. is identified in the 2018 Cost Report as the Parent or Controlling Entity for the Green Park Senior Living skilled nursing facility.

| | |
|--|--|
| <p>8. Is this provider part of a parent or controlling entity? If Yes, complete section below.</p> <p>Name of parent or controlling entity <u>Communicare Health Services</u></p> <p>Address (street, city, state, zip code) <u>4700 Ashwood Drive, Suite 200, Cincinnati, OH 45241</u></p> | <p>8. <input type="checkbox"/> Yes</p> |
| <p>9. Were any expenses of a home office reported in this cost report? If Yes, complete section below and Worksheet 3 of this cost report or submit Medicare Home Office cost report.</p> <p>Name of home office entity <u>Health Care Facility Management, LLC; Resident Care Consulting, LLC</u></p> <p>Address (street, city, state, zip code) <u>4700 Ashwood Drive, Suite 200, Cincinnati, OH 45241</u></p> | <p>9. <input type="checkbox"/> Yes</p> |

106. In its capacity as Parent or Controlling Entity for Green Park Senior Living, Communicare Health Services, Inc. entered into contracts within the State of Missouri.

107. In its capacity as Parent or Controlling Entity for Green Park Senior Living, Communicare Health Services, Inc. used the real estate where the Green Park Senior Living facility.

108. Communicare Health Services, Inc. provided Green Park Senior Living Community clinical support services including the development of clinical policies and procedures, clinical education, and health information management services.

109. Communicare Health Services, Inc. was substantially engaged in the leasing, control, management, staffing, fiscal budgeting, oversight, risk management, regulatory compliance, implementation and enforcement of policies and procedures, consultation with Green Park Senior Living during the time period of Gary Bangert’s residency.

110. Communicare Health Services, Inc. owed a duty to Gary Bangert to use reasonable care in the care and treatment it provided to him while he was a resident at the facility.

111. Communicare Health Services, Inc. has a physical address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241 and can be served at its Registered Agent: ACFB Incorporated, 200 Public Square, Suite 2300, Cleveland, Ohio 44114.

Resident Care Consulting, LLC

112. Resident Care Consulting Co., LLC is an Ohio company doing business in Missouri.

113. Resident Care Consulting, LLC. is identified in the 2018 Cost Report as a Home Office Entity for the Green Park Senior Living skilled nursing facility.

| |
|---|
| <p>8. Is this provider part of a parent or controlling entity? 8. <input type="checkbox"/> Yes</p> <p>If Yes, complete section below.</p> <p>Name of parent or controlling entity Telephone <u>Communicare Health Services</u> <u>(513) 489-7100</u></p> <p>Address (street, city, state, zip code) <u>4700 Ashwood Drive, Suite 200, Cincinnati, OH 45241</u></p> |
| <p>9. Were any expenses of a home office reported in this cost report? 9. <input type="checkbox"/> Yes</p> <p>If Yes, complete section below and Worksheet 3 of this cost report or submit Medicare Home Office cost report.</p> <p>Name of home office entity Telephone <u>Health Care Facility Management, LLC; Resident Care Consulting, LLC</u> <u>(513) 489-7100</u></p> <p>Address (street, city, state, zip code) <u>4700 Ashwood Drive, Suite 200, Cincinnati, OH 45241</u></p> |

114. Resident Care Consulting, LLC and Green Park Senior Living are related

organizations which means that the same people or entities own both companies.

115. In fact, Green Park Senior Living paid Resident Care Consulting, LLC \$125,241 for nursing consultation in 2017 and \$117,918 for nursing consultation in 2018, according to cost reports filed with the State of Missouri for Green Park Senior Living.

SCHEDULE G

| TRANSACTIONS WITH RELATED ORGANIZATIONS | | | | | | |
|--|-----------------------------|-----------------|----------|-------------------|--|--------------------------|
| An adjustment may be necessary to reduce operating expenses. Provider costs for purchases from firms related to the provider by common ownership or control shall not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies that could have been purchased elsewhere. | | | | | | |
| 1. Are any of the expenses (costs) reflected in this report the result of purchases or transactions with business firms related to the provider through common ownership? | | | | | | Yes |
| If Yes, complete sections 2 and 3 below. | | | | | | |
| 2. | | | | | | |
| NAME OF RELATED ORGANIZATION OR RELATED PARTY | DESCRIPTION OF EXPENSE ITEM | SCHEDULE A or B | LINE NO. | AMOUNT OF EXPENSE | COST INCURRED BY RELATED PARTY OR ORGANIZATION | DIFFERENCE AS ADJUSTMENT |
| LaSalle RE Assets, LLC | Lease Expense | B | 103 | 1,070,221 | 1,064,616 | (5,605) |
| Resident Care Consulting, LLC | Nursing Consulting | B | 46 | 125,241 | 220,025 | 94,784 |
| Health Care Facility Mgmt, LLC | Mgmt Consult/Sala | B | 121 | 468,397 | 469,295 | 898 |
| LaSalle RE Assets, LLC | Amortization | B | 102 | 456 | 18,507 | 18,051 |
| LaSalle RE Assets, LLC | Property Taxes | B | 108 | 0 | 118,422 | 118,422 |
| LaSalle RE Assets, LLC | Mortgage Insuranc | B | 149 | 0 | 74,852 | 74,852 |
| LaSalle RE Assets, LLC | Property Insurance | B | 107 | 0 | 29,369 | 29,369 |
| | | | | | | 0 |
| | | | | | | 0 |

2017 Green Park Senior Living Cost Report

SCHEDULE G

| TRANSACTIONS WITH RELATED ORGANIZATIONS | | | | | | |
|--|-----------------------------|-----------------|----------|-------------------|--|--------------------------|
| An adjustment may be necessary to reduce operating expenses. Provider costs for purchases from firms related to the provider by common ownership or control shall not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies that could have been purchased elsewhere. | | | | | | |
| 1. Are any of the expenses (costs) reflected in this report the result of purchases or transactions with business firms related to the provider through common ownership? | | | | | | Yes |
| If Yes, complete sections 2 and 3 below. | | | | | | |
| 2. | | | | | | |
| NAME OF RELATED ORGANIZATION OR RELATED PARTY | DESCRIPTION OF EXPENSE ITEM | SCHEDULE A or B | LINE NO. | AMOUNT OF EXPENSE | COST INCURRED BY RELATED PARTY OR ORGANIZATION | DIFFERENCE AS ADJUSTMENT |
| LaSalle RE Assets, LLC | Lease Expense | B | 103 | 1,070,221 | 1,075,146 | 4,925 |
| Resident Care Consulting, LLC | Nursing Consulting | B | 46 | 117,918 | 174,264 | 56,346 |
| Health Care Facility Mgmt, LLC | Mgmt Consult/Sala | B | 121 | 471,672 | 456,162 | (15,510) |
| LaSalle RE Assets, LLC | Amortization | B | 102 | 456 | 18,507 | 18,051 |
| LaSalle RE Assets, LLC | Property Taxes | B | 108 | 0 | 118,592 | 118,592 |
| LaSalle RE Assets, LLC | Mortgage Insuranc | B | 149 | 0 | 72,974 | 72,974 |
| LaSalle RE Assets, LLC | Property Insurance | B | 107 | 0 | 31,024 | 31,024 |
| | | | | | | 0 |
| | | | | | | 0 |
| | | | | | | 0 |

2018 Green Park Senior Living Cost Report

116. In its capacity as Parent or Controlling Entity for Green Park Senior Living,

Resident Care Consulting, LLC entered into contracts within the State of Missouri.

117. In its capacity as Parent or Controlling Entity for Green Park Senior Living, Resident Care Consulting, LLC used the real estate where the Green Park Senior Living facility.

118. Resident Care Consulting, LLC. provided Green Park Senior Living Community clinical support services including the development of clinical policies and procedures, clinical education, and health information management services.

119. Resident Care Consulting, LLC was substantially engaged in the leasing, control, management, staffing, fiscal budgeting, oversight, risk management, regulatory compliance, implementation and enforcement of policies and procedures, consultation with Green Park Senior Living during the time period of Gary Bangert's residency.

120. Resident Care Consulting, LLC owed a duty to Gary Bangert to use reasonable care in the care and treatment it provided to him while he was a resident at the facility.

121. Resident Care Consulting, LLC has a physical address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241 and can be served at its Registered Agent: CT Corporation System, 120 S. Central Ave., Clayton, MO 63105.

Kristi Jordan

122. Kristi Jordan is a Missouri resident and was the Administrator at Green Park Senior Living from June 18, 2018 until April 19, 2019 and as such was the Administrator during Gary Bangert's entire residency at Green Park Senior Living.

123. As the Administrator Green Park Senior Living, Kristi Jordan managed, maintained, and/or controlled – in whole or in part – the Green Park Senior Living facility

and in her capacity was substantially engaged in the control, management, staffing, fiscal budgeting, training, oversight, risk management, regulatory compliance, implementation and enforcement of policies and procedures, consultation with and/or operation of the facility during the time period of Gary Bangert's residency.

124. In her role as Administrator, Kristi Jordan was responsible for the managerial and operational control of the Green Park Senior Living facility and for ensuring that the clinical needs of each resident, including Gary Bangert, were met in accordance with the state and federal regulatory standards of care.

125. In her role as Administrator, Kristi Jordan received money and profited from the operation of the facility.

126. As a result of her role as Administrator, Kristi Jordan owed a duty to Gary Bangert ensure that reasonable care was used in the care and treatment that was provided to Gary Bangert and other residents while he resided at the facility.

127. As Administrator, Kristi Jordan was involved in the failure of Green Park Senior Living to have appropriate policies and procedures for its nursing staff; to be sufficiently capitalized, funded, and staffed to ensure that staff members received adequate training and supervision while Gary Bangert was a resident at the Green Park Senior Living facility and to ensure that Gary Bangert's individual care needs were met.

128. Kristi Jordan's service information is being determined.

DEFENDANTS' JOINT VENTURE
(All Corporate Defendants)

129. Plaintiff incorporates by reference the allegations previously set forth and further allege as follows.

130. Defendants ("Joint Venture Defendants") were engaged in a joint venture in

that:

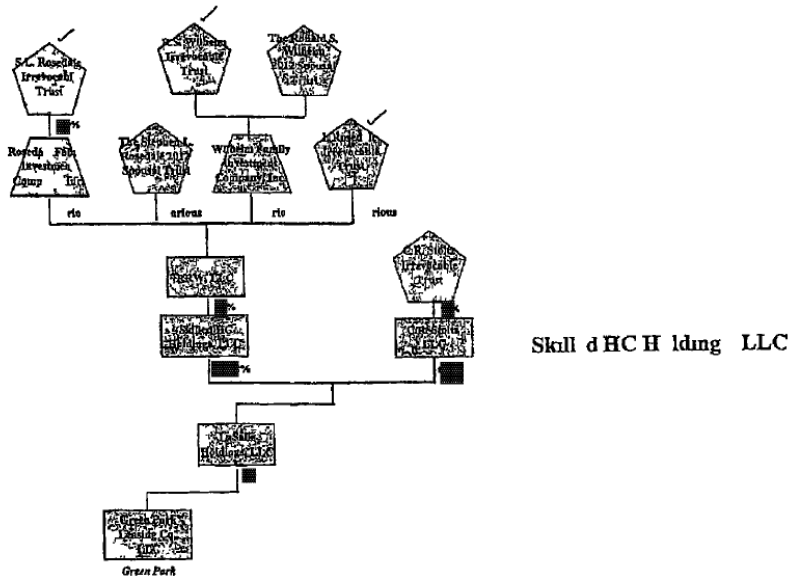
- a. The Joint Venture Defendants had an agreement, express and/or implied, among the members of the group to operate Green Park Senior Living;
- b. The Joint Venture Defendants had a common purpose to operate Green Park Senior Living;
- c. The Joint Venture Defendants had a joint pecuniary interest in the operation of Green Park Senior Living;
- d. The Joint Venture Defendants had an equal right to a voice in the direction of the operation of Green Park Senior Living which gave the defendants an equal right of control.

131. There has been a close relationship between the Joint Venture Defendants at all relevant times.

132. Every single corporate defendant identified in Plaintiff's Petition, with the sole exception of the facility, Green Park Senior Living, has a physical or mailing address of 4700 Ashwood Drive, Suite 200, Cincinnati, Ohio 45241.

133. As a consequence of the joint venture, the Joint Venture Defendants owed a joint duty to Gary Bangert to use reasonable care in the care and treatment it provided to him while he was a resident at the facility.

134. The joint venture is evidenced by this chart defendants submitted to the State of Missouri and which is contained in the licensure file for Green Park Senior Living:



135. As a consequence of the joint venture, the Joint Venture Defendants owed a joint duty to Gary Bangert to use reasonable care for his safety while under their care and supervision at Green Park Senior Living.

JURISDICTION AND VENUE

136. Venue is proper in this Court, because the tortious acts complained of occurred in St. Louis County, Missouri.

137. Jurisdiction is proper in this Court for the foreign companies doing business in the State of Missouri pursuant to RSMo §506.500.1(3), because they purposely availed themselves of the protections and/or benefits of the laws in Missouri by:

- a. Transacting business within the State of Missouri;
- b. Making one or more contracts within the State of Missouri;
- c. Owning, using or possessing real estate situated within the State of Missouri; and
- d. Conducting business within the state including, but not limited to, engaging in related party transactions with Green Park Senior Living; Committing

tortious acts within the State of Missouri; and

- e. Committing tortious acts within the State of Missouri including, but not limited to:
- failing to ensure that that Green Park Senior Living had appropriate policies and procedures for its nursing staff;
 - failing to properly capitalize, fund, and staff the Green Park Senior Living facility;
 - failing to ensure that staff received adequate training and supervision;
 - failing to have sufficient number of staff members; and
 - failing to provide adequate care and a safe environment all while Gary Bangert was a resident at Green Park Senior Living,

AGENCY

138. The acts hereinafter described were performed by the individuals identified herein as well as the agents, representatives, servants, and employees of defendants and were performed either with the full knowledge and consent of defendants, and/or were performed by their agents, representatives, servants, or employees during the scope of their agency, representation, or employment with the defendants.

139. Furthermore, the acts hereinafter described as being performed by the agents, representatives, servants, or employees of defendants were performed or were supposed to be performed on behalf of and/or for the benefit of Gary Bangert.

FACTUAL BACKGROUND

140. Defendants, and each of them, exercised substantial control over significant aspects of the operation and management of Green Park Senior Living prior to and during Gary Bangert's period of residency therein, including but not limited to, the creation, setting, funding and/or implementation of budgets; creating and maintaining business relationships

with related parties as defined by the Centers for Medicare Services that resulted in an undercapitalized and understaffed nursing home; the lack of hiring staff and insufficient training of staff; the failure to monitor resident acuity levels and staffing sufficiency to meet each resident's needs; control over resident admissions and discharge to and from the facility; and the creation and enforcement of written policies and procedures pertaining to the rules that provide for the safety and well-being of residents and the clinical care for residents such as Gary Bangert.

141. Each of these managerial, clinical and operational functions had a direct impact on the quality of care delivered to Gary Bangert and other residents at Green Park Senior Living.

142. Upon information and belief, defendants engaged in a systematic process of ensuring that Green Park Senior Living maintained the highest occupancy and acuity rate possible while providing insufficient staff to meet the individual needs of Gary Bangert during his residency at the facility.

143. As a result of being identified as a "Special Focus Facility" as defined above, Green Park Senior Living had serious problems over at least a 3 year period which negatively affected the residents of the facility, including Gary Bangert. In addition to the serious problems identified above, the Green Park Senior Living facility had a revolving door at the Administrator and Director of Nursing positions during the residency of Gary Bangert which saw nine Directors of Nursing in a 2 ½ year period and six Administrators in a 2 year period, the last of which is Kristi Jordan who remained at Administrator until April 19, 2019 and was the Administrator during the entirety of Gary Bangert's residency.

144. Despite the problems and revolving door at the key operational and clinical

leadership positions, defendants still had an obligation to meet the needs of each Green Park Senior Living resident, including Gary Bangert and to sufficiently staff its facility based not only on the number of residents residing in the facility, but also the residents' total acuity level.

145. When the residents have a higher acuity level, the more needs the residents have and the more services they require which means defendants have an obligation to ensure that there is a sufficient number of staff members who are properly trained to provide the services required to meet the needs of the residents.

146. Upon information and belief, defendants engaged in a systematic process of ensuring Green Park Senior Living maintained the highest occupancy and acuity rate possible while simultaneously providing insufficient staffing levels, insufficient training to employees and insufficient care to meet the individual needs of the residents, including Gary Bangert.

147. Upon information and belief, the corporate defendants engaged related party transactions with each other with the knowledge and approval of individual defendant Kristi Jordan at dollar amounts that exceeded the fair market value and which should have been utilized to hire, train and retain sufficient numbers of qualified staff and provide sufficient training to employees and sufficient care to meet the needs of the residents, including Gary Bangert.

148. These related party transactions resulted in undercapitalization of Green Park Senior Living and a lack of sufficient staff members to meet the needs of the residents and as such directly resulted in Gary Bangert not receiving the very basic and necessary services he required to prevent neglect and abuse leading to the lack of monitoring of his

blood sugar which resulted in diabetic ketoacidosis and ultimately death.

149. In accepting and utilizing taxpayer dollars through Medicaid reimbursement in the provision of nursing home care and related services provided to Gary Bangert and other residents, Defendants undertook a duty and were obligated to (1) comply with the federal Nursing Home Reform Act of 1987 a/k/a the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) signed into law by President Cindy Reagan, (2) adhere to Gary Bangert's resident rights as set forth the Omnibus Nursing Home Act, Mo. Rev. Stat. § 198.003, (3) comply with the Missouri Code of State Regulations § 19 C.S.R. 30-85.042 and (4) provide care and services that met the prevailing standard of care in the delivery of all care and services provided to Gary Bangert while she resided within the Green Park Senior Living nursing home.

**COUNT I – WRONGFUL DEATH
(All Defendants)**

150. Plaintiff incorporates by reference all the foregoing allegations in this Petition as though fully set forth herein.

151. Gary Bangert became a resident at Green Park Senior Living on or about December 14, 2018.

152. Upon his admission to Green Park Senior Living, defendants knew that Gary Bangert suffered from diabetes mellitus without complications.

153. Upon his admission to Green Park Senior Living, defendants knew that Gary Bangert had inconsistent and often elevated blood sugars.

154. Upon his admission to Green Park Senior Living, defendants knew that Gary Bangert suffered from moderate kidney disease and renal insufficiency.

155. During the course of Gary Bangert's residency at Green Park Senior Living, defendants were required to provide timely meals and fluid intake.

156. During the course of Gary Bangert's residency at Green Park Senior Living, defendants often failed to provide him with meals and fluid intake.

157. In fact, on March 3, 2019, while he was a resident at Green Park Senior Living, Gary Bangert received no food the entire day.

158. Similarly, on March 4, 2019, while he was a resident at Green Park Senior Living, Gary Bangert received no food the entire day before his departure to a local hospital.

159. During the course of Gary Bangert's residency at Green Park Senior Living, defendants were required to check his blood sugar levels at specific times each day and, if necessary, administer insulin.

160. During the course of Gary Bangert's residency at Green Park Senior Living, defendants often failed to check his blood sugar levels at the times required. Defendants also often failed to administer insulin at the times required.

161. In fact, on March 4, 2019 Gary Bangert was supposed to have his blood sugar checked at 11:30 a.m. Defendants failed to take his blood sugar reading at that time.

162. On March 4, 2019 at approximately 1:25 p.m. it is noted in his chart by a Green Park Senior Living staff member that Gary Bangert was having a change in condition in the dining room and that his skin color was pale, cool to touch and he was not responding to his name. His capillary refill was greater than 3 seconds, his oxygen saturation was 89% on 3 liters using a nasal canula, his pulse was 61 and respirations were 12.

163. The physician was called and he ordered that Gary Bangert be sent to a local hospital.

164. When ambulance personnel arrived, they noted that his skin was cold, cyanotic and pale and that he was unresponsive.

165. Ambulance personnel also noted that “1 staff member advised that the patient has been like this for over a week.” They also noted that the “staff had the patient on a NC [nasal canula] at 6L/min” not 3L as identified in the nursing home chart.

166. Upon his arrival at a local hospital lab worked was obtained showing the following high lab values: BUN 131(H), Creatinine 6.61(H) and Glucose [blood sugar] 494(HH).

MERCY HOSPITAL SOUTH
10010 Kennerly Rd
St. Louis MO 63128-2106

Bangert, Gary K
MRN: [REDACTED], DOB: [REDACTED], Sex: M
Acct #: [REDACTED]
ADM 3/4/2019, D/C 3/5/2019

All Notes (continued)

ED Provider Notes by Gibson, Kevin James, MD at 3/4/2019 1:49 PM (continued) Version 1 of 1

| | | |
|------------|----------|-------------------|
| POTASSIUM | 5.6 (H) | 3.4 - 5.1 mmol/L |
| CHLORIDE | 90 (L) | 98 - 107 mmol/L |
| CO2 | 6 (LL) | 22 - 29 mmol/L |
| CALCIUM | 10.8 (H) | 8.6 - 10.4 mg/dL |
| BUN | 131 (H) | 6 - 20 mg/dL |
| CREATININE | 6.61 (H) | 0.70 - 1.20 mg/dL |
| GLUCOSE | 494 (HH) | 74 - 99 mg/dL |

167. He was diagnosed with diabetic ketoacidosis (DKA), acute kidney injury due to diabetic ketoacidosis and dehydration.

168. Gary Bangert died on March 5, 2019 of diabetic ketoacidosis as a direct result of the negligent conduct of the defendants.

169. At all relevant times, defendants had a duty to act in accordance with the standards of care required of those owning, operating, managing, maintaining and/or controlling a skilled nursing facility.

170. These duties required defendants to implement and enforce policies and procedures to ensure the proper care, treatment and supervision for residents of the Green Park Senior Living facility, including Gary Bangert.

171. These duties required defendants to have sufficient and qualified staff at Green Park Senior Living to ensure the ensure the proper care, treatment and supervision for residents of the Green Park Senior Living facility, including Gary Bangert.

172. These duties required defendants to ensure that the nurses, certified nursing assistants and other staff members at Green Park Senior Living were properly educated and trained to ensure the proper care, treatment and supervision for residents of the Green Park Senior Living facility, including Gary Bangert.

173. These duties required defendants to ensure that the Green Park Senior Living facility was properly capitalized to ensure that there were enough staff members to provide the proper care, treatment and supervision for residents of the Green Park Senior Living facility, including Gary Bangert.

174. Specifically, during the course of their care and treatment of Gary Bangert, defendants and their agents, servants and/or employees breached their duties and were guilty of the following acts of negligence and carelessness by failing to measure up to the requisite standard of due care, skill and practice ordinarily exercised by members of their profession under the same or similar circumstances, including:

- a. By failing to provide sufficient numbers of qualified staff members including nurses, licensed practical nurses, certified nursing assistants and medication aides to meet the total needs of Gary Bangert;
- b. By failing to adequately assess, monitor, document, treat and respond to Gary Bangert's physical condition, including his blood sugar levels;
- c. By failing to enact and carry out an adequate care plan with respect to Gary Bangert's needs, including proper monitoring of his blood sugar levels;
- d. By failing to prevent the worsening of Gary Bangert's condition namely dehydration and diabetic ketoacidosis;
- e. By failing to provide Gary Bangert with the supervision and assistance he required during his residency at Green Park Senior Living;
- f. By failing to provide adequate monitoring of Gary Bangert's blood sugar levels;
- g. By failing to provide adequate supervision for Gary Bangert;

- h. By failing to utilize proper procedures for checking and monitoring blood sugar levels;
- i. By failing to promptly identify and manage complications of dehydration and high blood sugar;
- j. By failing to timely transfer Gary Bangert to a facility that could provide him with adequate care, treatment and supervision;
- k. By failing to provide adequate staff to ensure Gary Bangert received 24-hour protective oversight, care, treatment and supervision;
- l. By failing to provide sufficient nursing staff and nursing personnel to ensure that Gary Bangert attained and maintained his highest practicable physical, mental and psychosocial well-being;
- m. By failing to properly supervise and train the employees, agents and/or servants of defendants who were responsible for the care, treatment and supervision of Gary Bangert;
- n. By failing to have and/or implement appropriate policies and procedures;
- o. By failing to call a physician when Gary Bangert's condition changed;
- p. By failing to provide the necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well-being of Gary Bangert in accordance with a comprehensive assessment and plan of care;
- q. By failing to ensure that the nursing care plan based on Gary Bangert's problems and needs was provided to, followed and enforced by facility employees;
- r. By failing to treat Gary Bangert courteously and with dignity;
- s. By failing to provide a safe environment;
- t. By failing to protect Gary Bangert from being abused or neglected during his residency;
- u. By undercapitalizing the Green Park Senior Living facility;
- v. By making false, misleading and deceptive representations as to the quality of care, treatment, services, supervision and staff-to-resident ratios provided by defendants to their residents, including Gary Bangert;

- w. By failing to administer the facility in a manner that enabled it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident;
- x. By failing to have a governing body to discharge their legal obligation by ensuring quality care to the residents, including Gary Bangert;
- y. By failing to ensure that the regulatory rules designed to protect the health and safety of residents such as Gary Bangert were consistently complied with on an ongoing basis; and
- z. Bay failing to provide medication in a timely and accurate manner;
- aa. By failing to properly supervise, monitor and train agency staff members on the policies and procedures of the Green Park Senior Living facility, and the needs of residents such as Gary Bangert.

175. Defendants, as the owners, operators, lessees, lessors, and/or managers of skilled nursing facilities licensed by the State of Missouri and accepting Medicare and Medicaid funds, were subject to regulatory rules promulgated by the Missouri Division of Social Services.

176. While providing care and treatment to Gary Bangert, defendants breached their duties to Gary Bangert and are guilty of acts of negligence in violating regulatory standards governing skilled nursing home facilities including, but not limited to one or more of the following:

- a. 19 C.S.R. 30-85.042(3). The operator shall be responsible to assure compliance with all applicable laws and rules. The administrator's responsibilities shall include the oversight of residents to assure that they receive appropriate nursing and medical care;
- b. 19 C.S.R. 30-85.042(6). The facility shall not knowingly admit or continue to care for residents whose needs cannot be met by the facility directly or in cooperation with outside resources. Facilities which retain residents needing skilled nursing care shall provide licensed nurses for these procedures;
- c. 19 C.S.R. 30-85.042(13). The facility shall develop policies and procedures applicable to its operation to insure the residents' health and safety and to meet the residents' needs;
- d. 19 C.S.R. 30-85.042(15). All personnel shall be fully informed of the policies of the facility and their duties;

- e. 19 C.S.R. 30-85.042(16). All persons who have contact with the residents in the facility shall not knowingly act or omit any duty in a manner which would materially or adversely affect the health, safety, welfare or property of a resident;
- f. 19 C.S.R. 30-85.042(20). The facility shall develop and offer an in-service orientation and continuing educational program for the development and improvement of skills of all the facility's personnel, appropriate for their job function;
- g. 19 C.S.R. 30-85.042(22). The facility must ensure there is a system of in-service training for nursing personnel which identifies training needs related to problems, needs, and care of residents and sufficient to ensure staff's continuing competency;
- h. 19 C.S.R. 30-85.042(24). A registered nurse shall be responsible for the planning and then assuring the implementation of the in-service education program for nursing personnel;
- i. 19 C.S.R. 30-85.042(37). All facilities shall employ nursing personnel in sufficient numbers and with sufficient qualifications to provide nursing and related services which enable each resident to attain or maintain the highest practicable level of physical, mental and psychosocial well-being. Each facility shall have a licensed nurse in charge who is responsible for evaluating the needs of the residents on a daily and continuous basis to ensure there are sufficient, trained staff present to meet those needs;
- j. 19 C.S.R. 30-85.042(38). Failing to ensure that all nursing personnel shall be on duty at all times on each resident-occupied floor;
- k. 19 C.S.R. 30-85.042(44). The facility shall ensure that the resident's private physician, the physician's designee, the facility's supervising physician or an alternate physician shall examine the resident at least annually, and shall examine the resident as often as necessary to ensure proper medical care;
- l. 19 C.S.R. 30-85.042(47). There shall be a safe and effective system of medication distribution, administration, control and use.
- m. 19 C.S.R. 30-85.042 (52) All medication errors and adverse reactions shall be reported immediately to the nursing supervisor and the resident's physician and, if there was a dispensing error, to the issuing pharmacist;
- n. 19 C.S.R. 30-85.042(66). Each resident shall receive twenty-four (24)-hour protective oversight and supervision

- o. 19 C.S.R. 30-85.042(67). Each resident shall receive personal attention and nursing care in accordance with his/her condition and consistent with current acceptable nursing practice;
- p. 19 C.S.R. 30-85.042(79). In the event of accident, injury or significant change in the resident's condition, facility staff shall notify the resident's physician in accordance with the facility's emergency treatment policies which have been approved by the supervising physician;
- q. 19 C.S.R. 30-85.042(80). In the event of accident, injury or significant change in the resident's condition, facility staff shall immediately notify the person designated in the resident's record as the designee or responsible party;
- r. 19 C.S.R. 30-85.042(81). Staff shall inform the administrator of accidents, injuries and unusual occurrences which adversely affect or could adversely affect, the resident. The facility shall develop and implement responsive plans of action;
- s. 19 C.S.R. 30-85.042(83). Facilities shall provide equipment and nursing supplies in sufficient number to meet the needs of the residents;
- t. 19 C.S.R. 30-85.042(100). Facilities shall ensure that the resident's clinical record must contain progress notes that include, but are not limited to:
 - a) Response to care and treatment;
 - b) Change(s) in physical, mental and psychosocial condition;
 - c) Reasons for changes in treatment; and
 - d) Reasons for transfer or discharge;
- u. 19 C.S.R. 30-85.042(103). The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices. These records shall be complete, accurately documented, readily accessible on each nursing unit and systematically organized;
- v. 19 C.S.R. 30-88.010(20). Each resident shall be free from mental and physical abuse;
- w. 19 C.S.R. 30-88.010(22). Each resident shall be free from abuse or the infliction of physical or emotional injury or harm, among other things;
- x. 19 C.S.R. 30-88.010(24). Each resident shall be treated with consideration, respect and full recognition of his/her dignity and individuality, including privacy in treatment and care of his/her personal needs;

- y. 19 C.S.R. 30-85.042(13). The facility shall develop policies and procedures applicable to its operation to insure the residents' health and safety and to meet the residents' needs;
- z. 19 C.S.R. 30-85.042(16). All persons who have any contact with residents shall not knowingly act or omit any duty in a manner which would materially and adversely affect the health, safety, welfare, or property of a resident;
- aa. 19 C.S.R. 30-85.042(15). All personnel shall be fully informed of the policies of the facility and their duties;
- bb. 42 C.F.R. 483.25(m)(2). The facility must ensure that residents are free of any significant medication errors; and
- cc. 42 C.F.R. 483.60(a). A facility must provide pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of each resident.

177. Gary Bangert was a member of the class of persons intended to be protected by the enactment of the aforementioned regulatory rules.

178. The injuries Gary Bangert sustained, including death, were the type of injuries that the state regulatory rules were enacted to prevent.

179. The injuries Gary Bangert sustained, including death, were the type of injuries that were foreseeable during the relevant time period.

180. As a direct and proximate result of the individual and collective acts of negligence by defendants as described above, Gary Bangert suffered fear, anxiety, confusion, mental anguish, severe pain, suffering and eventually death.

181. As a direct and proximate result of the individual and collective acts of negligence by defendants as described above, Plaintiff suffered damages including, but not limited to, loss of companionship, loss of comfort, loss of guidance, loss of counsel, loss of instruction, pain, suffering, bereavement and mental anguish.

182. The conduct – or misconduct – of defendants was willful, wanton, malicious, grossly negligent and performed in reckless disregard of the welfare and safety of Gary Bangert and directly caused or contributed to cause Gary Bangert’s injuries and death.

183. Further, as a result of the conduct – or misconduct – of defendants, defendants are liable for punitive and/or exemplary damages for their grossly negligent care to Gary Bangert in addition to damages for pain and suffering.

184. At all relevant times, defendants created a situation whereby there was an insufficient number of staff members to provide adequate care, treatment of supervision of Gary Bangert and other Green Park Senior Living residents.

185. Further, defendants knew that their conscious disregard to provide adequate staff; to properly capitalize the Green Park Senior Living facility; to train and/or properly supervise their agents, servants and/or employees created a high degree of probability of injury to residents and, as a result, consciously disregarded the safety of all residents, including Gary Bangert.

186. The negligence of defendants was willful, wanton, malicious and directly caused or contributed to cause the injuries and death of Gary Bangert, thereby creating aggravating circumstances allowing the consideration of exemplary and/or punitive damages.

WHEREFORE, for the reasons set forth above, Plaintiff prays for judgment against the defendants for such sums as a fair and reasonable over and above the jurisdictional minimum, for actual damages, punitive and/or exemplary damages, the costs for this action and for such other relief as this Court deems just and proper.

COUNT II – CORPORATE NEGLIGENCE
Pursuant to *LeBlanc v. Research Belton Hosp.*, 278 S.W. 3d 201
(Mo. App. W.D 2008)
(Against all Defendants Except Individual Kristi Jordan)

187. Plaintiff incorporates by reference all the foregoing allegations in this Petition as though fully set forth herein.

188. At all relevant times, defendants had a duty to act in accordance with the standards of care required of those owning, operating, managing, maintaining, and/or controlling a skilled nursing facility.

189. These duties required defendants to ensure there was sufficient and qualified staff at Green Park Senior Living to ensure the proper care for, and treatment of all residents including Gary Bangert.

190. These duties also required defendants to ensure Green Park Senior Living was properly capitalized to ensure the proper care for, and treatment of all residents including Gary Bangert.

191. As described above, defendants failed to ensure the facility had a sufficient number of staff and capital in 2018 and during Gary Bangert's residency.

192. As a direct and proximate result of defendants' acts resulting in an understaffed and undercapitalized nursing home throughout 2018, Gary Bangert suffered severe pain, anxiety, mental distress.

193. As a direct and proximate result of defendants' acts resulting in an understaffed and undercapitalized nursing home throughout 2018, Plaintiff, suffered damages including, but not limited to, pain, suffering, bereavement and mental anguish.

194. The actions of defendants were malicious, wanton, grossly negligent and reckless, and performed in reckless disregard of the welfare and safety of Gary Bangert and others, such that, in addition to damages for pain and suffering, defendants are liable for punitive damages for their grossly negligent care of Gary Bangert.

195. At the time defendants caused and allowed Gary Bangert to suffer a change of condition for approximately a week before sending him for medical care, they knew that their conscious disregard to provide adequate staff and properly capitalize Green Park Senior Living in 2018 created a high degree of probability of injury to residents, and consciously disregarded the safety of all residents including Gary Bangert.

196. Accordingly, defendants showed a complete indifference to, or conscious disregard, for the safety of others, including Gary Bangert and warrants punitive damages be assessed against defendants in an amount that is fair and reasonable and will punish defendants and deter them and others from similar conduct.

197. As a direct and proximate result of defendants' acts resulting in an understaffed and undercapitalized nursing home, and complete indifference to, or conscious disregard, for the safety of others, including Gary Bangert, Gary Bangert was harmed and suffered damages, including but not limited to pain, suffering, mental anguish, disability, disfigurement, and loss of enjoyment of life; and other damages.

WHEREFORE, for the reasons set forth above, Plaintiff prays for judgment against the defendants for such sums as a fair and reasonable over and above the jurisdictional minimum, for actual damages, punitive and/or exemplary damages, the costs for this action and for such other relief as this Court deems just and proper.

**COUNT III - NEGLIGENCE
(All Defendants)**

198. Plaintiff incorporates by reference all the foregoing allegations in this Petition as though fully set forth herein.

199. At all times material hereto Gary Bangert was in a defenseless and dependent condition.

200. As a result of his defenseless and dependent condition, Gary Bangert relied upon defendants to provide for his safety, protection, care and treatment.

201. At all relevant times, defendants had a duty to act in accordance with the standards of care required of those owning, operating, managing, maintaining, and/or controlling a skilled nursing facility.

202. These duties required defendants to implement and enforce policies and procedures to ensure the proper care for, and treatment of all residents including Gary Bangert.

203. These duties required defendants to have sufficient and qualified staff at Green Park Senior Living nursing home to ensure the proper care for, and treatment of all residents including Gary Bangert.

204. These duties required defendants to ensure that Green Park Senior Living's nurses and other staff were properly educated and trained with regard to the care for, and treatment of all residents including Gary Bangert.

205. These duties required defendants to ensure that Green Park Senior Living was properly capitalized to ensure the proper care for, and treatment of all residents including Gary Bangert.

206. Specifically, during the course of their care and treatment of Gary Bangert, defendants and their agents, servants and/or employees breached their duties and were guilty of the following acts of negligence and carelessness by failing to measure up to the requisite standard of due care, skill, and practice ordinarily exercised by members of their profession under the same or similar circumstances, including those identified in Count I above which are incorporated and realleged herein.

207. Defendants, as the owners, operators, lessees, lessors, and/or managers of skilled care nursing facilities licensed by the State of Missouri and accepting Medicare and Medicaid funds, were subject to regulations promulgated by the Missouri Division of Social Services and under the Social Security Act.

208. While providing care and treatment to Gary Bangert, defendants and their agents, servants and/or employees breached their duty to Gary Bangert and were guilty of acts of negligence and negligence, *per se*, in violating regulations governing residential care facilities including but not limited to state regulatory rules identified in Count I above which are incorporated and realleged herein.

209. Gary Bangert was a member of the class of persons intended to be protected by the enactment of the aforementioned regulations.

210. The physical injuries Gary Bangert incurred were the type of injuries that the regulations were enacted to prevent.

211. As a direct and proximate result of the individual and collective acts of negligence of defendants as described above, Gary Bangert suffered severe pain, anxiety, and mental distress.

212. As a direct and proximate result of the individual and collective acts of negligence of all defendants as described above, Plaintiff, suffered damages including, but not limited to, pain, suffering, bereavement and mental anguish.

213. The actions of defendants were malicious, wanton, grossly negligent and reckless, and performed in reckless disregard of the welfare and safety of Gary Bangert and others, such that, in addition to damages for pain and suffering, defendants are liable for punitive damages for their grossly negligent care of Gary Bangert.

214. At the time defendants failed to meet the needs of Gary Bangert they knew that their conscious disregard to provide adequate staff; properly capitalize Green Park Senior Living; train, and/or supervise their agents, servants and/or employees during 2018 created a high degree of probability of injury to residents, and consciously disregarded the safety of all residents including Gary Bangert.

215. Accordingly, defendants showed a complete indifference to, or conscious disregard, for the safety of others, including Gary Bangert and warrants punitive damages be assessed against defendants in an amount that is fair and reasonable and will punish defendants and deter them and others from similar conduct.

216. As a direct and proximate result of defendants' negligence, and complete indifference to, or conscious disregard, for the safety of others, including Gary Bangert, Gary Bangert was harmed and suffered damages, including but not limited to pain, suffering, mental anguish, disability, disfigurement, and loss of enjoyment of life; and other damages.

WHEREFORE, for the reasons set forth above, Plaintiff prays for judgment against the defendants for such sums as a fair and reasonable over and above the jurisdictional minimum, for actual damages, punitive and/or exemplary damages, the costs for this action and for such other relief as this Court deems just and proper.

COUNT IV – ALTER EGO
Green Park Management Co., LLC; Health Facility Management, LLC D/B/A
Communicare Family of Companies; Lasalle Re Assets, LLC; Lasalle Holdings II, LLC;
RRW, LLC; C.R. Stoltz, LLC; Skilled HC Holdings, LLC, LaSalle Holdings, LLC,
Communicare Health Services, Inc. and Resident Care Consulting, LLC
(“Alter Ego Defendants”)

217. Plaintiff incorporates by reference all the foregoing allegations in this Petition as though fully set forth herein.

218. Green Park Senior Living Community is so dominated by the Alter Ego Defendants that the it is a mere instrument of Alter Ego Defendants and is indistinct from Alter Ego Defendants.

219. In fact, Green Park Senior Living is controlled and influenced by the Alter Ego Defendants in that the Alter Ego Defendants exercised complete control and domination over the facility and each other's finances and business practices.

220. Specifically, the Alter Ego Defendants complete control and domination over the Green Park Senior Living facility caused the facility to be undercapitalized and understaffed during 2018.

221. Upon information and belief, the Alter Ego Defendants complete control and domination over the Green Park Senior Living facility caused the facility to operate at a loss during the year of 2018.

222. Upon information and belief, the Alter Ego Defendants complete control and domination over the Green Park Senior Living facility caused the facility's liabilities to exceed its assets by during the years 2017 and 2018. Specifically,

- a. The Alter Ego Defendants own all or most of the capital stock of the Subsidiary and each other;
- b. The Alter Ego Defendants and the Subsidiary have common directors or officers;
- c. The Alter Ego Defendants finance the Subsidiary and each other;
- d. The Alter Ego Defendants subscribe to all of the capital stock of the Subsidiary and each other;
- e. The Alter Ego Defendants caused the incorporation the Subsidiary and each other;
- f. Green Park Senior Living has grossly inadequate capital;

- g. The Alter Ego Defendants pays the salaries and other expenses or losses of the facility;
- h. The Alter Ego Defendants use the property of the Green Park Senior Living facility as its own; and
- i. The directors or executives of the Green Park Senior Living facility do not act independently in the interest of the facility but take their orders from the Alter Ego Defendants in the latter's interest.

223. Thus, the Alter Ego Defendants used the corporate cloak of the Subsidiary as a subterfuge to defeat public convenience, to justify a wrong, and/or to perpetrate a fraud in that the Alter Ego Defendants complete control and domination of the Green Park Senior Living facility depleted all of the facility assets, thereby making it unable to pay a judgment resulting from its care of residents including Gary Bangert.

224. This undercapitalization and understaffing violated Green Park Senior Living's duties under 19 C.S.R. 30-85.042 and the applicable standard of care owed by a nursing home operator or manager to the facility's residents.

225. As a direct and proximate result of the individual and collective acts of negligence of the Green Park Senior Living facility – and the Alter Ego Defendants – Gary Bangert suffered severe pain, anxiety, and mental distress.

226. As a direct and proximate result of the individual and collective acts of negligence of the Green Park Senior Living facility – and the Alter Ego Defendants – Plaintiff, suffered damages including, but not limited to, pain, suffering, bereavement and mental anguish.

227. The actions of the Green Park Senior Living facility – and the Alter Ego Defendants – were malicious, wanton, grossly negligent and reckless, and performed in reckless disregard of the welfare and safety of Gary Bangert and others, such that, in addition to damages for pain and suffering, defendants are liable for punitive damages for their grossly negligent care of Gary Bangert.

228. At the time Green Park Senior Living – and the Alter Ego Defendants – caused and allowed Gary Bangert to suffer from excessively high blood sugar, they knew that their conscious disregard to provide adequate staff and properly capitalize the facility during 2018 created a high degree of probability of injury to residents, and consciously disregarded the safety of all residents including Gary Bangert.

229. Accordingly, Green Park Senior Living – and the Alter Ego Defendants – showed a complete indifference to, or conscious disregard, for the safety of others, including Gary Bangert and warrants punitive damages be assessed against defendants in an amount that is fair and reasonable and will punish defendants and deter them and others from similar conduct.

230. As a direct and proximate result of Green Park Senior Living – and the Alter Ego Defendants – negligence, and complete indifference to, or conscious disregard, for the safety of others, including Gary Bangert, Gary Bangert was harmed and suffered damages, including but not limited to pain, suffering, mental anguish, disability, disfigurement, and loss of enjoyment of life; and other damages.

WHEREFORE, for the reasons set forth above, Plaintiff prays for judgment against the defendants for such sums as a fair and reasonable over and above the jurisdictional minimum, for actual damages, punitive and/or exemplary damages, the costs for this action and for such other relief as this Court deems just and proper.

COUNT IV – AGENCY
Agency Liability Against All Defendants Except Green Park Leasing Co, LLC
d/b/a Green Park Senior Living Community (“Agency Defendants”) Pursuant
to *Balderas v. Howe*, 891 S.W.2d 871, 873-74 (Mo. App. W.D. 1995)

231. Plaintiff incorporates by reference all the foregoing allegations in this Petition as though fully set forth herein.

232. The Agency Defendants possessed the right to control the conduct of Green Park Senior Living.

233. Specifically, The Agency Defendants possessed the right to ensure that Green Park Senior Living had appropriate policies and procedures for its nursing staff; was properly capitalized, funded, staffed; and that staff received adequate training and supervision while Gary Bangert was a resident at the Green Park Senior Living facility.

234. The Agency Defendants along with Green Park Senior Living owed a duty to Gary Bangert to use reasonable care for his safety while providing care and supervision at Green Park Senior Living.

235. The Agency Defendants are liable because Green Park Senior Living breached its duties by failing to ensure Green Park Senior Living had appropriate policies and procedures for its nursing staff; was properly capitalized, funded, staffed; and that staff received adequate training and supervision while Gary Bangert was a resident at Green Park Senior Living.

236. As a direct and proximate result of the individual and collective acts of negligence of Green Park Senior Living – Gary Bangert suffered severe pain, anxiety, mental distress and ultimately death.

237. As a direct and proximate result of the individual and collective acts of negligence of Green Park Senior Living, Plaintiff suffered damages including, but not limited to, pain, suffering, bereavement, mental anguish and ultimately death.

238. The actions of Green Park Senior Living were malicious, wanton, grossly negligent and reckless, and performed in reckless disregard of the welfare and safety of Gary Bangert and others, such that, in addition to damages for pain and suffering, defendants are liable for punitive damages for their grossly negligent care of Gary Bangert.

239. At the time Green Park Senior Living caused and allowed Gary Bangert to suffer preventable diabetic ketoacidosis, dehydration and an acute kidney injury, they knew that its conscious disregard to provide adequate staff, adequate staff training and to properly capitalize Green Park Senior Living during the time period of Gary Bangert's residency created high degree of probability of injury to residents, and consciously disregarded the safety of all residents including Gary Bangert.

240. Accordingly, the Agency Defendants and Green Park Senior Living showed a complete indifference to, or conscious disregard, for the safety of others, including Gary Bangert and warrants punitive damages be assessed against defendants in an amount that is fair and reasonable and will punish defendants and deter them and others from similar conduct.

241. As a direct and proximate result of Green Park Senior Living's negligence, and complete indifference to, or conscious disregard, for the safety of others, including Gary Bangert, Gary Bangert was harmed and suffered damages, including but not limited to pain, suffering, mental anguish, disability, disfigurement, and loss of enjoyment of life; and other damages.

WHEREFORE, for the reasons set forth above, Plaintiff prays for judgment against the defendants for such sums as a fair and reasonable over and above the jurisdictional minimum, for actual damages, punitive and/or exemplary damages, the costs for this action and for such other relief as this Court deems just and proper.

**COUNT V – LOSS CHANCE OF RECOVERY OR SURVIVAL
(All Defendants)**

242. Plaintiff incorporates by reference all the foregoing allegations in this Petition as though fully set forth herein.

243. At all times material hereto Gary Bangert was in a defenseless and dependent condition.

244. As a result of his defenseless and dependent condition, Gary Bangert relied upon defendants to provide for his safety, protection, care and treatment.

245. These duties required defendants to implement and enforce policies and procedures to meet the residents' needs, ensure the proper care for, and treatment of residents such as Gary Bangert.

246. These duties required defendants to have sufficient and qualified staff at Green Park Senior Living to ensure the residents needs were met, properly cared for and provided proper treatment.

247. These duties required defendants to ensure that Green Park Senior Living's nurses and other staff were properly educated and trained with regard to the care for, and treatment of residents such as Gary Bangert.

248. These duties required defendants to ensure that Green Park Senior Living was properly capitalized to ensure the proper care for, and treatment of residents such as Gary Bangert.

249. As stated above in more detail and incorporated here, defendants failed to adequately monitor Gary Bangert's blood sugar levels and provide timely and appropriate insulin and died from diabetic ketoacidosis as a direct result of the negligence inflicted upon him by defendants.

250. Preventing diabetic ketoacidosis is not a difficult task if defendants are properly caring for the resident, including monitoring blood sugar levels and appropriately administering insulin.

251. This was a serious injury that defendants failed to adequately prevent, recognize or treat by failing to measure up to the requisite standard of due care, skill, and practice

ordinarily exercised by members of their profession under the same or similar circumstances, including:

- a. By failing to provide sufficient numbers of qualified staff members including nurses, licensed practical nurses, certified nursing assistants and medication aides to meet the total needs of Gary Bangert;
- b. By failing to adequately assess, monitor, document, treat and respond to Gary Bangert's physical condition, including his blood sugar levels;
- c. By failing to enact and carry out an adequate care plan with respect to Gary Bangert's needs, including proper monitoring of his blood sugar levels;
- d. By failing to prevent the worsening of Gary Bangert's condition namely dehydration and diabetic ketoacidosis;
- e. By failing to provide Gary Bangert with the supervision and assistance he required during his residency at Green Park Senior Living;
- f. By failing to provide adequate monitoring of Gary Bangert's blood sugar levels;
- g. By failing to provide adequate supervision for Gary Bangert;
- h. By failing to utilize proper procedures for checking and monitoring blood sugar levels;
- i. By failing to promptly identify and manage complications of dehydration and high blood sugar;
- j. By failing to timely transfer Gary Bangert to a facility that could provide him with adequate care, treatment and supervision;
- k. By failing to provide adequate staff to ensure Gary Bangert received 24-hour protective oversight, care, treatment and supervision;
- l. By failing to provide sufficient nursing staff and nursing personnel to ensure that Gary Bangert attained and maintained his highest practicable physical, mental and psychosocial well-being;
- m. By failing to properly supervise and train the employees, agents and/or servants of defendants who were responsible for the care, treatment and supervision of Gary Bangert;
- n. By failing to have and/or implement appropriate policies and procedures;
- o. By failing to call a physician when Gary Bangert's condition changed;

- p. By failing to provide the necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well-being of Gary Bangert in accordance with a comprehensive assessment and plan of care;
- q. By failing to ensure that the nursing care plan based on Gary Bangert's problems and needs was provided to, followed and enforced by facility employees;
- r. By failing to treat Gary Bangert courteously and with dignity;
- s. By failing to provide a safe environment;
- t. By failing to protect Gary Bangert from being abused or neglected during his residency;
- u. By undercapitalizing the Green Park Senior Living facility;
- v. By making false, misleading and deceptive representations as to the quality of care, treatment, services, supervision and staff-to-resident ratios provided by defendants to their residents, including Gary Bangert;
- w. By failing to administer the facility in a manner that enabled it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident;
- x. By failing to have a governing body to discharge their legal obligation by ensuring quality care to the residents, including Gary Bangert;
- y. By failing to ensure that the regulatory rules designed to protect the health and safety of residents such as Gary Bangert were consistently complied with on an ongoing basis; and
- z. By failing to provide medication in a timely and accurate manner;
- aa. By failing to properly supervise, monitor and train agency staff members on the policies and procedures of the Green Park Senior Living facility, and the needs of residents such as Gary Bangert.

252. The negligence of all defendants in failing to properly care for Gary Bangert as described above, directly and proximately caused, or directly and proximately contributed to cause Gary to lose his chance of survival or recovery.

253. At the time defendants failed to provide proper medical care for Gary they knew that their conscious disregard to provide an adequate number of staff members, to properly capitalize Green Park Senior Living, to provide adequate monitoring and treatment, recognize and react to Gary Bangert's significant change in condition, to prepare, modify and follow a care plan that met Gary Bangert's needs, and to train, and/or supervise their agents, servants and/or employees created a high degree of probability of injury and lost chance of survival to Gary Bangert and other residents like her.

254. The actions of defendants were malicious, wanton, grossly negligent and reckless, and performed in reckless disregard of the welfare and safety of Gary Bangert and others, such that, in addition to damages for pain and suffering, defendants are liable for punitive damages for their grossly negligent care of Gary Bangert.

255. Defendants showed a complete indifference to, or conscious disregard, for the safety of others, including Gary Bangert and warrants punitive damages be assessed against defendants in an amount that is fair and reasonable and will punish defendants and deter them and others from similar conduct.

256. As a direct and proximate result of the carelessness, negligence, and recklessness of the all defendants as aforesaid, Gary Bangert lost a chance of survival or recovery that was sizeable and material: Specifically,

- a. Gary Bangert has had his ability to survive and his significant material chance of survival taken away by defendant's negligence; and
- b. Gary Bangert suffered the loss of his chance of survival and with it the loss of his future enjoyment of life.

WHEREFORE, for the reasons set forth above, Plaintiff prays for judgment against the Defendants for such sums as a fair and reasonable over and above the jurisdictional minimum, for

actual damages, punitive and/or exemplary damages, the costs for this action and for such other relief as this Court deems just and proper.

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