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15 **UNITED STATES DISTRICT COURT**  
16 **EASTERN DISTRICT OF CALIFORNIA**

17 U.S. EQUAL EMPLOYMENT  
18 OPPORTUNITY COMMISSION,

19 Plaintiff,

20 vs.

21 PRESTIGE CARE, INC., PRESTIGE  
22 SENIOR LIVING, LLC, CYPRESS POINT  
23 VENTURES, LLC, PRESTIGE SENIOR  
24 MANAGEMENT, LLC, CARE CENTER  
25 (ANCHORAGE), INC., GREEN VALLEY  
26 VENTURES, LLC, LAKE HAVASU TOO,  
27 LLC, SIERRA VISTA VENTURES, LLC,  
28 CHICO VENTURES, LLC, MANTECA  
VENTURES, LLC, MARYSVILLE  
VENTURES, LLC, OROVILLE ASSISTED  
LIVING, LLC, VISALIA VENTURES, LLC,  
CARE CENTER (LEWISTON), INC.,  
CALDWELL VENTURES, LLC,  
PARKWOOD MEADOWS, LLC,  
KALISPELL VENTURES, LLC,  
HENDERSON VENTURES II, LLC, CARE  
CENTER (GLISAN), INC., CARE CENTER  
(HOOD RIVER), INC., CARE CENTER

) Case No.:

) **COMPLAINT—ADA**

) **JURY TRIAL DEMAND**

1 (LANECO), INC., CARE CENTER (LINDA )  
2 VISTA), INC., CARE CENTER (MENLO )  
3 PARK), INC., CARE CENTER )  
4 (PORTHAVEN), INC., CARE CENTER )  
5 (WILLOWBROOK), INC., PCI CARE )  
6 VENTURE I, INC., SUMMERPLACE )  
7 ASSISTED LIVING, LLC, CARE CENTER )  
8 (CAMAS), INC., CARE CENTER )  
9 (CENTRALIA), INC., CARE CENTER )  
10 (COLVILLE), INC., CARE CENTER )  
11 (EDMONDS), INC., CARE CENTER )  
12 (HAZEL DELL), INC., CARE CENTER )  
13 (SULLIVAN PARK), INC., CARE CENTER )  
14 (SUNNYSIDE), INC., CARE CENTER )  
15 (TOPPENISH), INC., GIG HARBOR )  
16 VENTURES, LLC, LIVING COURT )  
17 VENTURES, LLC, ENUMCLAW )  
18 VENTURES II, LLC, AND DOES 1-100, )  
19 INCLUSIVE, )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

Defendants.

**NATURE OF THE ACTION**

This is an action under the Americans with Disabilities Act of 1990 (“ADA”), as amended by the ADA Amendment Act of 2008 (“ADAAA”), to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Charging Party Mitchell Miller and other individuals who were adversely affected by such practices. As set forth with greater particularity in paragraphs 87 to 119 of this Complaint, Plaintiff United States Equal Employment Opportunity Commission (“Plaintiff” or “EEOC”) alleges that Defendant Prestige Care, Inc., Prestige Senior Living, LLC, Cypress Point Ventures, LLC, Prestige Senior Management, LLC,<sup>1</sup> Care Center (Anchorage), Inc., Green Valley Ventures, LLC, Lake Havasu Too, LLC, Sierra Vista Ventures, LLC, Chico Ventures, LLC, Manteca Ventures, LLC,

<sup>1</sup>Defendants Prestige Care, Inc., Prestige Senior Living, LLC, Cypress Point Ventures, LLC, Prestige Senior Management, LLC are hereinafter collectively referenced as “Management Defendants” and the remaining Defendants are collectively referenced hereinafter as “Facility Defendants.”

1 Marysville Ventures, LLC, Oroville Assisted Living, LLC, Visalia Ventures, LLC, Care Center  
2 (Lewiston), Inc., Caldwell Ventures, LLC, Parkwood Meadows, LLC, Kalispell Ventures, LLC,  
3 Henderson Ventures II, LLC, Care Center (Glisan), Inc., Care Center (Hood River), Inc., Care  
4 Center (Laneco), Inc., Care Center (Linda Vista), Inc., Care Center (Menlo Park), Inc., Care  
5 Center (Porthaven), Inc., Care Center (Willowbrook), Inc., PCI Care Venture I, Inc.,  
6 Summerplace Assisted Living, LLC, Care Center (Camas), Inc., Care Center (Centralia), Inc.,  
7 Care Center (Colville), Inc., Care Center (Edmonds), Inc., Care Center (Hazel Dell), Inc., Care  
8 Center (Sullivan Park), Inc., Care Center (Sunnyside), Inc., Care Center (Toppenish), Inc., Gig  
9 Harbor Ventures, LLC, Living Court Ventures, LLC, Enumclaw Ventures II, LLC, and Does 1-  
10 100 (collectively, "Defendants") unlawfully discriminated against a class of individuals on the  
11 basis of disability by imposing a 100% healed/100% fit for duty qualification standard, denying  
12 light duty, failing to engage in the interactive process, failing to provide reasonable  
13 accommodations, terminating, and/or failing to hire individuals on the basis of their actual,  
14 record of, or perceived disability.

### 15 **JURISDICTION AND VENUE**

16 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,  
17 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the  
18 ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of  
19 Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e-5(f)(1) and (3) and  
20 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

21 2. The employment practices alleged to be unlawful were and are now being  
22 committed within the jurisdiction of the United States District Court of California, Eastern  
23 District.

### 24 **PARTIES**

25 3. Plaintiff EEOC is an agency of the United States of America, charged with the  
26 administration, interpretation and enforcement of Title I of the ADA, and is expressly  
27 authorized to bring this action by Section 107(a) of the ADA which incorporates by reference  
28 Section 705(f) (1) and (3), 42 U.S.C. §§ 2000e-5(f)(1) and (3).



1 procedures should be implemented as to individual employees who request leave or other  
2 reasonable accommodations. Defendants Prestige Care, Inc. and Prestige Senior Living, LLC  
3 imposed a 100% heal/100% fit for duty/no light duty qualification standards at the named  
4 Facility Defendants that denied employment to persons who needed light duty, had  
5 medical/physical restrictions, requested leave or other reasonable accommodations, and  
6 implemented maximum leave and no light duty policies that ignored employers' obligation to  
7 engage in the interactive process and provide reasonable accommodations.

8 **FACILITY DEFENDANTS**

9 12. At all relevant times, Defendant Cypress Point Ventures, LLC has been a limited  
10 liability company that owns and operates pharmacies and provides pharmacy services to senior  
11 nursing facilities and assisted living facilities which are the other named defendants in this  
12 action. Defendant Cypress Point Ventures, LLC imposed policies and procedures in violation  
13 of the ADA with Management Defendants.

14 13. At all relevant times, Defendant Cypress Point Ventures, LLC has been a limited  
15 liability company doing business in San Joaquin County, in the State of California, and has  
16 continuously had at least 15 employees.

17 14. At all relevant times, Defendant Prestige Senior Management, LLC has been a  
18 limited liability company doing business in Butte County, San Joaquin County, Tulare County,  
19 and Yuba County, in the State of California, and has continuously had at least 15 employees.  
20 Defendant Prestige Senior Management, LLC imposed policies and procedures in violation of  
21 the ADA with Management Defendants.

22 15. At all relevant times, Defendant Care Center (Anchorage), Inc. has been a senior  
23 nursing facility incorporated in the State of Oregon, located in the State of Alaska, and has  
24 continuously had at least 15 employees.

25 16. At all relevant times, Defendant Care Center (Anchorage), Inc. has been  
26 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
27 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
28 occurring at Defendant Care Center (Anchorage), Inc. as alleged in this action.

1           17. At all relevant times, Defendant Green Valley Ventures, LLC, a limited liability  
2 company formed in the State of Oregon, has been an assisted living facility located in the State  
3 of Arizona, and has continuously had at least 15 employees.

4           18. At all relevant times, Defendant Green Valley Ventures, LLC has been a  
5 subsidiary of Defendant Prestige Senior Living, LLC, and Management Defendants  
6 collectively and jointly ratified, participated in, and/or imposed the ADA violations attributable  
7 to and/or occurring at Defendant Green Valley Ventures, LLC as alleged in this action.

8           19. At all relevant times, Defendant Lake Havasu Too, LLC, a limited liability  
9 company formed in the State of Oregon, has been an assisted living facility located in the State  
10 of Arizona, and has continuously had at least 15 employees.

11           20. At all relevant times, Defendant Lake Havasu Too, LLC has been a subsidiary  
12 Defendant Prestige Senior Living, LLC, and Management Defendants collectively and jointly  
13 ratified, participated in, and/or imposed the ADA violations attributable to and/or occurring at  
14 Defendant Lake Havasu Too, LLC as alleged in this action.

15           21. At all relevant times, Defendant Sierra Vista Ventures, LLC, a limited liability  
16 company formed in the State of Oregon, has been an assisted living facility located in the State  
17 of Arizona, and has continuously had at least 15 employees.

18           22. At all relevant times, Defendant Sierra Vista Ventures, LLC has been a subsidiary  
19 of Defendant Prestige Senior Living, LLC, and Management Defendants collectively and  
20 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
21 occurring at Defendant Sierra Vista Ventures, LLC as alleged in this action.

22           23. At all relevant times, Defendant Chico Ventures, LLC, a limited liability company  
23 formed in the State of Oregon, has been an assisted living facility located in Butte County,  
24 California, and has continuously had at least 15 employees.

25           24. At all relevant times, Defendant Chico Ventures, LLC has been a subsidiary of  
26 Defendant Prestige Senior Living, LLC, and Management Defendants collectively and jointly  
27 ratified, participated in, and/or imposed the ADA violations attributable to and/or occurring at  
28 Defendant Chico Ventures, LLC as alleged in this action.

1           25. At all relevant times, Defendant Manteca Ventures, LLC, a limited liability  
2 company formed in the State of Oregon, has been an assisted living facility located in San  
3 Joaquin County, California, and has continuously had at least 15 employees.

4           26. At all relevant times, Defendant Manteca Ventures, LLC has been a subsidiary of  
5 Defendant Prestige Senior Living, LLC, and Management Defendants collectively and jointly  
6 ratified, participated in, and/or imposed the ADA violations attributable to and/or occurring at  
7 Defendant Manteca Ventures, LLC as alleged in this action.

8           27. At all relevant times, Defendant Marysville Ventures, LLC, a limited liability  
9 company formed in the State of Oregon, has been an assisted living facility located in Yuba  
10 County, California, and has continuously had at least 15 employees.

11           28. At all relevant times, Defendant Marysville Ventures, LLC has been a subsidiary  
12 of Defendant Prestige Senior Living, LLC, and Management Defendants collectively and  
13 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
14 occurring at Defendant Marysville Ventures, LLC as alleged in this action.

15           29. At all relevant times, Defendant Oroville Ventures, LLC, a limited liability  
16 company formed in the State of Oregon, has been an assisted living facility located in Butte  
17 County, California, and has continuously had at least 15 employees.

18           30. At all relevant times, Defendant Oroville Ventures, LLC has been a subsidiary of  
19 Defendant Prestige Senior Living, LLC, and Management Defendants collectively and jointly  
20 ratified, participated in, and/or imposed the ADA violations attributable to and/or occurring at  
21 Defendant Oroville Ventures, LLC as alleged in this action.

22           31. At all relevant times, Defendant Visalia Ventures, LLC, a limited liability  
23 company formed in the State of Oregon, has been an assisted living facility located in Tulare,  
24 County, California, and has continuously had at least 15 employees.

25           32. At all relevant times, Defendant Visalia Ventures, LLC has been a subsidiary of  
26 Defendant Prestige Senior Living, LLC and Management Defendants collectively and jointly  
27 ratified, participated in, and/or imposed the ADA violations attributable to and/or occurring at  
28 Defendant Visalia Ventures, LLC as alleged in this action.

1           33. At all relevant times, Defendant Care Center (Lewiston), Inc. has been a senior  
2 nursing facility incorporated in the State of Oregon, located in the State of Idaho, and has  
3 continuously had at least 15 employees.

4           34. At all relevant times, Defendant Care Center (Lewiston), Inc. has been a wholly  
5 owned subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively  
6 and jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
7 occurring at Defendant Care Center (Lewiston), Inc. as alleged in this action.

8           35. At all relevant times, Defendant Caldwell Ventures, LLC, a limited liability  
9 company formed in the State of Oregon, has been an assisted living facility located in the State  
10 of Idaho, and has continuously had at least 15 employees.

11           36. At all relevant times, Defendant Caldwell Ventures, LLC has been a subsidiary of  
12 Defendant Prestige Senior Living, LLC, and Management Defendants collectively and jointly  
13 ratified, participated in, and/or imposed the ADA violations attributable to and/or occurring at  
14 Defendant Caldwell Ventures, LLC as alleged in this action.

15           37. At all relevant times, Defendant Parkwood Meadows, LLC, a limited liability  
16 company formed in the State of Oregon, has been an assisted living facility located in the State  
17 of Idaho, and has continuously had at least 15 employees.

18           38. At all relevant times, Defendant Parkwood Meadows, LLC has been a subsidiary  
19 of Defendant Prestige Senior Living, LLC, and Management Defendants collectively and  
20 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
21 occurring at Defendant Parkwood Meadows, LLC as alleged in this action.

22           39. At all relevant times, Defendant Kalispell Ventures, LLC, a limited liability  
23 company formed in the State of Oregon, has been an assisted living facility located in the State  
24 of Montana, and has continuously had at least 15 employees.

25           40. At all relevant times, Defendant Kalispell Ventures, LLC has been a subsidiary of  
26 Defendant Prestige Senior Living, LLC, and Management Defendants collectively and jointly  
27 ratified, participated in, and/or imposed the ADA violations attributable to and/or occurring at  
28 Defendant Kalispell Ventures, LLC as alleged in this action.



1           41. At all relevant times, Defendant Henderson Ventures II, LLC, a limited liability  
2 company formed in the State of Oregon, has been an assisted living facility located in the State  
3 of Nevada, and has continuously had at least 15 employees.

4           42. At all relevant times, Defendant Henderson Ventures II, LLC has been a  
5 subsidiary of Defendant Prestige Senior Living, LLC, and Management Defendants  
6 collectively and jointly ratified, participated in, and/or imposed the ADA violations attributable  
7 to and/or occurring at Defendant Henderson Ventures II, LLC as alleged in this action.

8           43. At all relevant times, Defendant Care Center (Glisan), Inc. has been a senior  
9 nursing facility incorporated and located in the State of Oregon and has continuously had at  
10 least 15 employees.

11           44. At all relevant times, Defendant Care Center (Glisan), Inc. has been a subsidiary  
12 of Defendant Prestige Care, Inc., and Management Defendants collectively and jointly ratified,  
13 participated in, and/or imposed the ADA violations attributable to and/or occurring at  
14 Defendant Care Center (Glisan), Inc. as alleged in this action.

15           45. At all relevant times, Defendant Care Center (Hood River), Inc. has been a senior  
16 nursing facility incorporated and located in the State of Oregon and has continuously had at  
17 least 15 employees.

18           46. At all relevant times, Defendant Care Center (Hood River), Inc. has been a  
19 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
20 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
21 occurring at Defendant Care Center (Hood River), Inc. as alleged in this action.

22           47. At all relevant times, Defendant Care Center (Laneco), Inc. has been a senior  
23 nursing facility incorporated and located in the State of Oregon, and has continuously had at  
24 least 15 employees.

25           48. At all relevant times, Defendant Care Center (Laneco), Inc. has been a subsidiary  
26 of Defendant Prestige Care, Inc., and Management Defendants collectively and jointly ratified,  
27 participated in, and/or imposed the ADA violations attributable to and/or occurring at  
28 Defendant Care Center (Laneco), Inc. as alleged in this action.

1           49. At all relevant times, Defendant Care Center (Linda Vista), Inc. has been a senior  
2 nursing facility incorporated and located in the State of Oregon, and has continuously had at  
3 least 15 employees.

4           50. At all relevant times, Defendant Care Center (Linda Vista), Inc. has been a  
5 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
6 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
7 occurring at Defendant Care Center (Linda Vista), Inc. as alleged in this action.

8           51. At all relevant times, Defendant Care Center (Menlo Park), Inc. has been a senior  
9 nursing facility incorporated and located in the State of Oregon, and has continuously had at  
10 least 15 employees.

11           52. At all relevant times, Defendant Care Center (Menlo Park), Inc. has been a  
12 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
13 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
14 occurring at Defendant Care Center (Menlo Park), Inc. as alleged in this action.

15           53. At all relevant times, Defendant Care Center (Porthaven), Inc. has been a senior  
16 nursing facility incorporated and located in the State of Oregon, and has continuously had at  
17 least 15 employees.

18           54. At all relevant times, Defendant Care Center (Porthaven), Inc. has been a  
19 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
20 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
21 occurring at Defendant Care Center (Porthaven), Inc. as alleged in this action.

22           55. At all relevant times, Defendant Care Center (Willowbrook), Inc. has been a  
23 senior nursing facility incorporated and located in the State of Oregon, and has continuously  
24 had at least 15 employees.

25           56. At all relevant times, Defendant Care Center (Willowbrook), Inc. has been a  
26 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
27 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
28 occurring at Defendant Care Center (Willowbrook), Inc. as alleged in this action.

1           57. At all relevant times, Defendant PCI Care Venture I, Inc. has been a senior  
2 nursing facility incorporated and located in the State of Oregon, and has continuously had at  
3 least 15 employees.

4           58. At all relevant times, Defendant PCI Care Venture I, Inc. has been a subsidiary of  
5 Defendant Prestige Care, Inc., and Management Defendants collectively and jointly ratified,  
6 participated in, and/or imposed the ADA violations attributable to and/or occurring at  
7 Defendant PCI Care Venture I, Inc. as alleged in this action.

8           59. At all relevant times, Defendant Summerplace Assisted Living, LLC, a limited  
9 liability company formed in the State of Oregon, has been an assisted living facility located in  
10 the State of Oregon, and has continuously had at least 15 employees.

11           60. At all relevant times, Defendant Summerplace Assisted Living, LLC has been a  
12 subsidiary of Defendant Prestige Senior Living, LLC, and Management Defendants  
13 collectively and jointly ratified, participated in, and/or imposed the ADA violations attributable  
14 to and/or occurring at Defendant Summerplace Assisted Living, LLC as alleged in this action.

15           61. At all relevant times, Defendant Care Center (Camas), Inc. has been a senior  
16 nursing facility incorporated in the State of Oregon, located in the State of Washington, and  
17 has continuously had at least 15 employees.

18           62. At all relevant times, Defendant Care Center (Camas), Inc. has been a subsidiary  
19 of Defendant Prestige Care, Inc., and Management Defendants collectively and jointly ratified,  
20 participated in, and/or imposed the ADA violations attributable to and/or occurring at  
21 Defendant Care Center (Camas), Inc. as alleged in this action.

22           63. At all relevant times, Defendant Care Center (Centralia), Inc. has been a senior  
23 nursing facility incorporated in the State of Oregon, located in the State of Washington, and  
24 has continuously had at least 15 employees.

25           64. At all relevant times, Defendant Care Center (Centralia), Inc. has been a  
26 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
27 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
28 occurring at Defendant Care Center (Centralia), Inc. as alleged in this action.

1           65. At all relevant times, Defendant Care Center (Colville), Inc. has been a senior  
2 nursing facility incorporated in the State of Oregon, located in the State of Washington, and  
3 has continuously had at least 15 employees.

4           66. At all relevant times, Defendant Care Center (Colville), Inc. has been a subsidiary  
5 of Defendant Prestige Care, Inc., and Management Defendants collectively and jointly ratified,  
6 participated in, and/or imposed the ADA violations attributable to and/or occurring at  
7 Defendant Care Center (Colville), Inc. as alleged in this action.

8           67. At all relevant times, Defendant Care Center (Edmonds), Inc. has been a senior  
9 nursing facility incorporated in the State of Oregon, located in the State of Washington, and  
10 has continuously had at least 15 employees.

11           68. At all relevant times, Defendant Care Center (Edmonds), Inc. has been a  
12 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
13 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
14 occurring at Defendant Care Center (Edmonds), Inc. as alleged in this action.

15           69. At all relevant times, Defendant Care Center (Hazel Dell), Inc. has been a senior  
16 nursing facility incorporated in the State of Oregon, located in the State of Washington, and  
17 has continuously had at least 15 employees.

18           70. At all relevant times, Defendant Care Center (Hazel Dell), Inc. has been a  
19 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
20 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
21 occurring at Defendant Care Center (Hazel Dell), Inc. as alleged in this action.

22           71. At all relevant times, Defendant Care Center (Sullivan Park), Inc. has been a  
23 senior nursing facility incorporated in the State of Oregon, located in the State of Washington,  
24 and has continuously had at least 15 employees.

25           72. At all relevant times, Defendant Care Center (Sullivan Park), Inc. has been a  
26 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
27 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
28 occurring at Defendant Care Center (Sullivan Park), Inc. as alleged in this action.

1           73. At all relevant times, Defendant Care Center (Sunnyside), Inc. has been a senior  
2 nursing facility incorporated in the State of Oregon, located in the State of Washington, and  
3 has continuously had at least 15 employees.

4           74. At all relevant times, Defendant Care Center (Sunnyside), Inc. has been a  
5 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
6 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
7 occurring at Defendant Care Center (Sunnyside), Inc. as alleged in this action.

8           75. At all relevant times, Defendant Care Center (Toppenish), Inc. has been a senior  
9 nursing facility incorporated in the State of Oregon, located in the State of Washington, and  
10 has continuously had at least 15 employees.

11           76. At all relevant times, Defendant Care Center (Toppenish), Inc. has been a  
12 subsidiary of Defendant Prestige Care, Inc., and Management Defendants collectively and  
13 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
14 occurring at Defendant Care Center (Toppenish), Inc. as alleged in this action.

15           77. At all relevant times, Defendant Gig Harbor Ventures, LLC has been an assisted  
16 living facility incorporated in the State of Oregon, located in the State of Washington, and has  
17 continuously had at least 15 employees.

18           78. At all relevant times, Defendant Gig Harbor Ventures, LLC has been a subsidiary  
19 of Defendant Prestige Senior Living, LLC, and Management Defendants collectively and  
20 jointly ratified, participated in, and/or imposed the ADA violations attributable to and/or  
21 occurring at Defendant Gig Harbor Ventures, LLC as alleged in this action.

22           79. At all relevant times, Defendant Living Court Ventures, LLC, a limited liability  
23 company formed in the State of Oregon, has been an assisted living facility located in the State  
24 of Washington and has continuously had at least 15 employees.

25           80. At all relevant times, Defendant Living Court Ventures, LLC has been a  
26 subsidiary of Defendant Prestige Senior Living, LLC, and Management Defendants  
27 collectively and jointly ratified, participated in, and/or imposed the ADA violations attributable  
28 to and/or occurring at Defendant Living Court Ventures, LLC as alleged in this action.

1           81. At all relevant times, Defendant Enumclaw Ventures II, LLC, a limited liability  
2 company formed in the State of Washington, has been an Alzheimer's and dementia care  
3 facility located in the State of Washington, and has continuously had at least 15 employees.

4           82. At all relevant times, Defendant Enumclaw Ventures II, LLC has been a  
5 subsidiary of Defendant Prestige Senior Living, LLC, and Management Defendants  
6 collectively and jointly ratified, participated in, and/or imposed the ADA violations attributable  
7 to and/or occurring at Defendant Enumclaw Ventures II, LLC as alleged in this action.

8           83. Defendants' filings with the Oregon Secretary of State and Washington Secretary  
9 of State in 2016 reflect that all Defendants share the same officers, directors, and ownership.

10           84. Management Defendants exercised ultimate control over each Facility  
11 Defendant's personnel matters as set forth in the contact between each Facility and  
12 Management Defendants. Employees of the Management Defendants oversaw day-to-day  
13 operations of the Facility Defendants, including but not limited to recruiting, hiring,  
14 disciplining, firing, and supervising the Facility Defendants' employees and issuing all  
15 personnel policies, issuing pay checks of the Facility Defendants' employees, and maintaining  
16 the human resource functions for the Facility Defendants. Management Defendants' personnel  
17 had the authority to fire, hire, and transfer employees of the Facility Defendants. The same  
18 personnel policies and practices apply to all Defendants. The ultimate decision making power  
19 on all terms and conditions of employment rested with Management Defendants' officials,  
20 including but not limited to the denial of reasonable accommodation and the failure to engage  
21 in the interactive process. Management Defendants mandated and enforced the written  
22 restrictive light duty and maximum leave policies at each Facility Defendant. In addition to  
23 personnel matters, Management Defendants controlled various other aspects of each Facility's  
24 operations as also set for in the contact.

25           85. Facility Defendants routinely sought the approval of Management Defendants'  
26 Benefits Manager Mitchell Court and Sinikka Loukola of Management Defendants' Human  
27 Resources for final decisions and/or guidance pertaining to request for accommodation without  
28 properly engaging in the interactive process. Management Defendants' official including, but

1 not limited to Court and Loukola routinely approved and/or ratified Facility Defendants' on-  
2 site managers' decisions that violated the ADA such as denying leave as an accommodation,  
3 denying light duty, implementing the qualification standards of requiring employees to be  
4 100% healed and 100% fit for duty, denying other reasonable accommodations, and failing to  
5 hire applicants on the basis of disability and/or applicants perceived to be disabled.

6 86. Management Defendants issued paychecks to each employee of a Facility  
7 Defendant as well as employee handbooks and policies.

8 87. All acts and failures to act allegedly committed by Facility Defendants herein  
9 were duly performed by and attributable to the Management Defendants, acting as a successor,  
10 agent, alter ego, indirect employer, joint employer, integrated enterprise and/or or under the  
11 direction and control of the others, except as specifically alleged otherwise. Facility  
12 Defendants' acts and failures to act were within the scope of such agency and/or employment,  
13 and Management Defendants participated in, approved and/or ratified the unlawful acts and  
14 omissions by the Facility Defendants complained of herein. Whenever and wherever reference  
15 is made in this Complaint to any act by a Facility Defendant, such allegations and reference  
16 shall also be deemed to mean the acts and failures to act of Management Defendants acting  
17 individually, jointly, and/or severally.

18 88. Plaintiff is ignorant of the true names and capacities of each Defendant sued as  
19 DOES 1 through 100, inclusively, and therefore Plaintiff sues said defendant(s) by fictitious  
20 names. Plaintiff reserves the right to amend the complaint to name each DOE defendant  
21 individually or collectively as they become known. Plaintiff alleges that each DOE defendant  
22 was in some manner responsible for the acts and omissions alleged herein and Plaintiff will  
23 amend the complaint to allege such responsibility when the same shall have been ascertained  
24 by Plaintiff.

25 **STATEMENT OF CLAIMS**

26 89. More than thirty days prior to the institution of this lawsuit, Charging Party  
27 Mitchell Miller ("Charging Party" or "Miller") filed a charge of discrimination with Plaintiff  
28 alleging violations of ADA by Defendants.

1 90. Prior to instituting this lawsuit, the EEOC attempted to eliminate the unlawful  
2 employment practices alleged herein and to effect voluntary compliance with the ADA through  
3 informal methods of conciliation, conference, and persuasion.

4 91. All conditions precedent to the institution of this lawsuit have been fulfilled.

5 92. Since 2012 and before, Defendants maintained an inflexible 100% healed/100%  
6 fit for duty policy which does not provide for reasonable accommodation of qualified  
7 individuals with disabilities in violations of Section 102 (a), (b)(5) and b(6) of the ADA, 42  
8 U.S.C. § 12112 (a), (b)(5), and (b)(6).

9 93. Defendants violated the ADA by failing to engage in the interactive process and  
10 provide reasonable accommodations and instead discharged employees who had known  
11 disabilities, requested light duty, were suspected of not being able to perform 100% of job  
12 duties including marginal functions and other jobs, and/or exhausted leave under the Family  
13 and Medical Leave Act of 1993 (“FMLA”) and/or personal time off.

14 94. Defendants imposed policies and procedures in which employees were required to  
15 operate at 100% of all of their job duties including those that were not essential functions of the  
16 job and to perform duties outside of their job duties, denied leave to individuals who needed to  
17 obtain medical attention, and forced employees to resign because they could not operate at  
18 100% without an accommodation. Through the implementation of the 100% healed/100% fit  
19 for duty/no light duty policies, Defendants violated the ADA by imposing qualification  
20 standards that were not job-related or consistent with business necessity and otherwise failing  
21 to abide by the ADA. Each Management Defendant and Facility Defendant implemented the  
22 aforementioned 100% healed/100% fit for duty/no light duty policies resulting in the violation  
23 of the ADA.

24 95. Management Defendants issued at each Facility Defendant a written policy which  
25 states that, “Employees returning from a leave that was not due to a work-related injury (W C)  
26 must be able to perform 100% of job duties. Prestige does not provide light duty except in the  
27 case of an on the job injury.” Defendants enforced this policy at all facilities and applied this  
28 policy in a manner that required employees to be able to fully perform not only essential



1 functions of their job, but marginal functions, and even jobs of other employees.

2 96. To enforce this policy, Defendants systematically discharged individuals who  
3 sought light duty or had injuries regardless of whether they were qualified individuals with  
4 disabilities who could perform the essential functions of the job with or without a reasonable  
5 accommodation.

6 97. Management Defendants also issued at each Facility Defendant a written leave of  
7 absence policy which states that, "During your leave your job is only protected if your leave  
8 qualifies under State or Federal law. If your leave does not qualify you may apply for open  
9 positions when you return from your leave. If you do not return from the authorized leave of  
10 absence at the agreed time, if there is no open position for which you qualify to fill, or if you  
11 are not selected for the open position your employment will be terminated."

12 To enforce this policy, Defendants denied employees light duty and systematically terminated  
13 individuals who sought leave, sought to exceed Defendants' arbitrary maximum leave allotment,  
14 and/or attempted to return to work after a medical leave of absence, regardless of whether they  
15 were qualified individuals with disabilities who could perform the essential functions of the job  
16 with or without reasonable accommodation. Employees were also discouraged and deterred  
17 from attending routine medical appointments related to their disabilities.

18 **Count 1: 100% Healed and 100% Fit for Duty as**

19 **Qualification Standard to Deny Return to Work**

20 98. Plaintiff incorporates by reference the above facts regarding Defendants' 100%  
21 healed/no light duty policies that in tandem only allowed those who were 100% fit for duty and  
22 did not need an accommodation to work. In other words, Defendants implemented a  
23 qualification standard that violated the ADA that only allowed employees to work if they were  
24 "100%" able to perform all job functions including marginal job functions without  
25 accommodation to work as shown by the sampling of individuals described below:

26 99. Stephanie Chilton began working at Orville Assisted Living, LLC as the Lead  
27 Cook from August 28, 2007 to August 28, 2013. On August 27, 2013, Chilton injured her  
28 knee and was diagnosed on August 28, 2013, with persistent right patellar dislocation that

1 resulted in the ligaments and tendons around her kneecap being torn or stretched. The doctor  
2 initially estimated that the injury required four to six weeks to heal. On or about August 29,  
3 2013, Chilton submitted a doctor's note stating that she could not return to work until  
4 September 13, 2013. Chilton submitted a request for leave on August 30, 2013. Chilton also  
5 attempted to inform Defendants that she would need accommodations for her injured knee  
6 upon returning to work as she continued to heal. Lori Kelley, the Acting Executive Director of  
7 the facility, informed her that she had exhausted her CFRA/FMLA leave, and as such,  
8 Defendants were under no obligation to accommodate her restrictions. Kelley then told  
9 Chilton that she was terminated because the restrictions due to her knee injury could not be  
10 accommodated. Nonetheless, Chilton later submitted another doctor's note dated October 1,  
11 2013, stating that she could not return to work until February 1, 2014.

12 100. Rachel J. David, Health Services Director for Orville Assisted Living, LLC  
13 emailed the October 1, 2013, doctor's note for Chilton to Mitchell Court, Benefits Manager,  
14 Prestige Care, Inc. Court responded that Chilton had used all twelve weeks of FLMA leave  
15 and that by allowing Chilton to remain an active employee between August and October 2013,  
16 Chilton had essentially been given a personal leave. Court further stated that "Personal Leave  
17 is for a maximum of 45 days, if she can't return within that 45 days it will become necessary to  
18 terminate and allow her to apply for an open position at the time that she is released. Also,  
19 while on Personal Leave there is not guarantee of employment, you can fill her position and  
20 terminate her at any time." Thus, while Chilton's last day worked was August 27, 2013,  
21 Defendants officially terminated her on October 2, 2013, at the direction of Prestige Care,  
22 Inc.'s Benefits Manager. Chilton had exhausted FMLA due to a back injury, hernia, neck  
23 injury, and shoulder injury after she fell at Defendants' Oroville facility on March 12, 2012.  
24 On October 14, 2013, Rachel David told Chilton that since she had exhausted FMLA leave,  
25 she had 45 days of personal leave to the extent that it was not exhausted. Because she did not  
26 have any personal leave available, David who was acting as Interim Executive Director denied  
27 any additional leave as an accommodation. As the worker's compensation claim for the neck,  
28 shoulder, and back injuries, and hernia was being processed, Chilton suffered the August 27,

1 2013, knee injury which Defendants summarily refused to accommodate because she had  
2 exhausted FMLA and personal leave due to the other injuries. By letter dated July 1, 2015,  
3 Liberty Mutual Insurance issued a “Notice Regarding Permanent Disability Benefits DWC  
4 500-B” for the back injury and hernia with payments for a permanent disability starting from  
5 December 29, 2014, as she was deemed unable to work as of December 29, 2014, under the  
6 California worker’s compensation laws. Here, Defendants never engaged in an interactive  
7 process when Chilton sought leave or light duty in August 2013 related to her knee injury.  
8 Defendants imposed a de facto maximum leave limited to that available under the FMLA and  
9 personal leave without engaging in the interactive process to identify a reasonable  
10 accommodation such as a short extension of leave or light duty.

11 101. Amanda Morales worked at Manteca Ventures, LLC as a Personal Care  
12 Attendant. On August 16, 2012, Morales suffered an injury while assisting a very heavy  
13 resident who could not be lifted by one person. Morales was helping another assistant who  
14 was not very experienced. Morales was lifting the resident under her arm, and attempting to  
15 pivot the resident into his wheelchair. Morales and the assistant she was helping almost  
16 dropped the resident. But, Morales tried to let the resident slide down her own body to avoid  
17 injury to the resident. In doing so, Morales tripped on the wheelchair, fell backwards into the  
18 wheelchair, and the resident fell on top of Morales. This resulted in Morales sustaining nerve  
19 damage. Morales was pregnant at the time of the accident, and later lost her baby.

20 102. Immediately after the accident, Morales went to see Prestige’s Worker’s  
21 Compensation doctor, “Dr. Gloria.” Dr. Gloria imposed a light duty requirement for Morales,  
22 with a five-pound lifting restriction. Upon returning to work just a few days after the accident,  
23 she asked the management to work in the “front end” of the facility, where there was no lifting  
24 requirement. Morales informed the management and her supervisors, specifically the Med  
25 Tech that put her on kitchen duty, that she was on light duty as prescribed by Dr. Gloria, and  
26 that she could not bend down and would not be able to lift five pounds or more. She also  
27 submitted Dr. Gloria’s note with the lifting restriction. But, the management staff merely  
28 brushed off her request and responded that she “looked fine,” and that since she was “still here,

1 [she] needs to perform her job.” The management staff, Taylor Mead (the Back Floor  
2 director/supervisor), and Bertha Rodriguez (the Business Office Manager), as well as the Med  
3 Techs who acted as the liaison for the Personal Care Attendants and management, told Morales  
4 that the kind of profession that she was engaged in was “not for light duty,” and that “this is  
5 what [she] signed on for.” Additionally, they said Defendants would not give light duty to  
6 Morales because there was a policy of no light duty. Morales was put to work in the kitchen  
7 serving breakfast, which required her to lift breakfast pans to serve the residents. At this point  
8 in time, Morales was suffering from the effects of the accident, and was experiencing  
9 numbness in her arms, trouble breathing, experiencing pain while bending down, and unable to  
10 lift objects, and informed her supervisors of her physical limitations. She also informed them  
11 that she was unlikely to be able to lift a pan of bacon, and that she would be unable to bend  
12 down due to her injury. However, the Med Tech who was supervising her simply looked at  
13 her, and told her, “figure it out.” Management and supervising staff continued to assign her  
14 hours and ask her to physically assist with residents in violation of the lifting restriction.

15 103. Then on August 18, 2012, Morales was instructed to carry a pan of bacon for the  
16 residents’ breakfast. However, due to her injury, she was unable to lift the pan, and ended up  
17 dropping the pan of bacon on the kitchen floor. She went to the emergency room immediately  
18 thereafter. The emergency room doctor gave Morales a note instructing her to take leave from  
19 work for about two weeks to heal from her injury. The day her leave was to expire, Morales  
20 was still experiencing pain from the injury and felt she would be unable to return to work at  
21 that point, as her ribs were still hurting, having problems breathing, and had pain when she  
22 bent down. She saw a doctor again, who was unable to perform an x-ray on her because she  
23 was pregnant at the time. Being unable to run more comprehensive tests due to her pregnancy,  
24 her doctor prescribed another period of leave to assist in Morales’ recovery.

25 104. The day her first period of leave was to expire, Morales’ fiancé faxed in the  
26 second doctor’s note for the second period of leave. However, following this, Business Office  
27 Manager Bertha Rodriguez called her and informed her she was scheduled to go back to work,  
28 and was confused as to why she sent in a second doctor’s note requesting leave because they

1 had already written her into the work schedule. When Morales informed them that she was on  
2 leave, Bertha Rodriguez, who discharged her on the phone, informed her that she would be  
3 terminated because she was scheduled to work that day, and she had missed that day's work.  
4 When Morales informed Rodriguez that she was on leave and had a doctor's note for the leave,  
5 Rodriguez replied that she would call her back, but never did. Shortly thereafter, by letter  
6 dated September 10, 2012, Executive Director Linda Nickolisen terminated Morales for being  
7 a no call, no show for her August 12, 2012 shift despite that on August 18, 2012, Morales was  
8 as work and dropped the heavy bacon tray that put her in the emergency room that day. The  
9 letter dated September 10, 2012 from Nickolisen ignores the fact that Morales was injured on  
10 August 16, 2012, when the patient fell on top of her and had been on leave since August 18,  
11 2012.

12 105. Cece Chang worked at Defendants' Care Center (Linda Vista, Inc.) since 1998  
13 was a full-time Dietary Aide when she was 58 years old. Chang was fired when she was 73  
14 years old because she could not lift over 25 pounds in the laundry department where she  
15 worked at the time of her discharge. Chang requested light duty as an accommodation for her  
16 disability, but Defendants denied light duty because they claimed they had no open positions  
17 and refused to evaluate the 25 pound lifting restriction, insisting she had to be able to lift 50  
18 pounds. On January 18, 2013, Chang reported suffering from back pain and on February 8,  
19 2013, Chang submitted a doctor's note for leave with an estimated return to work date of  
20 February 18, 2013. On February 14, 2013, Chang obtained further leave from February 18,  
21 through March 4, 2013. On February 28, 2013, Chang obtained paid time off from March 4  
22 through March 25, 2013, leaving her with no more leave. On May 30, 2013, Chang submitted  
23 a form from her doctor stating she could return to work with a 10-pound lifting restriction.  
24 Defendants failed to engage in the interactive process to identify any available light duty for  
25 Chang that would allow her to work with a 10-pound lifting restriction. Then on August 8,  
26 2013, Chang submitted a further doctor's note stating she was able to return to work with a 25-  
27 pound lifting restriction. On August 12, 2013, Chang was terminated because should could not  
28 lift up to 50 pounds and Defendants failed to provide her alternatives to lifting 50-pounds.

1           106. Catherine Olver worked at Living Care Ventures, LLC as a part-time Personal  
2 Care Attendant from January 3, 2014 to July 5, 2014. Soon after requesting an accommodation  
3 for a back injury sustained prior to her employment at this facility and a separate  
4 accommodation to undergo a non-invasive procedure, her hours were reduced and she was let  
5 go for allegedly not meeting credentials. But during the seven months she worked for  
6 Defendants, they denied Olver's repeated requests for safety equipment to transfer patients  
7 safely causing more pain to her back. On one occasion when she asked a co-worker for help  
8 lifting a patient, she was told that the co-worker was not allowed to help her. On another  
9 occasion, Olver approached her supervisor to discuss a potential shift change to allow her to  
10 undergo a non-invasive procedure. Olver's supervisor denied her request to take leave to have  
11 the procedure done without giving any reason. Olver was no longer included in the schedule  
12 soon after she requested the foregoing reasonable accommodations.

13           107. Another example of Defendants implementing an improper qualification standard  
14 in violation of the ADA is the story of Generic Cowee. After 6 years of employment, Cowee  
15 lost her job as the Lead Housekeeper because Defendants failed to provide leave as an  
16 accommodation. Genic Cowee started working at Marysville Ventures, LLC also known as  
17 Prestige Assisted Living at Marysville in May 2007. On or about June 28, 2013, Cowee began  
18 experiencing pain in her shoulder. On October 21, 2013, Cowee started FMLA leave which  
19 expired on January 14, 2014. Cowee needed 7.5 more months of leave but was terminated two  
20 months after her FMLA leave expired. Specifically, Cowee was diagnosed with Right  
21 Shoulder Adhesive Capulitis, and on January 4, 2014, submitted a doctor's note stating she  
22 would need to be on medical leave for four months. By letter dated January 30, 2014,  
23 Executive Director Aleta Walker asked Cowee to submit a "Reasonable Accommodation  
24 Request Form" within seven days of the date of the letter. On or about February 19, 2014,  
25 Cowee submitted the required forms. By letter dated February 27, 2014, Executive Director  
26 Walker informed Cowee that leave could not be extended to May 2014 and that she would be  
27 terminated effective March 14, 2014. Accordingly, Defendants granted two months of leave  
28 after Cowee's FMLA leave expired but refused to grant an additional 45 days of medical leave

1 that would have taken her to May 2014 as recommended by her doctor. Ultimately, Cowee  
2 was clear to return to work in August 2014 without restrictions.

3 108. On June 6, 2012, Linda Gagliardi applied for a Registered Nurse (RN)-Supervisor  
4 position at Care Center Porthaven, Inc. also known as Porthaven Health Care Center.

5 Gagliardi was hired on or about July 10, 2012. In a background check form her job title is  
6 listed as Charge Nurse Supervisor while the Personal Action Notice listed her job title as RN.

7 In early 2013, Gagliardi began experiencing pain in her right foot. The constant pushing and  
8 pulling of heavy objects during her nursing shifts exacerbated the pain in her right foot.

9 Gagliardi had previously experienced similar pain in her left foot, and she had been diagnosed  
10 with plantar fasciitis. Her prior employer granted leave to have surgery on her left foot, and  
11 she returned to work after her surgery with no limitations and no lingering pain in her left foot.

12 109. When Gagliardi was scheduled for surgery on December 4, 2013, to correct the  
13 plantar fasciitis in her right foot, she first informed her supervisor, the Director of Nursing  
14 Services Darlene Geharsh, that she needed 4 weeks off for both the surgery and for  
15 recuperation. Geharsh told Gagliardi that she would need to talk to Human Resources.  
16 Accordingly, Gagliardi informed Dawna Phillips, the Director of Human Resources. But  
17 Phillips told her that a leave of that length would not be approved as personal leave and that  
18 instead Gagliardi would need to fill out FMLA paperwork. There was no discussion regarding  
19 an interactive process or reasonable accommodation under the ADA. However, Benefits  
20 Manager Mitchell Court had repeatedly informed other Executive Directors that Defendants  
21 could offer a 45-day personal leave. Instead of immediately making the FMLA paperwork  
22 available to Gagliardi, Phillips said that she would print the FMLA paperwork later. Gagliardi  
23 followed up with Phillips regularly to get the FMLA paperwork– at least once every two weeks  
24 depending on Phillips’ availability. In addition to checking in with Phillips, she followed up  
25 about the paperwork with Connie Ortega and her own supervisor, Darlene Geharsh. Her last  
26 conversation about taking leave was with Connie Ortega the week of November 25, 2013. She  
27 reminded Connie she would need to take leave for surgery and had not received the FMLA  
28 paperwork yet. Ortega responded by acknowledging she was aware that Gagliardi had been



1 requesting leave.

2 110. While Human Resources Director Phillips failed to give Gagliardi the FMLA  
3 forms, her surgery was moved up a week, requiring her to call in sick to work on December 1,  
4 2013. When Gagliardi called in on December 1, she told the nurse on the phone that she would  
5 be going into surgery, would be on a leave for recuperation, and further, informed the nurse  
6 that she would keep in touch regarding her recovery. Phillips confirms that Gagliardi did call  
7 on December 1, but still did not provide her with the FMLA paperwork. Sometime thereafter,  
8 on or before January 1, 2014, Phillips called Gagliardi and informed her that she would be  
9 terminated for failing to report to work. Phillips claimed that she had the FMLA paperwork  
10 ready for Gagliardi on December 1, the day that Gagliardi called in sick because the surgery  
11 was moved up one week from the originally scheduled date of December 4, 2013. Despite  
12 admitting that she did not have the FMLA paper work ready for Gagliardi until December 1,  
13 2013, Phillips told Gagliardi that she intended to fire her as a “no call, no show.” Phillips  
14 forced Gagliardi to ask that her termination be changed to a voluntary resignation because  
15 Phillips insisted Gagliardi would be terminated. This forced resignation became effective on  
16 January 1, 2014. Gagliardi made a full recovery and had no pain in her right foot, and was  
17 hired in February 2014 as a Floor Nurse at another unaffiliated care center where she worked  
18 until her retirement in November 2016. If Gagliardi had been granted the 45-day personal  
19 leave available pursuant to Benefits Manager Mitchell Court’s instructions to Executive  
20 Directors of other facilities, Gagliardi could have submitted the FMLA forms after her surgery  
21 while she recovered. But Defendants summarily terminated her despite their repeated failure  
22 to provide the FMLA forms. Defendants should have granted some form of leave as an  
23 accommodation since all Gagliardi needed was about 60 days from when she called in sick on  
24 December 1, 2013, the day she went into surgery, to February 2014 when she started working  
25 for another employer.

26 111. Claimant X<sup>2</sup> began working as a Dining Room Server / Dietary Aide at  
27 \_\_\_\_\_

28 <sup>2</sup> Claimant X’s real name is withheld to protect his privacy.



1 Henderson Ventures II, LLC also known as Prestige Senior Living at Mira Loma on August  
2 13, 2012. Claimant X has been HIV positive since 2007. For the first several months after he  
3 started working at the Mira Loma facility, Claimant X was unable to attend his periodic  
4 medical appointments due to his work schedule. When Claimant X asked his supervisor, Pete  
5 Hereld, to swap his day shift for an evening shift once every three months, Hereld denied the  
6 request. Thus, Claimant X continued to work his regular schedule, and was forced to miss  
7 several more medical appointments. Then in or around March 2013, after roughly eight  
8 months of missed medical appointments, Claimant X was forced to resign. Executive Director  
9 Barbara Gottlieb reported Claimant X's resignation to Sinikka Loukola at Prestige Care, Inc.  
10 and further relayed that Claimant X said he would be going to the "labor board." Gottlieb's  
11 reference to the "labor board" suggests Gottlieb's belief that Claimant X believed Defendants  
12 violated the law. But, Loukola as a representative of Management Defendants did not advise  
13 Gottlieb to change course or to attempt to engage in an interactive process to identify a  
14 reasonable accommodation. Instead, Management Defendants through Loukola tacitly ratified  
15 the failure to engage in the interactive process and reinforced the policy of denying any leave  
16 even for medical appointment. One month after his forced resignation, Claimant X collapsed  
17 and spent a month in the hospital. Defendants 100% healed policy denied this former  
18 employee the few days off he needed for routine medical treatment. Defendants applied their  
19 100% healed/100% fit for duty/no light duty policies in a way that forced out worker who had  
20 medical conditions even if they only need to attend periodic prescheduled medical  
21 appointments.

22 112. Anthony Morelli worked at Defendants' Prestige Senior Living Bridgewood  
23 located in Vancouver, Washington, as a Cook from April 17, 2014 through July 8, 2014.<sup>3</sup>  
24 Defendants denied Morelli two days of medical leave needed every four to six months and  
25

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26 <sup>3</sup> Defendants issued Mr. Morelli a 2014 W-2 with "Prestige Senior Management, LLC" listed as  
27 the employer. However, his pay stubs were issued by Prestige Senior Management, Prestige  
28 Care, Inc. and Prestige Senior, L.L.C. in that all three of these Management Defendants appear  
on Mr. Morelli's paystubs.

1 forced him to resign. Morelli suffers from permanent nerve damage resulting from a decades  
2 old injury sustained when he was seventeen. Morelli suffers from constant leg and back  
3 spasms that make it hard for him to sit or stand in one position for more than ten to fifteen  
4 minutes at a time. Morelli receives Radiofrequency Ablation (RFA) treatment which like a  
5 cortisone shot, eases some of the pain and spasms. Morelli receives an RFA injection every  
6 four to six months. After the RFA injection, the treatment also requires two consecutive days  
7 of bed-rest to be effective.

8 113. At the time of his interview, Morelli disclosed his medical impairment to his  
9 supervisor Joe Morgan, stating that he would need to take two consecutive days off every few  
10 months to receive RFA injections, and that he would not be able to lift heavy objects due to his  
11 nerve damage. Morelli was assured that he would not have to lift heavy objects. When several  
12 employees resigned from their positions, Defendants relied on Morelli to switch from a Part-  
13 Time Cook to a Full-Time Cook. When Morelli requested two consecutive days off around  
14 May 2014 for his RFA injections, Defendants denied the leave request, stating that unless he  
15 could find someone to cover his shift to take the two days off, or he would not be granted  
16 leave. Morelli could not find someone to cover his shift, so he canceled his RFA appointment  
17 for May 2014. Additionally, even though Morelli was told he would not have to lift heavy  
18 objects, he would often find himself alone in the kitchen forced to lift heavy boxes. The denial  
19 of leave and being forced to lift heavy boxes without help aggravated his nerve damage.

20 114. Finally, after tolerating two more months of pain and spasms without treatment,  
21 Morelli scheduled another appointment for his RFA injection around July 2014. Again, when  
22 Morelli requested two consecutive days off, he was denied. He was once again told that he  
23 could only take those days off if he found a replacement, and if he took the days off without  
24 finding a replacement, he should not return to work. Morelli resigned because he could not  
25 skip another treatment. Morelli's termination was effective July 8, 2014.

26 115. Cathleen L. Hackett was hired on December 1, 1995 at Care Center Toppenish,  
27 Inc. but was forced to resign by letter dated June 8, 2012, from her position as Resident Care  
28 Manager because Defendants failed to provide her with previously approved accommodations

1 related to her the rotator cuff injury and shoulder fracture which occurred while she worked at  
2 Care Center Topennish, Inc. On or about January 22, 2007, Hackett sustained a torn rotator  
3 cuff and fractured shoulder after a fall while working at Care Center Topennish, Inc. On April  
4 23, 2007, Hackett sought leave under FMLA from April 30, 2007 through May 31, 2007.  
5 During this period, Hackett received shoulder surgery and returned to work on May 21, 2007,  
6 at which time she received an ergonomic work station and physical therapist at her job. On  
7 September 6, 2008, the Washington State Department of Labor and Industries, Claim Section  
8 issued a form entitled "Activity Prescription Form" which stated that Hackett suffered from a  
9 Permanent restriction that required modified duty from September 5, 2008 through October 26,  
10 2008. Hackett continued to use the ergonomic work station from 2008 through late 2011 due  
11 to the permanent physical restrictions to her shoulder. Defendants' failure to accommodate  
12 Hackett occurred in 2012 when her ergonomic work station was taken away for the last four  
13 months of her employment as described below.

14 116. On or about November 28, 2011, Hackett suffered an ankle injury and requested  
15 FMLA leave from November 29, 2011 through February 2, 2012. When she returned to work,  
16 in or around February 2012, Hackett's office had been relocated to in a smaller space that did  
17 not allow for her modified/ergonomic desk to fit and her work station had been taken away.  
18 While Hackett kept asking the temporary administrator about the return of her  
19 accommodations, nothing was done. The denial of the previously approved ergonomic work  
20 station exacerbated her shoulder pain. Because Defendants failed to provide the previously  
21 approved accommodation from February 2012 through June 2012, Defendants forced her to  
22 resign on June 23, 2012, as the denial of the accommodation caused her shoulder to worsen.

23 **Count 2: Failure to Accommodate in violation of the ADA**

24 117. Plaintiff incorporates by reference the above facts.

25 118. On January 27, 2012, Mateca Ventures, LLC, also known as Prestige Senior  
26 Living at Manteca, hired Tonia Habenicht to work as a bus driver. On January 11, 2012, she  
27 applied for the position through careerbuilder.com believing it was a part-time bus driver  
28 position. Habenicht has held a Class A license with a passenger endorsement and school bus

1 driver's certificate and her careerbuilder application only listed driving experience because she  
2 only sought employment as a driver. Habenicht has severe scoliosis, which prevents her from  
3 staying in the same position for more than fifteen to thirty minutes and she cannot twist or  
4 bend. She responded to the careerbuilder posting because she believed that she would not have  
5 to sit for more than 20 minutes at a time as a shuttle bus driver. On January 13, 2012, when  
6 J.B. Brewer interviewed her for the position, he informed her that it was a full-time position  
7 and when she was not driving, she might be asked to do a little "light" housekeeping consisting  
8 of a little dusting or vacuuming which are duties outside of the job she was hired to do.  
9 Habenicht responded that she did not wish to be a housekeeper. On the evening of January 27,  
10 2012, after she had to fill out new hire paperwork, she called Brewer again because Business  
11 Office Manager Bertha Rodriguez mentioned that the past bus driver had worked in  
12 housekeeping. Because Brewer reassured her during the evening call that it was only "light"  
13 housekeeping between trips, Habenicht accepted the job.

14 119. For the first two weeks, she was only responsible for driving. But after two  
15 weeks, Defendants required Habenicht to perform a second job as a housekeeper. On or about  
16 February 21, 2012 Habenicht was forced to do housekeeping work full time to take on the  
17 tasks of full time housekeepers that happened to be absent. She had to absorb the job of other  
18 absent housekeepers while still doing her own job of driving. As a result, the extra duties  
19 exacerbated her scoliosis and caused great pain. Executive Director Linda Nickolisen heard  
20 that Habenicht was unhappy and called her into the office the morning of February 22, 2012.  
21 Habenicht explained that she did not wish to be a housekeeper. Nickolisen insisted that she needed  
22 to do full housekeeping when not driving the shuttle. Habenicht responded that she had not  
23 been told she had to do full housekeeping when she was hired. Nickolisen responded, "Well,  
24 that's the job." When Habenicht offered to do the originally advertised job she was hired to do  
25 (driving the shuttle) and clock out whenever she not driving, Nickolisen said no. Later that day  
26 Habenicht was called into Brewer's office with Bertha Rodriguez also present. Rodriguez  
27 rudely stated that four hours of vacuuming was "light." While Bertha Rodriguez admitted  
28 that Habenicht was hired for the bus driver position she still demanded four hours of

1 housekeeping in addition to the driving. Similarly, all documents Defendant submitted to the  
2 EEOC regarding Habenicht confirm she was hired solely as a bus driver. Because Defendants  
3 required her to perform several hours of housekeeping which were not listed in bus driver job  
4 description and cause her a great deal of pain, on February 23, 2012, she gave her two-week  
5 notice to Brewer. After a week, the facility manager told her not to come in for her final week.  
6 Defendants did, however, pay her for both weeks of her notice. Because Defendants forced her  
7 to quit, due to the pain caused by the housekeeping duties, Habenicht submitted a letter  
8 detailing the above to Nikolisen with a copy to “Prestige Corporate Headquarters” in  
9 Vancouver, Washington. Kelly Effinger was hired on May 13, 2013, as a personal care  
10 attendant at Visalia Ventures, LLC also known as Prestige Care Visalia Assisted Living and  
11 Prestige Assisted Living at Visalia. Effinger was terminated on July 12, 2013, because she  
12 spoke too loudly to a patient and this conversation was characterized by the company as  
13 “arguing.” Effinger was diagnosed with Tinnitus when she was a child and as a result she  
14 speaks loudly. Tinnitus makes her hear tones and the hearing problem is exacerbated by  
15 allergies. Tinnitus can result from age-related hearing loss, ear injury, or a circulatory system  
16 disorder. Effinger was fired for her “tone” with a resident. Specifically, on her final day of  
17 work, Effinger was talking to a resident at the end of the dining hall. Effinger was washing  
18 dishes while trying to convince this resident that it was time for her to take a shower. Later  
19 that day, Effinger’s supervisor Melinda told her she needed to go home. Effinger asked  
20 Melinda why she was being sent home and Melinda told her she didn’t want her to say  
21 something wrong, so Effinger just needed to go home without being given any reason for being  
22 sent home. Effinger asked Melinda again and Melinda told her that they would talk the next  
23 day so Effinger then left. Three days later, Effinger called the Executive Director and found  
24 out the reason why sent home, because of her tone with the resident. When she tried to explain  
25 her side of the story, the Executive Director would not listen and the termination became final.  
26 Thus, the Executive Director failed to engage in the interactive process in that she refused to  
27 listen to the reason for Effinger’s loud tone cause by Tinnitus. Instead, Effinger was  
28 summarily terminated.



1 release.

2 125. Nonetheless, upon receiving the release from Miller's personal physician, Valley  
3 Industrial modified its own medical assessment of Miller from "meets modified job standards"  
4 to "meets current job standards." Yet, Defendants still refused to hire Miller based on his  
5 medical examination results despite Valley Industrial's revised, ultimate conclusion that Miller  
6 could work without restriction. Defendants took such actions against Miller because of his  
7 actual disability and/or because they regarded him as disabled.

8 126. As described in the above examples, Facility Defendants' managers routinely  
9 sought the approval of Management Defendants' Benefits Manager Mitchell Court and Sinikka  
10 Loukola of Management Defendants' Human Resources for final decisions and/or guidance  
11 pertaining to request for accommodation without properly engaging in the interactive process  
12 and medical examinations such as that administered to Miller.

13 127. The effect of the practices complained of in paragraphs 89 to 130 above has been  
14 to deprive similarly aggrieved individuals of equal employment opportunities and otherwise  
15 adversely affects their status as employees and/or applicants because of their actual or  
16 perceived disability. Defendants applied their written policies as a requirement that employees  
17 be 100% fit to perform all duties including marginal functions. Because of Defendants'  
18 mandate for a 100% fit workforce, Defendants weeded out disabled employees out by denying  
19 leave, preventing employees from returning to work after medical leave, requiring employees  
20 to perform marginal functions beyond the essential functions of their jobs to disqualify them  
21 from working, summarily denying reasonable accommodations, forcing employees to resign  
22 after their requests for leave were denied, and otherwise violating the ADA.

23 128. The unlawful employment practices complained of in paragraph 89 to 130 above  
24 were intentional and caused employees and applicants to suffer emotional distress because of  
25 Defendants' wide-spread and wide-ranging ADA violations.

26 129. The unlawful employment practices complained of in paragraphs 89 to 130 above  
27 were and are done with malice or with reckless indifference to the federally protected rights of  
28 a class of employees of Defendants who were denied accommodations and/or subjected to



1 adverse employment actions because of their actual, record of, or perceived disabilities.

2 **PRAYER FOR RELIEF**

3 Wherefore, the Commission respectfully requests that this Court:

4 A. Grant a permanent injunction enjoining Defendants, their officers, successors,  
5 assigns, and all persons in active concert or participation with each of them, from engaging in  
6 any employment practices which discriminate on the basis of disability.

7 B. Order Defendants to institute and carry out policies, practices, and programs to  
8 ensure that they would not engage in unlawful employment practices in violation of § 102(a)  
9 and (b), 42 U.S.C. § 12112(a) and (b).

10 C. Order Defendants to make whole the class of employees of Defendants who were  
11 denied accommodations and/or subjected to adverse employment actions because of their  
12 actual, record of, or perceived disabilities by providing appropriate back pay with prejudgment  
13 interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate  
14 the effects of its unlawful employment practices, including but not limited to rightful place  
15 reinstatement or front pay.

16 D. Order Defendants to make the class of employees of Defendants who were  
17 denied accommodations and/or subjected to adverse employment actions because of their  
18 actual, record of, or perceived disabilities and similarly aggrieved individuals whole by  
19 providing compensation for past and future pecuniary losses, including but not limited to out-of-  
20 pocket expenses suffered by him which resulted from the unlawful employment practices  
21 described above in the amounts to be determined at trial.

22 E. Order Defendants to make the class of employees of Defendants who were  
23 denied accommodations and/or subjected to adverse employment actions because of their  
24 actual, record of, or perceived disabilities and similarly aggrieved individuals whole by  
25 providing compensation for non-pecuniary losses resulting from the unlawful employment  
26 practices described above in amounts to be determined at trial. The non-pecuniary losses  
27 include emotional pain, suffering, inconvenience, mental anguish, humiliation and loss of  
28 enjoyment of life, in amounts to be determined at trial.



1 F. Order Defendants to pay the class of employees of Defendants who were denied  
2 accommodations and/or subjected to adverse employment actions because of their actual, record  
3 of, or perceived disabilities and similarly aggrieved individuals punitive damages for their  
4 malicious and/or reckless conduct in an amount to be determined at trial.

5 G. Award the Commission its costs of this action.

6 H. Grant such further relief as the Court deems necessary and proper in the public  
7 interest.

8 **JURY TRIAL DEMAND**

9 The Commission requests a jury trial on all questions of fact raised by its Complaint.

10  
11 Dated: September 28, 2017

Respectfully Submitted,

12 JAMES LEE,  
13 Acting General Counsel

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