

STATE OF NEW YORK
SUPREME COURT
COUNTY OF ONONDAGA
IROQUOIS NURSING HOME, INC.
4600 Southwood Heights Drive
Jamesville, NY 13078-9595

INDEX NO.: _____
DATE FILED: _____
With the Onondaga County Clerk

Vs.

Plaintiff,

Plaintiff designates Onondaga County
as the Place of Trial.

SUMMONS

**JAMES MONTO, III a/k/a JAMES
MONTO, Individually and as
Executor of the ESTATE OF ANNA
POPLAWSKI,**
164 Foresthill Drive
Syracuse, NY 13206

The basis of venue is designated by
Plaintiff pursuant to CPLR §509

DAVID FALCI
164 Foresthill Drive
Syracuse, NY 13206

THOMAS FALCI
7376 E. Gate Circle
Liverpool, NY 13090

Defendants.

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance on the attorneys for the Plaintiff within twenty (20) days after service of this Summons, exclusive of the date of service, or, within thirty (30) days after service is complete if this Summons is not personally served on you within New York State, and in case of your failure to answer or appear, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: December 5, 2010.

Menter, Rudin & Trivelpiece, P.C.
Attorneys for Plaintiff

Josephine Yang-Patyi, Esq.
Office and P.O. Address
308 Maltbie Street, Ste. 200
Syracuse, NY 13204
Telephone: 315/474-7541

STATE OF NEW YORK
SUPREME COURT
COUNTY OF ONONDAGA

IROQUOIS NURSING HOME, INC.

Plaintiff,

Vs.

JAMES J. MONTO, III a/k/a JAMES
MONTO, INDIVIDUALLY and as Executor
of the ESTATE OF ANNA POPLAWSKI,

VERIFIED COMPLAINT

Index No.:

DAVID FALCI

THOMAS FALCI

Defendant(s)

Plaintiff by its attorneys, Menter, Rudin & Trivelpiece, P.C., complaining of the Defendants, alleges, upon information and belief, that:

1. Plaintiff Iroquois Nursing Home, Inc. (hereinafter referred to as "Iroquois" or "Plaintiff") is a domestic not-for-profit corporation having an office for business at the address recited in the Summons.

2. Defendant James J. Monto, III, a/k/a James Monto (hereinafter referred to as "Defendant Monto"), is a natural person, who, upon information and belief, is a resident of the County of Onondaga, State of New York, residing at the address recited in the Summons.

3. Defendant David Falci, is a natural person, who, upon information and belief, is a resident of the County of Onondaga, State of New York, residing at the address recited in the Summons.

4. Defendant Thomas Falci, is a natural person, who, upon information and belief is a resident of the County of Onondaga, State of New York, residing at the address recited in the Summons.

5. Defendant, James J. Monto, III, is the Executor and appointed fiduciary of the Estate of Anna Poplawski by Letters Testamentary issued by the Onondaga County Surrogate's Court on November 15, 2012 under file number 2012-1059.

FACTS

6. Upon information and belief, Defendant Monto was appointed as Agent under a Power of Attorney of Anna Poplawski on or about August 16, 2010. A copy of the Power of Attorney s annexed hereto as **Exhibit "A"**.

7. On or about December 29, 2010, Anna Poplawski (the "Decedent") became a resident of Iroquois for the purpose of receiving rehabilitative and nursing care services (hereinafter "Services").

8. Upon information and belief, on or about January 26, 2011, the Decedent, though her Attorney-in-Fact, Defendant Monto, executed and delivered to Plaintiff an Admission Agreement under which she agreed to pay Plaintiff for all Services rendered to her from her income sources. A copy of the Admission Agreement is attached hereto as **Exhibit "B"**.

9. Iroquois provided Services to Anna Poplawski from December, 2010 through her demise on November 13, 2011.

10. Iroquois provided invoices to Defendant Monto, as an agent under a Power of Attorney to Anna Poplawski. A copy of the final invoice is attached hereto as **Exhibit "C"**.

11. Neither Defendant Monto, nor Anna Poplawski, objected to the amount stated to be due and owing on any of the invoices that were provided to them.

12. After all credits being applied, as of December 31, 2011, the amount of \$28,704.10 remains due and owing.

**AS AND FOR A FIRST CAUSE OF ACTION
AGAINST ESTATE OF ANNA POPLAWSKI
Breach of Contract**

13. Plaintiff repeats, reiterates and re-alleges the allegations contained in paragraphs "1" though "12" above as if more fully set forth herein.

14. As stated above, on or about December 29, 2010, Anna Poplawski became a resident of Iroquois upon the instance and request of Defendant Monto.

15. By execution of the Admission Agreement on January 26, 2011, Defendant Monto bound Anna Poplawski to the Admission Agreement for an obligation to pay for services rendered to Anna Poplawski by Iroquois.

16. The terms of the Admission Agreement states that for consideration of services rendered to Anna Poplawski as a resident, she must pay Iroquois for the services rendered pursuant to the Admission Agreement.

17. All payments and credits received by Iroquois have been applied to the account of Anna Poplawski.

18. As of December 31, 2011, the amount of \$28,704.10 remains due and owing to Iroquois by the Estate of Anna Poplawski.

19. Despite demands, no further payments have been received from the Estate of Anna Poplawski toward this balance.

20. In failing to make payment, from February, 2011 to November, 2011 Iroquois, the Estate of Anna Poplawski has breached the terms of the Admission Agreement.

21. Plaintiff demands judgment against the Estate of Anna Poplawski in the amount of \$28,704.10, plus interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of judgment.

**AS AND FOR A SECOND CAUSE OF ACTION
AGAINST THE ESTATE OF ANNA POPLAWSKI
Breach of Implied Contract**

22. Plaintiff repeats, reiterates and re-alleges the allegations contained in paragraph "1" through paragraph "21" above as if more fully set forth herein.

23. As stated above, on or about January 26, 2011, the Anna Poplawski was enrolled as a resident at Iroquois upon the instance and request of Anna Poplawski and Defendant Monto.

24. The Plaintiff rendered Services to Anna Poplawski at her request from January 26, 2011 through her demise in November, 2011.

25. Upon information and belief, both Plaintiff and Anna Poplawski fairly assumed that the Services provided to her would be compensated by Anna Poplawski, Defendant Monto, or from the resources and funds of Anna Poplawski.

26. Any and all payments and credits received by Iroquois have been applied to Anna Poplawski's account.

27. As of December 31, 2011, the amount of \$28,704.10 remains due and owing to the Plaintiff on Anna Poplawski's account.

28. Despite demand, no further payments have been received from The Estate of Anna Poplawski on her account.

29. The Estate of Anna Poplawski, in failing to make payment, has breached the terms of the contract implied in fact with the Plaintiff.

30. Plaintiff demands judgment against The Estate of Anna Poplawski, in the amount of \$28,704.10, with interest at the rate of 9% per annum from December 31, 2011 until the date of entry of judgment.

**AS AND FOR A THIRD CAUSE OF ACTION
AGAINST ESTATE OF ANNA POPLAWSKI
Unjust Enrichment**

31. Plaintiff repeats, reiterates and re-alleges the allegations contained in paragraphs "1" through "30" above as if more fully set forth herein.

32. Between December 29, 2010 and November 13, 2011, at the direct instance and request of Defendant Monto and Anna Poplawski, Iroquois provided Services to Anna Poplawski.

33. Anna Poplawski had knowledge of and appreciation for the benefits of the Services provided to her through the entire time she was a resident at Plaintiff's facility.

34. After crediting all payments to the account, there remains an outstanding balance owed to Iroquois by Anna Poplawski in the amount of \$28,704.10, together with interest at the statutory rate of 9% from December 31, 2011, until the date of entry of final judgment.

35. Despite demand, the Estate of Anna Poplawski has failed to remit payment to Iroquois.

36. Anna Poplawski and subsequently, the Estate of Anna Poplawski has been unjustly enriched by receiving Services of Iroquois and not paying for such Services.

37. Therefore, Iroquois demands judgment against the Estate of Anna Poplawski in the amount of \$28,704.10, together with interest at the statutory rate of 9% per annum from December 31, 2011, until the date of entry of judgment.

**AS AND FOR A FOURTH CAUSE OF ACTION
AGAINST THE ESTATE OF ANNA POPLAWSKI AND JAMES J. MONTO, III,
A/K/A JAMES MONTO
Account Stated**

38. Plaintiff repeats each and every allegation set forth in paragraphs "1" through "37" above as though more fully set forth herein.

39. Upon information and belief, monthly statements were forwarded to Defendant Monto, as Agent to and on behalf of Anna Poplawski, at his residence, located at 164 Foresthill Drive, Syracuse, New York 13206.

40. Upon information and belief, Defendant Monto received these statements.

41. No objections to such statements were submitted by Defendant Monto to Plaintiff at any time.

42. An account stated has been established by Plaintiff to which Defendant Monto is obligated to pay on behalf of Anna Poplawski.

43. Despite demand, Defendant Monto has failed to pay the account of Anna Poplawski at Iroquois. Therefore, Plaintiff demands judgment against The Estate of Anna Poplawski and Defendant Monto, in the amount of \$28,704.10, together with

interest at the statutory rate of 9% per annum from December 31, 2011, until the date of entry of judgment.

**AS AND FOR A FIFTH CAUSE OF ACTION
AGAINST JAMES J. MONTO, III, A/K/A JAMES MONTO
Breach of Contract-Third Party Beneficiary**

44. Plaintiff repeats each and every allegation in paragraphs "1" through "43" as though more fully set forth herein.

45. Anna Poplawski executed a Power of Attorney that gave Defendant Monto the authority to act on behalf of Anna Poplawski.

46. The Power of Attorney Agreement creates a fiduciary relationship between Defendant Monto and Anna Poplawski, and obligates Defendant Monto to act in Anna Poplawski's best interests and perform certain actions, including paying Anna Poplawski's bills, debts and expenses.

47. The Estate of Anna Poplawski owes Plaintiff certain debts and expenses based on goods and services rendered to Anna Poplawski by Plaintiff.

48. As a result, Plaintiff is a third party beneficiary of the Power of Attorney Agreement.

49. Defendant Monto's failure to pay the debts and expenses incurred by Anna Poplawski and owed to Plaintiff constitutes a breach of the Power of Attorney Agreement, as well as a breach of the Admission Agreement.

50. In fact, Defendant Monto willfully and deliberately misappropriated Anna Poplawski's income and assets for personal gain, despite having a legal obligation to pay the debts of Anna Poplawski with Anna Poplawski's income and assets and knowledge of Anna Poplawski's debt owed to Plaintiff.

51. Therefore, Iroquois demands judgment against Defendant Monto in an amount to be determined by the Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment.

**AS AND FOR A SIXTH CAUSE OF ACTION
AGAINST JAMES J. MONTO, III A/K/A JAMES MONTO
Breach of Contract as the Responsible Party**

52. Plaintiff repeats each and every allegation contained in paragraphs "1" through "51" above as if more fully set forth herein.

53. Defendant Monto executed the Admission Agreement on January 26, 2011 as an agent under the Power of Attorney on behalf of Anna Poplawski and as a Responsible party for payment of Anna Poplawski's debts.

54. Defendant Monto has failed to make all of Anna Poplawski's income and other assets available for payment of her indebtedness to Plaintiff.

55. Defendant Monto, as the responsible party, has failed to pay the debts of Anna Poplawski to Iroquois, and as a result has caused the Anna Poplawski, and subsequently the Estate of Anna Poplawski, to incur debts.

56. By reason of the foregoing, Plaintiff demands judgment against Defendant Monto in the amount to be determined by the Court with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment.

**AS AND FOR A SEVENTH CAUSE OF ACTION
AGAINST THE ESTATE OF ANNA POPLAWSKI AND
JAMES J. MONTO, III A/K/A JAMES MONTO
New York Debtor and Creditor Law Section 276
Transfer of Funds**

57. Plaintiff repeats, reiterates and re-alleges the allegations contained in paragraph "1" through paragraph "56" above as if more fully set forth herein.

58. Upon information and belief, Anna Poplawski had various cash and investment accounts at Manufacturers and Traders Trust Bank, The Northern Trust Company, Polish National Alliance, and the Department of Veteran Affairs, the total balance of these accounts exceeded \$20,000 in January 2011.

59. Upon information and belief, Defendant Monto had access and control of Anna Poplawski's bank accounts at Manufacturers and Traders Trust Bank.

60. On or about November 22, 2011, the Onondaga County Department of Social Services, upon review of the assets of Anna Poplawski for Medicaid coverage, determined that Anna Poplawski's assets totaling over \$45,000.00 were transferred to others for uncompensated value. Anna Poplawski incurred a penalty for such transfers. A copy of the Notice of Decision (Transfer of Assets Penalty) dated November 22, 2011 is attached as **Exhibit "D"**.

61. Upon information and belief, Anna Poplawski and/or Defendant Monto as Anna Poplawski's attorney-in-fact and agent, transferred at least \$45,000.00 of Anna Poplawski's assets to Defendant Monto and Defendant Monto accepted these transfers.

62. Upon information and belief, with certain transfers from Anna Poplawski and/or Defendant Monto as Anna Poplawski's attorney-in-fact and agent, Defendant Monto spent the funds gambling, vacationing, and/or repairing the property transferred from Anna Poplawski to David Falci and Thomas Falci.

63. These transfers, from Anna Poplawski and/or Defendant Monto as attorney-in-fact and agent to Anna Poplawski to Defendant Monto, were made without the exchange of fair consideration.

64. Upon information and belief, such transfers by Anna Poplawski and/or Defendant Monto as attorney-in-fact and agent to Anna Poplawski to Defendant Monto were made to render Anna Poplawski insolvent and/or incapable of paying her debts as they matured.

65. Upon information and belief, at the time that these transfers were made, Defendant Monto, as Anna Poplawski's agent, and/or Anna Poplawski knew that the transfers would render Anna Poplawski insolvent and/or incapable of paying her debts as they mature.

66. Upon information and belief, such transfers to Defendant Monto were therefore made by Anna Poplawski and/or by Defendant Monto as agent of Anna Poplawski, and accepted by Defendant Monto with actual intent and purpose to hinder, delay and defraud Anna Poplawski's present and future creditors.

67. Upon information and belief, Defendant Monto accepted the conveyances of at least \$45,000.00 with like intent and purpose to hinder, delay and defraud Anna Poplawski's present and future creditors.

68. The transfers of cash in the amount of at least \$45,000.00 constituted fraudulent conveyances pursuant to Section 276 of the New York Debtor and Creditor Law.

69. Therefore, Iroquois demands judgment against the Estate of Anna Poplawski and James J. Monto, III a/k/a James Monto, jointly and severally, in an amount to be determined by the Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment.

**AS AND FOR AN EIGHTH CAUSE OF ACTION
AGAINST THE ESTATE OF ANNA POPLAWSKI AND
JAMES J. MONTO, III A/K/A JAMES MONTO
New York Debtor and Creditor Law § 275
Transfers of Funds**

70. Plaintiff repeats, reiterates and re-alleges the allegations contained in paragraph "1" through paragraph "69" above as if more fully set forth herein.

71. As set forth above, Anna Poplawski and/or Defendant Monto participated in the transfers of Anna Poplawski's money in the amount exceeding \$45,000.00 to benefit Defendant Monto without the exchange of fair consideration.

72. When Anna Poplawski and/or Defendant Monto as Anna Poplawski's attorney-in-fact made such transfers, they believed that she would incur debts beyond her ability to pay as they matured.

73. As set forth above, Defendant Monto accepted the transfers exceeding \$45,000.00 with knowledge that Anna Poplawski would incur debts beyond her ability to pay as they matured after making such transfers.

74. Upon information and belief, such transfers were made by Anna Poplawski and Defendant Monto and accepted by Defendant Monto to render Anna Poplawski insolvent and incapable of paying her debts.

75. Therefore, Iroquois demands judgment against the Estate of Anna Poplawski and James J. Monto, III a/k/a James Monto, jointly and severally, in an amount to be determined by the Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment.

**AS AND FOR A NINTH CAUSE OF ACTION
AGAINST THE ESTATE OF ANNA POPLAWSKI AND
JAMES J. MONTO, III a/k/a JAMES MONTO
New York Debtor and Creditor Law §273
Transfers of Funds**

76. Plaintiff repeats and re-alleges each and every allegation in paragraph "1" through paragraph "75" as though more fully set forth herein.

77. Upon information and belief, Anna Poplawski and/or Defendant Monto as Anna Poplawski's attorney-in-fact and agent, transferred her assets to Defendant Monto without the exchange of fair consideration.

78. Anna Poplawski's and/or Defendant Monto's transfers of funds to Defendant Monto without the exchange of fair consideration constituted fraudulent conveyance under Section 273 of the Debtor and Creditor Law.

79. Upon information and belief, such transfers of funds were made to, and in fact did, render Anna Poplawski insolvent.

80. Therefore, Plaintiff demands judgment against the Estate of Anna Poplawski and James J. Monto, III a/k/a James Monto in an amount to be determined by the Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment.

**AS AND FOR A TENTH CAUSE OF ACTION
AGAINST THE ESTATE OF ANNA POPLAWSKI AND
JAMES MONTO, III A/K/A JAMES MONTO
New York Debtor and Creditor Law § 276-A
Transfers of Funds**

81. Plaintiff repeats, reiterates and re-alleges the allegations contained in paragraph "1" through paragraph "80" above as if more fully set forth herein.

82. The transfers of cash made by Anna Poplawski and/or Defendant Monto as Anna Poplawski's attorney-in-fact, to Defendant Monto without the exchange of fair consideration, were made with actual intent to hinder, delay, or defraud Anna Poplawski's creditors, including Iroquois.

83. Section 276-A of the New York Debtor and Creditor Law entitles a creditor in the position of Iroquois to recover attorneys' fees in connection with an action involving intent to defraud creditors.

84. Plaintiff has, and will continue to, incur attorneys' fees in this action.

85. Accordingly, Plaintiff is entitled to reasonable attorneys' fees pursuant to Section 276-A of the Debtor and Creditor Law against the Estate of Anna Poplawski and James J. Monto, III a/k/a James Monto, jointly and severally.

**AS AND FOR AN ELEVENTH CAUSE OF ACTION
AGAINST THE ESTATE OF ANNA POPLAWSKI, JAMES J. MONTO, III A/K/A
JAMES MONTO, DAVID FALCI AND THOMAS FALCI
New York Debtor and Creditor Law Section 276
Fraudulent Conveyance as to Real Property**

86. Plaintiff repeats each and every allegation contained in paragraphs "1" through "85" above as if more fully set forth herein.

87. Anna Poplawski, individually and as the surviving spouse of John Fred Poplawski, was the owner of real property, as her residence, situated in the County of Onondaga, which is more particularly described as follows: 304 Wayland Road, Syracuse, New York 13205 (also known as Onondaga County Tax Map No.: 072.-05-10.0, hereinafter referred to as the "Property").

88. Upon information and belief, in 2010, the Property had an assessed value of \$80,000.00, and a fair market value in excess of that amount.

89. Upon information and belief, Defendant Monto obtained two separate comparative market proposals from reputable real estate brokers regarding Anna Poplawski's property recommending the purchase price in the range of \$62,000.00.

90. Upon information and belief, on or about September 23rd, 2010, Anna Poplawski, by Defendant Monto, her agent, conveyed her entire interest in the Property to David Falci and Thomas Falci, as joint tenants with the right of survivorship. A copy of the Warranty Deed showing the conveyance is annexed hereto as **Exhibit "E"**.

91. The alleged consideration for the sale of the Property was \$55,000.00.

92. This conveyance was made without the exchange of fair consideration and below fair market value of the Property.

93. At the time the Property was conveyed, Anna Poplawski was still living at the Property.

94. It is not clear whether Anna Poplawski was aware of the conveyance of the Property as Defendant Monto conveyed on her behalf as her attorney-in-fact.

95. Upon information and belief, Anna Poplawski had always wanted the Property to be kept within her "family".

96. Upon information and belief, David Falci is the life partner of Defendant Monto.

97. Upon information and belief, the conveyance was made to David Falci by Defendant Monto as a veiled ownership with Defendant Monto and David Falci.

98. In a correspondence from Defendant Monto to the relatives of Anna Poplawski, Defendant Monto discusses the sale of Anna Poplawski's Property as a sale to David Falci and to himself, even though Defendant Monto is not a titled owner.

99. In the same correspondence, Defendant Monto indicated that while the Property was in disrepair, he spared Anna Poplawski the cost of repairs and sold it "as is" to his life partner and to himself, not Thomas Falci, so that the Property can be repaired by him and David Falci for future rentals and for the Property "to remain in the family for the length of my life". A copy of the correspondence is attached as **Exhibit "F"**.

100. It is unknown whether Anna Poplawski or Defendant Monto, as Anna Poplawski's agent, actually received any funds from the sale of the Property.

101. Upon information and belief, the conveyance of the Property was made to (1) deprive Anna Poplawski of her own assets, and (2) render Anna Poplawski insolvent and/or incapable of paying for her debts as they matured.

102. Upon information and belief, the conveyance of the Property was made with the intent and purpose of hindering, delaying and defrauding the creditors of Anna Poplawski.

103. Upon information and belief, Defendants David Falci and Thomas Falci accepted the conveyance of the Property at below market value and participated in the subsequent recording of the deed with knowledge of the wrongful and fraudulent intent of Defendant Monto as Anna Poplawski's agent to hinder, delay and defraud her creditors with like intent and purpose.

104. The actions of Anna Poplawski, her agent Defendant Monto, Defendant Monto and Defendants David Falci and Thomas Falci were fraudulent to the creditors or future creditors of Anna Poplawski, including Plaintiff.

105. Anna Poplawski's transfer of Property through her agent, Defendant Monto, to Defendants David Falci and Thomas Falci and Defendants David Falci and Thomas Falci's acceptance, without the exchange of fair consideration, constituted a fraudulent conveyance pursuant to Section 276 of the New York Debtor and Creditor Law.

106. Therefore, Plaintiff demands judgment against the Estate of Anna Poplawski, James J. Monto, III a/k/a James Monto, David Falci and Thomas Falci, jointly and severally, in an amount to be determined by this Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment.

**AS AND FOR A TWELFTH CAUSE OF ACTION
AGAINST THE ESTATE OF ANNA POPLAWSKI, JAMES J. MONTO, III
A/K/A JAMES MONTO, DAVID FALCI and THOMAS FALCI
Debtor and Creditor Law Section 275 – Real Property**

107. Plaintiff repeats each and every allegation set forth in paragraphs "1" through "106" above as though more fully set forth herein.

108. As set forth above, Anna Poplawski, by and through her agent Defendant Monto, transferred the Property to the Defendant Monto's life partner, Defendant David Falci and to Defendant Thomas Falci, without the exchange of fair consideration.

109. As set forth above, Defendants David Falci and Thomas Falci accepted the transfer of Property and participated in the filing of the deed, with knowledge of the wrongful and fraudulent intent of hindering, delaying and defrauding creditors and future creditors of Anna Poplawski with like intent and purpose.

110. Upon information and belief, such transfers were made by and through Anna Poplawski's agent Defendant Monto when Anna Poplawski intended and believed that she would incur debts beyond her ability to pay as they matured.

111. Upon information and belief, such transfer was made by Anna Poplawski, by and through her agent Defendant Monto, to render herself insolvent and incapable of paying for her debts.

112. As stated above, in 2010 Defendant Monto sold the Property on behalf of Anna Poplawski and, upon information and belief, the sum of \$55,000.00 should have been received by Defendant Monto as Anna Poplawski's agent or by Anna Poplawski. No funds from said sale were received by Plaintiff in payment of Anna Poplawski's account or benefitted Anna Poplawski.

113. The transfer of Anna Poplawski's Property by Defendant Monto to Defendant David Falci and to Defendant Thomas Falci without the exchange of fair consideration constituted a fraudulent conveyance under Section 275 of the New York Debtor and Creditor Law.

114. Therefore, Plaintiff demands judgment against the Estate of Anna Poplawski, James J. Monto, III a/k/a James Monto, David Falci and Thomas Falci, jointly and severally in an amount to be determined by this Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment.

**AS AND FOR A THIRTEENTH CAUSE OF ACTION
AGAINST THE ESTATE OF ANNA POPLAWSKI, JAMES J. MONTO, III
a/k/a JAMES MONTO, DAVID FALCI AND THOMAS FALCI
Debtor and Creditor Law Section 273 – Real Property**

115. Plaintiff repeats, reiterates and re-alleges the allegations contained in paragraphs "1" through "114" above as if more fully set forth herein.

116. As set forth above, Anna Poplawski, by and through her agent Defendant Monto, transferred the Property to Defendant Monto's life partner, Defendant David Falci and to Defendant Thomas Falci without the exchange of fair consideration.

117. Upon information and belief, such transfers were made by Anna Poplawski's agent Defendant Monto, and rendered Anna Poplawski insolvent and incapable of paying for all of her debts.

118. The transfer of Anna Poplawski's Property by Defendant Monto to Defendant Monto's life partner, Defendant David Falci and to Defendant Thomas Falci without the exchange of fair consideration constituted a fraudulent conveyance under Section 273 of the New York Debtor and Creditor Law.

119. Therefore, Plaintiff demands judgment against the Estate of Anna Poplawski, James J. Monto, III a/k/a James Monto, David Falci and Thomas Falci, jointly and severally, in an amount to be determined by this Court, with interest at the statutory rate of 9% per annum from December 31, 2011, until the date of entry of final judgment.

**AS AND FOR A FOURTEENTH CAUSE OF ACTION
AGAINST THE ESTATE OF ANNA POPLAWSKI AND
JAMES J. MONTO, III a/k/a JAMES MONTO
Debtor and Creditor Law Section 276-A – Real Property**

120. Plaintiff repeats, reiterates and re-alleges the allegations contained in paragraphs "1" through "119" above as more fully set forth herein.

121. The transfer of Anna Poplawski's Property by Defendant Monto to Defendant Monto's life partner, Defendant David Falci and to Defendant Thomas Falci without the exchange of fair consideration was made with actual intent to hinder, delay or defraud Anna Poplawski's creditors and future creditors, including Plaintiff.

122. Section 276-A of the New York Debtor and Creditor Law entitles a creditor in the position of Plaintiff to recover attorneys' fees in connection with an action involving intent to defraud creditors.

123. Plaintiff has incurred, and will continue to incur, attorneys' fees in this action.

124. Accordingly, Plaintiff is entitled to reasonable attorneys' fees pursuant to Section 276-A of the Debtor and Creditor Law against the Estate of Anna Poplawski, James J. Monto, III a/k/a James Monto, David Falci and Thomas Falci.

WHEREFORE, Plaintiff, Iroquois Nursing Home, Inc., in its action against the Defendants, demands as follows:

A. On its First Cause of Action: judgment against the Estate of Anna Poplawski, in the amount of \$28,704.10, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;

- B. On its Second Cause of Action: judgment the Estate of Anna Poplawski in the amount of \$28,804.10, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;
- C. On its Third Cause of Action: judgment against the Estate of Anna Poplawski in the amount \$28,804.10, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;
- D. On its Fourth Cause of Action: judgment against the Estate of Anna Poplawski and James J. Monto, III a/k/a James Monto in the amount of \$28,804.10, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;
- E. On its Fifth Cause of Action: judgment against James J. Monto, III a/k/a James Monto in an amount to be determined by this Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;
- F. On its Sixth Cause of Action: judgment against James J. Monto, III a/k/a James Monto in an amount to be determined by this Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;
- G. On its Seventh Cause of Action: judgment, pursuant to New York Debtor and Creditor Law Section 276, against the Estate of Anna Poplawski and James J. Monto, III a/k/a James Monto in an amount to be determined by this Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;
- H. On its Eighth Cause of Action: judgment, pursuant to New York Debtor and Creditor Law Section 275, against the Estate of Anna Poplawski and James J.

Monto, III a/k/a James Monto in an amount to be determined by this Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;

I. On its Ninth Cause of Action: judgment, pursuant to New York Debtor and Creditor Law Section 273, against the Estate of Anna Poplawski and James J. Monto, III a/k/a James Monto, in an amount to be determined by the Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;

J. On its Tenth Cause of Action: for an award of attorneys' fees against the Estate of Anna Poplawski and James J. Monto, III a/k/a James Monto, pursuant to Section 276-A of the Debtor and Creditor Law;

K. On its Eleventh Cause of Action: judgment, pursuant to New York Debtor and Creditor Law Section 276, against the Estate of Anna Poplawski, James J. Monto, III a/k/a James Monto, David Falci and Thomas Falci, in an amount to be determined by this Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;

L. On its Twelfth Cause of Action: judgment, pursuant to New York Debtor and Creditor Law Section 275, against the Estate of Anna Poplawski, James J. Monto, III a/k/a James Monto, David Falci and Thomas Falci, in an amount to be determined by this Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;

M. On its Thirteenth Cause of Action: judgment, pursuant to New York Debtor and Creditor Law Section 273, against the Estate of Anna Poplawski, James J. Monto,

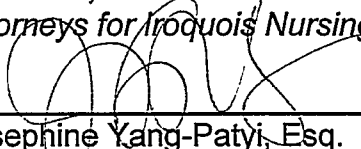
III a/k/a James Monto, David Falci and Thomas Falci, in an amount to be determined by this Court, with interest at the statutory rate of 9% per annum from December 31, 2011 until the date of entry of final judgment;

N. On its Fourteenth Cause of Action: for an award of attorneys' fees against the Estate of Anna Poplawski, James J. Monto, III a/k/a James Monto, David Falci and Thomas Falci, pursuant to Section 276-A of the New York Debtor and Creditor Law; and

O. For the costs and disbursements of this action and for such other relief as this Court deems just and property.

Dated: December 5, 2012.

MENTER, RUDIN & TRIVELPIECE, P.C.
Attorneys for Iroquois Nursing Home, Inc.



Josephine Yang-Patyi, Esq.
Office and P.O. Address
308 Maltbie Street, Suite 200
Syracuse, New York 13204
Telephone: (315) 474-7541

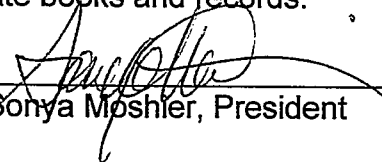
CORPORATE VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

Sonya Moshier, being duly sworn, deposes and says that deponent is the President of Iroquois Nursing Home, Inc., the corporation named in the within action; that deponent has read the foregoing Complaint and knows the contents thereof; and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters deponent believes it to be true.

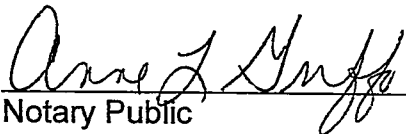
This verification is made by deponent because Plaintiff is a domestic corporation. Deponent is a managing agent thereof, to wit, President.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: Corporate books and records.



Sonya Moshier, President

Sworn to before me this
29th day of November, 2012.



Notary Public

ANNE L. GRIFFIO
Notary Public
No. 01GR6245583
Qualified in Onondaga County
My Commission Expires July 25th, 2015

ANNE L. GRIFFO
Notary Public, State of New York
No. 01GR6245583
Qualified in Onondaga County
My Commission Expires July 25th, 2015

DURABLE POWER OF ATTORNEY FOR FINANCIAL MANAGEMENT

WARNING TO PERSON EXECUTING THIS DOCUMENT - THE POWERS YOU GRANT BELOW CONTINUE TO BE EFFECTIVE SHOULD YOU BECOME DISABLED OR INCOMPETENT

CAUTION: This is an important legal document and upon proper execution will create a Durable Power of Attorney. This gives the person whom you designate as your attorney-in-fact broad powers to handle your property during your lifetime, which may include powers to mortgage, sell, or otherwise dispose of any real or personal property without advance notice to you or approval by you.

These powers will continue to exist even if you become disabled or incompetent. You do have the right to terminate or revoke the power of attorney and any or all powers granted within at any time up to the point of your incapacity.

This document does not authorize anyone to make medical or other health care decisions. You may execute a health care proxy (also known as a health care or medical power of attorney) to do this.

If there is anything about this document that you do not understand, you should ask a lawyer to explain it to you.

CAUTION TO THE PRINCIPAL:

Your Power of Attorney is an important document. As the "principal," you give the person whom you choose (your "agent") authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

~~When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. "Important Information for the Agent" at the end of this document describes your agent's responsibilities.~~

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney by executing this Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of

sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a "Health Care Proxy" to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, www.senate.state.ny.us or www.assembly.state.ny.us.

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

THIS DURABLE POWER OF ATTORNEY for financial management is given by me, Anna E Poplawski, presently of 304 Wayland Road, Syracuse, in the State of New York, on the 16th day of August, 2010.

1. **Nature of Power**

THIS IS A DURABLE POWER OF ATTORNEY and the authority of my Attorney-in-fact shall not terminate if I become disabled or incapacitated or in the event of later uncertainty as to whether I am dead or alive.

2. **Previous Power of Attorney**

I REVOKE any previous durable power of attorney granted by me.

3. **Agents**

I APPOINT James J Monto III, of 164 Forest Hill Drive, Syracuse, New York, and Joan A Rankin, of 119 Flordale Road, Liverpool, New York, to act jointly and independently as my Agents. Upon the death, refusal or inability of James J Monto III or Joan A Rankin to act or continue to act as my Agent, the remaining Agent will continue acting as my Agent in sole capacity.

4. **'My Agent'**

I will refer to my Agents and my successor Agent as 'my Agent'.

5. **Governing Laws**

This instrument will be governed by the laws of the State of New York. Further, my Agent is directed to act in accordance with the laws of the State of New York at any time he or she may be acting on my behalf.

6. **Delegation of Authority**

My Agent may not delegate any authority granted under this document.

7. **Liability of Agent**

My Agent will not be liable to me, my estate, my heirs, successors or assigns for any action taken or not taken under this document, except for willful misconduct or gross negligence. A successor Agent will not be liable for acts of a prior Agent

8. **Effective Date**

This Power of Attorney will start immediately and will continue notwithstanding my mental incapacity or mental infirmity which may occur after my execution of this Power of Attorney.

9. Powers of Agent

My Agent will have the following power(s):

Initials

X a. Real Estate Transactions

CR

To deal with any interest I may have in real property and sign all documents on my behalf concerning my interest, including, but not limited to, real property I may subsequently acquire or receive. These powers include, but are not limited to, the ability to:

- i. purchase, sell, exchange, accept as gift, place as security on loans, convey with or without covenants, rent, collect rent, sue for and receive rents, eject and remove tenants or other persons, to pay or contest taxes or assessments, control any legal claim in favor of or against me, partition or consent to partitioning, mortgage, charge, lease, surrender, manage or otherwise deal with real estate and any interest therein, and
- ii. execute and deliver deeds, transfers, mortgages, charges, leases, assignments, surrenders, releases and other instruments required for any such purpose.

a

X b. Chattel and Goods Transactions

To purchase, sell or otherwise deal with any type of personal property I may currently or in the future have an interest in. This includes, but is not limited to, the power to purchase, sell, exchange, accept as gift, place as security on loans, rent, lease, to pay or contest taxes or assessments, mortgage or pledge.

X c. Banking Transactions

a

To do any act that I can do through an agent with a bank or other financial institution. This power includes, but is not limited to, the power to:

- i. Open, maintain or close bank accounts (including, but not limited to, checking accounts, savings accounts, and certificates of deposit), brokerage accounts, retirement plan accounts, and other similar accounts with financial institutions.
- ii. Conduct any business with any banking or financial institution with respect to any of my accounts, including, but not limited to, making deposits and withdrawals, negotiating or endorsing any checks or other instruments with respect to any such accounts, obtaining bank statements, passbooks, drafts, money orders, warrants, and certificates or vouchers payable to me by any person, firm, corporation or entity.
- iii. Borrow money from any banking or financial institution if deemed necessary by my Agent, and to manage all aspects of the loan process, including the placement of security and the negotiation of terms.
- iv. Perform any act necessary to deposit, negotiate, sell or transfer any note, security, or draft of the United States of America, including U.S. Treasury Securities.
- v. Have access to any safe deposit box that I might own, including its contents.
- vi. Create and deliver any financial statements necessary to or from any bank or financial institution.

Claudia M. RUA
 CLAUDIA M. RUA
 Notary Public, State of New York
 Qualified in Onondaga Co. No. 01RU6089543
 My Commission Expires March 24, 20 11

X a **d. Business Operating Transactions**

To take any action my Agent deems necessary with any business that I may own or have an interest in by doing any act which can be done through Agent. This power includes, but is not limited to, the power to execute, seal and deliver any instrument; participate in any legal business of any kind; execute partnership agreements and amendments; to incorporate, reorganize, consolidate, merge, sell, or dissolve any business; to elect or employ officers, directors and agents; and to exercise voting rights with respect to any stock I may own, either in person or by proxy.

X a **e. Insurance Transactions**

To do any act that I can do through an agent with any insurance policy. This power includes, but is not limited to, the power to pay premiums, start, modify or terminate policies, manage all cash payouts, borrow from insurers and third parties using insurance policies as collateral, and to change the beneficiaries on any insurance policies on my life. Unless my Agent was already a beneficiary of any policy before the signing of this document, my Agent cannot name himself or herself as a beneficiary of such policy.

X a **f. Estate Transactions**

To do any act that I can do through an agent with regard to all matters that affect any trust, probate estate, conservatorship, or other fund which I may receive payment as a beneficiary. This power includes the power to disclaim any interest which might otherwise be transferred or distributed to me from any other person, estate, trust, or other entity, as may be appropriate. However, my Agent cannot disclaim assets to which I would be entitled, if the result is that the disclaimed assets pass directly or indirectly to my Agent or my Agent's estate.

X a **g. Living Trust Transactions**

To transfer any of my assets to the trustee of any revocable trust created by me, if such trust is in existence at the time of such transfer. This property can include real property, stocks, bonds, accounts, insurance policies or other property.

X a **h. Claims and Litigation Matters**

To institute, maintain, defend, compromise, arbitrate or otherwise dispose of, any and all actions, suits, attachments or other legal proceedings for or against me. This power includes, but is not limited to, the power to: appear on my behalf or retain an attorney and any other professional personnel necessary to defend or assert any claim before any court, board, or tribunal, and the power to settle any claim against me in which ever forum or manner my Agent deems prudent, and to receive or pay any resulting settlement.

X a **i. Government Benefits**

To act on my behalf in all matters that affect my right to allowances,

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Notary Public, State of New York
Qualified in Onondaga Co. No. 01RU6089543
My Commission Expires March 24, 20 11

compensation and reimbursements properly payable to me by the Government of the United States or any agency or department thereof. This power includes, but is not limited to, the power to prepare, file, claim, defend or settle any claim on my behalf and to receive and manage as my Agent sees fit any proceeds of any claim.

X a P j. Retirement Benefit Transactions

To act for me and represent my interests in all matters affecting any retirement savings or pension plans I may have. This power includes, but is not limited to, the power to continue contributions, change contribution amounts, change investment strategies and options, move assets to other plans, receive and manage payouts, and add or change existing beneficiaries. My Agent cannot add himself or herself as a beneficiary unless he or she is already a designated beneficiary as of the signing of this document.

X a P k. Family Care

To make whatever expenditures are required for the maintenance, education, benefit, medical care and general advancement of me, my spouse and dependent children, and other persons that I have chosen or which I am legally required to support, any of which may include my Agent. This power includes, but is not limited to, the power to pay for housing, clothing, food, travel and other living costs.

X a P l. Tax Matters

To act for me in all matters that affect my local, state and federal taxes and to prepare, sign, and file documents with any governmental body or agency, including, but not limited to, authority to:

- i. prepare, sign and file income and other tax returns with federal, state, local and other governmental bodies, and to receive any refund checks.
- ii. obtain information or documents from any government or its agencies, and represent me in all tax matters, including the authority to negotiate, compromise, or settle any matter with such government or agency.

X a P m. Maintain Property and Make Investments

To retain any assets owned by me at the date this Durable Power of Attorney becomes effective, and the power to reinvest those assets in similar investments. In addition, my Agent may invest my assets in any new investments, of his or her choosing, regardless of whether or not they are authorized by any applicable legislation.

X a P n. Employ Required Professionals

To appoint and employ any agents, servants, companions, or other persons, including nurses and other health care professionals for my care and the care of my spouse and dependent children, and accountants, attorneys, clerks, workers and others for the management, preservation and protection of my property and

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Notary Public, State of New York
Qualified in Onondaga Co. No. 01RU6099543
My Commission Expires March 24, 20 11

estate, at such compensation and for such length of time as my Agent considers advisable.

X a General Authority

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Notary Public, State of New York
Qualified in Onondaga Co. No. 01RU6089543
My Commission Expires March 24, 20 11

To do any act or thing that I could do in my own proper person if personally present, including managing or selling tangible assets, disclaiming a probate or nonprobate inheritance and providing support for a minor child or dependent adult. Other specifically enumerated powers are not intended as a limitation on this broad general power.

10. **Agent Compensation**

My Agent will receive no compensation except for the reimbursement of all out of pocket expenses associated with the carrying out of my wishes.

11. **Co-owning of Assets and Mixing of Funds**

My Agent may not mix any funds owned by him or her in with my funds and all assets should remain separately owned if at all possible.

12. **Personal Gain from Managing My Affairs**

My Agent is not allowed to personally gain from any transaction he or she may complete on my behalf.

13. **Agent Restrictions**

This Power of Attorney is not subject to any conditions or restrictions other than those noted above.

14. **Notice to Third Parties**

Any third party who receives a valid copy of this Power of Attorney can rely on and act under it. A third party who relies on the reasonable representations of an Agent as to a matter relating to a power granted by this Power of Attorney will not incur any liability to the principal or to the principal's heirs, assigns, or estate as a result of permitting the Agent to exercise the authority granted by the Power of Attorney up to the point of revocation of the Power of Attorney. Revocation of the Power of Attorney will not be effective as to a third party until the third party receives notice and has actual knowledge of the revocation.

15. **Severability**

If any part of any provision of this instrument is ruled invalid or unenforceable under applicable law, such part will be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of such provisions or the remaining provisions of this instrument.

I, **Anna E Poplawski**, being the Principal named in this Durable Power of Attorney for Finances hereby acknowledge:

1. I have read and understand the nature and effect of this Durable Power of Attorney.
2. I recognize that this document gives my Agent broad powers over my assets, and that these powers will continue past the point of my incapacity.
3. I am of legal age in the State of New York to grant a Durable Power of Attorney.

- 4. I am voluntarily giving this Durable Power of Attorney and recognize that the powers given in this document will become effective as of the date of my incapacity or as specified within.

IN WITNESS WHEREOF I hereunto sign my name at the City of Syracuse, in the State of New York, this 16th day of August, 2010

SIGNED, SEALED, AND DELIVERED in the presence of:

Sharon J. Mento
WITNESS

Address: 164 Jonathan Dr.
Syracuse N.Y. 13206

Linda Quiza
WITNESS

Address: 1634 Danforth St
Syr. N.Y. 13208

Anna E Poplawski
Anna E Poplawski

Claudia M. Ruc
CLAUDIA M. RUC
Notary Public, State of New York
Qualified in Onondaga Co. No. 01RU6089543
My Commission Expires March 24, 20 11

NOTARY ACKNOWLEDGEMENT

State of New York)
) ss.
County of Onondaga)

On this 16th day of August, 2010, before me, the undersigned, personally appeared Anna E Poplawski, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual, acted, executed the instrument.

Claudia M. Ruc
Notary Public

My commission expires: March 24, 2011

CLAUDIA M. RUC
Notary Public, State of New York
Qualified in Onondaga Co. No. 01RUG089543
My Commission Expires March 24, 2011

IMPORTANT INFORMATION FOR THE AGENT:

When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

- (1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;
- (4) keep a record or all receipts, payments, and transactions conducted for the principal; and
- (5) disclose your identity as an agent whenever you act for the principal by writing or printing the principal's name and signing your own name as "agent" in either of the following manner:

(Principal's Name) by (Your Signature) as Agent; or

(Your Signature) as Agent for (Principal's Name).

You may not use the principal's assets to benefit yourself or give major gifts to yourself or anyone else unless the principal has specifically granted you that authority in this Power of Attorney or in a Statutory Major Gifts Rider attached to this Power of Attorney. If you have that authority, you must act according to any instructions of the principal or, where there are no such instructions, in the principal's best interest. You may resign by giving written notice to the principal and to any co-agent, successor agent, monitor if one has been named in this document, or the principal's guardian if one has been appointed. If there is anything about this document or your responsibilities that you do not understand, you should seek legal advice.

Liability of agent:

The meaning of the authority given to you is defined in New York's General Obligations Law, Article 5, Title 15. If it is found that you have violated the law or acted outside the authority granted to you in the Power of Attorney, you may be liable under the law for your violation.

AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

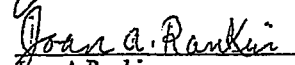
It is not required that the principal and the agent(s) sign at the same time, nor that multiple agents sign at the same time.

We, James J Monto III, and Joan A Rankin, have read the foregoing Power of Attorney. We are the persons identified therein as agents for the principal named therein.


We acknowledge our legal responsibilities.



James J Monto III



Joan A Rankin


CLAUDIA M. RIVA
Notary Public, State of New York
Qualified in Onondaga Co. No. 01RUG089543
My Commission Expires March 24, 2011

Instructions for Executing your Power of Attorney

Before signing your Power of Attorney, ensure you have read it and understand your document.

To be valid, you must sign the document with your usual check signing signature. You should also initial each page of the document. The signing and the initialing of the pages must occur in the presence of your notary or witness(es). For every power that you have given to your Agent you must write your initials in the space provided. If this is not done it may affect the validity of your document.

After you have signed and initialed your document in front of your notary or witness(es), your notary or witness(es) must sign on the applicable page of the Power of Attorney and should initial each page. This must occur in the presence of you.

Most jurisdictions require that a Power of Attorney be signed before a Notary Public if it is durable or grants power over land or property. Some jurisdictions also require that witnesses be present. Even if they are not required for your state it is often recommended to have witnesses to make the document more acceptable to those that will have to deal with it. Those jurisdictions that do not require that the Power of Attorney be signed in front of a notary usually require that two witnesses are used. Even if a notary is not required it is still often recommended.

Remember that your witness(es) cannot be your spouse, partner, child, your attorney or alternate attorney, or the spouse of your attorney or alternate attorney. Some jurisdictions disallow witnesses that are mentioned in your will, either as beneficiary or executor/executrix. You should generally avoid having witnesses that have any financial relationship with you. The witness(es) must be of legal age in your jurisdiction, they must have capacity and be mentally capable of managing their property and making their own decisions.

If your Power of Attorney will be used to transfer real property (land) your Agent will likely need to have the document recorded in order for the Power of Attorney to be recognized. This takes place at the land registry office in the jurisdiction where the real property (land) is located.

WITNESS CERTIFICATE

I, Linda Russo, currently residing at 1034 Danford St, in the City of Syr., in the State of New York, hereby acknowledge that:

1. I witnessed the signing of the Power of Attorney of Anna E Poplawski dated this 8-16-10 day of August, 2010.
2. I am an adult with capacity to witness the signing of the Power of Attorney.
3. In my opinion Anna E Poplawski had the capacity to understand the nature and effect of the Power of Attorney at the time the Power of Attorney was signed and signed it freely and voluntarily without any compulsion or influence from any person.
4. I am not the Attorney named in the Power of Attorney nor am I the Attorney's spouse or other family member.

Linda Russo
(Signature of witness)

8-16-10
(Date)

Claudia M. Rua
CLAUDIA M. RUA
Notary Public, State of New York
Qualified in Onondaga Co. No. 01RU608543
My Commission Expires March 24, 20 11

WITNESS CERTIFICATE

I, Shawn A. Marts, currently residing at 164 Foresthill Drive, in the City of Syracuse, in the State of New York, hereby acknowledge that:

1. I witnessed the signing of the Power of Attorney of Anna E Poplawski dated this 11th day of August, 2010.
2. I am an adult with capacity to witness the signing of the Power of Attorney.
3. In my opinion Anna E Poplawski had the capacity to understand the nature and effect of the Power of Attorney at the time the Power of Attorney was signed and signed it freely and voluntarily without any compulsion or influence from any person.
4. I am not the Attorney named in the Power of Attorney nor am I the Attorney's spouse or other family member.

Shawn A. Marts
(Signature of witness)

8/16/10
(Date)

Claudia M. Ruc
CLAUDIA M. RUC
Notary Public, State of New York
Qualified in Onondaga Co. No. 01RU6089543
My Commission Expires March 24, 20 11

**IROQUOIS NURSING HOME, INC.
ADMISSION AGREEMENT**

THIS AGREEMENT, made by and between IROQUOIS NURSING HOME, INC.,
hereinafter referred to as the "Facility" and Anne Poplawski RM#: 220A
hereinafter referred to as the "Resident," on AD: 12/29/10

WHEREAS, the Facility is a residential health care facility as defined in Article 28 of the Public Health Law of the State of New York and

WHEREAS, the Facility will abide by all formal admission policies, many of which are State and Federally regulated, in its acceptance, admission and retention of a resident, and

WHEREAS, there is mutual agreement to the following terms and conditions relating to the admission and the provision of services to the Resident.

PAYMENT FOR BASIC SERVICES

In full payment for basic services provide by the Facility, the Resident agrees to pay the Facility the sum of \$295.00 per day. This is the charge for a Resident who is not entitled to Medicare and/ or Medicaid and /or other private insurance benefits. However, it is the resident/responsible party who is ultimately responsible for payment of services.

FIRST: Upon admission, when applicable, the Resident agrees to pay in advance for one month of the basic services at the rate set above. Monthly bills will be submitted in advance to the Resident. Payment is to be made by the first of the month.

SECOND: The Facility will refund promptly to the Resident any portion of any prepayment in excess of the amount or portion appropriated for services already furnished in the event the Resident leaves the facility prior to the end of the prepayment period for reasons beyond control of the Resident. Any unpaid balance will be applied against the excess pre-payment refund.

THIRD: The Facility will give thirty (30) days written notice to the resident of additional charges which result from increased costs of operation.

FOURTH: A resident day constitutes the twenty-four (24) hour period from 12:00 A.M. to 12:00 A.M., concurrent with the date. A Resident admitted and discharged the same day is charged for one day.

FIFTH: The Resident agrees to notify the facility one (1) month prior to application for Medicaid.

SIXTH: If the Resident is a Medicaid recipient, the monthly income as determined by the Department of Social Services shall be paid to the facility as part of the Medicaid reimbursement as required by law (i.e. You are required to pay Iroquois the cost of care "NAMI" amount as determined by DSS on the LDSS-4022 form you will receive from the Medicaid division).

SEVENTH: If the Resident meets established criteria and is deemed eligible for

Medicare coverage, the appropriate charges will be billed directly to Medicare and the resident /sponsor agrees to be responsible for any co-payments, which are **One Hundred** ^{\$197.50} ²⁰¹¹ **Thirty Seven dollars and fifty cents (\$137.50) per day** for ~~2010~~ for 21 -100 (unless you have a third-party insurance policy which pays this rate).

EIGHTH: The resident agrees to meet all payments obligations under the Admission Agreement as long as the Resident maintains an account balance for services Provided by this facility.

NINTH: I hereby authorize the release of information requested pursuant to the collection of insurance benefits/medical information requested from agency or physician upon transfer.

TENTH: I certify that any information given by me in applying for payment under Title XVIII of the Social Security Act is correct. I authorize any holder of medical information about me to be released to the Social Security Administration, or its carriers, along with any information required to process any MEDICARE claims on my behalf.

SERVICE PROVISIONS

In consideration of payments to the Facility made by or on behalf of the Resident, the Facility agrees to provide the following services:

1. Lodging in a clean, healthful, safe environment, properly furnished.
2. Board, including therapeutic or modified diets, as prescribed by a physician and in the case of the Hebrew Orthodox religious beliefs, food products prepared in accordance with Jewish dietary laws, except as medically contraindicated.

3. Around the clock nursing supervision and care.
4. Assistance and/or supervision when required with activities of daily living including but not limited to toileting, bathing, feeding, and ambulation assistance.
5. Laundry service for washable personal clothing items.
6. Fresh bed linen, as required, changed at least twice weekly including sufficient quantities of necessary bed linen or appropriate substitutes changed as often as required.
7. The use of all equipment, medical supplies and modularities, not with standing the quantity usually used in the everyday care of the resident including but not limited to: hypodermic syringes and needles, irrigation outfits, dressings, pads and so forth.
8. General medicine cabinet supplies including but not limited to: material for routine skin care, oral hygiene, care of the hair, etc.
9. The use of customarily equipment including, but limited to: crutches, canes, walkers, wheelchairs, other supportive equipment, including training in their use when necessary, unless such item is prescribed by a physician for regular and sole use by a specific resident.
10. An Activities Program including but not limited to: a planned schedule of recreational, motivational, social and other activities together with the necessary materials and supplies to make the resident's life more meaningful.
11. Social Work Services.
12. Medical Services provided by the facility's physician.
13. Dental Services including but not limited to: any initial examination and examinations on an annual basis thereafter; treatments as prescribed by a duly licensed, currently registered dentist associated with the facility.
14. Services in daily performance of their assigned duties by all facility staff concerned with resident care.
15. The facility will make available, as needed, a full range of communications options for sensory impaired residents, including but not limited to: written communications in large print, formal arrangements with interpreters who can accurately and fluently express and receive sign language.

ADDITIONAL CHARGES

There are additional charges for other charges not included in the basic services. They are as follows:

1. Physical Therapy*	\$35.00	Evaluation
	\$25.00	Treatment
2. Occupational Therapy*	\$30.00	Treatment
	\$20.00	Treatment
3. Speech Therapy *	\$35.00	Evaluation
	\$25.00	Treatment
4. Prescription Medications***		
5. Psychological Services *** (Dr. Joel Caldwell)		
6. Podiatry Services*** (Dr. Peter Calabrese)		
7. Laboratory costs and x-ray services***		
8. Treatments or exams ordered by the doctor***		
9. Audiology Services, hearing aide services and equipment** (St. Camillus)		
10. Transportation Services outside the Facility**		
11. Beauty/barbershop services		
12. Cosmetics/special brand toiletries		
13. Newspaper		

*Indicates services partially covered by Medicare/and some private insurances, if medically necessary.

**Indicates services covered by Medicaid, if medically necessary.

***Medications will be provided by Kinney Pharmacy and will be billed to the resident through Kinney Pharmacy, (while your stay is being covered under Medicare, Medicaid, or private insurance (if applicable) your medications are included under the Medicare, Medicaid, and/or private insurance rate.)

In the event that the resident is to require any Psychological, Podiatry, or Audiology services, I authorize treatment to be done by the above listed provider. I also request payment to government benefit (Medicare/Medicaid) be made directly to the listed providers.

The Resident/Responsible party agrees with and understands the following policies of the facility which have been explained fully upon admission and are also included in the Resident Handbook:


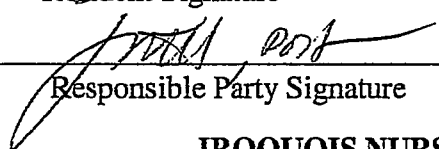
- Resident's Bill of Rights
- Restraint Policy
- Smoke Free Facility
- Bed Reservation Policy
- Room Change Policy

- Advance Directives-DNR, Health Care Proxy, Living Will
- Participation in Scheduled Care Planning Conference
- Resource Utilization Group (RUG) Classification System
- Notice of Information Practices

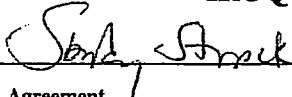
I hereby release Iroquois Nursing Home, Inc. from all liability resulting from loss or damage to any personal affects retained by me on admission or subsequently received by me while I am a resident in the facility. This includes prosthetic devices, dentures, glasses, jewelry, electrical devices, clothing and other personal items.

A copy of the Resident's Rights and Responsibilities, Orientation Handbook, Department of Health summaries concerning Orders Not to Resuscitate and Health Care Proxies, as well as the Notice of Information Practices have been given to the resident/responsible party along with a full explanation of the rights of the resident concerning those issues.

As a Resident or as a delegated responsible party/family member, I have read, understand and am in agreement with the above and, in signing, agree to be bound by the terms stated within.

 _____ Resident Signature	_____ Date 1/26/2011
 _____ Responsible Party Signature	_____ Date

IROQUOIS NURSING HOME, INC.

By:  _____ Date 1/26/11

- H: Admission Agreement
- 1-97
- 1-99
- 1-00
- 1-01
- 11-01
- 1-02
- 5-02
- 8-02
- 1-03
- 2-03
- 1-04
- 7-04
- 1-06
- 4-06
- 2-07
- 4-08
- 2-09
- 1-10
- 7-10

DURABLE POWER OF ATTORNEY FOR FINANCIAL MANAGEMENT

WARNING TO PERSON EXECUTING THIS DOCUMENT - THE POWERS YOU GRANT BELOW CONTINUE TO BE EFFECTIVE SHOULD YOU BECOME DISABLED OR INCOMPETENT

CAUTION: This is an important legal document and upon proper execution will create a Durable Power of Attorney. This gives the person whom you designate as your attorney-in-fact broad powers to handle your property during your lifetime, which may include powers to mortgage, sell, or otherwise dispose of any real or personal property without advance notice to you or approval by you.

These powers will continue to exist even if you become disabled or incompetent. You do have the right to terminate or revoke the power of attorney and any or all powers granted within at any time up to the point of your incapacity.

This document does not authorize anyone to make medical or other health care decisions. You may execute a health care proxy (also known as a health care or medical power of attorney) to do this.

If there is anything about this document that you do not understand, you should ask a lawyer to explain it to you.

CAUTION TO THE PRINCIPAL:

Your Power of Attorney is an important document. As the "principal," you give the person whom you choose (your "agent") authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. "Important Information for the Agent" at the end of this document describes your agent's responsibilities.

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney by executing this Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of

sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a "Health Care Proxy" to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, www.senate.state.ny.us or www.assembly.state.ny.us.

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

THIS DURABLE POWER OF ATTORNEY for financial management is given by me, Anna E Poplawski, presently of 304 Wayland Road, Syracuse, in the State of New York, on the 16th day of August, 2010.

1. **Nature of Power**

THIS IS A DURABLE POWER OF ATTORNEY and the authority of my Attorney-in-fact shall not terminate if I become disabled or incapacitated or in the event of later uncertainty as to whether I am dead or alive.

2. **Previous Power of Attorney**

I REVOKE any previous durable power of attorney granted by me.

3. **Agents**

I APPOINT James J Monto III, of 164 Forest Hill Drive, Syracuse, New York and Joan A Rankin, of 119 Flordate Road, Liverpool, New York, to act jointly and independently as my Agents. Upon the death, refusal or inability of James J Monto III or Joan A Rankin to act or continue to act as my Agent, the remaining Agent will continue acting as my Agent in sole capacity.

13206

4. **'My Agent'**

I will refer to my Agents and my successor Agent as 'my Agent'.

5. **Governing Laws**

This instrument will be governed by the laws of the State of New York. Further, my Agent is directed to act in accordance with the laws of the State of New York at any time he or she may be acting on my behalf.

6. **Delegation of Authority**

My Agent may not delegate any authority granted under this document.

7. **Liability of Agent**

My Agent will not be liable to me, my estate, my heirs, successors or assigns for any action taken or not taken under this document, except for willful misconduct or gross negligence. A successor Agent will not be liable for acts of a prior Agent

8. **Effective Date**

This Power of Attorney will start immediately and will continue notwithstanding my mental incapacity or mental infirmity which may occur after my execution of this Power of Attorney.

9. Powers of Agent

My Agent will have the following power(s):

Initials

X a. Real Estate Transactions

AS

To deal with any interest I may have in real property and sign all documents on my behalf concerning my interest, including, but not limited to, real property I may subsequently acquire or receive. These powers include, but are not limited to, the ability to:

- i. purchase, sell, exchange, accept as gift, place as security on loans, convey with or without covenants, rent, collect rent, sue for and receive rents, eject and remove tenants or other persons, to pay or contest taxes or assessments, control any legal claim in favor of or against me, partition or consent to partitioning, mortgage, charge, lease, surrender, manage or otherwise deal with real estate and any interest therein, and
- ii. execute and deliver deeds, transfers, mortgages, charges, leases, assignments, surrenders, releases and other instruments required for any such purpose.

AS

X b. Chattel and Goods Transactions

To purchase, sell or otherwise deal with any type of personal property I may currently or in the future have an interest in. This includes, but is not limited to, the power to purchase, sell, exchange, accept as gift, place as security on loans, rent, lease, to pay or contest taxes or assessments, mortgage or pledge.

X c. Banking Transactions

AS

To do any act that I can do through an agent with a bank or other financial institution. This power includes, but is not limited to, the power to:

- i. Open, maintain or close bank accounts (including, but not limited to, checking accounts, savings accounts, and certificates of deposit), brokerage accounts, retirement plan accounts, and other similar accounts with financial institutions.
- ii. Conduct any business with any banking or financial institution with respect to any of my accounts, including, but not limited to, making deposits and withdrawals, negotiating or endorsing any checks or other instruments with respect to any such accounts, obtaining bank statements, passbooks, drafts, money orders, warrants, and certificates or vouchers payable to me by any person, firm, corporation or political entity.
- iii. Borrow money from any banking or financial institution if deemed necessary by my Agent, and to manage all aspects of the loan process, including the placement of security and the negotiation of terms.
- iv. Perform any act necessary to deposit, negotiate, sell or transfer any note, security, or draft of the United States of America, including U.S. Treasury Securities.
- v. Have access to any safe deposit box that I might own, including its contents.
- vi. Create and deliver any financial statements necessary to or from any bank or financial institution.

Claudia M. RUA
 CLAUDIA M. RUA
 Notary Public, State of New York
 Qualified in Onondaga Co. No. 01RUG089543
 My Commission Expires March 24, 20 11

X a d **d. Business Operating Transactions**

To take any action my Agent deems necessary with any business that I may own or have an interest in by doing any act which can be done through Agent. This power includes, but is not limited to, the power to execute, seal and deliver any instrument; participate in any legal business of any kind; execute partnership agreements and amendments; to incorporate, reorganize, consolidate, merge, sell, or dissolve any business; to elect or employ officers, directors and agents; and to exercise voting rights with respect to any stock I may own, either in person or by proxy.

X a e **e. Insurance Transactions**

To do any act that I can do through an agent with any insurance policy. This power includes, but is not limited to, the power to pay premiums, start, modify or terminate policies, manage all cash payouts, borrow from insurers and third parties using insurance policies as collateral, and to change the beneficiaries on any insurance policies on my life. Unless my Agent was already a beneficiary of any policy before the signing of this document, my Agent cannot name himself or herself as a beneficiary of such policy.

X a f **f. Estate Transactions**

To do any act that I can do through an agent with regard to all matters that affect any trust, probate estate, conservatorship, or other fund which I may receive payment as a beneficiary. This power includes the power to disclaim any interest which might otherwise be transferred or distributed to me from any other person, estate, trust, or other entity, as may be appropriate. However, my Agent cannot disclaim assets to which I would be entitled, if the result is that the disclaimed assets pass directly or indirectly to my Agent or my Agent's estate.

X a g **g. Living Trust Transactions**

To transfer any of my assets to the trustee of any revocable trust created by me, if such trust is in existence at the time of such transfer. This property can include real property, stocks, bonds, accounts, insurance policies or other property.

X a h **h. Claims and Litigation Matters**

To institute, maintain, defend, compromise, arbitrate or otherwise dispose of, any and all actions, suits, attachments or other legal proceedings for or against me. This power includes, but is not limited to, the power to: appear on my behalf or retain an attorney and any other professional personnel necessary to defend or assert any claim before any court, board, or tribunal, and the power to settle any claim against me in which ever forum or manner my Agent deems prudent, and to receive or pay any resulting settlement.

X a i **i. Government Benefits**

To act on my behalf in all matters that affect my right to allowances,

Claudia M. RUA
CLAUDIA M. RUA
Notary Public, State of New York
Qualified in Onondaga Co. No. 01RU6089543
My Commission Expires March 24, 20 11

compensation and reimbursements properly payable to me by the Government of the United States or any agency or department thereof. This power includes, but is not limited to, the power to prepare, file, claim, defend or settle any claim on my behalf and to receive and manage as my Agent sees fit any proceeds of any claim.

X a j. Retirement Benefit Transactions

To act for me and represent my interests in all matters affecting any retirement savings or pension plans I may have. This power includes, but is not limited to, the power to continue contributions, change contribution amounts, change investment strategies and options, move assets to other plans, receive and manage payouts, and add or change existing beneficiaries. My Agent cannot add himself or herself as a beneficiary unless he or she is already a designated beneficiary as of the signing of this document.

X a k. Family Care

To make whatever expenditures are required for the maintenance, education, benefit, medical care and general advancement of me, my spouse and dependent children, and other persons that I have chosen or which I am legally required to support, any of which may include my Agent. This power includes, but is not limited to, the power to pay for housing, clothing, food, travel and other living costs.

X a l. Tax Matters

To act for me in all matters that affect my local, state and federal taxes and to prepare, sign, and file documents with any governmental body or agency, including, but not limited to, authority to:

- i. prepare, sign and file income and other tax returns with federal, state, local and other governmental bodies, and to receive any refund checks.
- ii. obtain information or documents from any government or its agencies, and represent me in all tax matters, including the authority to negotiate, compromise, or settle any matter with such government or agency.

X a m. Maintain Property and Make Investments

To retain any assets owned by me at the date this Durable Power of Attorney becomes effective, and the power to reinvest those assets in similar investments. In addition, my Agent may invest my assets in any new investments, of his or her choosing, regardless of whether or not they are authorized by any applicable legislation.

X a n. Employ Required Professionals

To appoint and employ any agents, servants, companions, or other persons, including nurses and other health care professionals for my care and the care of my spouse and dependent children, and accountants, attorneys, clerks, workers and others for the management, preservation and protection of my property and

Claudia M. Rua
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Notary Public, State of New York
Qualified in Onondaga Co. No. 01RUG089543
My Commission Expires March 24, 20 11

estate, at such compensation and for such length of time as my Agent considers advisable.

X a **General Authority**

Claudia M. Rúa
 CLAUDIA M. RUA
 Notary Public, State of New York
 Qualified in Onondaga Co. No. 01RU6089543
 My Commission Expires March 24, 20 11

To do any act or thing that I could do in my own proper person if personally present, including managing or selling tangible assets, disclaiming a probate or nonprobate inheritance and providing support for a minor child or dependent adult. Other specifically enumerated powers are not intended as a limitation on this broad general power.

10. **Agent Compensation**

My Agent will receive no compensation except for the reimbursement of all out of pocket expenses associated with the carrying out of my wishes.

11. **Co-owning of Assets and Mixing of Funds**

My Agent may not mix any funds owned by him or her in with my funds and all assets should remain separately owned if at all possible.

12. **Personal Gain from Managing My Affairs**

My Agent is not allowed to personally gain from any transaction he or she may complete on my behalf.

13. **Agent Restrictions**

This Power of Attorney is not subject to any conditions or restrictions other than those noted above.

14. **Notice to Third Parties**

Any third party who receives a valid copy of this Power of Attorney can rely on and act under it. A third party who relies on the reasonable representations of an Agent as to a matter relating to a power granted by this Power of Attorney will not incur any liability to the principal or to the principal's heirs, assigns, or estate as a result of permitting the Agent to exercise the authority granted by the Power of Attorney up to the point of revocation of the Power of Attorney. Revocation of the Power of Attorney will not be effective as to a third party until the third party receives notice and has actual knowledge of the revocation.

15. **Severability**

If any part of any provision of this instrument is ruled invalid or unenforceable under applicable law, such part will be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of such provisions or the remaining provisions of this instrument.

I, **Anna E Poplawski**, being the Principal named in this Durable Power of Attorney for Finances hereby acknowledge:

1. I have read and understand the nature and effect of this Durable Power of Attorney.
2. I recognize that this document gives my Agent broad powers over my assets, and that these powers will continue past the point of my incapacity.
3. I am of legal age in the State of New York to grant a Durable Power of Attorney.

4. I am voluntarily giving this Durable Power of Attorney and recognize that the powers given in this document will become effective as of the date of my incapacity or as specified within.

IN WITNESS WHEREOF I hereunto sign my name at the City of Syracuse, in the State of New York, this 16th day of August, 2010

SIGNED, SEALED, AND DELIVERED in the presence of:

Sharon J. Minto
WITNESS

Address: 164 Jonestown Dr.
Syracuse N.Y. 13206

Linda Quada
WITNESS

Address: 1634 Danforth St
Syr. Ny. 13208

Anna E Poplawski
Anna E Poplawski
SKI

Claudia M. RUA

CLAUDIA M. RUA
Notary Public, State of New York
Qualified in Onondaga Co. No. 01RUG089543
My Commission Expires March 24, 20 11

01/09/2012

IROQUOIS NURSING HOME
4600 SOUTHWOOD HEIGHTS DR
JAMESVILLE, NY 13078 9595

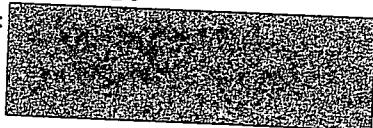
*** INVOICE ***

Billing Period

01/01/2010 To 12/31/2011

JAMES MONTO
164 FORESTHILL DR
SYRACUSE, NY 13206

Account Name : POPLAWSKI, ANNE
Account Number : 16216
Social Security # :



Description	Dates	Receipts	Charges	Balance
R/B Co-Insurance [28 @ 141.50]	02/01-02/28/11			
R/B Co-Insurance [9 @ 141.50]	03/01-03/09/11		3,962.00	3,962.00
ROOM & BOARD [22 @ 295.00]	03/10-03/31/11		1,273.50	5,235.50
ROOM & BOARD [4 @ 295.00]	04/01-04/04/11		6,490.00	11,725.50
ROOM & BOARD [26 @ 295.00]	04/05-04/30/11		1,180.00	12,905.50
Resident Participation	05/01-05/08/11		7,670.00	20,575.50
Resident Participation	06/01-06/12/11		8,515.54	29,091.04
Resident Participation	07/01-07/10/11		989.51	30,080.55
Resident Participation	08/01-08/07/11		989.51	31,070.06
Resident Participation	09/01-09/11/11		989.51	32,059.57
Resident Participation	10/01-10/09/11		989.51	33,049.08
Resident Participation	11/01-11/12/11		989.51	34,038.59
CASH RECEIPT FOR Resid/Part(SS	06/06/11		989.51	35,028.10
CASH RECEIPT FOR Resid/Part(SS	07/05/11	1,054.00		33,974.10
CASH RECEIPT FOR Resid/Part(SS	08/03/11	1,054.00		32,920.10
CASH RECEIPT FOR Resid/Part(SS	09/06/11	1,054.00		31,866.10
CASH RECEIPT FOR Resid/Part(SS	10/04/11	1,054.00		30,812.10
CASH RECEIPT FOR Resid/Part(SS	11/04/11	1,054.00		29,758.10
				28,704.10
Net Balance - Payment Due Upon Receipt of Bill				\$28,704.10

For any information please call:

BUSINESS OFFICE
(315) 469-1300 Ext.

Professional or other services not provided
by the facility may be billed independently.



**NOTICE OF DECISION ON YOUR MEDICAL ASSISTANCE APPLICATION
LIMITED COVERAGE
(Transfer of Assets Penalty)**

96655

NOTICE DATE: 11/22/2011		NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE ONONDAGA COUNTY DEPT OF SOCIAL SERVICES MEDICAID CHRONIC CARE UNIT 421 MONTGOMERY STREET, 8TH FLOOR SYRACUSE, NEW YORK 13202	
CASE NUMBER M043307	CIN/RID NUMBER CN14303K		
CASE NAME (And C/O Name if Present) AND ADDRESS POPLAWSKI, ANNE E 4600 SOUTHWOOD HEIGHTS DR IROQUOIS JAMESVILLE, NY 13078		GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP (315) 435-2928 OR Agency Conference (315) 435-2928 Fair Hearing Information and Assistance (800) 342-3334 Record Access (315) 435-2585 Legal Assistance Information	
OFFICE NO. 10	UNIT NO. CC	WORKER NO. 109	UNIT OR WORKER NAME K. BRENNAN TELEPHONE NO. 435-8220

We have accepted your application dated 3/10/2011 for Medical Assistance with limited coverage effective 05/01/11

We have determined that on (date) 8/10-2/11 you/your spouse transferred (item(s)) Bank assets valued at \$ 45,966.03. The difference between this value and the amount you actually received (\$) is \$ 45,966.03. This amount is considered to be the uncompensated value.

Because you/your spouse transferred this asset(s) for less than fair market value you are not eligible for the following types of care and services:

- services provided in a nursing home, including hospice and managed long-term care, or intermediate care facility; or
- nursing home care provided in a hospital.

You are not eligible for the above noted care and services for a period of 5 month(s) or until (date) 5/1/11. This is based on the following calculations:

Uncompensated value of transferred asset(s) (less MA exemption, if applicable)	\$ <u>45,966.03</u>
Monthly regional rate	\$ <u>7,688.00</u>
Period of limited coverage:	<u>5</u> (month(s))

You will also have an additional \$ 7526.03 that you will have to contribute toward your cost of care for the month of May 2011. This is the partial month penalty. This is in addition to any income and/or excess resource contribution that must be contributed toward your cost of care for that month.

Although you are not eligible for certain types of care and services because of the above-referenced transfer, you may be eligible for coverage of other care and services, (e.g., eyeglasses, hearing aids, dentures and acute hospital care). In order for you to be eligible for this coverage: (1) your income must be no greater than the allowable MA income standard; or (2) if your income exceeds the allowable MA income standard, you must meet certain excess income requirements. You will have to meet an income requirement for these services if there is an in the box below.

EXCESS INCOME
Your total gross monthly income is \$ 1,416.51. Your total monthly deductions are \$ 377.00. The difference between these is your net monthly income. This is \$ 1,039.51. The allowable income standard for a family household your size is \$ 50.00. The difference between your net monthly income amount and this standard (\$ 989.51) is your monthly spenddown or excess income amount. Your excess income for six months is \$. Please see the enclosed Form LDSS-4038, which explains how you can meet the excess income requirements and become eligible for coverage under the EXCESS INCOME PROGRAM.

NOTE: If there are other factors which affect your Medical Assistance coverage, a separate notice is enclosed.

READ THE ENCLOSED NOTICE: (Explanation of the Effect of Transfer of Asset(s) on Medical Assistance Eligibility) FOR IMPORTANT INFORMATION CONCERNING TRANSFERS OF ASSETS.

The Laws and/or Regulation(s) which allow us to do this are Section 366.5 of the Social Services Law and 18 NYCRR 360-4.4, 360-4.5, 360-4.7 and 360-4.8.

REGULATIONS REQUIRE THAT YOU IMMEDIATELY NOTIFY THIS
DEPARTMENT OF ANY CHANGES IN NEEDS, INCOME, RESOURCES, LIVING ARRANGEMENTS OR ADDRESS

YOU HAVE THE RIGHT TO APPEAL THIS DECISION
BE SURE TO READ THE BACK OF THIS NOTICE ON HOW TO APPEAL THIS DECISION

Enclosure(s)

RIGHT TO A CONFERENCE: You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made the wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the first page of this notice or by sending a written request to us at the address listed at the top of the front page of this notice. This number is used only for asking for a conference. *It is not the way you request a fair hearing.* If you ask for a conference you are still entitled to a fair hearing. Read below for fair hearing information.

RIGHT TO A FAIR HEARING: If you believe that the above action is wrong, you may request a State fair hearing by:

- 1) **Telephone:** You may call the state wide toll free number: 800-342-3334 (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL) OR
- 2) **Fax:** Send a copy of this notice to fax no. (518) 473-6735. OR
- 3) **On-Line:** Complete and send the online request form at: <http://www.otda.state.ny.us/oah/forms.asp>. OR
- 4) **Write:** Send a copy of this notice completed, to the Fair Hearing Section, New York State Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. Please keep a copy for yourself.

I want a fair hearing. The Agency's action is wrong because: _____

Print Name: _____ Case Number _____
Address: _____ Telephone: _____
Signature of Client: _____ Date: _____

YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, pay stubs, receipts, medical bills, heating bills, medical verification, letters, etc. that may be helpful in presenting your case.

LEGAL ASSISTANCE: If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the front of this notice.

ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS: To help you get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file which we will give to the hearing officer at the fair hearing. Also, if you call or write to us, we will provide you with free copies of other documents from your file which you think you may need to prepare for your fair hearing. To ask for documents or to find out how to look at your file, call us at the Record Access telephone number listed at the top of the front of this notice or write us at the address printed at the top of the front of this notice.

If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you only if you specifically ask that they be mailed.

INFORMATION: If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the telephone numbers listed at the top of the front of this notice or write to us at the address printed at the top of the front of this notice.

ATTENTION: Children under 19 years of age who are not eligible for Child Health Plus A or other health insurance may be eligible for the Child Health Plus B Insurance Plan (Child Health Plus B). The plan provides health care insurance for children. Call 1-800-522-5006 for information.

WBG TMA

MA CC BUDGET

VERSION 02

DISTRICT ONON

11/22/11

CASE NAME

REG. NO.

OFC

UNIT

WRKR

TR

BT

CA

DATE INS

POPLAWSKI, ANNE

804062

10

CC

109

02

07

01

123010

-----UNEARNED INCOME-----

-----EARNED INCOME-----

LN	C	N	I	SR	P	AMOUNT	CD	EXEMPT	CD	EXEMPT
01	1	X	44	6		120050	21	9650	01	27369
01	1	X	39	6		21601	01	681		0
						0		0		0
						0		0		0
						0		0		0
						0		0		0

LN	C	N	I	EID	SR	P
						0
						0
						0
						0
						0
						0
						0
						0
						0

0 GROSS INCOME

0 65 1/2

MO OF INST TOTAL DED

MO OF INST TOTAL NET

CHRONIC CARE TOTAL DED

CHRONIC CARE TOTAL NET

*****MA SUMMARY*****

TOT NET	U	MO OF INST	CHRONIC CARE	MSP	CONTRIBUTION AMT
		101951	103951		0
MA LEVEL/PIA		76700	5000	INELIG EX INC	
CD/CONT TO COMM		0	0		
CONTRIB TO COST		25251	98951		
TOTAL TO COST		25251	98951		
EFF PER: MO OF INST		120110	TO 123110		
CHRONIC CARE		010111	TO 113011		

-----RESOURCES-----

CD/EX RES	TO
0	TO
0	TO

DATE STORED

IRCS RECORD UPDATED, BUDGET RECORD UPDATED TO VERSION 03 ON 11/22/11

ONONDAGA COUNTY CLERK'S OFFICE
M. ANN CIARPELLI - COUNTY CLERK
 401 Montgomery St - Room 200
 Syracuse, NY 13202

Phone: 315-435-2226
 Fax: 315-435-3455

Doc Type: DEED
 Grantor: POPLAWSKI ANNA E
 Grantee: FALCI DAVID
 FALCI THOMAS

Receipt: 881828 RS
 Book/Page: 05143/0155 Inst: 36348
 Date Filed: 10/22/2010 at 3:37PM
 Updated: 10/25/2010 MS
 Record and Return To:

Legal Desc: SAL L258 LINDENWOOD (MAN)

DAVID & THOMAS FALCI 164 FOREST HILL DR SYRACUSE NY 13206

Prop Address: 304 WAYLAND RD

Submitted by: SALINA

Recording Fees		Miscellaneous Fees	
Addl pages:	1 x 5.00 = \$ 5.00	RMI:	\$ 20.00
Addl Names:	0 x 0.50 = \$ 0.00	TP 584:	\$ 5.00
Addl Refs:	0 x 0.50 = \$ 0.00	RP5217:	\$ 125.00
Misc:	0.00	APFTS:	\$ 0.00
Basic:	\$25.50		
=====		=====	
TOTAL:	\$30.50	TOTAL:	\$ 150.00

MORTGAGE TAX		DEED TRANSFER TAX	
Mortgage:		Consideration	\$55000.00
Basic:	\$0.00	Transfer Tax:	\$220.00
Ins Fund:	\$0.00	\$WIS:	3148
Net Add:	\$0.00	Map #:	072-05-10.0
Misc:	\$0.00		=====
	=====	Total Paid	\$ 400.50
TOTAL	\$0.00	Control no	2521

WARNING - This sheet constitutes the Clerk's endorsement, required by Section 319 of the Real Property Law of the State of New York. Do not detach. Taxes imposed on this instrument at time of recording were paid. Certain information contained in this document is not verified by this office.

M. ANN CIARPELLI
 Onondaga County Clerk

Book/Page 05143 / 0155 Instrument no.: 36348



WARRANTY DEED
With Lien Covenant

THIS INDENTURE, made the 23rd day of September, 2010

BETWEEN

ANNA E. POPLAWSKI, of 304 Wayland Road, Syracuse, NY 13208, individually
and as surviving spouse of John Fred Poplawski, who died December 1992.

grantor, and

R-12

DAVID FALCI, of 164 Forest Hill Drive, Syracuse, NY 13206, and
THOMAS FALCI, of 7376 E. Gate Circle, Liverpool, NY 13090, as joint tenants.

grantee

WITNESSETH, that the grantor, in consideration of One and 00/100 (\$1.00) Dollars, paid by the
grantee, hereby grants and releases unto the grantee, the heirs or successors and assigns of the grantee
forever.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Salina, County of
Onondaga and State of New York, designated as Lot Number Two Hundred Fifty-eight (258) in
LINDENWOOD, according to a map made by George E. Higgins, C. E., dated June 1, 1919 and filed
in the Onondaga County Clerk's Office July 2, 1919.

SUBJECT TO easements, restrictions and covenants of record, if any.

BEING THE SAME PREMISES conveyed to the grantor herein by deed dated June 1994 and
recorded in the Onondaga County Clerk's Office on June 14, 1994 in Deed Book 3930 at Page 262 &c.

Property commonly known as: 304 Wayland Road, Syracuse, New York 13208.

This deed is being executed by James J. Monto, III, under a Power of Attorney given by Anna E. Poplawski
dated August 16, 2010. That James J. Monto, III, does affirm that, at the time of signing this deed, Anna E.
Poplawski is alive and that said Power of Attorney has not been revoked and is still in full force and effect.

TOGETHER with the appurtenances and all the estate and rights of the grantor in and
to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the grantee, the heirs or
successors and assigns of the grantee forever.

AND the grantor covenants as follows:

FIRST - The grantee shall quietly enjoy the said premises;

SECOND - The grantor will forever warrant the title to said premises;

This deed is subject to the trust provisions of Section 13 of the Lien Law. The words
"grantor" and "grantee" shall be construed to read in the plural whenever the sense of this
deed so requires.

IN WITNESS WHEREOF, the grantor has duly executed this deed the day and year first above written.

In presence of:

Anna E. Poplawski by James J. Monto, III, Notary Attorney in Fact
Anna E. Poplawski, by James J. Monto, III, her attorney-in-fact

STATE OF NEW YORK
COUNTY OF ONONDAGA ss:

On September 23, 2010, before me the undersigned, a Notary Public in and for said State,
personally appeared James J. Monto, III, personally known to me or proved to me on the basis of satisfactory
evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me
that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the
person upon behalf of which the individual acted, executed the instrument.

Notary Public

JAMES J. WALLACE
Notary Public, State of New York
Onondaga County, REG #4832108
My commission expires April 18, 2011

511-6851-83 55 01-01-02 31/28/11 0151

Records only

*James Monto
164 Forest Hill Drive
Syracuse, New York 13206*

October 20, 2010

Shirley Pawlewitz
Joan Rankin
Eleanor Goldthwait
Linda Russo
Sharon Monto
John Poplawski

Because it seemed to be too difficult to try and explain this all to each one of you separately, I thought the best way to go through the on-goings of the past couple of months would be in a single written communication. As I'm sure I don't need to explain; the goal here has been to make the last months or years of her life comfortable utilizing the limited resources that she has available.

New Residency

Effective November 1, 2010 my grandmother will move to the Green Point facility at 150 Old Liverpool Road, Apartment 416. Her phone number will remain the same as it has always been. Although this was a very difficult decision for her to make, it is in the best interest of her safety and well-being. Residents at Green Point receive 3 meals a day, all cleaning of their apartments, laundry service, assistance in bathing and other daily activities, along with regular interaction with the other residents of the facility.

Sale of Her Home

The property at 304 Wayland Road has been sold, effective 10/1/10 for a sale price of \$55,000, minus any legal fees, and fees assessed by the County of Onondaga.

This price was based upon two separate and independent evaluations performed on the home by both Coldwell Banker and Keller Real Estate. Both agencies evaluated the property, inside and out and offered suggested listing prices. Due diligence for Solicitation of Offers from independent brokers was also performed, the best offer I received from an independent broker was under \$44,000.

Considering the commission costs, and the costs to make necessary repairs to make the house saleable; the most viable option was to sell the house in 'as is' condition. This allowed for me to sell the house without incurring commission, inspection costs, official appraisals, nor were any repairs necessary prior to the sale. Unfortunately, the home in several areas is in disrepair, and its marketability was limited, at best.

Luckily, David and I were in a position to quickly purchase the home from her, saving her both precious time and money. Over the next few months, the home will be fixed and rented, and will remain in the family for the length of my life.

For the most part, she will be able to take her material possessions with her to her new home, including most furniture, her clothing and personal items. I have begun the process of cleaning out a great deal of clothing, trash, and other misc items.

Proceeds and Finances

Because the sale was a cash transaction, there was no lengthy period of time to get the sale completed, and the proceeds are available for her immediate use. The proceeds have been deposited in draw accounts, immediate-use savings accounts and short-term interest bearing certificates of deposit.

The proceeds of the sale of her home will go directly to her care for the rest of her life. Along with her monthly benefits from Social Security, I have also applied for and will continue to follow up on the following:

Veterans Affairs Benefits for War Time Veterans' Survivors

Unbeknownst to me, she has been eligible for these benefits since the moment she was deemed legally blind a decade ago. Unfortunately, the benefits are not retroactive and will begin when she is officially approved by the Bureau. I will meet with a benefits representative from the Bureau on October 21st, along with an attorney, to file all necessary paperwork requesting assistance.

Supplemental SSI Benefits

Because her income is so limited, there are supplemental benefits available through Social Security, her eligibility is yet to be determined.

Medicaid

Should she outlive the funds that she has available, or should she need to go to a skilled nursing facility, Medicaid will begin to pay for care. Because of the lengthy waiting period for Medicaid approval, the only way for her to gain eligibility was for her to 'spend down' the proceeds of the sale of her home.

Medicare Part D Prescription Benefits

Also unbeknownst to me, her health insurance coverage with Emerson Electric Company has been an unnecessary expense for the past eighteen years. Because she is eligible for Medicare Part D, she could have been paying a small amount for prescription coverage. The enrollment period for Medicare begins on November 15th; at that time, with the help of her new attorney, I will apply for this coverage and hopefully lower her insurance costs dramatically.

I am in hopes that she will receive some financial assistance from all of these agencies, and will be able to stay at Green Point for as long as she is physically able to do so. The Veteran's Affairs Benefits looks most promising, and although it takes a great deal of time for the paperwork to be processed, I am nothing less than hopeful at this time.

Health

She has received three clean bills of health from her doctors over the past month, and is scheduled for another appointment in two weeks. Her medications have not changed, and the status of her health has remained consistent. With the exception of a pretty nasty leg infection this past week, she is doing remarkably well. Her noticeable decline over the past 6 months is due to aging versus any acute medical conditions. Unfortunately, time does not stop. She is doing well for being almost a century old, but it's a daily struggle for her to live on her own.

While at Green Point, I will continue to monitor and manage her prescriptions. Although this is not an ideal situation, the cost for Green Point to provide this service was exorbitant, so in an effort to save her some money, I will continue to do this.

Final Expenses

On October 1st, an amortized custodial trust account with Shepardson Funeral Home in the amount of \$9000.00 was opened; these funds will stay in that account with Shepardson until the time of her death. At that time, the money will be transferred to the funeral home to pay for her final expenses. Should she live for a number of years, the interest on the trust account will amply cover any inflationary charges. An 'Appointment of Agent to Control Disposition of Remains' has been signed and filed with the funeral home, her attorney, and Onondaga County; at the time of her death I will have sole discretion over the disposition of her remains and the services henceforth.

The small amount of life insurance that she had remaining (\$2450.00 cash value) has been cashed out and put towards her burial. The actual monthly cost of the insurance policies would have exceeded their final value, so this was in her best interest to utilize it now instead of continuing to pay into a policy that was undervalued compared to the monthly cost.

If I have left anything out, or there are questions that arise from any of the information above, everyone knows where I live...and my phone numbers.

I am in hopes that this transition will be a positive change to her life, and a positive change for all of those that are involved with her care.

Regards,

Jimmy

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