

EXHIBIT 48

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF SAN DIEGO

Certified Copy

3 DONALD R. SHORT, JAMES F.)
4 GLEASON, CASEY MEEHAN, MARILYN)
5 SHORT, PATTY WESTERVELT, and)
6 DOTTIE YELLE, individually,)
7 and on behalf of all other)
8 similarly situated,)
9 Plaintiffs,)

vs.

) NO. GIC877707

10 CC-LA JOLLA, INC., a Delaware)
11 Corporation, CC-LA JOLLA,)
12 L.L.C., a Delaware limited)
13 liability company,)
14 CC-DEVELOPMENT GROUP, INC.,)
15 CLASSIC RESIDENCE MANAGEMENT)
16 LIMITED PARTNERSHIP, an)
17 Illinois Limited Partnership,)
18 and DOES 1 to 110, inclusive,)
19 Defendants.)

20 Videotaped Deposition of MARILYN M. SHORT,
21 taken at 12531 High Bluff Drive, Suite 100,
22 San Diego, California, commencing at 3:41 p.m.,
23 Wednesday, October 17, 2007, before
24 Shuri Gray, CSR No. 3786.

25 PAGES 1 - 49

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14 BY: LINDA L. LANE, ESQ.

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20 ALSO PRESENT:

21 COLLETTE STARK, VIDEOGRAPHER

22 JAMES GLEASON

23 DONALD SHORT

24 PATTY WESTERFELT

25

1 exercise room, just all the facilities. 4:03PM

2 Q. And that was on the first -- on your first
3 visit to the Towers?

4 A. I think so.

5 Q. And Linda McGrath was employed in the marketing 4:03PM
6 department, correct?

7 A. Yes, she was.

8 Q. So other than receiving a tour of the
9 facilities, including the pool, the model, the library,
10 the billiards, the exercise facilities, can you remember 4:03PM
11 anything else from that first visit?

12 A. She gave us brochures. I can't remember which
13 ones or how many. I can't remember what else.

14 Q. Now, you mentioned the model. You specifically
15 remember her taking you to go see a model on your first 4:03PM
16 visit to La Jolla Village Towers?

17 A. I believe it was the first visit.

18 Q. And where was that model?

19 A. I believe it was located downstairs on the P1
20 level. 4:04PM

21 Q. And what did she tell you about the model?

22 A. Just that it was a representation of what was
23 there at that time, and it had a model -- it included a
24 model of the proposed second tower, which was a separate
25 building on the same property. 4:04PM

1 Q. So you did realize on this first visit that a 4:04PM
2 second tower would be built on that -- on that same
3 property?

4 A. Yes.

5 Q. And you mentioned brochures that she gave you. 4:04PM
6 Do you recall anything specific about the brochures she
7 gave you on that first visit?

8 A. Not particularly, and I can't be sure if it was
9 the first visit or not. I do believe it was the first
10 visit. She mentioned the 24-hour nurse availability, 4:05PM
11 which was important to me, having gone through that
12 situation with my mother and with my brother-in-law.

13 Q. And what did she tell you about that?

14 A. That there was a pull cord in every apartment
15 or several in each apartment. If we needed help, we 4:05PM
16 could always call the -- the nurse or pull the cord if
17 we were unable and we would get emergency -- we would
18 get a nurse. And I asked, "A nurse 24 hours a day?" I
19 just made very, very clear of that. I was at that time
20 recovering from a stroke, and that was probably the most 4:05PM
21 important to me.

22 Q. Did you ask her anything about -- else about
23 that 24-hour nursing program?

24 A. From that time until the time we moved in, I
25 must have asked her several times. 4:06PM

1 Q. And I do want to be clear. I want to stick 4:06PM
2 with this first visit. So on that first visit, can you
3 recall anything that she told you about the 24-hour
4 nursing program?

5 A. Not specifically. 4:06PM

6 Q. Other than what you told me, can you remember
7 anything else about your -- that first visit to La Jolla
8 Village Towers?

9 A. No.

10 Q. How far after that first visit was your next 4:06PM
11 visit to La Jolla Village Towers?

12 A. I don't remember.

13 Q. Within weeks of that first visit?

14 A. Yes.

15 Q. And what do you recall about your second visit? 4:06PM

16 A. I'm not sure on what visit it was. She took us
17 to see an occupied apartment.

18 Q. Do you recall the name of the resident that
19 that apartment was?

20 A. I think it was George Cooper. I'm not sure. 4:07PM
21 It was a long time ago.

22 Q. And so on that visit that she showed you this,
23 the occupied apartment, do you remember anything else
24 about that visit?

25 A. I remember the man, I think George Cooper, 4:07PM

21

1 saying that his main reason for living there, the thing 4:07PM
2 they liked best about it was the people, the people who
3 lived there. It was such a happy, open group of people.
4 And we had already noticed that. That's what pulled us
5 to that place versus Pacific Regents. Everybody seemed 4:07PM
6 so open and happy and have their little dogs around and
7 just very, very friendly environment.

8 Q. Do you remember that resident, George Cooper,
9 saying anything else to you on that visit?

10 A. No. 4:08PM

11 Q. How many visits total do you believe that you
12 made prior to making the decision to move into the
13 community?

14 A. At least five.

15 Q. So you have told me about two of those visits, 4:08PM
16 the first where you received the tour, another one where
17 you went to an occupied apartment. Can you remember,
18 tell me what you remember about your other visits to La
19 Jolla Village Towers?

20 A. I think I just had to be absolutely sure on the 4:08PM
21 24-hour nursing. I just kept asking on that, and wanted
22 to make sure it would be a safe place for me. As I
23 said, I was just recovering from a stroke, and that was
24 just so important to me. }

25 Q. Anything else that you remember Linda McGrath 4:09PM

1 telling you?

4:09PM

2 A. The only thing I can think of is she did say,
3 "You have to realize this is a -- a rural location."
4 She said that when a siren went by outside and made a
5 lot of noise.

4:09PM

6 Q. Anything else about any of your visits that you
7 remember that we haven't already discussed before you
8 made the decision to move into the community?

9 MR. CONGER: Object to the use of the word
10 community. But you can answer.

4:09PM

11 THE WITNESS: Right. At that time we -- yes,
12 of course we discussed the money. We discussed the fact
13 that we were paying for long-term care for the rest of
14 our lives. That was so important, and that was the
15 long-term care for the rest of our lives and the 24-hour
16 nurse and the meals, the beautiful location, the
17 wonderful amenities. It all sounded like a very good
18 package, and I just had to confirm each time, I think I
19 even called her a few times to confirm that this is
20 paying -- we are paying all this money in advance for
21 our health care coverage for the rest of our lives, and
22 we have 24-hour care, because that was important to me.

4:10PM

4:10PM

23 BY MS. LANE:

24 Q. So we have talked about the 24-hour care. Is
25 there anything else that you can remember on that

4:10PM

23

1 subject that Linda McGrath told you before you decided 4:11PM
2 to move into the community?

3 MR. CONGER: Object to the use of the word
4 community --

5 THE WITNESS: Right. 4:11PM

6 MR. CONGER: -- for the reasons previously
7 stated. You can answer.

8 THE WITNESS: I can't think of anything else
9 that she said in that subject.

10 BY MS. LANE: 4:11PM

11 Q. Okay. Now, about the long-term care. Tell me
12 everything that she told you about the long-term care.

13 A. She said that a large portion of what we were
14 paying would be put aside in a trust for our long-term
15 care, and that a portion of that was deductible on our 4:11PM
16 tax -- on our income tax, a portion of our entrance fee,
17 and that the residents every year had been allowed to
18 take this deduction on their entrance fee, and that
19 later we'd have a deduction, a small deduction on our
20 monthly fee. 4:12PM

21 Q. Anything else that you can remember she told
22 you about that subject?

23 A. Not that I can think of right now.

24 Q. Now, you said she said that a large portion
25 would be put aside. Did she tell you what portion? And 4:12PM

1 apartment.

4:21PM

2 Q. And that was in fact the case, correct?

3 A. Yes, it was.

4 Q. What specific amenities were you seeking at a
5 continuing care retirement facility?

4:21PM

6 A. It's a 24-hour availability of a nurse, of a
7 trained medical professional, the promise of continuing
8 care for the rest of our lives. We did not want to have
9 to move again. And a place of peaceful enjoyment. In

10 this case, luxury living, La Jolla Village Towers seemed

4:22PM

11 to present a -- a luxurious lifestyle. And we figured

12 it's our last move, let's do it right. So we wanted a

13 nice place. The swimming pool, their swimming pool was

14 absolutely gorgeous. The social life, the social

15 amenities and with that maybe more -- more important the

4:23PM

16 atmosphere of the people who lived there. We didn't

17 want to be in with a bunch of people who didn't smile at

18 each other. It seemed to be a very friendly group of

19 people. It was just very inviting.

20 Q. Any other amenities that you can recall that

4:23PM

21 you were looking for upon moving in the community?

22 A. The dining, of course, the meals provided. I

23 can't think of anything else right now.

24 Q. And when you moved into the property, there was

25 in fact 24-hour nursing care available, correct?

4:23PM

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1 very disappointed by the care of themselves or their 4:32PM
2 spouses, the medical care they have received in the care
3 center or the attitudes that they have run up against
4 with Hyatt on many issues.

5 BY MS. LANE: 4:33PM

6 Q. And when you are referring to this poor
7 atmosphere, then you are referring to a social
8 atmosphere; is that correct?

9 A. The poor atmosphere in the building, yes. It's
10 a very troubled atmosphere. 4:33PM

11 Q. And again you are talking about on a social
12 aspect?

13 A. Yes, in the Towers. It's not a happy place.

14 Q. You mentioned that you remember receiving
15 brochures during these initial visits to the Towers. Do 4:34PM
16 you recall that testimony?

17 A. Yes.

18 Q. I am going to have you look at some of these.
19 This has previously been marked as Exhibit 64.

20 Mike, this may be one that you have a cleaner 4:34PM
21 copy of. This copy is not great. I think it's one you
22 looked at this morning.

23 MR. CONGER: Short 1275? Yeah, I have got that
24 around here somewhere, Linda.

25 Here you go, Marilyn. That might be an easier 4:34PM

1 copy to look at. That's the original.

4:34PM

2 THE WITNESS: Okay.

3 BY MS. LANE:

4 Q. Do you recall ever seeing this document before?

5 A. I think so, or one very similar to it, the same
6 colors. Yes.

4:35PM

7 Q. And when was the first time that you saw that
8 brochure?

9 A. Prior to moving in. I don't know if it was
10 visit one or two, but early on.

4:35PM

11 Q. And do you believe this to be one of the
12 brochures that you saw in those initial 2000 -- year
13 2000 visits with Linda McGrath?

14 A. Either this one or one very similar to it, yes.

15 Q. Okay. Did you rely on anything in particular
16 in this brochure in making your decision to sign your
17 continuing care residency agreement?

4:35PM

18 MR. CONGER: It's over broad. You can answer.

19 THE WITNESS: Well, obviously the pictures are
20 beautiful, and they are, as I remember, the pool. We
21 showed this to friends and -- let me read it here.

4:35PM

22 Yes, what they say in here, conveniences
23 include 24-hour concierge service, underground parking,
24 valet parking service, scheduled transportation, grounds
25 and apartment maintenance, housekeeping.

4:36PM

39

1 Under our continuing care plans, residents will 4:36PM
2 be able to move -- this is the last paragraph -- will be
3 able to move to our on-site care center. I am thinking
4 this might be a later document than we received, but I
5 can't be sure of that. 4:37PM

6 BY MS. LANE:

7 Q. As you sit here today, you don't know whether
8 or not you saw this brochure prior to moving into the
9 community?

10 A. I'll have to say that, because we did not have 4:37PM
11 an on care center -- an on-site care center at that
12 time. And this says nothing about the 24-hour care.

13 Q. So because you don't remember whether or not
14 you received this brochure prior to moving into the
15 community, can you recall whether you relied on any of 4:37PM
16 those statements that you just pointed out to me?

17 A. Well, those statements were part of the whole
18 Hyatt package that we were given, either verbally or in
19 marketing information.

20 Q. But as far as this specific brochure goes, you 4:38PM
21 don't recall, as you sit here today, whether you saw
22 this brochure prior to moving into the community?

23 A. That's true. I can't be absolutely sure that
24 this is the one we saw.

25 MS. LANE: That's Exhibit 63. 4:38PM

40

1 that.

4:41PM

2 Oh, the bottom paragraph: "Residents who
3 require such services, assisted living, Alzheimer's and
4 nursing, may -- may relocate to a designated nearby care
5 center." And that was the case when we moved in. I
6 know they were sending people for nursing care over to
7 Pacific Regents. And they went through that with us
8 before we moved in, that if we needed care, they would
9 at their expense send us to a similar place elsewhere.
10 So I think this was the form that we saw.

4:41PM

11 Q. And this would again be one of the brochures
12 that you were given by Linda McGrath prior to moving in?

13 A. Right. I don't know if this was a brochure or
14 what it's form was, but I think we saw this.

15 Q. If you take a look at the form, the first and
16 second page, it's divided into three sections on that
17 first and second page. The rental agreement coverage
18 section, do you see that?

4:42PM

19 A. Uh-huh.

20 Q. The continuing care agreement coverage prior to
21 the care center completion, do you see that?

4:42PM

22 A. Uh-huh.

23 Q. And there is a continuing care agreement
24 coverage after the completion of the care center. Do
25 you see that?

4:42PM

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3 DONALD R. SHORT, JAMES F.)
4 GLEASON, CASEY MEEHAN,)
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7 individually, and on behalf)
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vs.) No. GIC877707

11 CC-LA JOLLA, INC., a) VOLUME II
Delaware Corporation, CC-LA)
12 JOLLA, L.L.C., a Delaware)
13 limited liability company,)
14 CC-DEVELOPMENT GROUP, INC.,)
15 CLASSIC RESIDENCE MANAGEMENT)
16 LIMITED PARTNERSHIP, an)
17 Illinois Limited Partnership,)
18 and DOES 1 to 110, inclusive,)
19 Defendants.)

20 Continued Videotaped deposition of MARILYN M.
21 SHORT, taken at 12531 High Bluff Drive,
22 Suite 100, San Diego, California, commencing
23 at 9:04 a.m., Wednesday, November 7, 2007,
24 before Shuri Gray, CSR No. 3786.
25 PAGES 50 - 165

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21 ALSO PRESENT:

22 GRANT MEISENHOLDER, VIDEOGRAPHER

23 JAMES GLEASON

24 DONALD SHORT

25 PATTY WESTERVELT

1 document prior to moving in in April of 2001, correct? 09:07

2 A. Correct.

3 Q. And therefore you did not rely on this document
4 in deciding to move in in April of 2001, correct?

5 A. Correct. 09:07

6 Q. And this is Exhibit No. 68, correct?

7 A. Yes.

8 Q. This has previously been marked as Exhibit
9 No. 22.

10 A. All right. 09:08

11 Q. Have you ever seen this document before?

12 A. Yes, I have, when it was issued in
13 December 2001.

14 Q. So you recall seeing this document in
15 December 2001? 09:08

16 A. Yes.

17 Q. And because you moved into the community in
18 April of 2001, you did not rely on this document in
19 determining whether to move into the community, correct?

20 A. Correct. 09:08

21 Q. Okay. Why do you specifically recall or what
22 do you recall about receiving this document in December
23 of 2001?

24 A. A couple things. When they said we expect
25 liability insurance to increase a thousand percent in 09:09

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1 the next fiscal year, I thought that was very high. I 09:09
2 don't even recall the number 1000 percent. But I knew
3 when we had a business and we were facing an insurance
4 expense increase, I just know they were going through
5 the same thing we had gone through a few years earlier. 09:09

6 And I especially paid attention to the last
7 paragraph when it says that we are finding ways to
8 reduce -- we -- it says "to find ways of reducing the
9 impact of such increases." I relayed on -- relied on
10 that, that they really were trying to get the best deal 09:09
11 for our money.

12 Q. Anything else about the letter?

13 A. No. Those were the things that caught my
14 attention at that time.

15 Q. Did you talk with anyone that was employed by 09:10
16 Classic Residence by Hyatt about this letter or anything
17 contained in the letter?

18 A. I did not.

19 Q. I am going to hand you what's been marked as
20 Exhibit 26. 09:10

21 A. Twenty-six you said?

22 Q. Yes.

23 A. All right.

24 Q. Have you seen this document before?

25 A. I don't think so. 09:11

1 Q. And this document, Exhibit No. 26 is dated 09:11
2 November 14, 2000, correct?

3 A. Correct.

4 Q. And you were not a resident of this date,
5 correct? 09:11

6 A. That's true.

7 Q. Do you have any reason to believe that you saw
8 this document prior to moving into the community in
9 April 2001?

10 MR. CONGER: That's over broad. You can 09:11
11 answer.

12 THE WITNESS: I don't know.

13 BY MS. LANE:

14 Q. But as you sit here today, you don't recall
15 having seen this document prior to moving into the 09:11
16 community, correct?

17 A. Correct.

18 Q. This has previously been marked as Exhibit
19 No. 71.

20 A. Okay. 09:12

21 Q. Have you ever seen this document before?

22 A. I think so.

23 Q. And you recognize this as an income tax
24 deduction letter from Carolyn Zuehl dated December 6,
25 2001? 09:12

1 A. Correct. 09:12

2 Q. When do you recall seeing this document?

3 A. Yes.

4 Q. When -- when did you recall first seeing this
5 document? 09:12

6 A. When it was issued, December 2001.

7 Q. Did you in fact take a tax deduction for the
8 amount of your entrance fee or monthly fees specified in
9 this letter?

10 A. We forwarded this information on to an 09:12
11 account -- to our accountant, and how he used it, I'm
12 not sure. He does our taxes.

13 Q. And who is your accountant?

14 A. Gerald, G-E-R-A-L-D, Bernard. He's in Phoenix.

15 Q. If you could take a look at the fourth 09:13
16 paragraph down which reads: "Additional information
17 regarding the percentage of your monthly fee related to
18 health care in the wellness center will follow in
19 February after the close of the calendar year." Do you
20 see that language? 09:13

21 A. Yes, I do.

22 Q. Do you recall having any questions about that
23 language when you received this letter?

24 A. I don't remember.

25 Q. And is it your understanding that you did 09:13
59

1 site? 09:23

2 A. Probably in late 2000 I looked at that Web
3 site, plus other facilities located in the area. I was
4 looking when we were still shopping for a place.

5 Q. What do you remember about the La Jolla Village 09:23
6 Towers Web site?

7 MR. CONGER: Assumes facts not in evidence.

8 THE WITNESS: Right.

9 MR. CONGER: Class Residence by Hyatt Web site.

10 BY MS. LANE: 09:23

11 Q. Do you remember anything specifically about the
12 Classic Residence by Hyatt Web site?

13 A. Well, I was just pleased to see that they did
14 have a Web site. I didn't notice it any different from
15 anybody else's. 09:24

16 Q. And do you remember anything specifically that
17 was on that Web site?

18 A. No, I don't.

19 Q. This has been marked as Exhibit 34.

20 A. All right. 09:24

21 Q. Do you recall ever having seen this page of the
22 Classic Residence by Hyatt Web site?

23 A. Not really.

24 Q. And the date on the bottom of this printout of
25 the Web site is October 29, 2006. Do you see that? 09:24

1 the things that we were looking for, luxury retirement 09:27
2 living, peace of mind, continuing to pay the same
3 monthly fee after moving to the care center.

4 Q. Anything else?

5 MR. CONGER: Vague and ambiguous. You can 09:27
6 answer.

7 THE WITNESS: No, not that I can recall.

8 BY MS. LANE:

9 Q. And it is your understanding, isn't it, that if
10 you moved to the care center tomorrow, you would 09:27
11 continue to pay the same monthly fee as you are paying
12 today; is that right?

13 A. That is correct.

14 Could I say one more thing on that?

15 Q. Of course. 09:27

16 A. Yeah, I understand that we -- everybody would
17 pay the same monthly fee when they move over to the
18 other side, and that has always raised a question in my
19 mind. People who pay half of what we pay move into the
20 care center and continue paying half of what we pay, and 09:28
21 when we move over to the care center, we would continue
22 paying double of what they pay.

23 Q. Who are you referring to?

24 A. So I am just general, just general.

25 Q. People who moved in prior to you are you 09:28

1 BY MS. LANE: 09:32

2 Q. This has been marked as Exhibit 51.

3 A. Okay.

4 Q. And do you recognize this as being your
5 continuing care residency agreement signed on August 5, 09:33
6 2001?

7 A. Yes.

8 Q. And on the first page of that document, is that
9 in fact your signature under Donald Short's signature?

10 A. Yes. 09:34

11 Q. Did you read this document prior to signing?

12 A. Yes.

13 Q. And did you have any questions about the
14 contract prior to signing?

15 A. I had a lot of questions. 09:34

16 Q. What were those questions?

17 A. Well, it was very confusing, but -- and Don and
18 I talked about it several times before we signed it.

19 First, I have to go back. This is August 2001. We had
20 already moved in in March of 2001, so this would have 09:34

21 been a second agreement. But before we even signed the
22 first one, we had a lot of questions and confusion, and
23 we just came to the agreement that, hey, it's Hyatt.

24 They must know what they are doing, and we just have to
25 trust, and we signed on trust. 09:35

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1 Q. And what were the questions that you had 09:35
2 specifically?

3 A. Well, the promissory note was confusing. We
4 really didn't understand what that was all about. And
5 at this point I can't recall specifics. I really can't. 09:35

6 Q. So other than the promissory note, you don't
7 remember what sort of questions you had prior to signing
8 the contract?

9 MR. CONGER: Well, that question as phrased
10 is -- misstates evidence in this case. This is not the 09:36
11 entire contract. But you can answer.

12 THE WITNESS: I would have to go through and
13 read every page to find things that I really questioned,
14 and so right now, sitting here, I -- I really can't give
15 specific answers. 09:36

16 BY MS. LANE:

17 Q. Did you ask those questions to any employee of
18 Classic Residence by Hyatt?

19 A. For the August 2001, I don't believe so.

20 Q. How about in April of 2001? 09:36

21 A. We just recall -- just asked many, many times
22 wanted to make sure that we had the long-term care plan,
23 the extensive continuing care plan.

24 Q. And that is in fact the plan you have?

25 A. Right. We were just paying everything up front 09:37

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1 for medical care in the care center, if necessary, or 09:37
2 whenever for the rest of our lives.

3 Q. And is it your understanding that you did sign
4 a CCRA in April of 2001?

5 A. If that's when we first moved in, yes. 09:37

6 Q. And that would have been moving into that
7 second floor apartment?

8 A. Right. I was at that time still in recovery
9 mode from my stroke, and I really had to just depend on
10 Don and trust in the Hyatt name, period. 09:38

11 MS. LANE: The reason I ask is, Michael, I
12 don't think that we have a version signed in April of
13 2001.

14 MR. CONGER: Well, I suppose that would be a
15 violation of Title 22, then, for your client, but thanks 09:38
16 for bringing it to my attention. I don't have one or
17 else we would have given it to you, because as I said
18 before, we have given you everything that we have to
19 date, although I have found a couple of tape recordings
20 that we have of meetings. 09:38

21 MS. LANE: And you'll be giving those to us?

22 MR. CONGER: Of course. And I was able to make
23 a copy last night of that -- a color copy. I kind of
24 sweet talked the fellow over at Staples, and I have got
25 that coming to you, that newspaper insert that I was 09:38

1 showing you. 09:39

2 Yeah, you can tell me how you want these tape
3 recordings copied. Maybe we can send them to your video
4 people and they can copy it.

5 MS. LANE: Okay. That will be fine. 09:39

6 BY MS. LANE:

7 Q. So, as you sit here today, can you recall any
8 other specific questions that you asked an employee of
9 La Jolla Village Towers other than the ones that we have
10 already discussed? 09:39

11 A. Well, the only employee that we would have
12 asked questions would have been our -- our agent, Linda
13 McGrath, and the only questions that I recall is just
14 reconfirming information that we understood from the
15 contract. 09:39

16 Q. And you never felt rushed or hurried through
17 the signing of the contract process, did you?

18 A. We did not. We took our time.

19 Q. And did anyone tell that you you couldn't take
20 your time or that you had to hurry and couldn't read or 09:39
21 understand every provision?

22 A. No.

23 Q. Did you have any lawyer or outside person
24 review the contract for you?

25 A. I don't think so. 09:40

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1 THE WITNESS: I'm not quite sure right now. 09:47

2 BY MS. LANE:

3 Q. If it does help you, you can go ahead and take
4 a look at Section IV.

5 MR. CONGER: And you are asking her what she 09:47
6 thought at the time seven years -- six years ago.

7 MS. LANE: When she signed this agreement.

8 MR. CONGER: You can do that if you like. If
9 you have a recall, please tell her.

10 THE WITNESS: As I have said before, one of the 09:47
11 main reasons we moved in is for the long-term care
12 coverage, if necessary, and I was recovering from a
13 stroke, and I could see that that might very well be
14 something I would need.

15 BY MS. LANE: 09:48

16 Q. And Section IV, if you took a look on that on
17 Page 8, Short 1433, is entitled "Long-term Care Plans
18 and Services."

19 A. Uh-huh.

20 Q. And on the following page it lists the 09:48
21 extensive continuing care plan which you have testified
22 is the plan that you all signed up for; is that right?

23 A. I believe so.

24 Q. So back to the provision I was asking you about
25 under "Services Included in Monthly Fees Including 09:48

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1 Long-term Care," set out in that Section IV, which is 09:48
2 your extensive plan --

3 A. Right.

4 Q. -- you understood that that long-term care was
5 a portion of your monthly fee? 09:48

6 MR. CONGER: That's vague and ambiguous as
7 phrased. You can answer. And it misstates what the
8 document says.

9 THE WITNESS: I understood that our monthly
10 fee, if I -- if we ever needed extensive continuing 09:48
11 care, that that was part of our monthly fee.

12 BY MS. LANE:

13 Q. Also part of your monthly fee right above is
14 No. 12, "Emergency Response." Do you see that?

15 A. Yes, I do. 09:49

16 Q. And it states: "Emergency call response, 24
17 hours per day." Do you see that language?

18 A. Yes, I do.

19 Q. And anywhere in that provision does it say that
20 emergency call response would be by a nurse? 09:49

21 A. No, it doesn't, but the salespeople repeatedly
22 told us it was a nurse on call 24 hours a day.

23 Q. And you say "salespeople." This is Linda
24 McGrath that you are referring to?

25 A. Right. 09:49

1 Q. And did you understand this provision prior to 10:00
2 signing?

3 A. Well, first of all, I thank you for finding it,
4 because that's the primary thing I had questions about.

5 I did point this out to my husband, and we were 10:00
6 aware that there were so many things we were being told
7 by the salespeople that are not specifically in this
8 contract, and we thought it's not in the contract, but
9 we were told we have the pool. We were told this, this,
10 this and this. And that paragraph, more than any other, 10:01
11 bothered me. And this was the one that truly made us
12 say we just have to go on trust.

13 Q. So prior to entering into the agreement in
14 2001, you considered this provision, Provision I,
15 "Entire Agreement," very carefully with your husband, 10:01
16 correct?

17 A. Right.

18 Q. And did you specifically ask any questions
19 regarding that provision to anyone other than your
20 husband? 10:02

21 A. I don't think so.

22 Q. If you could to the bottom of that page under
23 "L," it says "Classic Residence by Hyatt's right to
24 contract for services." Do you see that?

25 A. Yes. 10:02

1 answer again.

10:36

2 THE WITNESS: No, I didn't understand it, and
3 we did not see the master trust. We were just having to
4 trust. This was just given to us rather quickly, and we
5 signed it.

10:36

6 BY MS. LANE:

7 Q. Did you ask for a copy of the master trust
8 agreement at any time?

9 A. Yes.

10 Q. Who did you ask?

10:36

11 A. I think it was -- we asked our sales agent. We
12 asked Carolyn Zuehl. We asked the secretary and Sandy.
13 We were just told that this was not given to the
14 residents.

15 Q. Who told you that it was not given to the
16 residents?

10:37

17 A. I don't recall which one, but we could not get
18 the trust -- the master trust.

19 Q. So when did you first begin asking people for
20 copies of the master trust?

10:37

21 A. When we -- when we got this joinder. I mean,
22 you are signing something to become part of the master
23 trust. We wanted to see the master trust. We were told
24 we couldn't.

25 Q. So at the time of the signing of the joinder on 10:37

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