

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO**

**Case No. 1:25-cv-00019 - Civil**

LAUREN CARTER, by and through her Legal  
Guardian Gregory Carter, et al.

Plaintiffs,

vs.

TAKODA TRAILS aka MILLER HOLDINGS  
TAKODA INC., et al.

Defendants.

JUDGE JEFFERY P. HOPKINS

**FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiffs Lauren Carter, by and through her next friend and legal guardian, Gregory Carter and Gregory Carter, individually, for their First Amended Complaint against the above-named Defendants, state and aver upon information and belief:

**JURISDICTION AND VENUE**

1. This is a civil rights action in which the Plaintiffs seek relief for the violation of their rights secured by 42 U.S.C. § 1983 and the First and Fourteenth Amendments to the United States Constitution. Plaintiffs also brings causes of action for violations of the Fair Housing Act, 42 U.S.C. § 3604, *et seq*, the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act (§ 504).
2. The events that give rise to this lawsuit took place in Butler County, Ohio.
3. Jurisdiction is conferred on this Court by 42 U.S.C. § 3613(a)-(b) and by 28 U.S.C. §§ 1331, 1337, 1343 and 2201.

4. Venue is proper in the Southern District of Ohio, under 28 U.S.C. § 1391(b) because those claims arose in this judicial district.

### **PARTIES**

5. Plaintiffs Gregory Carter (hereinafter “Greg Carter”), is a Butler County resident who has been granted guardianship over his daughter Lauren Carter. Greg Carter was named Guardian of the Person on April 4, 2008 and Guardian of the Estate on February 8, 2023. Greg Carter is a Plaintiff in this action both individually and as the Guardian of Plaintiff Lauren Carter.

6. Plaintiff Lauren Carter is a resident of Butler County who is disabled and at all times relevant to this Complaint, Lauren Carter was a resident of Takoda Trails, an Intermediate Care Facility operated by Defendants. Lauren receives Medicaid services through an Individual Option (I/O) Waiver.

7. Defendant Takoda Trails aka Miller Holdings Takoda, Inc. is an Ohio corporation that holds itself out to the public as a provider of residential and intermediate care, through its agents, operatives and/or employees and does business as Takoda Trails aka Miller Holdings Takoda, Inc. Until 2012, Takoda Trails was known as the Fairfield Center. The name change occurred following a death at the location that created some negative public relations issues. Defendant Takoda Trails is a licensed Intermediate Care Facility (ICF) licensed by the state of Ohio and the Federal government. Takoda Trails is a “person” under 42 U.S.C. § 1983. At all relevant times acted under color of law and is a state actor.

8. Defendant CLW aka Creative Learning Workshop aka Empowering People Workshop, Inc. is an Ohio corporation that holds itself out to the public as a provider of Adult Day Services and programming for persons with disabilities, through its agents, operatives and/or employees and does business as CLW aka Creative Learning Workshop aka Empowering People Workshop,

Inc. CLW is also owned by Empowering People, Inc. CLW is a “person” under 42 U.S.C. § 1983. At all relevant times acted under color of law and is a state actor.

9. Defendant Empowering People Management, Inc. is an Ohio corporation that holds itself out to the public as a provider of residential and intermediate care, through its agents, operatives and/or employees and does business as Empowering People Management, Inc. Empowering People Management, Inc. is a “person” under 42 U.S.C. § 1983. At all relevant times acted under color of law and is a state actor.

10. Defendant Empowering People, Inc., is an Ohio for-profit corporation that holds itself out to the public as a provider of residential and intermediate care, through its agents, operatives and/or employees, and operates and controls the other Defendant entities. Empowering People, Inc. is a “person” under 42 U.S.C. § 1983. At all relevant times acted under color of law and is a state actor.

11. Defendant Foundations Health Solutions, LLC, upon information and belief, is an Ohio corporation that holds itself out to the public as a provider of residential and intermediate care, through its agents, operatives and/or employees. Foundations Health Solution, LLC is a “person” under 42 U.S.C. § 1983. At all relevant times acted under color of law and is a state actor.

12. Defendant Kurt A. Miller is the president, owner, and CEO of Empowering People Management, and the President and CEO of Empowering People, Inc. Kurt Miller is a “person” under 42 U.S.C. § 1983. At all relevant times acted under color of law and is a state actor. Kurt Miller is sued in his official and individual capacities.

## **FACTUAL ALLEGATIONS RELEVANT TO THE CAUSES OF ACTION**

### **1. Lauren's Life at Takoda Trails**

13. Plaintiff Lauren Carter is a 37-year-old woman with cerebral palsy and cortical blindness.

14. Lauren's disabilities render her unable to care for herself.

15. From 2002 to 2023 Lauren resided at Defendant Takoda Trails, a licensed Intermediate Care Facility ("ICF") in Butler County, Ohio.

16. On October 18, 2003, Lauren, while residing at Takoda Trails, received 18 stitches to her left hand. The incident was not properly reported by Takoda Trails and was discovered by accident by an inspector for the county who was investigating another, separate, incident. Greg Carter was kept in the dark about this until it was discovered by the inspector. Greg Carter received a call from the ICF when it happened, but the severity was minimized and the stitches were not mentioned. Greg Carter only learned of the stitches when reading a packet of MUI's<sup>1</sup> received following the cut to her neck which occurred 11/30/2021.

17. On May 8, 2006, in an unsubstantiated MUI, a dispute occurred between Fairfield High School and the Fairfield Center concerning what the high school thought was a burn on her arm that appeared to be from a hair dryer.

18. On February 26, 2008, an MUI was filed because there was missing money from the residents' pooled cash fund.

19. On February 28<sup>th</sup> or 29<sup>th</sup>, 2008 an aid physically pushed Lauren back into her wheelchair.

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<sup>1</sup> "Major unusual incidents, also called MUIs, are alleged, suspected, or actual occurrences of an incident when there is reason to believe the health and welfare of a person may be adversely affected or the person is placed at a likely risk of harm." <https://dodd.ohio.gov/health-and-welfare/ui-mui/major-unusual-incidents>

20. On January 6, 2010 while at Defendant Creative Learning Workshop, run by Defendant Empowering People, Inc., Lauren was improperly restrained in her wheelchair.

21. On July 21, 2011 Lauren was left on a hot transport bus for several hours on one of the hottest days of the year, with the windows up and doors closed.

22. On October 2, 2014 Lauren, and her fellow housemates were subjected to the staff falling asleep on their assigned shift. During this shift there were two staff.

23. On November 18, 2014, Lauren's clavicle was broken. Greg Carter did not learn of the extent of this injury until years later.

24. On August 25, 2019, Lauren was hospitalized with a bowel obstruction. It was subsequently discovered that her intake of MiraLAX for stool softening was discontinued. It was on her medication list but Takoda Trails failed to administer her this doctor prescribe medication.

25. On November 30, 2021, Lauren was assaulted at Takoda Trails and her neck was deliberately cut by someone using a sharp implement. The cut on her neck was measured at 4" long by 1 1/2" wide by the EMT's on scene. The cut required 12 stitches to close. There was only one staff person present during this time.

26. On July 18, 2022 Lauren was again left on a hot bus at Defendants' facility (CLW) in July, this time for a period of 5 hours.

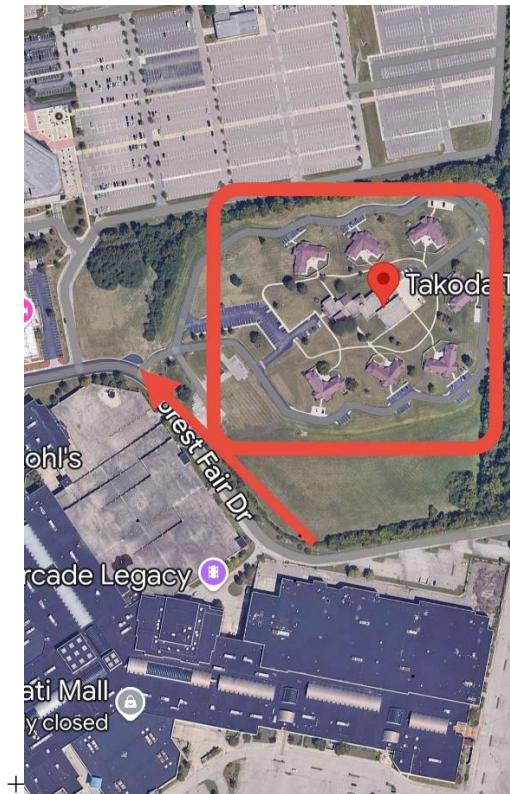
## **II. The Carters Exercise their Rights to Speak and Air their Grievances**

27. On November 30, 2022, Greg and Lauren Carter filed a state court civil tort lawsuit against the Defendants, which pertains to the severe abuse and torture inflicted upon Lauren by Defendants.

28. On January 18, 2023, Greg Carter arranged a media interview with Local12 WKRC TV in Cincinnati.

29. Greg Carter and a Local12 WKRC TV reporter met for an interview outside of Takoda Trails facility around 11:00 a.m., and the interview concluded approximately two hours later, around 1:00 p.m.

30. The following maps show where Greg Carter, identified by a red arrow, was standing during the media interview, in relation to the Takoda Trails property, which is identified with a red square border:



31. During the recorded interview on the public roadway in front of Takoda Trails, the Administrator of Takoda Trails William Maynard, came out to where Greg Carter and the reporter were conducting the interview, and told Greg Carter and the Reporter that they were not permitted to step foot onto Defendants' property.

32. The interview took place from approximately 11:00 a.m. to 1:00 p.m. on January 18, 2024, and aired on the 6:00 p.m. prime time news cycle the evening of January 18, 2023:

33. The interview can be found at <https://local12.com/news/local/family-sues-company-with-homes-for-developmentally-disabled-facilities-daughter-stroke-cerebral-hemorrhage-stroke-care-home-lawsuit-negligence-unexplained-slit-throat-staff-member-fairfield-cincinnati-ohio#>.

### **III. While Greg Carter is Speaking with the Media Defendants began their Retaliation against the Carters**

34. At 2:44 pm, on January 18, 2023 Greg Carter received a letter (“Notice of Discharge”) which informed him that Lauren Carter’s services would be terminated, and Lauren would be discharged from the facility in thirty days from the date of the Notice of Discharge. Exhibit 1.

35. The Notice of Discharge also stated that the discharge and termination of services was due to Greg Carter’s “actions”:

Pursuant to Ohio Department of Developmental Disabilities (DODD) rule 5123-3-05 *Licensed Residential Facilities – transfer and termination of services* I am writing to inform you that Empowering People - Takoda Trails is issuing a 30 day notice of discharge for Lauren Carter. The effective date of this discharge will be Friday February 17, 2023.

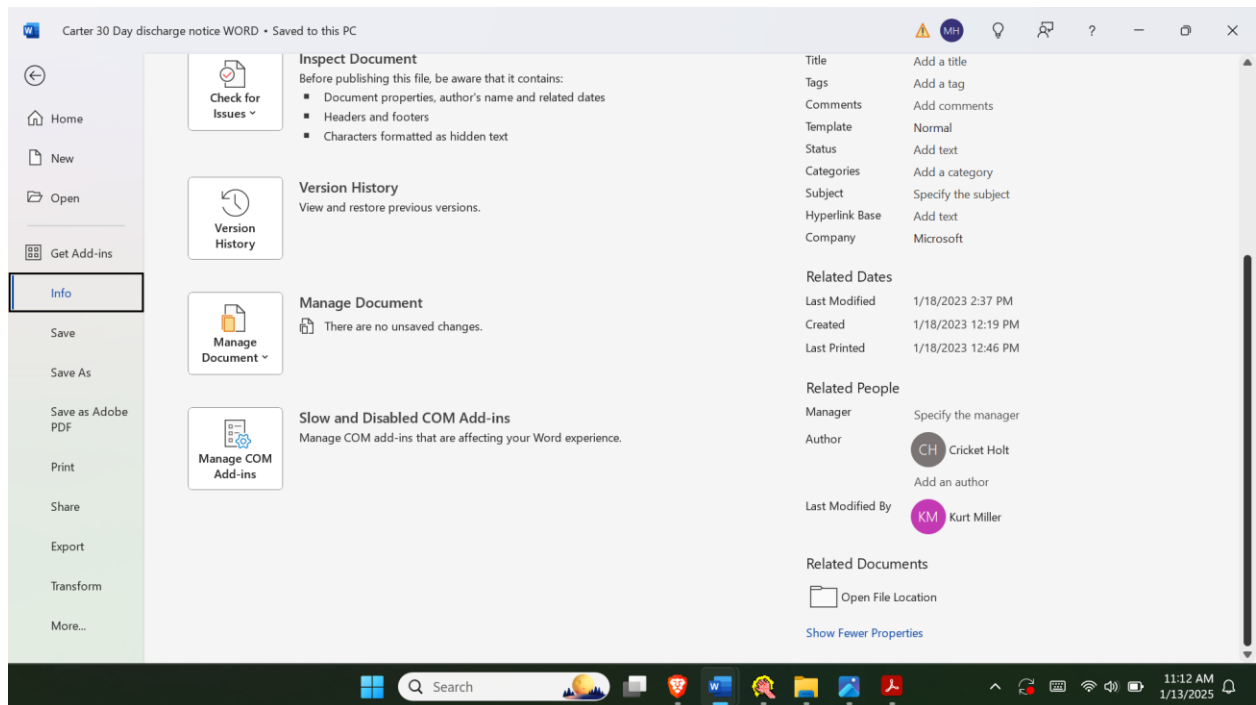
Takoda Trails has served and supported Lauren since assuming operations on September 1, 2012. Due to your actions as Lauren’s legal guardian the home can no longer meet the needs of Lauren without imposing an undue hardship upon the home. Takoda Trails has attempted to communicate with you and continues to serve Lauren after numerous attacks and unfounded accusations.

Ex. 1.

36. At 12:19 p.m. on January 18, 2023, while Greg Carter was conducting the interview with the reporter outside of the Takoda Trails facility, the Notice of Discharge was “created” by a person named Cricket Holt in Microsoft Word, as can be seen from the property page contained within the Notice of Discharge Microsoft Word document. Exhibit 2.

37. The same Notice of Discharge Word document shows that it was “last modified” on January 18, 2023 at 2:37 p.m. by Defendant Kurt Miller, the Owner and CEO of Defendant Empowering People, Inc.

38. The Notice of Discharge (Ex. 1) was drafted and signed by Defendant Kurt Miller, and at that point he had already been named as a defendant in the Carters state tort case.



Ex. 2.

39. Defendant Kurt Miller emailed Greg Carter the Notice of Discharge at 2:44 p.m. on January 18, 2023.

#### **IV. The Notice of Discharge Failed to Provide the Carters with an Opportunity to Contest the Discharge and Termination of Services in a Meaningful Time and Manner**

40. Takoda Trails never identified what “actions” it accused Greg Carter of doing which warranted Lauren being discharged from Defendants’ facility. See Ex. 1.

41. At no time have the Defendants ever provided any information as to what Greg Carter had done that would warrant his daughter’s services being terminated and being discharged from the facility within thirty days from the date of the Notice of Discharge – February 17, 2023.



42. Although Defendant Miller provided information as to how Plaintiffs could appeal to him to challenge the termination of services and discharge, the stages of the appeal process were not set forth in the Notice of Discharge, thus making it appear that Defendant Kurt Miller was the final arbiter of the decision by Defendants to discharge Lauren Carter and terminate her services:

You may appeal the decision of Empowering People – Takoda Trails to discharge Lauren. Please submit the appeal in writing to Kurt Miller, CEO, at [kmiller@empowering-people.net](mailto:kmiller@empowering-people.net). The written appeal must be submitted no longer than 7 calendar days after the receipt of the notice to discharge. You may contact Disability Right's Ohio (DRO) to assist you in the process at 1-800-282-9181 or at 200 S. Civic Center Dr. #300 Columbus, OH 43215.

Ex. 1.

43. Plaintiffs were unable to appeal this Notice of Discharge because they were not given notice as to what the “actions” Takoda Trails was accusing Greg Carter of committing.

44. Moreover, Defendants’ Notice of Discharge failed to set forth certain information that was required by the Law, and which would have enabled the Carters to understand the appeal process.

45. Plaintiffs were prevented from appealing due to the lack of information contained in the Notice of Discharge, and due to Defendants’ non-compliance with Constitutional due process notice.

**V. Defendants failed to follow the law prior to initiating a transfer and termination of services**

46. Ohio Administrative Code Section 5123-3-05(C) sets forth very explicit reasons that would authorize Defendants’ to terminate Lauren’s services:

(C) Transfer and termination of services policies

(1) An operator will allow each resident to remain in the residential facility and shall not initiate a transfer or termination of services unless:

(a) The transfer or termination of services is necessary for the resident's welfare and the resident's needs can no longer be met without imposing an undue hardship on the operation of the residential facility;

(b) The resident no longer needs or wants the services provided by the residential facility or chooses to move to another residence;

(c) The resident is creating a significant risk of substantial harm to self, other residents, or staff in the residential facility;

(d) Nonpayment for the stay in the residential facility, including nonpayment of medicaid or other third-party payer;

(e) The residential facility permanently reduces its capacity;  
or

(f) The residential facility ceases to operate.

47. The Notice of Discharge dated January 18, 2023 fails to set forth any of the permitted statutory reasons for a discharge of Lauren's services.

48. The reason given by Defendants for terminating Lauren's services does not fit into any of the delineated authorized reasons that an ICF can terminate services:

Takoda Trails has served and supported Lauren since assuming operations on September 1, 2012. Due to your actions as Lauren's legal guardian the home can no longer meet the needs of Lauren without imposing an undue hardship upon the home. Takoda Trails has attempted to communicate with you and continues to serve Lauren after numerous attacks and unfounded accusations.

Ex. 1.

49. The State overtly allowed Defendants to not disclose the specific reasons for discharge and termination.

50. The State overtly allowed Defendants to discharge Lauren and terminate her Medicaid Waiver services based upon reasons that are not permitted under 5123-3-05(C).

51. Moreover, Ohio Administrative Code Section 5123-3-05(C)(3) sets forth the steps Defendants were required to take prior to termination of services:

(3) Before initiating a transfer or termination of services, an operator shall:

(a) Notify in writing via certified mail, the individual and the county board of the transfer or termination of services. The notice will contain:

(i) The reason for the transfer or termination of services;

(ii) The effective date of the transfer or termination of services;

(iii) A summary of the action taken by the operator, including working with the county board, to try to meet the resident's needs;

(iv) The individual's right to appeal the transfer or termination of services and the process to do so; and

(v) The telephone number and address of disability rights Ohio.

(b) Explain the transfer or termination of services and appeal rights to the individual in a manner the individual understands; and

(c) Record the reasons for the transfer or termination of services in the resident's record.

52. Defendants failed to abide by three of the above mandatory requirements.

53. Defendants' Notice of Discharge failed to provide the Carters with "[a] summary of the action taken by the operator, including working with the county board, to try to meet the resident's needs[.]" (5123-3-05(3)(a)(iii).

54. Defendants' Notice of Discharge failed to provide "the process" by which to appeal. (Id. at 5123-3-05(3)(a)(iv).

55. Defendants' Notice of Discharge failed to "[e]xplain the transfer or termination of services and appeal rights to the individual in a manner the individual understands[.]" (Id. at (3)(b)).

56. The fact that the Notice of Discharge only stated that the appeal would go to the very person who made the decision to discharge Lauren Carter and terminate Lauren's Medicaid Waiver services, further prevented the Carters from being able to contest the discharge in a meaningful time and manner.

**VI. The State Possessed the Authority to Stop Defendants from Illegally Discharging Lauren Carter and Terminating her Medicaid Waiver services**

57. Under OAC 5123-3-05(G), the Ohio Department of Developmental Disabilities ("DODD") has been given the specific statutory power to ensure that an ICF, such as the one that Defendants' operate, follows the requirements of OAC 5123-3-05.

58. Upon learning that Defendants failed to follow the strictures of the Administrative Code as to the Notice of Discharge, the Ohio Department of Developmental Disabilities ("DODD") should have forced compliance with the law:

(G) Adverse actions

If an operator fails to follow the requirements of this rule or fails to follow the decision of the director, the operator may be subject to adverse actions in accordance with rule 5123-3-06 of the Administrative Code.

59. The "operator" is defined in OAC 5123-3-05(B)(12) "the entity responsible for management of and provision of services at the residential facility."

60. "Residential facility" "means a home or facility, including an ICF, in which an individual with a developmental disability resides." OAC 5123.19(5)(a); *see also* OAC 5123-3-05(B)(13).

61. The DODD, despite having actual knowledge of noncompliance by Defendants, completely failed to ensure that the “operator” followed the requirements of this rule.

62. Additionally, Ohio Administrative Code Section 5123-3-06 gives the authority to the DODD to conduct “special compliance reviews” of the ICF when “there is reason to believe that the residential facility is not being operated in compliance with Chapters 5123” OAC 5123-3-06(C)(2)(c).

63. The DODD did none of the above, despite having actual knowledge of Defendants’ failure to follow the mandated notice requirements set forth in the Rule.

## **VII. The State Ignored the Carter’s Complaints and Inquiries**

64. The Carters attempted to no avail, to complain to the DODD and Butler County Board of Developmental Disabilities (“BCBDD”) about Defendants failure to follow the well delineated Rules for terminating the Medicaid services.

65. On or about January 25, 2023 Greg Carter emailed both the DODD and the BCBDD complaining to them that the Notice of Discharge did not clearly state what his actions were and that there was no “summary of action”:

Empowering People, Inc. states their reason for discharging Lauren is, ‘due to your actions as Lauren's legal guardian the home can no longer meet the needs of Lauren without imposing an undue hardship upon the home’.

What exactly are 'my actions' as her guardian that precipitate them discharging her?

1. I have shined a light on their actions constituting Neglect, Abuse and Malpractice which have been DOCUMENTED and SUBSTANTIATED by the BUTLER COUNTY DEPARTMENT OF DEVELOPMENTAL DISABILITIES
2. I have exercised our rights, and Lauren's rights, under Ohio's recently enacted 'Esther's Law' and installed a camera in her room
3. I have complained to Butler County DODD and Ohio

DODD about their deficiencies.

What is the 'undue hardship' they need to impose?

(emphasis in original).

66. The Carters also asked the DODD and the BCBDD where in the Notice of Discharge was the “summary of the action taken by the operator”, as required by Ohio Administrative Code OAC 5123-3-05:

Where is the summary of their actions?  
What actions have they taken?  
Does BCDODD or OHDODD have a summary of their actions?  
Can you forward that summary?

67. On January 25, 2023 Jennifer Rice from BCBDD responded as follows:

I am unable to respond or explain the reasons behind the notice given to you by Empowering People, Inc. They will have to answer those questions for you. Appealing their decision to provide notice is also an option to get the answers to those questions.

68. The Carters then responded to BCBDD’s response and stated that the questions posed in the emails were for both DODD and BCBDD, and asked the following:

Do you have a summary of their actions as required by the rule?  
Have they fulfilled their duties and responsibilities under this rule as far as Butler County and/or Ohio DODD are concerned?

69. Jennifer Rice of the BCBDD responded “[w]e do not have record of this.”

70. This statement is confounding, as Defendants prior to issuing a Notice of Discharge terminating services and discharging Lauren, were required by law to the Carters “[a] summary of the action taken by the operator, including working with BCBDD. *See* OAC 5123-3-05(3)(a)(iii).

71. So if the County Board did not have Defendants' summary of the action, why did the State allow Defendants to proceed with discharging Lauren Carter and terminating her Medicaid Waiver services?

72. So if the DODD knew that the Defendants had not conferred with them, as required by the discharge statute, why did the State allow Defendants to proceed with discharging Lauren Carter and terminating her Medicaid Waiver services?"

73. DODD never responded whether it had record of the summary of actions or not.

74. Instead, DODD Deputy Director Nash responded stating: "If you choose to appeal and the record comes to us, we will review and determine if the provider followed the appropriate steps."

75. The Carters then responded to Deputy Director Nash:

What is there to appeal?

The rule is clear and they have not satisfied the requirements to issue a discharge.

76. BCBDD responded that the Carters had to appeal if they felt that the ICF did not meet the requirements of the Rule:

You have to submit the appeal if you feel they have not met the requirements of the rule. You would be appealing their decision to discharge, and DODD would determine whether they are in compliance with the rule.

77. DODD Deputy Director Nash did not respond.

78. Ohio Administrative Code 5123-3-06(G).states that "[u]pon receipt of a complaint, department staff will" follow certain steps:

(ii) Upon receipt of a complaint, department staff will:

- (a) Take necessary measures to ensure that any conditions that pose a risk to the health or welfare of the individual have been corrected;
- (b) Determine whether a special compliance review will be conducted;
- (c) Determine if the complaint should be referred to law enforcement, a county board, or another unit or entity internal or external to the department in accordance with rule 5123-11-02 of the Administrative Code; and
- (d) Send a written response to the complainant describing actions taken by the department to address the complaint.

OAC 5123-3-06(C)(2)(c)(ii).

79. The Carters made complaints on multiple occasions to both the DODD and the BCBDD.

*See* above emails.

80. The Carters are permitted by Ohio Revised Code Section 5123.19(K) to file a complaint regarding the failure of Defendants to follow the statutory and codified mandates of service termination:

file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

81. Furthermore, DODD is required to “establish[ ] procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.” R.C. 5123.19(K).

82. The Complaints made by the Carters as set forth in their January 2023 emails – discussed further above – were not addressed in any formal manner by the DODD.



83. Instead, the DODD and the BCBDD placed the onus on the Carters to appeal a discharge notice which failed to follow the law.

84. The State failed to follow the necessary steps upon receipt of the Carter's complaints.

85. Once again, it is the State's inactions, despite being mandated by law to follow certain procedures to protect the rights of disabled persons, that caused the violations alleged herein.

86. If the State had done what it was required to do under the law, which was to follow up on the Complaints made by the Carters, this could have prevented the violations alleged herein.

**VIII. The State Allowed Defendants to cease providing services to Lauren Carter Despite the Carters Never Waiving their Rights to Appeal**

87. As explained further above, the DODD has the authority to force Defendants into compliance with OAC 5123-3-06(A):

This rule sets forth processes for reviews conducted by the department to ensure compliance by residential facilities licensed in accordance with section 5123.19 of the Revised Code, the issuance of licenses for residential facilities operating in accordance with Chapters 5123. and 5124. of the Revised Code, and adverse actions for residential facilities not operating in accordance with Chapters 5123. and 5124. of the Revised Code.

88. The DODD also has specific delegated authority to force Defendants into compliance with OAC 5123-3-06(A):

(G) Adverse actions

If an operator fails to follow the requirements of this rule or fails to follow the decision of the director, the operator may be subject to adverse actions in accordance with rule 5123-3-06 of the Administrative Code.

89. The State failed yet again to stop Defendants from discharging Lauren and terminating her services, despite possessing specific statutory authority to do so, and in fact, despite being required by law to do so.

90. The Carters at no time ever waived in writing their rights to appeal.

91. Unless the Carters waived in writing the right to appeal, Defendants were required to maintain the Medicaid Waiver services.

92. Ohio Administrative Code 5123-3-05(C)(6) states:

If after receiving notice of the transfer or termination of services, the individual waives in writing the individual's rights to appeal, the operator is not required to maintain services or the availability of services.

93. Again, the State with actual knowledge that the Carters did not waive their rights to appeal, permitted Defendants to not maintain the services it was required to do by law.

94. The State was the cause of the constitutional violations set forth herein.

95. If the State had done what it was mandated to do by Ohio law, Defendants would not have been able to terminate services.

96. The State possessed authority on the ultimate decision as to whether Lauren could be terminated.

97. Had the State done its mandated duties Lauren Carter would not have been discharged and her services would not have been terminated because the Carters never waived their rights to appeal in writing.

**IX. State and Federal Law Give the Carters the Right to Voice their Greivance, receive Due Process, and File Complaints**

98. In addition to the exercise of First Amendment rights, the Carters were exercising rights and privileges which were created by the State when they voiced their grievances to the media.

99. The Ohio Bill of Rights for a person with a developmental disability gives the Carters the statutory “right to communicate freely with persons of their choice in any reasonable manner they choose[.]” R.C. 5123.62(I).

100. The Ohio Bill of Rights for a person with a developmental disability gives the Carters the statutory “right to voice grievances and recommend changes in policies and services without restraint, interference, coercion, discrimination, or reprisal[.]” R.C. 5123.62(U).

101. Chapter 5123 “shall be liberally interpreted to accomplish the following purposes: (A) To promote the human dignity and to protect the constitutional rights of persons with developmental disabilities in the state[.]” R.C. 5123.67.

102. 42 CFR § 483.420(a)(3) provides that the ICF “must”:

Allow and encourage individual clients to exercise their rights as clients of the facility, and as citizens of the United States, including the right to file complaints, and the right to due process;

**X. The State Overtly Allowed the Defendants to Violate the Carter’s Rights**

103. The DODD failed to follow the Administrative Rules which govern its duties.

104. The DODD is bound to follow its own regulations.

105. The failure of DODD to ensure that Defendants followed the law and the failure of the DODD to follow the codified mandate that it should ensure the operator is following the law, caused unjust discrimination and denied the Carters adequate notice – which consequently resulted in a violation of the Carter’s constitutional right to due process.

106. There are prescribed codified procedures which are intended to protect the interests of people like the Carters.

107. The State failed to ensure that these protections were abided by the Defendants.

108. Instead of requiring Defendants to follow the law, the State sat back and watched as the constitutional rights of the Carters were trampled upon.

109. Instead of requiring Defendants to “work[ ] with the county board, to try to meet the resident's needs[,]” the State sat backed and watched as Defendants’ did what they want in complete non compliance with the laws and the Constitutions of Ohio and the United States.

110. Instead of following upon on the Carters complaints about Defendants’ failure to provide mandated information to them, the State watched as Defendants trampled on the Carters constitutional rights and failed to abide by Ohio law.

111. Additionally, the State knew the reason for the discharge and termination of services, because on January 26, 2023, Jennifer Rice of the BCBDD, during a telephone call with Greg Carter, told him that the “actions” which caused the discharge and termination of services was because he had “weaponized the camera in her room, and spoke to the media.”

112. The State knew the reason for the Notice of Discharge and yet intentionally withheld it from the Carters and permitted Defendants to discharge Lauren Carter and terminate her services without following the law, with the State themselves responsible for ensuring Defendants’ compliance.

113. The State had actual notice of the complaints made by the Carters, and the underlying facts, and chose to ignore their mandatory duties.

114. If the Defendants and the State had followed the law and provided the Carters with the information statutorily mandated to be provided to him prior to an appeal, he could have appealed the Discharge Notice and gotten an automatic stay of the discharge and termination of services. *See* 5123-3-05(C)(5) (“If an individual requests a hearing regarding the transfer or termination of services, the residential facility must maintain services or the availability of services until a decision is rendered after the hearing unless an emergency exists.”).

**XI. Additional Indicia that the State Control's ICFs Operations and Management**

115. In addition, to the State controlling the discharge and termination of Lauren Carter, the State also controls ICFs through a plethora of state and federal laws.

116. Due to the extensive regulation over ICFs, Plaintiffs have not set forth all of the specific federal and state regulations which show that the state exerts significant control over ICFs.

**A. Control over ICFs through Contractual Agreements**

117. The Ohio Revised Code provides the legal framework for the state to contract with ICFs, primarily through Medicaid provider agreements managed by the Ohio Department of Medicaid (ODM) and the Ohio Department of Developmental Disabilities (ODD).

118. In Ohio, the authority to contract with ICFs is primarily tied to the state's participation in the Medicaid program and its oversight of services for individuals with developmental disabilities.

119. Ohio Revised Code Section 5162.03 authorizes the Ohio Department of Medicaid to administer the Medicaid program in accordance with federal and state law, and implicitly includes the authority to enter into provider agreements (contracts) with facilities like ICFs to deliver Medicaid-covered services.

120. These contracts between ICFs and the State obligate the ICF to provide services in compliance with federal and state regulations, and entitle the facility to Medicaid reimbursement (typically a per diem rate) for services provided to eligible beneficiaries.

121. The ICF as part of the contract is obligated to meet federal certification standards, verified through surveys conducted by the state or federal government (e.g., via the Centers for Medicare & Medicaid Services, CMS).

122. This contract/agreement is contingent on the facility maintaining a valid license from ODD (under ORC 5123.19) and certification from ODH for Medicaid participation.

123. At the federal level, the authority for states to contract with ICFs is rooted in the Social Security Act, which governs the Medicaid program.

124. The Social Security Act, codified in Title 42 of the United States Code (42 U.S.C.), provides the legal foundation for states to contract with ICFs as part of the Medicaid program.

#### **B. Control over ICFs through Inspections and Investigations**

125. In Ohio, the authority to inspect ICFs is established under both the Ohio Revised Code (ORC) and the Ohio Administrative Code (OAC).

126. The primary statute authorizing the state of Ohio to inspect ICFs is tied to the licensing and oversight powers granted to the Ohio Department of Developmental Disabilities (ODD) under Chapter 5123:

- a. R.C. 5123.19(H) authorizes the director of the Department of Developmental Disabilities to "inspect or investigate" any residential facility, including ICFs, to determine compliance with licensing requirements. It states that the director may "enter at any time" for the purpose of inspection or investigation and may issue rules to enforce compliance.
- b. R.C. 5123.19(I) allows the director to conduct inspections to investigate complaints or suspected violations of the law or rules governing residential facilities.
- c. R.C. 5123.191 provides additional authority for the department to monitor and enforce compliance, including through inspections, to ensure the health, safety, and welfare of residents in licensed facilities like ICFs.
- d. R.C. 5123.89 establishes the department's authority to investigate allegations of abuse, neglect, or misappropriation of property involving individuals with developmental disabilities in facilities like ICFs.

125. Revised Code 5165.77 authorizes the Ohio Department of Health (ODH) or the Ohio Department of Medicaid (ODM) to investigate compliance with Medicaid standards, often in

coordination with federal requirements. Investigations may overlap with surveys or inspections but can extend to specific allegations of noncompliance.

126. These statutes collectively empower ODD (for licensing and programmatic oversight) and ODH/ODM (for Medicaid-related oversight) to investigate ICFs.

127. The Ohio Administrative Code also provides detailed regulations implementing the inspection authority granted by the ORC.

128. The relevant provisions are primarily in OAC Chapter 5123-3, which governs residential facilities including ICFs/IIDs:

- a. OAC 5123-3-02(D) specifies that the Department of Developmental Disabilities may conduct inspections of licensed residential facilities to verify compliance with licensing standards. It states that "the department may conduct announced or unannounced inspections" at any time.
- b. OAC 5123-3-04 outlines the compliance review process, which includes inspections to ensure facilities meet health, safety, and operational standards. Non-compliance identified during inspections can lead to corrective actions or license revocation.
- c. OAC 5123-3-06 details the complaint investigation process, which may involve inspections if there are allegations of violations in an ICF.
- d. OAC 5123:2-3-07 covers the investigation of major unusual incidents (MUIs), such as abuse or neglect, in ICFs, and requires providers to report incidents, and the department or designated county boards may conduct investigations to ensure resident safety.
- e. OAC 5123-7-02 ties investigations to provider agreement compliance and allows ODD, in coordination with ODH or ODM, to investigate allegations of noncompliance with state or federal Medicaid standards.

### **C. The State Pays the ICFs for the care provided to Medicaid recipients**

129. The Ohio Revised Code establishes the legal framework for the state to make payments to ICFs/IIDs, primarily through Medicaid reimbursement under the oversight of the Ohio

Department of Medicaid (ODM) and the Ohio Department of Developmental Disabilities (ODD).

130. Sections 5165.01 *et seq.* governs Medicaid payments to nursing facilities and ICFs/IIDs.

#### **D. The State Licenses ICFs**

131. In Ohio, the licensing of Intermediate Care Facilities (ICFs), specifically Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs), is governed by both the Ohio Revised Code (ORC) and the Ohio Administrative Code (OAC).

132. The primary statute authorizing the state of Ohio to license ICFs/IIDs is found in ORC Section 5123.19, and it empowers the DODD to license residential facilities, including ICFs/IIDs, that serve individuals with developmental disabilities. *See* R.C. 5123.19(A)(B)(C).

#### **XII. The Operation of an ICF is considered a “government function”**

133. Ohio Revised Code Section 2744.01(C)(2)(o) identifies “developmental disabilities facilities” as a “governmental function”:

(2) A "governmental function" includes, but is not limited to, the following:

(o) The operation of mental health facilities, developmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies;

#### **XIII. Defendants Would Not Have Been Able to Discharge Lauren Carter and terminate her Medicaid Waiver services without the Overt Imprimatur of the State and without the State’s actual proactive Assistant**

134. Defendants’ discharge of Lauren Carter and the termination of Medicaid Services is so entwined with the governmental policies, which show that the State holds significant control over Defendants, especially in the area being challenged in this Complaint – the discharge of a



Medicaid recipient and the termination of services resulting from a statutory defective discharge notice that fails to provide notice and fails to enable the Carters to contest the matter in a meaningful time and manner.

135. The State possessed the authority over the ultimate decision on whether Lauren could be terminated.

136. Had the State followed and abided by its mandated duties to ensure Defendants followed the law, there clearly would not have been a discharge and termination of services.

137. If the State had done their job, this Lawsuit would not have been filed.

138. The State participated in Defendants' decision-making by failing to act in accordance with their duties.

139. The State has a close connection to the manner in which Defendants' discharge and terminate services of Medicaid Waiver recipients.

140. The State has oversight, and enforcement abilities to ensure that Defendants are not terminating services in violation of the laws.

141. The State is intimately involved in the challenged private conduct.

142. The State was involved with the very activity which caused the injuries giving rise to this Complaint.

**A. The State had Actual Knowledge that the Reason Defendants' Discharged and Terminated Lauren Carter's Services was not a Statutorily Permissive Reason**

143. Defendants and the State were willful participants in the joint activity – that being the discharge of Lauren Carter and the termination of Medicaid Waiver services.

144. The State has affirmatively authorized Defendants' unconstitutional conduct by completely failing to ensure that Defendants abided by the statutory discharge provisions, and

thus enabled the Defendants to discharge Lauren and terminate her services because she aired her grievances to the media – which is not one of the permissive reasons that an ICF can discharge a person and terminate services.

145. The State had sufficient information to give them notice that Defendants were not following the very law, that the State has authority to ensure Defendants' compliance of.

146. The Carters supplied the State sufficient information for it to determine that Defendants were acting unlawfully.

147. The State permitted Defendants to discharge Lauren Carter and terminate the Medicaid Waiver services when the State had actual notice that Defendants had not completed a summary of action.

148. The State permitted Defendants to discharge Lauren Carter and terminate the Medicaid Waiver services when the State had actual notice that Defendants had not conferred with DODD as required with the State.

149. The State permitted Defendants to discharge Lauren and terminate her services, despite the State having actual notice that there being no written waiver of appeal.

150. The state permitted Defendants to Discharge Lauren and terminate her services when it had actual notice that the reasons given by Defendants in the Discharge Notice were completely non-compliant with the statute.

151. The State knew of the “actions” which Defendants were referring to in the Notice of Discharge.

152. The State knew that those “actions” were not statutorily authorized reasons for Defendants to discharge Lauren and terminate her services.

153. If the State had not sat on its hands, the Defendants' would not have been able to walk down the "illegal discharge and termination of service" path.

154. State action must be determined from the specific facts in this case, and it is evident that the State significantly encouraged, or somehow coerced the private party, either overtly or covertly, to discharge Lauren Carter and terminate the Medicaid Waiver services.

155. Defendants' actions are fairly attributable to the State.

156. Defendants and the State acted together to deprive the Carters of their due process rights, their First Amendment Rights, and the ADA rights.

#### **B. Defendants Got Significant Aid from the State**

157. Defendants got significant aid from state officials when the State completely abdicated its duties to process the Carter's complaint and to address the glaring statutory non-compliance shortfall in the Discharge Notice.

158. Defendants got significant aid from state officials when the State completely abdicated its duties to force Defendants into compliance.

159. Defendants got significant aid from state officials when the State intentionally and in violation of its mandated duties, completely sat on their hands while Defendants trampled on the rights of the Carters.

160. The State permitted Defendants to discharge Lauren Carter and terminate her services, despite glaring noncompliance by Defendants as to the discharge statute's requirements and duties.

161. It is because of the State – both DODD and BCBDD – that the Carte's rights were violated.

162. It is because of the State that Defendants were able to violate the Carter's rights.

163. If the State had done its job and followed the law and upheld its statutory mandate to investigate the Carter's complaints, and ensure that Defendants followed the law, Defendants would not have been able to discharge Lauren Carter.

**C. The State Affirmatively Authorized the Illegal Acts of the Defendants**

164. The State in this case affirmatively authorized and facilitated Defendants' unconstitutional conduct alleged herein.

165. The State provided Defendants with assistance in perpetrating the unconstitutional conduct alleged herein.

166. The State, through its inaction, in following its mandate to ensure that Defendants followed the codified Rules as to discharging Lauren Carter and terminating her Medicaid services.

167. The State cannot avoid being responsible for its actions or inactions, by allowing the Defendants to do what they are not authorized to do.

168. The nexus between the state and the Defendants is much more than a mere contractual relationship.

169. The State allowed the private entity to evade clear legal duties.

170. The State itself failed to ensure that the private entity followed the law, despite the State possessing clear legal authority to do so.

171. If the State had ensured Defendants followed the law as to discharging and terminating Medicaid Services, there would have been no discharge or termination of services.

172. Therefore the State's allowance to Defendants to break the law and sit back and do nothing, creates a sufficiently close nexus between the State and the challenged actions set forth herein.

**XIV. Extreme Hardship upon the Carters Resulted From the Termination of Services and the Discharge**

173. On February 17, 2023 Defendants discharged Lauren Carter from Takoda Trails, terminated the Medicaid Waiver services she was entitled to, and abandoned their legal obligation to provide Medicaid funded services.

174. On February 17, 2023 the State allowed Defendants to discharge Lauren Carter from Takoda Trails, terminated the Medicaid Waiver services she was entitled to, and abandoned its legal obligation to ensure that the discharge of Lauren Carter, and the termination of her services, is in compliance with the law.

175. After Greg Carter received the Notice of Discharge, on January 25, 2023, the DODD provided him with a list of DODD Licensed ICFs<sup>2</sup> in Butler, Warren, and Hamilton Counties (the counties in closer-vicinity to where Greg Carter lived),

176. Defendant Empowering People, Inc. was, and is, the owner of eight of the nine facilities set forth in this list of available facilities.

177. The termination of services and the discharge caused by Defendants, led to tremendous consequences for Lauren and her family.

178. The utter disregard for her care from Defendants, combined with the lack of viable options for the developmentally disabled, placed Lauren and her family in a precarious position.

179. On February 17, 2023, Lauren was illegally discharged from Takoda Trails, and Greg Carter and his wife brought her home, as there was no qualified ICF available to meet her needs.

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<sup>2</sup>Ohio Revised Code Section 5124.01(C)(C) defines an “Intermediate care facility for intellectual disabilities” or “ICF/IID” as “an intermediate care facility for the mentally retarded as defined in the "Social Security Act," section 1905(d), 42 U.S.C. 1396d(d).

180. Having found no viable options for Lauren in the thirty days dictated by Defendants, Lauren moved to the residence of Greg Carter and his wife. This, despite the DODD, BCBDD, and probate court personnel agreeing with Greg Carter, that his home was not at all suited for someone with Lauren's needs.

181. The DODD refused to pay Greg Carter and his wife to care for Lauren, so there was no financial support whatsoever from the State.

182. Defendants were paid \$404/day with Medicaid Funds to take care of Lauren, but there were no resources available to the family to provide the same or similar care.

183. Without adequate financial resources, bringing Lauren to the Carter's house was impractical and unworkable.

184. Due to the layout of the house, Greg Carter, his wife, and Lauren were confined as a group to the living room area of the home, a space approximately 12 feet by 14 feet in dimension.

185. Lauren required twenty four/seven supervision and care.

186. Greg and his wife were unable to maintain any sort of sleep schedule and rarely managed more than 3 – 4 hours of sleep per day, and those hours were often not consecutive, and they were required to sleep in recliner chairs in the living room in order to keep a close eye on Lauren.

187. Furthermore, neither Greg nor his wife were able to work, further straining the financial situation.

188. Lauren's sleeping pattern was also very difficult for two people to contend with.

189. It was also very stressful for Lauren.

190. The space available to her was small and constraining. As a result, she was very upset with the reduction in mobility that she had previously had access to. Despite frequent walks through the neighborhood, Lauren's ability to pursue physical activity was significantly impacted.

191. Lauren Carter requires a consistent routine for her mental and physical maintenance and her entire life was turned upside down with her discharge and termination of services.

192. Lauren Carter experienced emotional distress with the upheaval and, while she was in a loving environment, both she, Greg Carter and his wife, all experienced excessive stress and health impacts. Her frustration manifested itself in her running in circles, crying aloud and sustaining self-harm by biting and hitting herself.

193. These circumstances led Greg Carter to pursue other options.

194. Lauren Carter was in the home of Greg Carter and his wife, from February 17, 2023 to March 31, 2023.

195. On March 14, 2023 Lauren Carter began attending an Adult Day Program at Residential Group Homes Inc ("RGHI") in Lebanon, Ohio.

196. On March 31, 2023, Lauren Carter moved into a residential home under management by RGHI, located in Warren County, Ohio.

197. The home, however, was a 'sleep home' and Lauren's sleeping pattern was a problem for that home.

198. A 'sleep home' is operated such that the staff in the home expect to get at least 5 hours of sleep each night.

199. The staff in the home revolted against Lauren being there and demanded that she be moved out.

200. On April 26, 2023 Greg Carter received a voicemail from RGHI that Lauren Carter would need to move from that home by Friday, April 28, 2023. At that moment in time, Greg Carter had no idea what their options were.

201. On April 28, 2023, RGHI personnel moved all of Lauren Carter's possessions and, later in the day, moved Lauren, to a new group home (Caregivers for Independence) in Butler County, Ohio.

202. The staff at the new group home in Butler County had never even been introduced to Lauren Carter, and she was dumped on them by RGHI, with no orientation, training or background.

203. And once again, Lauren Carter's world was turned upside down.

204. Currently Lauren Carter is at a CFI Group Home in Butler County, Ohio.

**XV. Greg Carter never wanted Lauren Carter to be in an institution but they had no choice**

205. Greg Carter and his wife never wanted Lauren Carter in a facility at any time.

206. In 1995, the Columbus Dispatch ran a four-day series focused on Greg Carter's battle to keep her at home and the actions involved from the DODD and Medicaid.

207. This has been a lifelong fight against the entire apparatus of the system in place.

208. Greg Carter never wanted Lauren Carter to be at Takoda Trails, the place that neglected Lauren Carter on a daily basis and accumulated numerous incidents of documented abuse.

209. The problem is there are few places for a person like Lauren Carter to go.

210. Lauren Carter has been in three Intermediate Care Facilities ("ICF") and 2 group homes over the past 30 years.



211. The DODD refused to pay for Lauren Carter being cared at home by Greg Carter and his wife.

212. In May of 1995, Lauren Carter, at the age of 7, was first placed in an ICF at Heinzerling Foundation in Columbus.

213. She was placed there by the DODD because that is what they agreed to pay for.

214. And again, neither the BCBDD nor the DODD would authorize payment of services for Lauren Carter to live at Greg Carter's home.

215. Lauren Carter was the only ambulatory person at Heinzerling at the time and they quickly came to the opinion that they could not care for her.

216. Lauren Carter was subsequently moved in June 1996 to another ICF named Abilities First/Doty House in Middletown, Ohio,

217. Lauren Carter was at Abilities First/Doty House from approximately 1997 to 2002.

218. The MUI's below were all investigated by the BCBDD and subsequently reported to the DODD. (Unless otherwise noted, all MUI's were substantiated by the county inspectors).

219. The BCBDD investigates MUI's, and they submit their findings, either substantiated or unsubstantiated, to the state DoDD.

220. The following MUIs pertain directly to Lauren Carter while she was at Doty House, Lauren's second ICF: (1) On September 30, 1998 Lauren was pinched by an employee because the employee claimed that "she pinched me first"; (2) On December 4, 1998, Lauren left the building unbeknownst to the staff.; (3) On February 25, 1999 an aide told Lauren she was going to "break her fucking arms" if she didn't behave; (4) On June 22, 1999 an aide shoved a 60 cc syringe into Lauren's mouth and referred to her as a "Devil Baby"; (5) On June 24, 2001, in an

unsubstantiated MUI, there was a dispute between employees as to whether one slapped Lauren or not.

221. The health and safety issues pertaining to Defendants treatment of her while at Takoda Trails from 2002 to 2023 are set forth further above, and will not be reiterated here.

222. On January 18, 2024, while at CFI Group Home, Lauren Carter somehow was able to fall down a flight of stairs in the home

223. The abuse Lauren Carter endured at these three ICFs over her lifetime is shocking, and Greg Carter had every right to speak out about the abuse at Takoda Trails, and whatever else he wished to speak about.

224. All of the alleged herein violations as to Plaintiff Lauren Carter, as identified herein, were based upon the acts of a third party, her father, Plaintiff Gregory Carter.

225. In addition to the alleged herein violations suffered by Plaintiff Carter, Plaintiff Gregory Carter suffered damages individually, as identified herein, as a direct result of the retaliation against Lauren Carter.

**FIRST CAUSE OF ACTION**

**42 U.S.C. § 1983**

**First Amendment Retaliation**

**(Issuance of Notice of Discharge for speaking with media)**

226. The Plaintiffs re-allege and incorporate by reference, all of the preceding paragraphs, as if fully set forth herein.

227. The Defendants, as state actors and acting under color of state law, deprived Plaintiffs of a right secured by the Constitution of the United States, namely the First Amendment right to speak freely with the media.

228. Speaking to the media is not one of the authorized reasons for an ICF to terminate services and discharge a Medicaid Waiver recipient.

229. Defendants knew that Plaintiff Greg Carter was speaking with the media, as he was asked by the Defendants to not step onto their property during the media interview.

230. Plaintiffs were engaged in constitutionally protected conduct by speaking with the media.

231. Defendants retaliated against the Plaintiffs for their constitutionally protected conduct by issuing a Notice of Discharge setting forth that Lauren Carter's services will be terminated and that she will be discharged, within thirty days of the Notice.

232. These retaliatory actions were adverse against Greg Carter and Lauren Carter and were driven, at least in part, by the Carter's constitutionally protected conduct.

233. The retaliatory conduct would prevent a person of ordinary firmness from engaging in such protected conduct.

234. All of the alleged herein violations as to Plaintiff Lauren Carter, as identified herein, were based upon the acts of a third party, her father, Plaintiff Gregory Carter.

235. In addition to the alleged herein violations suffered by Plaintiff Carter, Plaintiff Gregory Carter suffered damages individually, as identified herein, as a direct result of the retaliation against Lauren Carter.

236. As a proximate result of the malicious, illegal and unconstitutional acts of the Defendants, Plaintiffs Greg Carter and Lauren Carter were harmed and suffer damages for their physical, mental, and emotional injury and pain, mental anguish, humiliation, and embarrassment.

**SECOND CAUSE OF ACTION**

**42 U.S.C. § 1983**

**First Amendment Retaliation**

**(Eviction for speaking with the media)**

237. The Plaintiffs re-allege and incorporate, by reference, all of the preceding paragraphs, as if fully set forth herein.

238. The Defendants, as state actors and acting under color of state law, deprived Plaintiffs of a right secured by the Constitution of the United States, namely the First Amendment right to free speech.

239. Defendants knew that Greg Carter interviewed the media, as he was asked by the Defendants to not step onto their property during the media interview.

240. Plaintiffs were engaged in constitutionally protected conduct by speaking with the media.

241. Defendants retaliated against the Plaintiffs for their constitutionally protected conduct by evicting Lauren Carter from Takoda Trails.

242. Defendants' discharged Lauren Carter from Takoda Trails because Greg Carter spoke with the media

243. This retaliatory action was adverse against the Carters and was driven, at least in part, by the Carter's constitutionally protected conduct.

244. The retaliatory conduct would prevent a person of ordinary firmness from engaging in such protected conduct.

245. All of the alleged herein violations as to Plaintiff Lauren Carter, as identified herein, were based upon the acts of a third party, her father, Plaintiff Gregory Carter.

246. In addition to the alleged herein violations suffered by Plaintiff Carter, Plaintiff Gregory Carter suffered damages individually, as identified herein, as a direct result of the retaliation against Lauren Carter.

247. As a proximate result of the malicious, illegal and unconstitutional acts of the Defendants, Plaintiffs Greg Carter and Lauren Carter were harmed and suffer damages for their physical, mental, and emotional injury and pain, mental anguish, humiliation, and embarrassment.

**THIRD CAUSE OF ACTION**  
**42 U.S.C. § 1983**  
**First Amendment Retaliation**  
**(Termination and Abandonment of Services for speaking with the media)**

248. The Plaintiffs re-allege and incorporate, by reference, all of the preceding paragraphs, as if fully set forth herein.

249. The Defendants, as state actors and acting under color of state law, deprived Plaintiffs of a right secured by the Constitution of the United States, namely the First Amendment right to free speech.

250. Defendants knew that Plaintiff Greg Carter was speaking with the media, as he was asked by the Defendants to not step onto their property during the media interview.

251. Plaintiffs were engaged in constitutionally protected conduct by speaking with the media.

252. Defendants retaliated against the Plaintiffs for their constitutionally protected conduct by terminating Lauren's services, which she was entitled to under the I/O Medicaid Waiver program.

253. Defendants' refused to provide services that it was legally obligated to provide.

254. In retaliation for speaking with the media, Defendants abandoned their legal obligation to provide these Medicaid funded services.

255. This retaliatory action was adverse against the Carters and was driven, at least in part, by the Carter's constitutionally protected conduct.

256. The retaliatory conduct would prevent a person of ordinary firmness from engaging in such protected conduct.

257. All of the alleged herein violations as to Plaintiff Lauren Carter, as identified herein, were based upon the acts of a third party, her father, Plaintiff Gregory Carter.

258. In addition to the alleged herein violations suffered by Plaintiff Carter, Plaintiff Gregory Carter suffered damages individually, as identified herein, as a direct result of the retaliation against Lauren Carter.

259. As a proximate result of the malicious, illegal and unconstitutional acts of the Defendants, Plaintiff Greg Carter and Lauren Carter were harmed and suffer damages for their physical, mental, and emotional injury and pain, mental anguish, humiliation, and embarrassment.

#### **FOURTH CAUSE OF ACTION**

##### **42 U.S.C. § 1983**

##### **First Amendment Right to Petition for Redress (Termination and Abandonment of Services for filing a state lawsuit)**

260. The Plaintiffs re-allege and incorporate, by reference, all of the preceding paragraphs, as if fully set forth herein.

261. The Defendants, as state actors and acting under color of state law, deprived Plaintiffs of a right secured by the Constitution of the United States, namely the First Amendment right to petition the courts for redress.

262. Significant constitutional protections attach to the filing of a lawsuit.

263. The First Amendment gives the Carters the right to petition the government for redress of grievances, and the right of access to courts.

264. Retaliation for filing a petition violates the literal language of the Petition Clause.

265. Defendants' conduct in terminating Lauren Carter's services, which she was entitled to, violates the Carter's First Amendment right to petition the courts for relief and/or to challenge the decisions and conduct of government officials.

266. Defendants retaliated against the Carters for filing, November 30, 2022, a civil tort lawsuit against Defendants, pertaining to the severe abuse and torture inflicted and caused by Defendants upon Lauren.

267. Defendants retaliated against the Plaintiffs for their constitutionally protected conduct by terminating Lauren's services, which she was entitled to.

268. Defendants' refused to provide services legally obligated to provide.

269. In retaliation for filing a state lawsuit, Defendants abandoned their legal obligation to provide these Medicaid funded services.

270. The Defendants' conduct would likely chill a person of ordinary firmness from continuing to engage in the constitutionally protected activity of petitioning the courts for relief from unlawful government conduct and/or publicly challenging the conduct of government officials.

271. All of the alleged herein violations as to Plaintiff Lauren Carter, as identified herein, were based upon the acts of a third party, her father, Plaintiff Gregory Carter.

272. In addition to the alleged herein violations suffered by Plaintiff Carter, Plaintiff Gregory Carter suffered damages individually, as identified herein, as a direct result of the retaliation against Lauren Carter.

273. As a proximate result of the malicious, illegal and unconstitutional acts of the Defendants, Plaintiff Greg Carter and Lauren Carter were harmed and suffer damages for their

physical, mental, and emotional injury and pain, mental anguish, humiliation, and embarrassment.

**FIFTH CAUSE OF ACTION**  
**42 U.S.C. § 1983**  
**First Amendment Petition Clause**  
**Issuance of Notice of Discharge for filing a state lawsuit**

274. The Plaintiffs re-allege and incorporate, by reference, all of the preceding paragraphs, as if fully set forth herein.

275. The Defendants, as state actors and acting under color of state law, deprived Plaintiffs of a right secured by the Constitution of the United States, namely the First Amendment right to petition the courts for redress.

276. Significant constitutional protections attach to the filing of a lawsuit.

277. The First Amendment gives the Carters the right to petition the government for redress of grievances, and the right of access to courts.

278. Defendants retaliated against the Carters for filing, November 30, 2022, a civil tort lawsuit against Defendants, pertaining to the severe abuse and torture inflicted and caused by Defendants upon Lauren.

279. Retaliation for filing a petition violates the literal language of the Petition Clause.

280. Defendants' conduct in issuing a Notice of Discharge setting forth that Lauren's services, which she was entitled to, will be terminated, and that she will be discharged, violates Plaintiffs First Amendment right to petition the courts for relief and/or to challenge the decisions and conduct of government officials.

281. The Defendants' conduct would likely chill a person of ordinary firmness from continuing to engage in the constitutionally protected activity of petitioning the courts for relief



from unlawful government conduct and/or publicly challenging the conduct of government officials.

282. The Defendants' retaliation against Greg Carter and Lauren Carter for exercising their First Amendment rights has also proximately damaged the Carters in various ways, as described further above in the Fact section, for which the Plaintiffs seek damages to be proven at trial.

283. Defendants' conduct in issuing an Notice of Discharge violates Greg Carter and Lauren Carter's rights to free speech under the First Amendment to the U.S. Constitution to petition the courts for relief and/or to challenge the decisions and conduct of government officials.

284. The Defendants' conduct would likely chill a person of ordinary firmness from continuing to engage in the constitutionally protected activity of petitioning the courts for relief from unlawful government conduct and/or publicly challenging the conduct of government officials.

285. All of the alleged herein violations as to Plaintiff Lauren Carter, as identified herein, were based upon the acts of a third party, her father, Plaintiff Gregory Carter.

286. In addition to the alleged herein violations suffered by Plaintiff Carter, Plaintiff Gregory Carter suffered damages individually, as identified herein, as a direct result of the retaliation against Lauren Carter.

287. The Defendants' retaliation against the Plaintiffs for exercising their First Amendment rights has also proximately damaged the Plaintiffs in various ways, as described further above in the Fact section, for which the Plaintiffs seek damages to be proven at trial.

**SIXTH CAUSE OF ACTION**  
**42 U.S.C. § 1983**  
**First Amendment Petition Clause**  
**(Eviction for filing a state lawsuit)**

288. The Plaintiffs re-allege and incorporate, by reference, all of the preceding paragraphs, as if fully set forth herein.

289. The Defendants, as state actors and acting under color of state law, deprived Plaintiffs of a right secured by the Constitution of the United States, namely the First Amendment right to petition the courts for redress.

290. Significant constitutional protections attach to the filing of a lawsuit.

291. The First Amendment gives the Carters the right to petition the government for redress of grievances, and the right of access to courts.

292. Defendants retaliated against the Carters by evicting Lauren for filing a civil tort lawsuit (in November of 2022) against Defendants, pertaining to the severe abuse and torture inflicted and caused by Defendants upon Lauren.

293. Retaliation for filing a petition violates the literal language of the Petition Clause.

294. Defendants' conduct in evicting Lauren violates the Carter's First Amendment right to petition the courts for relief and/or to challenge the decisions and conduct of government officials.

295. The Defendants' conduct would likely chill a person of ordinary firmness from continuing to engage in the constitutionally protected activity of petitioning the courts for relief from unlawful government conduct and/or publicly challenging the conduct of government officials.

296. All of the alleged herein violations as to Plaintiff Lauren Carter, as identified herein, were based upon the acts of a third party, her father, Plaintiff Gregory Carter.

297. In addition to the alleged herein violations suffered by Plaintiff Carter, Plaintiff Gregory Carter suffered damages individually, as identified herein, as a direct result of the retaliation against Lauren Carter.

298. The Defendants' retaliation against the Plaintiffs for exercising their First Amendment rights has also proximately damaged the Plaintiffs in various ways, as described further above in the Fact section, for which the Plaintiffs seek damages to be proven at trial.

**SEVENTH CAUSE OF ACTION**  
**42 U.S.C. § 1983**  
**Fourteenth Amendment Due Process**

299. The Plaintiffs re-allege and incorporate, by reference, all of the preceding paragraphs, as if fully set forth herein.

300. The Defendants, as state actors and acting under color of state law, deprived the Plaintiffs of a right secured by the Constitution of the United States, namely the Fourteenth Amendment right to due process.

301. Plaintiffs were deprived of an individual interest included within the Fourteenth Amendment's protection of life, liberty, or property,

302. Plaintiffs have a property, liberty and life interest in receiving services at Takoda Trails under the Medicaid waiver program that provides home-and community-based care.

303. Plaintiffs have a legitimate claim of entitlement to participate in the Medicaid waiver program, and to receive the services permitted by that government program.

304. Defendants deprived Plaintiffs of life, liberty, or property, without due process.

305. The procedures available to defendants did not provide due process of law.

306. Defendants failed to provide Plaintiffs with notice and a meaningful opportunity to be heard on the deprivation of Plaintiffs' rights regarding the Notice of Discharge, the eviction and the termination of services.

307. The Notice of Discharge failed to adequately inform Plaintiffs of the nature of the evidence against them, to enable them to effectively rebut that evidence.

308. The Discharge Notice is insufficient to provide notice as to what actions Plaintiffs did, because it fails to set forth a factual statement to justify termination of services and the eviction from the facility.

309. The Notice of Discharge was deficient because it did not provide Plaintiffs with knowledge of the circumstances upon which the termination of services and eviction was predicated sufficient to afford the Plaintiffs an opportunity to prepare a meaningful rebuttal.

310. The Discharge Notice is not reasonably calculated to inform the Plaintiffs of the allegations against them and provide a means for responding to the allegations.

311. The Discharge Notice fails to set forth the alleged misconduct with particularity.

312. A primary purpose of the notice required by the Due Process Clause is to ensure that the opportunity for a hearing is meaningful.

313. The explanation of the proposed action and of the reasons for the action must be detailed enough to allow for a meaningful hearing

314. Defendants violated Plaintiffs' due process rights by failing to provide constitutionally sufficient notice of their ability to appeal the termination of services and eviction.

315. The constitutional notice requirement also requires a direct and clear notice of an appeals process, which the Discharge Notice failed to give.

316. Although Defendant Miller provided information as to how Plaintiffs could appeal to him to challenge the termination of services and eviction, the stages of the appeal process were not set forth in the Notice of Discharge, thus making it appear that Defendant Kurt Miller was the final arbiter of the decision by Defendants to evict Lauren and terminate her services.

317. If Defendant Miller is the final arbiter of the decision as to the termination of services and eviction, then this further violates Plaintiffs' rights to challenge the eviction, the discharge, and the termination of services, as the same person who made the decision to terminate services and evict Lauren is the same person who will make the final decision.

318. Because the notice received by plaintiffs fails to specify with particularity the factual information or reasons for defendants' denial of retroactive assisted living waiver benefits, it is not adequate notice under the Due Process Clause.

319. Defendants acted under color of law and their actions constituted an arbitrary and unconscionable abuse of government authority.

320. The discriminatory conduct and actions of Defendants demonstrate a willful and gross disregard for the known rights of Plaintiffs.

321. Defendants' conduct was intentional or recklessly indifferent.

322. All of the alleged herein violations as to Plaintiff Lauren Carter, as identified herein, were based upon the acts of a third party, her father, Plaintiff Gregory Carter.

323. In addition to the alleged violations suffered by Plaintiff Carter, Plaintiff Gregory Carter suffered damages individually, as identified herein, as a direct result of the retaliation against Lauren Carter.

324. The Defendants' conduct in violating due process under the Fourteenth Amendment against the Plaintiffs, has proximately damaged Plaintiffs in various ways, as described further above in the Fact section, for which the Plaintiffs seek damages to be proven at trial.

**EIGHTH CAUSE OF ACTION  
42 U.S.C. § 3604 of the Fair Housing Act  
Failure to Accommodate**

325. Plaintiffs incorporate by reference all other paragraphs of this Complaint and Jury Demand as if fully set forth herein.

326. Plaintiffs are not required to exhaust their administrative appeals. *See McNeese v. Board of Education*, 373 U.S. 668, 671-72, 83 S. Ct. 1433, 10 L. Ed. 2d 622 (1963) (holding that absent a contrary federal statute, a 42 U.S.C. § 1983 plaintiff is not required to exhaust state administrative remedies); *See also Jones v. Metzger*, 456 F.2d 854, 856 (6th Cir. 1972) (holding that exhaustion of state administrative remedies is not required in a § 1983 action.).

327. However, even were the Court to consider whether Plaintiffs were required to exhaust their administrative remedies, that requirement is invalid under Section 3615 of the FHA.

328. Section 3615 of the FHA provides in relevant part:

[A]ny law of a state, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

329. Reasonable accommodation is for Lauren Carter's to stay in the facility, and without knowing what Greg Carters actions were, he could not reasonably determine what to appeal.

330. The Carters cannot appeal, unless they know what they are appealing.

331. Defendant has failed to make a "reasonable accommodation" under Section 3604 of the FHA. *See* 42 U.S.C. § 3604(f)(3)(B).

332. When the Carters complained to the State the State could have, and should have, relayed this information to the Defendants.

333. The State was already communicating with the Defendants and knew the reason for the Discharge, because Greg Carter weaponized the camera.

334. Lauren Carter is disabled and Defendants are required to accommodate this disability.

335. Defendants have violated the Fair Housing Act because they have denied Plaintiffs reasonable accommodation, based upon Plaintiff Lauren Carter's disability.

336. The failure to accommodate a person who is disabled, constitutes discrimination against a person in violation of the FHA - 42 U.S.C. § 3604(f)(2), (f)(3)(B) - by discriminating on the basis of handicap in connection with her dwelling.

337. Defendants were required to reasonably accommodate Lauren and continue to provide her with the services at Takoda Trails.

338. Instead Defendants discharged Lauren Carter and terminated her Medicaid services, which she was entitled to.

339. Defendants, through their conduct and acts described, violated 42 U.S.C. § 3604(f), by refusing to make reasonable accommodation in its rules, policies, practices, or services, when such accommodations are necessary to afford Plaintiffs, an equal opportunity to use and enjoy the dwelling.

340. To the extent that Defendants argue that there is a requirement to appeal, this requirement impedes reasonable accommodation for her disability and is void.

341. Providing an accommodation to Plaintiffs would not (1) result in substantial physical damage to the property of others; (2) pose an undue financial and administrative burden; or (3) fundamentally alter the nature of Defendants' operations.

342. The accommodation Plaintiff requested does not impose an undue financial and administrative burden on the Defendants, nor does it fundamentally alter the nature of Defendants' operations.

343. Defendants' policies do not trump the FHA.

344. Any policy, practice, procedure, or law that contradicts the FHA is preempted and is unenforceable.

345. The policy, practice, procedure, or law which Defendants rely upon to issue a Notice of Discharge, to evict Lauren Carter, and to terminate and abandon her services is void as a matter of law as to reasonable accommodation under the FHA, or Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act (§ 504).

346. All of the alleged herein violations as to Plaintiff Lauren Carter, as identified herein, were based upon the acts of a third party, her father, Plaintiff Gregory Carter.

347. In addition to the alleged herein violations suffered by Plaintiff Carter, Plaintiff Gregory Carter suffered damages individually, as identified herein, as a direct result of the retaliation against Lauren Carter.

348. As a direct and proximate cause and consequence of Defendants' unlawful conduct as described above, Plaintiffs have suffered injuries in an amount to be proven at trial and are entitled to declaratory and injunctive relief.

**NINTH through SIXTEENTH CAUSES OF ACTION**

**42 U.S.C. § 1983**

**(Monell liability against the Corporate Defendants  
as to causes of action One through Eight)**

349. The Plaintiffs re-allege and incorporate, by reference, all of the preceding paragraphs, as if fully set forth herein.



350. Plaintiffs set forth their Monell causes of action which pertain to the above Causes of Action One through Eight.

351. A municipality is liable under 42 U.S.C. § 1983 if the acts that violated a person's right were undertaken pursuant to the municipality's policies and customs.

352. Those acts therefore subject the Corporate Defendants to liability for the constitutional violations of the individual Defendant Kurt Miller.

353. The Corporate Defendants directly caused the constitutional violations suffered by Plaintiffs, and are liable for the damages caused as a result of the conduct of the individual Defendant Kurt Miller.

354. Defendants, including Defendant Kurt Miller, are state actors and acting under color of state law,

355. The official who caused the harm, Defendant Kurt Miller, was a final policymaker for the Corporate Defendants.

356. Defendant Kurt Miller possesses final authority to establish the policies of the Corporate Defendants with respect to the action ordered.

357. Defendant Kurt Miller has and at all relevant times had final policy making authority over all relevant aspects of discharging residents or terminating their services, including the issuance of the Notice of Discharge and the decisions as to when and why to discharge a resident, and when and why to terminate the Medicaid services

358. The first amendment retaliations and the due process violations was the result of an official policy or custom of Corporate Defendants, in that Kurt Miller, who created the constitutional violations alleged herein, wields final policy making authority.

359. Kurt Miller possessed final authority to establish the Corporate policy with respect to the constitutional violations alleged above in the First through Seventh Causes of Action.

360. Defendant Kurt Miller acted as a final policymaker in the particular areas relevant to the causes of action set forth herein.

361. The conduct of the Defendant Kurt Miller was a direct consequence of the policies and practices of Corporate Defendants.

362. All of the alleged herein violations as to Plaintiff Lauren Carter, as identified herein, were based upon the acts of a third party, her father, Plaintiff Gregory Carter.

363. In addition to the alleged herein violations suffered by Plaintiff Carter, Plaintiff Gregory Carter suffered damages individually, as identified herein, as a direct result of the retaliation against Lauren Carter.

364. As a proximate result of Defendants' illegal and unconstitutional acts as alleged in the prior causes of action set forth above, Plaintiffs suffered physical, mental, and emotional injury and pain, mental anguish, suffering, humiliation, and embarrassment.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs demand judgment against Defendants as follows, as to all causes of action set forth above: compensatory damages and punitive damages as permitted under 42 U.S.C. § 1983, and the ADA, FHA, and any other applicable law, plus pre-judgment and post-judgment interest, costs of suit, and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988. Plaintiffs also seek any and all other relief to which the Court determines the Plaintiffs are entitled.

Respectfully Submitted,

/s/ Michela Huth

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2025, a copy of the foregoing First Amended Complaint was served upon opposing counsel by operation of the Court's Electronic Filing System.

/s/ Michela Huth  
MICHELA HUTH

# EXHIBIT 1



Mr. Greg Carter – Guardian of Lauren Carter

January 18, 2023

Dear Mr. Carter,

Pursuant to Ohio Department of Developmental Disabilities (DODD) rule 5123-3-05 *Licensed Residential Facilities – transfer and termination of services* I am writing to inform you that Empowering People - Takoda Trails is issuing a 30 day notice of discharge for Lauren Carter. The effective date of this discharge will be Friday February 17, 2023.

Takoda Trails has served and supported Lauren since assuming operations on September 1, 2012. Due to your actions as Lauren's legal guardian the home can no longer meet the needs of Lauren without imposing an undue hardship upon the home. Takoda Trails has attempted to communicate with you and continues to serve Lauren after numerous attacks and unfounded accusations.

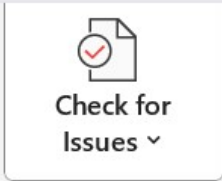
You may appeal the decision of Empowering People – Takoda Trails to discharge Lauren. Please submit the appeal in writing to Kurt Miller, CEO, at [kmiller@empowering-people.net](mailto:kmiller@empowering-people.net). The written appeal must be submitted no longer than 7 calendar days after the receipt of the notice to discharge. You may contact Disability Right's Ohio (DRO) to assist you in the process at 1-800-282-9181 or at 200 S. Civic Center Dr. #300 Columbus, OH 43215.

It has been Takoda Trails pleasure to serve Lauren for the past 10 years. Please let us know what assistance you may require to assist in the transfer. Takoda Trails wishes nothing but the best for Lauren in the future.

Respectfully,

*Kurt A. Miller*

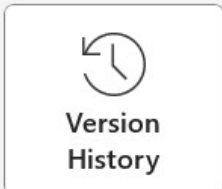
Kurt A. Miller, President/CEO  
Empowering People



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| Manager          | Specify the manager   |
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| Last Modified By | <div> Kurt Miller</div>                          |

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EXHIBIT 2