

ROSA CORREA and
MICHAEL HAMILTON

Plaintiffs,

v.

ABC CAPITAL INVESTMENTS LLC, et al.

Defendants.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL DIVISION
NOVEMBER TERM, 2018
NO. 181101533

ORDER

AND NOW THIS ____ day of _____, 2019, upon consideration of Plaintiffs Rosa Correa and Michael Hamilton's Motion to Strike Objections and Insufficient Answers and for Sanctions against Defendants, it is hereby ORDERED that the Motion is GRANTED. It is further ORDERED that

1. Defendants ABC Capital Realty LLC and SAAT Investments LLC's objections to document requests 2, 3, 4, 9, 10, 12, 13, 21, 26, 27, 29, 30, 31, 35, and 36 are STRICKEN;
2. Defendants ABC Capital Realty LLC and SAAT Investments LLC's objections and insufficient answers to interrogatories 3, 4, 11, 12, 16, 17, 18, 22, 25, and 26 are STRICKEN;
3. Defendants are directed to RESPOND to the document requests in paragraph no. 1, and to answer the interrogatories identified in paragraph no. 2 within ten (10) days;
4. Defendant ABC Capital Investments LLC is directed to respond to all of the document requests and interrogatories within ten (10) days; and

5. Plaintiffs are awarded, and Defendant ABC Capital Investments LLC must pay, attorneys' fees and costs, the amount of which will be determined at a later date, for the time expended to draft and file this Motion due to Defendant ABC Capital Investment LLC's failure to respond to Plaintiffs' discovery requests in violation of this Court's January 30, 2019 Order.

BY THE COURT:

, J.

PUBLIC INTEREST LAW CENTER
By: Dan Urevick-Ackelsberg, Esquire
Atty. ID No.: 307758
dackelsberg@pubintl.org
By: George A. Donnelly, Esquire
Atty. ID No.: 321317
gdonnelly@pubintl.org
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103
215-627-7100

BALLARD SPAHR LLP
By: Matthew A. White
Atty. ID No.: 55812
whitema@ballardspahr.com
By: Michael R. McDonald
Admitted pro hac vice
mcdonaldm@ballardspahr.com
1735 Market Street, 51st Floor
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215-665-8500
Attorneys for Plaintiffs

ROSA CORREA and
MICHAEL HAMILTON

Plaintiffs,

v.

ABC CAPITAL INVESTMENTS LLC, et al.

Defendants.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL DIVISION
NOVEMBER TERM, 2018
NO. 181101533

NOTICE OF PRESENTATION

TO: Andrew Swain
Christopher Bradley
The Swain Law Firm, P.C.
2410 Bristol Road
Bensalem, PA 19020
Attorney for Defendants

PLEASE TAKE NOTICE that Plaintiffs' Motion to Strike Objections and Insufficient
Answers and for Sanctions against Defendants will be presented to the Court on

_____, 2019 at ____ a.m./p.m., Courtroom ___, City Hall, Philadelphia, Pennsylvania. A copy of the motion is attached.

Dated: April 25, 2019

/s/ George A. Donnelly, Esq. _____
George A. Donnelly, Esquire
gdonnelly@pubintl.org
Dan Urevick-Ackelsberg
dackelsberg@pubintl.org
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Attorneys for Plaintiff

ROSA CORREA and
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COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
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NOVEMBER TERM, 2018
NO. 181101533

**PLAINTIFFS' MOTION TO STRIKE OBJECTIONS OR INSUFFICIENT ANSWERS
AND FOR SANCTIONS**

Plaintiffs Rosa Correa and Michael Hamilton ("Plaintiffs") hereby move this Court to strike the objections and insufficient answers provided by Defendants ABC Capital Realty LLC ("ABC Realty") and SAAT Investments LLC ("SAAT") in response to Plaintiffs' discovery requests, and to impose Sanctions against Defendant ABC Capital Investments LLC ("ABC Investments") for violating this Court's January 30, 2019 Order by failing to respond to Plaintiffs' discovery requests, and in support hereof aver as follows:

I. BACKGROUND

1. On November 13, 2018, Plaintiffs filed their Complaint in this Action.
2. On December 5, 2018, Plaintiffs' counsel agreed to grant the ABC Capital Defendants an extension until December 28, 2018 to respond to the Complaint. *See* Ex. A.
3. On December 17, 2018, Plaintiffs' counsel served discovery requests on Defendants via email and the U.S. mails. *See* Ex. B.
4. On December 20, 2018, Plaintiffs' counsel agreed to extend the time to answer for all Defendants until January 4, 2019, under the conditions that preliminary objections would not be filed and SAAT would agree to answer the discovery served on December 17, 2018, within 30 days, in accordance with the Pennsylvania Rules of Civil Procedure. *See* Ex. C.
5. On January 16, 2019, Plaintiffs' counsel emailed Defendants regarding their obligation to provide discovery responses pursuant to the Pennsylvania Rules of Civil Procedure and their previous agreement. *See* Ex. D.
6. Defendants did not answer, forcing Plaintiffs to file their first Motion to Compel on January 17, 2019. *See* Ex. E.
7. On January 30, 2019, this Court granted Plaintiffs' Motion to Compel and entered an Order stating that Defendants must respond to the discovery requests. *See* Ex. F.
8. On February 11, 2019, only two Defendants SAAT and ABC Realty responded, and they did so in an extremely limited manner. *See* Ex. G. For example, Defendants produced a sum total of *six* documents—this bespeaks bad faith.
9. Defendant ABC Investments *never* responded to the discovery requests, in clear violation of this Court's Order.

10. Defendants SAAT and ABC Realty's responses were deficient throughout, but there were several notable examples:

a) Defendants did not provide any information about communications regarding the Property between the Defendants, instead objecting with the generic and empty statement that the request "[c]alls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure";

b) Defendants provided no information about the condition of the Property and any administrative actions brought against the Property; instead, Defendants again responded with the boilerplate objection that the subject interrogatories and requests for production "[c]all[] for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure";

c) Defendants provided no information about their decision to file a meritless eviction complaint against Plaintiffs, again providing boilerplate objections;

d) Defendants refused to provide information regarding the ownership of the Property and Defendants' corporate structure, yet again, providing boilerplate objections.

11. On April 11, 2019, Plaintiffs' counsel sent a deficiency letter to Defendants' counsel regarding the deficient responses, and demanded that Defendants fully respond to discovery by April 19, 2019. *See* Ex. H.

12. Counsel for the parties then engaged in an email discussion without resolution of the discovery issues.

13. To date, Defendants have not provided the required responses to Plaintiffs' discovery requests.

II. **ARGUMENT**

14. Sanctions are appropriate when parties fail to comply with discovery requests or court orders, *see The Phila. Contributionship Ins. Co. v. Shapiro*, 798 A.2d 781, 784 (Pa. Super. Ct. 2002), and awarding attorney's fees as a sanction is particularly appropriate as it "often

motivate[s] the losing party to refrain from continuing contemptible conduct,” *Hopkins v. Byes*, 955 A.2d 654, 659 (Pa. Super. Ct. 2008).

15. When objecting to discovery requests, a responding party “must provide specific objections and a basis for the objection interposed; merely reciting the possible objections to interrogatories without any particularity as to how these objections apply to the request at hand makes the objecting party subject to an order to compel the party to answer.” *Ruddv v. Pa. Gas & Water Co.*, 36 Pa. D. & C.2d 705 (C.P. Luzerne 1965).

16. Plaintiffs’ requests were tailored and related to the subject matter of their allegations and were reasonably calculated to lead to the discovery of admissible evidence in support of Plaintiffs’ claims. *See* Pa. R.C.P. 4003.1(a). The information Plaintiffs seek—about communications between the parties, Defendants’ responses to repair requests and other administrative issues, the property that is the subject of this action, Defendants’ corporate structure, and more—is directly relevant to their claims that Defendants (who are alter egos of each other and, essentially, a single corporate entity) breached Plaintiffs’ lease, made unlawful misrepresentations to Plaintiffs about the property and their tenancy in it, and constructively evicted Plaintiffs by rendering the property uninhabitable.

17. But Defendants’ responses to Plaintiffs’ discovery requests are badly lacking. Out of 81 requested categories of documents, Defendants provided six single documents, only two of which are not public record. Defendants answered only 13 out of 55 interrogatories. And their objections to the unanswered requests consisted of boilerplate language that did not at all address how they “appl[ied] to the request at hand.”

18. Accordingly, Defendants have deprived Plaintiffs of information that is central to their claims and to which they are entitled under Pennsylvania law.

19. Pennsylvania Rule of Civil Procedure 4019(a)(1)(i) provides that “[t]he court may, on motion, make an appropriate order if a party fails to serve answers, sufficient answers, or objections to written interrogatories.”

20. Furthermore, Rule 4019(a)(1)(viii) authorizes the Court to “make an appropriate order if a party or person otherwise fails to make discovery”

21. To date, Defendant ABC Investments has produced no response to Plaintiffs’ discovery requests.

22. Moreover, Defendants ABC Realty and SAAT have provided insufficient responses to discovery requests without providing the necessary specific and substantive objections required under Pennsylvania law.

23. Counsel for Plaintiffs certify that they corresponded in good faith to resolve this discovery matter with Defendants, but despite their good faith attempts to resolve this dispute, have been unable to do so.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that this Court enter an Order compelling Defendants’ answers to Plaintiffs’ discovery within ten days of the date of the Court’s Order, enter sanctions against Defendants and order them to pay Plaintiffs’ attorneys’ fees and costs, and grant such other and further relief as this Court deems just and proper.

Dated: April 25, 2019

/s/ George A. Donnelly, Esq._____
George A. Donnelly, Esquire
gdonnelly@pubintlaw.org
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dackelsberg@pubintlaw.org
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Attorneys for Plaintiff

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MICHAEL HAMILTON

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COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
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NOVEMBER TERM, 2018
NO. 181101533

**ATTORNEY CERTIFICATION OF GOOD
FAITH PURSUANT TO PHILA. CIV. R. 208.2(e)**

The undersigned counsel for Plaintiffs Rosa Correa and Michael Hamilton hereby certify and attest that Plaintiffs' First Set of Requests for Production of Documents and First Set of Written Interrogatories were properly served and that Defendants have failed to sufficiently respond or, in the case of Defendant ABC Capital Investments LLC, respond at all. As fully set forth in the foregoing Motion, Plaintiffs' counsel sent a deficiency letter and conferred with Defendants'

counsel multiple times via email on April 12, 2019. However, Defendants have yet to sufficiently respond to the discovery requests. Consequently, counsel has been unable to resolve the matters contained in the foregoing discovery motion.

Respectfully Submitted,

Dated: April 25, 2019

/s/ George A. Donnelly, Esq.
George A. Donnelly, Esquire
gdonnelly@pubintl.org
Dan Urevick-Ackelsberg
dackelsberg@pubintl.org
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Philadelphia, PA 19103-7599
215-665-8500

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2019, I caused a true and correct copy of the foregoing
Plaintiffs' Motion to Strike Objections and Insufficient Answers and for Sanctions against
Defendants:

Via the Court's electronic filing system:

Andrew Swain
Christopher Bradley
The Swain Law Firm, P.C.
2410 Bristol Road
Bensalem, PA 19020
Attorney for Defendant

By: /s/ George A. Donnelly
George A. Donnelly, Esq.

EXHIBIT A

From: [White, Matthew A.](#)
To: [Andrew D. Swain, Esq.](#)
Cc: [Christopher A. Bradley, Esq.](#); [George Donnelly](#); [Sacalis, Clifford](#)
Subject: RE: Correa and Hamilton vs ABC CAPITAL INVESTMENTS LLC * PA Case No. 181101533
Date: Wednesday, December 5, 2018 5:28:53 PM
Attachments: [2018 Affidavit of Service on ABC Capital DMEAST_36022694\(1\).PDF](#)

Andrew,

Following up on our brief call and pursuant to Rule 408, I attach our demand for an early resolution of this case. The demand is \$53,660.00, in exchange for a full, general release of your client. The number is reached as follows:

- \$5,100 (\$1700 for return of security deposit, trebled pursuant to UTPCPL (73 P.S. § 201-9.2));
- \$28,050 (\$9350 for return of rent paid, trebled); and
- \$510 (\$170 for return of late fees paid, trebled).

Together with \$20,000 in attorneys' fees—which is an estimate of this Firm's fees and PILCOP's fees to date. If we get further along in the discussions, then we will, of course, provide supporting documentation for the legal fees.

You expressed "shock" at our demand. You also did not want to hear about "adjectives" and "adverbs" with respect to the living conditions suffered by my clients. While you said that you would "see us in court," I did want to note that our demand is a true compromise. We have not included any amounts for out-of-pocket costs, including repair or cleaning expenses, costs re: health concerns, transit costs incurred by my clients dealing with the utility company, application fees/search costs for new housing, emotional distress, and punitive damages.

You have indicated that you will be representing both ABC entities. Please enter your appearance. Notwithstanding the rather curt nature of our call—"see you in court"—our extension for you to respond to the complaint stands. Service was made on Nov. 14. Your response was due yesterday, Dec. 4. A 20 day extension makes your response due Dec. 24. As that is Christmas Eve, I will offer you until Friday, December 28, 2018, by which to respond to our complaint.

Very truly yours,

Matthew A. White
Ballard Spahr LLP
[1735 Market Street, 51st Floor](#)
[Philadelphia, PA 19103-7599](#)
Direct [215.864.8849](#)
Fax [215.864.8999](#)
Mobile [215.421.3155](#)
whitema@ballardspahr.com
www.ballardspahr.com

From: Andrew D. Swain, Esq. <swain@swainlawfirm.com>

Sent: Wednesday, December 5, 2018 5:03 PM

White, Matthew A. (Phila) <WhiteMA@ballardspahr.com>

Cc: Christopher A. Bradley, Esq. <bradley@swainlawfirm.com>

Subject: RE: Correa and Hamilton vs ABC CAPITAL INVESTMENTS LLC * PA Case No. 181101533

⚠ EXTERNAL

Reply back with your demand.

From: White, Matthew A. <WhiteMA@ballardspahr.com>

Sent: Wednesday, December 5, 2018 1:19 PM

Andrew D. Swain, Esq. <swain@swainlawfirm.com>

Cc: Christopher A. Bradley, Esq. <bradley@swainlawfirm.com>; Karen R. Kerrigan

karen@swainlawfirm.com McDonaldM@ballardspahr.com; George Donnelly

gdonnelly@pubintl.org

Subject: RE: Correa and Hamilton vs ABC CAPITAL INVESTMENTS LLC * PA Case No. 181101533

Andrew,

I have a settlement demand to communicate to you. Kindly give me a call at your convenience. Any conversations, of course, will be governed by Pa. Rule of Evid. 408.

Very truly yours,

Matt White

Matthew A. White

Ballard Spahr LLP

[1735 Market Street, 51st Floor](#)

[Philadelphia, PA 19103-7599](#)

Direct [215.864.8849](tel:215.864.8849)

Fax [215.864.8999](tel:215.864.8999)

Mobile [215.421.3155](tel:215.421.3155)

whitema@ballardspahr.com

www.ballardspahr.com

From: White, Matthew A. (Phila) <WhiteMA@ballardspahr.com>

Sent: Wednesday, November 28, 2018 3:17 PM

Andrew D. Swain, Esq. <swain@swainlawfirm.com>

Cc: Christopher A. Bradley, Esq. <bradley@swainlawfirm.com>; Karen R. Kerrigan

karen@swainlawfirm.com>; McDonald, Michael (Phila) <McDonaldM@ballardspahr.com>; George

Donnelly <gdonnelly@pubintl.org>

Subject: RE: Correa and Hamilton vs ABC CAPITAL INVESTMENTS LLC * PA Case No. 181101533

Andrew,

We have no issue with the 20-day extension. We will, however, only grant it when you confirm that you will be entering your appearance. (If you do not enter your appearance, then we need to preserve our right to take a default). Also, could you clarify which defendant you will be representing? We assume that you will reciprocate similar professional courtesies when the time comes.

I've attached copies of the Complaint, Motion to Proceed In Forma Pauperis, and a motion pro hac vice for one of my colleagues, Mike McDonald. I believe that these are all the papers we have filed.

Very truly yours,

Matt White

Matthew A. White
Ballard Spahr LLP
[1735 Market Street, 51st Floor](#)
[Philadelphia, PA 19103-7599](#)
Direct [215.864.8849](#)
Fax [215.864.8999](#)
Mobile [215.421.3155](#)
whitema@ballardspahr.com
www.ballardspahr.com

From: Andrew D. Swain, Esq. <swain@swainlawfirm.com>

Sent: Wednesday, November 28, 2018 12:15 PM

White, Matthew A. (Phila) <WhiteMA@ballardspahr.com>

Cc: Christopher A. Bradley, Esq. <bradley@swainlawfirm.com>; Karen R. Kerrigan
<karen@swainlawfirm.com>

Subject: Correa and Hamilton vs ABC CAPITAL INVESTMENTS LLC * PA Case No. 181101533

Importance: High

 **EXTERNAL**

Matthew,

We received this today from the registered agent, and we will be entering our appearance, subject to a determination of insurance coverage.

Can you reply to all by attaching the Complaint filed in this matter, and the date it was served.

Let me know if you will agree as well to a 20 day extension from today to file an Answer or preliminary objections if necessary. Thanks.

Karen—please open this new matter.

Andrew D. Swain, Esq.
The Swain Law Firm
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215.702.2708 phone
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From: Jacqueline Willson <jwillson@mburrkeim.com>

Sent: Monday, November 19, 2018 1:18 PM

Andrew D. Swain, Esq. <swain@swainlawfirm.com>

Cc: antonio@abccapitalinvestments.com; Robert Worthington Jr. <rworthington@mburrkeim.com>

Subject: ABC CAPITAL INVESTMENTS LLC * PA Case No. 181101533

Importance: High

Dear Mr. Swain:

The attached Entry of Appearance was received by our office this date for the above entity.

Thank you,

Jacqueline C. Willson
M. Burr Keim Company

2021 Arch Street
Philadelphia, PA 19103
215-563-8113 ext. 233
www.mburkeim.com

EXHIBIT B

From: McDonaldM@ballardspahr.com
To: swain@swainlawfirm.com
Cc: bradley@swainlawfirm.com; [White, Matthew A.](#); [George Donnelly](#)
Subject: Correa and Hamilton vs ABC CAPITAL INVESTMENTS LLC * PA Case No. 181101533
Date: Monday, December 17, 2018 6:29:29 PM
Attachments: [Correa v. ABC Capital Investments LLC - First Request for Production of Documents to Defendants.pdf](#)
[Correa v. ABC Capital Investments LLC - First Set of Written Interrogatories Directed to Defendants.pdf](#)
[Correa v. ABC Capital Investments LLC - First Set of Written Interrogatories to Defendant SAAT Investments LLC.pdf](#)
[Correa v. ABC Capital Investments LLC - First Request for Production of Documents to Defendant SAAT Investments LLC.pdf](#)

Counsel,

Today, we delivered to you by mail Plaintiffs' initial discovery requests in the above-captioned action. Attached are courtesy copies of those documents, specifically, Plaintiffs' First Request for Production of Documents to Defendants ABC Capital Investments LLC and ABC Capital Realty LLC, and Plaintiffs' First Set of Written Interrogatories Directed to Defendants ABC Capital Investments LLC and ABC Capital Realty LLC. Also attached are copies of the discovery requests delivered to Defendant SAAT Investments LLC.

Regards,

Michael R. McDonald



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Only admitted in New York

EXHIBIT C

From: [Andrew D. Swain, Esq.](#)
To: [White, Matthew A.](#)
Cc: [Christopher A. Bradley, Esq.](#); [George Donnelly](#); McDonaldM@ballardspahr.com
Subject: Re: Correa and Hamilton vs SAAT Investments PA Case No. 181101533
Date: Monday, December 24, 2018 8:23:36 AM

Thanks.

Andrew D. Swain, Esq.
The Swain Law Firm, PC
2410 Bristol Road
Bensalem, PA 19020
215-702-2708 office
267-694-1330 cell
swain@swainlawfirm.com
swainlaw@gmail.com

On Dec 20, 2018, at 3:33 PM, White, Matthew A. <WhiteMA@ballardspahr.com> wrote:

Andrew,

We have conferred and can agree to the following: (1) SAAT will have until Jan. 4, 2019 to answer the complaint (no POs); (2) SAAT will agree to answer the discovery served within 30 days of when you received our email attaching the discovery.

Please let us know if you agree to these conditions.

Very truly yours,

Matt White

Matthew A. White
Ballard Spahr LLP
[1735 Market Street, 51st Floor](#)
[Philadelphia, PA 19103-7599](#)
Direct [215.864.8849](tel:215.864.8849)
Fax [215.864.8999](tel:215.864.8999)
Mobile [215.421.3155](tel:215.421.3155)
whitema@ballardspahr.com
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From: Andrew D. Swain, Esq. <swain@swainlawfirm.com>
Sent: Thursday, December 20, 2018 1:15 PM
To: McDonald, Michael (Phila) <McDonaldM@ballardspahr.com>
Cc: Christopher A. Bradley, Esq. <bradley@swainlawfirm.com>; White, Matthew A. (Phila) <WhiteMA@ballardspahr.com>; George Donnelly <gdonnelly@pubintl.org>
Subject: RE: Correa and Hamilton vs SAAT Investments PA Case No. 181101533

⚠ EXTERNAL

Can you agree to a 20 day extension for SAAT Investments Answer, or until Friday January 11th, and **not file for default**.

SAAT is a company with ownership based in Israel. We still are waiting for the managing member of that company to sign off on joint representation. It is our expectation that we will represent the two ABC companies plus SAAT.

Thank you.

Andrew D. Swain, Esq.

Andrew D. Swain, Esq.
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From: McDonaldM@ballardspahr.com <McDonaldM@ballardspahr.com>

Sent: Monday, December 17, 2018 6:29 PM

To: Andrew D. Swain, Esq. <swain@swainlawfirm.com>

Cc: Christopher A. Bradley, Esq. <bradley@swainlawfirm.com>; White, Matthew A. <WhiteMA@ballardspahr.com>; George Donnelly <gdonnelly@pubintl.org>
Subject: Correa and Hamilton vs ABC CAPITAL INVESTMENTS LLC * PA Case No. 181101533

Counsel,

Today, we delivered to you by mail Plaintiffs' initial discovery requests in the above-captioned action. Attached are courtesy copies of those documents, specifically, Plaintiffs' First Request for Production of Documents to Defendants ABC Capital Investments LLC and ABC Capital Realty LLC, and Plaintiffs' First Set of Written Interrogatories Directed to Defendants ABC Capital Investments LLC and ABC Capital Realty LLC. Also attached are copies of the discovery requests delivered to Defendant SAAT Investments LLC.

Regards,

Michael R. McDonald



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215.864.8999

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Only admitted in New York

EXHIBIT D

From: McDonaldM@ballardspahr.com
To: [Andrew D. Swain, Esq.](#)
Cc: bradley@swainlawfirm.com; [White, Matthew A.](#); [George Donnelly](#)
Subject: Correa and Hamilton vs ABC CAPITAL INVESTMENTS LLC * PA Case No. 181101533
Date: Wednesday, January 16, 2019 5:05:12 PM
Attachments: [Correa v. ABC Capital Investments LLC - First Request for Production ofpdf](#)
[Correa v. ABC Capital Investments LLC - First Set of Written Interrogato....pdf](#)
[Correa v. ABC Capital Investments LLC - First Set of Written Interrogato....pdf](#)
[Correa v. ABC Capital Investments LLC - First Request for Production ofpdf](#)

Counsel,

On December 17, 2018, we served upon Defendants ABC Capital Investments LLC, ABC Capital Realty LLC, and SAAT Investments LLC initial requests for production and interrogatories. Courtesy copies of those documents are attached.

Pursuant to Pa. R. Civ. P. 4009.12 (requests for production) and 4006 (interrogatories), the deadline for responding to the discovery requests—which you agreed to meet in partial consideration for our agreement to extend the deadline by which defendants could respond to the complaint—is today.

Please inform us if you intend to respond to our discovery requests before tomorrow. We are prepared to file a motion to compel discovery if not.

Regards,
Mike

Michael R. McDonald



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215-665-8500
Attorneys for Plaintiffs

ROSA CORREA and
MICHAEL HAMILTON

Plaintiffs,

v.

ABC CAPITAL INVESTMENTS LLC, et al.

Defendants.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL DIVISION
NOVEMBER TERM, 2018
NO. 181101533

**ATTORNEY CERTIFICATION OF GOOD
FAITH PURSUANT TO PHILA. CIV. R. 208.2(e)**

The undersigned counsel for Plaintiffs Rosa Correa and Michael Hamilton hereby certify and attest that Plaintiffs' First Set of Requests for Production of Documents and First Set of Written Interrogatories were properly served and that Defendants have failed to object or respond. As fully set forth in the foregoing Motion to Compel, Counsel for Plaintiffs conferred with Defendant's counsel multiple times via phone and email on December 5, 2018, December 17, 2018, December

20, 2018, and January 16, 2018. However, Defendants have yet to respond to the discovery requests. Consequently, counsel has been unable to resolve the matters contained in the foregoing discovery motion.

Dated: January 17, 2019

Respectfully Submitted,

/s/ George A. Donnelly, Esq. _____
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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2019, I caused a true and correct copy of the foregoing Plaintiffs' Motion to Compel Defendants' Responses and Answers to Plaintiffs' Requests for Production and Interrogatories Directed to Defendants:

Via the Court's electronic filing system:

Andrew Swain
Christopher Bradley
The Swain Law Firm, P.C.
2410 Bristol Road
Bensalem, PA 19020
Attorneys for Defendants

By: /s/ George A. Donnelly
George A. Donnelly, Esq.

EXHIBIT E

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Defendants.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL DIVISION
NOVEMBER TERM, 2018
NO. 181101533

PLAINTIFFS' MOTION TO COMPEL

Plaintiffs Rosa Correa and Michael Hamilton ("Plaintiffs") hereby move this Court for an order compelling Defendants ABC Capital Investments LLC, ABC Capital Realty LLC, and SAAT Investments LLC ("Defendants") to respond to Plaintiffs' First Set of Requests for Production of Documents ("Plaintiffs' RFPs") and Plaintiffs' First Set of Written Interrogatories (Plaintiffs' Interrogatories") within ten days, and in support hereof aver as follows:

I. BACKGROUND

1. On November 13, 2018, Plaintiffs filed their Complaint in this Action.
2. On December 5, 2018, Plaintiffs' Counsel agreed to grant the ABC Capital Defendants an extension until December 28, 2018 to respond to the Complaint. *See* Ex. A.
3. On December 17, 2018, Plaintiffs' Counsel served discovery requests on Defendants via email and the U.S. mails. *See* Ex. B.
4. On December 20, 2018, Plaintiffs' Counsel agreed to extend the time to answer for all Defendants until January 4, 2019, under the conditions that preliminary objections would not be filed and SAAT would agree to answer the discovery served on December 17, 2018, within 30 days, in accordance with the Pennsylvania Rules of Civil Procedure. *See* Ex. C.
5. On January 16, 2019, Plaintiffs' Counsel emailed Defendants regarding their obligation to provide discovery responses pursuant to the Pennsylvania Rules of Civil Procedure and their previous agreement. *See* Ex. D.
6. To date, Defendants have neither answered nor responded with objections to Plaintiffs' Discovery within the time period allotted by the Pennsylvania Rules of Civil Procedure or the extensions and corresponding agreements with Plaintiffs' counsel.

II. ARGUMENT

7. Pursuant to Rule 4019(a)(1)(i) of the Pennsylvania Rules of Civil Procedure, "[t]he court may, on motion, make an appropriate order if a party fails to serve answers, sufficient answers or objections to written interrogatories under Rule 4005."
8. Rule 4019(a)(1)(vii) provides that "[t]he court may, on motion, make an appropriate order if a party, in response to a request for production or inspection made under Rule 4009, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested."

9. Furthermore, Rule 4019(a)(1)(viii) authorizes the Court to “make an appropriate order if a party or person otherwise fails to make discovery”

10. To date, Defendants have produced no response to Plaintiffs’ discovery requests.

11. Counsel for Plaintiffs certify that they corresponded in good faith to resolve this discovery matter with Defendant, but despite their good faith attempts to resolve this dispute, have been unable to do so.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that this Court enter an Order Compelling Defendants’ answers to Plaintiffs’ Discovery within ten days of the date of the Court’s Order, and grant such other and further relief as this Court deems just and proper.

Dated: January 17, 2019

/s/ George A. Donnelly, Esq. _____
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EXHIBIT F

ROSA CORREA and
MICHAEL HAMILTON

Plaintiffs,

v.

ABC CAPITAL INVESTMENTS LLC, et al.

Defendants.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL DIVISION
NOVEMBER TERM, 2018
NO. 181101533

ORDER

AND NOW THIS 30 day of JAN., 2019, upon consideration of Plaintiffs Rosa Correa's and Michael Hamilton's Motion to Compel Defendants' Responses to Plaintiffs' First Set of Requests for Production of Documents and Written Interrogatories, it is hereby ORDERED that the Motion is GRANTED. It is further ORDERED that:

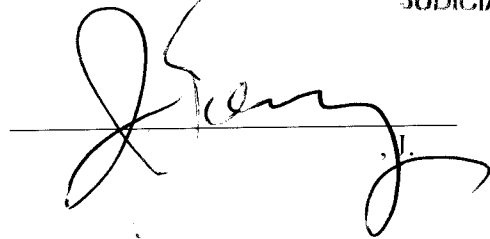
1. Defendants shall respond to Plaintiffs' First Set of Requests for Production, and produce all relevant documents, within 10 days of the date of this Order;
2. Defendants shall answer Plaintiffs' First Set of Interrogatories within 10 days of the date of this Order; and
3. If Defendants fail to comply with this Order, Defendants, upon motion of Plaintiffs, will be subject to appropriate sanctions, including attorneys' fees, under Rule 4019.

DOCKETED

JAN 30 2019

BY THE COURT:

MICHAEL TIERNEY
JUDICIAL RECORDS



GRANTING THIS MOTION WILL NOT EXTEND
EXISTING CASE MANAGEMENT DEADLINES

Correa Etal Vs Abc Capital Investments Llc E-ORDER



18110153300025

MOTION SUBMITTED

JAN 30 2019

UNCONTESTED

Discovery Deadline: 1/17/19

EXHIBIT G

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Attorneys for Defendants

ROSA CORREA and MICHAEL	:	COURT OF COMMON PLEAS
HAMILTON	:	PHILADELPHIA COUNTY, PA
v.	:	CIVIL TRIAL DIVISION
	:	
ABC CAPITAL INVESTMENTS, LLC	:	
ABC CAPITAL REALTY, LLC, and	:	
SAAT INVESTMENTS, LLC	:	
	:	No: 181101533

**ANSWERS OF DEFENDANTS ABC CAPITAL REALTY, LLC
and SAAT INVESTMENTS LLC TO PLAINTIFFS' INTERROGATORIES**

Defendants ABC Capital Realty, LLC and SAAT Investments, LLC, through counsel
answer Plaintiff's Interrogatories as follows.

INTERROGATORIES

1. Identify all persons and/or entities who have any knowledge of any facts relating
to matters alleged in Plaintiffs' Complaint, describing generally the source of each individual's
knowledge (*e.g.*, property manager, maintenance worker, etc.)

Answer: Peter Brooks, Office Manager at ABC Capital Realty, LLC.

2. For each individual or entity identified in response to Interrogatory No. 1, identify each and every written or recorded statement known to you made by said individual relating to the claims or defenses in this litigation.

Answer: **None.**

3. Identify each tenant of the Property, from April 22, 2013 to the present, and, with respect to each identified tenant, identify any leases or agreements, whether oral or written, related to that tenancy.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

4. For each tenant identified in Interrogatory No. 3, identify the terms of any lease or agreements, whether oral or written, regarding payments for water, gas, electrical services and any other utility services. With respect to such terms, state whether the tenant paid each utility service provider directly, paid you for any of these services, or whether the utilities were included in the monthly rent.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure. Without waiving this objection and by way of further response see Lease for Plaintiff's tenancy, attached.**

5. For each tenant, other than Plaintiffs, identified in Interrogatory No. 3, state the date on which said tenant vacated the Property, whether or not this was before the term of that tenant's lease expired, and the reasons why said tenant vacated the Property.

Answer: **Not applicable.**

6. Identify every real property other than the Property, by address, that you have owned in whole or in part, from April 22, 2013 to the present.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

7. Identify all tenants, including individuals or entities, at any of the properties identified in response to Interrogatory No. 6, and identify any leases or agreements, oral or written, related to that tenancy. For each tenant identified, specify the property in which that tenant resided.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

8. Identify any code violations issued for the properties identified in Interrogatory No. 6 by any government bodies or agencies, such as the Philadelphia Department of Licenses and Inspections, from April 22, 2013 to the present, and identify all documents or communications that constitute, relate, or refer to the violations.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

9. Identify any property management software you have used from April 22, 2013 to the present.

Answer: **Buldium, Appfolio**

10. Identify all types of information you store or stored for any property management software identified in Interrogatory No. 9.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure. Without waiving this objection and by way of further response the payment ledgers and maintenance requests were kept using this software.**

11. With respect to each piece of software identified in response to Interrogatory No. 9, identify all documents contained within that software or reports generated from that software that relate or refer to the Property or the Plaintiffs.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure. Without waiving this objection and by way of further response the payment ledgers and maintenance requests were kept using this software.**

12. Identify any bookkeeping software (such as Quickbooks) that you have used for any rental properties you own or owned, from April 22, 2013 to the present, for recording incoming or outgoing payments, including, but not limited to, rent payments and rent balances, payments to property managers, and payments for repairs, and identify all documents or reports

that relate or refer to Plaintiff or the Property that are contained within or generated from that software.

***Answer:* Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

13. Identify any accounts, including by account number, for water, gas, or electrical services in your name at the Property from April 22, 2013 to the present.

***Answer:* The utilities on this property were the responsibility of Plaintiff, pursuant to the lease.**

14. Identify any documents or communications relating to utility service at the Property from April 22, 2013 to the present.

***Answer:* Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure. Without waiving this objection and by way of further response, none other than the lease and maintenance requests.**

15. Identify any communications related to the Property between you and Plaintiffs, and identify all documents that constitute, relate, or refer to the communication.

***Answer:* Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure. Without waiving this objection and by way of further response, none other than the lease and maintenance requests.**

16. Identify any communications related to the decision to file an eviction action against Plaintiffs, and identify all documents that constitute, relate, or refer to those communications.

Answer: Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure. Without waiving this objection and by way of further response, none other than the complaint attached.

17. Identify all lawsuits, by name, court location, and docket number, and any other judicial or administrative proceeding, and all complaints filed by the Department of Licenses and Inspections brought against you from April 22, 2013 to the present.

Answer: Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

18. Describe any process you follow or followed to calculate the amount a tenant owes prior to sending a Notice to Vacate or filing an Eviction Complaint, and identify all individuals involved and documents created in that process.

Answer: Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure. Without waiving this objection and by way of further response defendants do not understand this interrogatory to formulate a response.

19. Identify each request for service or repairs made by Plaintiffs during the time they resided at the Property, including the date of the request, the specific repairs requested, any response to that request, and identify all documents that constitute, relate, or refer to the request.

Answer: **See maintenance request dated 4/12/17, attached.**

20. Identify each request for service or repairs made by any other tenant of the Property, from April 22, 2013 to the present, including the date of the request, the specific repairs requested, any response to that request, and identify all documents that constitute, relate, or refer to the request.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

21. Identify each communication, from any point in time, between you and Defendants ABC Capital Investments LLC and/or ABC Capital Realty LLC, their agents, servants, employees, attorneys and any other person acting or purporting to act on behalf of any of them.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

22. Identify each communication, from April 22, 2013 to the present, between you and any realtors, contractors, or other agents regarding the Property.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

23. Identify each communication, from April 22, 2013 to the present, between you and any insurers regarding the Property.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

24. Describe your net worth and identify all the information, documentation, assets, expenses, revenues, and assumptions used to determine that figure.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

25. Identify the equitable owners of the Defendant, including their name, mailing address, and equitable share in the corporate entity.

Answer: **Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.**

26. Identify all witnesses you intend to call at trial or any hearing in this matter, including full names, addresses, job titles, telephone numbers, and the subject matter of his/her expected testimony.

Answer: **Defendant has not yet identified all witnesses at present and reserves the right to supplement these responses in accordance with the applicable rules of civil procedure and case management order and to call any properly identified witness at trial. Without waiving this objections and way of further response, Defendant intends to call:**

- **Peter Brooks**
- **Alex Quilles**

27. Identify each person who participated in or provided information in connection with your responses to these Interrogatories and Plaintiffs' Requests for Production of Documents, including full names, addresses, job titles, and telephone numbers, and identifying for each such person (a) the interrogatory or interrogatories for which such person provided assistance and (b) the information they provided for each interrogatory.

Answer: **These answers were prepared by defendants with assistance of counsel.**

Respectfully Submitted:

THE SWAIN LAW FIRM, P.C.

By: /s/ Christopher A. Bradley
CHRISTOPHER A. BRADLEY, ESQUIRE
Attorney for Defendants

Dated: February 11, 2019

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Attorneys for Defendants

ROSA CORREA and MICHAEL	:	COURT OF COMMON PLEAS
HAMILTON	:	PHILADELPHIA COUNTY, PA
v.	:	CIVIL TRIAL DIVISION
	:	
ABC CAPITAL INVESTMENTS, LLC	:	
ABC CAPITAL REALTY, LLC, and	:	
SAAT INVESTMENTS, LLC	:	
	:	No: 181101533

**ANSWERS OF DEFENDANTS ABC CAPITAL REALTY, LLC and SAAT
INVESTMENTS LLC TO PLAINTIFFS' REQUESTS FOR PRODUCTION OF
DOCUMENTS**

Defendants ABC Capital Realty, LLC and SAAT Investments, LLC, through counsel
answer Plaintiff's Requests for Production of Documents as follows.

REQUESTED DOCUMENTS

1. Any and all pictures or written descriptions of the Property.

None other than those contained in the lease.

2. Any and all communications relating to the Property or Plaintiffs, between you
and any agents or other entity or individual.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure. Without waiving this objection, see attached lease and work orders.

3. Any and all documents relating to any repairs or improvements made at the Property, including, but not limited to, requests, responses, receipts, invoices, or work orders.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure. Without waiving this objection see attached work orders and records relevant to Plaintiff's tenancy.

4. Any and all rental licenses and applications therefor, Certificates of Rental Suitability, lead safe certificates, lead free certificates, and any other documentation required by the Philadelphia Code or any other law regarding residential leases related to the Property.

To be provided.

5. Any and all documents evidencing inspection of the Property for lead.

None known to defendants at present.

6. Any and all documents evidencing or relating to the inspection of the Property for any other reason during the relevant time period, including reports or documents resulting therefrom.

None other than those in the work orders and records attached.

7. Any and all documents and communications related to utility services at the Property, including, but not limited to bills, account statements, investigation reports, shut-off notices, disputes, or complaints, and payment made to you by or on behalf of any tenants, or by you to utility companies.

None presently in possession of defendants.

8. Any and all documents constituting, referring to, or relating to any communications relating to the Property with any department or agency of the City of Philadelphia, or any person or entity working on behalf thereof.

None other than those contained in the citations referenced in Plaintiffs' Complaint.

9. Any and all documents identifying or relating to any management fees paid or owed by you to any person, or paid or owed to you by any person, to the extent related to the Property.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

10. Any and all contracts, agreements, or writings relating to the Property, between you or anyone acting on your behalf and any agents, contractors, realtors, or other individuals or entities.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

11. Any and all documents relating to any marketing or publicizing of the Property for lease or otherwise including, but not limited to, any internal policies and procedures governing such marketing or publicizing, any agreements with any realty company or realtor, any payments made thereto or commissions provided, and any advertisements or listings of the Property.

None presently in possession of defendants.

12. Any and all documents relating to the purchase, financing, sale, or transfer of the Property.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

13. Any and all documents identifying or relating to any liens or encumbrances against the Property and the balances due thereon.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

14. Any and all training materials on landlord-tenant, debt collection, property maintenance or repair, marketing, or customer relations provided to any of your employees, contractors, or agents.

None presently in possession of defendants.

15. To the extent not already encompassed by these Requests, any and all documents relating to the purchase, financing, maintenance, management, marketing, sale, or transfer of the Property.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure. Without waiving this objection see attached records produced in response to other requests.

The Plaintiffs

16. Any and all leases, contracts or agreements, or writings, referring, or relating to Plaintiffs.

See attached Lease.

17. Any and all documents relating to rent payments or deposits by Plaintiffs.

See attached ledger.

18. Any and all documents relating to or substantiating any amount of money you claim Plaintiffs owe you.

See attached ledger and Complaint in eviction.

19. Any and all documents relating to Plaintiffs contained within in any property management software, or to the extent that said software does not contain specific documents, a report of all entries referring or relating to Plaintiffs.

See attached ledger.

20. Any and all documents referring or relating to Plaintiffs contained within any accounting software, or to the extent that said software does not contain specific documents, a report of all entries referring or relating to Plaintiffs.

See attached ledger.

21. Any and all documents and records relating to, and a list identifying the name, account number, address, and present balance of, any bank accounts in which you deposited money paid to you by Plaintiffs.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

22. Any and all documents relating to repair requests made by Plaintiffs for the Property, and any attempts you made to fulfill such requests.

See attached maintenance request.

23. Any and all documents or writings relating to the eviction filed against Plaintiffs (Philadelphia Municipal Court Case No. LT-17-09-05-3366), including, but not limited to notices, court filings, and internal deliberations.

None other than those produced in response to other requests made herein.

24. Any and all communications between you or anyone acting on your behalf and Plaintiffs or anyone acting on their behalf.

None other than those produced in response to other requests made herein.

25. To the extent not already encompassed by these Requests, any and all documents referring or relating to Plaintiffs or their tenancy at the Property.

None other than those produced in response to other requests made herein.

ABC Capital Corporate Entities

26. Any insurance policies relating to the Property with you as the beneficiary, in effect from April 22, 2013 to the present.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

27. All leases for the Property, from April 22, 2013 to the present.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

28. A list of all full time or part time employees, independent contractors, or unpaid interns or other agents you hired or retained from April 22, 2013 to the present, including last known address, phone number and email address, and job description.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

29. An organizational chart reflecting departments and/or personnel involved with the marketing of properties for rent, the rental and lease of properties, the repair of properties, or any

efforts to bring enforcement actions against lessees for breach of lease including but not limited to eviction.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

30. An organizational chart reflecting your corporate organization and structure.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

31. Any and all documents relating to the formation, governance, and operation of your corporate organization, including but not limited to operating agreements, certificates of organization, articles of incorporation, annual reports and renewals, corporate by-laws, a list of managing or non-managing members, records of meetings and the minutes thereof, and financial statements.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

32. Any and all documents related to policies and procedures for handling repair requests, entering into leases, training employees, or maintaining properties managed by Defendants.

None presently in possession of defendants.

33. Any applications for credit and supporting financial documents.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

34. A list identifying all of the real estate properties in Philadelphia, Pennsylvania you own, wholly or in part, or manage, as well as, to the extent applicable for each such property:

- a. the name and address of the seller(s) or person(s) from whom title was acquired;
- b. the source of funds for the acquisition of title;
- c. the date of purchase and purchase price of the property or ownership interest therein;
- d. any co-owners or other title holders;
- e. any encumbrances on the property and the balances due thereon; and
- f. the owners of those properties you manage but do not own.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

35. Any and all communications between you or anyone acting on your behalf and SAAT Investments LLC, ABC Capital R.E Limited, ABC Capital Holdings LLC, ABC Capital Income Fund LLC, Premier Rentals Philadelphia, Premier Rentals Philadelphia Limited, Jason Walsh, Amir Vana, Yaron Zer or anyone acting on their behalf.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

36. Any complaints or lists of complaints or actions, including any administrative action, brought against you alleging violations arising out of your management or lease of properties, including but not limited to violations alleged under the Pennsylvania Unfair Trade

Practices and Consumer Protection Law and for allegations of constructive eviction, breach of contract, or unjust enrichment.

Objection. Calls for the discovery of material that is irrelevant and/or otherwise outside the scope of that allowed under the applicable rules of Civil Procedure.

Documents Relied Upon

37. All documents identified, relied upon or referenced in response to Plaintiffs' Interrogatories that have not been produced.

None.

38. All documents related to this litigation received from any party, whether in response to a subpoena or otherwise.

None.

39. All documents you intend to introduce as exhibits at trial or any hearing on this matter.

Defendant has not yet identified all exhibits it intends to introduce at trial and reserves the right to supplement these responses in accordance with the applicable rules of civil procedure and case management order and to introduce any properly identified evidence at trial.

40. To the extent not already produced, all statements by any individual who is or may be a witness at the trial or any hearing in this litigation concerning the subject matter of this litigation and/or that are relevant to the claims and defenses at issue in this litigation, or the facts underlying the allegations set forth in the Complaint or your Answer thereto.

None.

41. Electronically stored documents which respond to, relate to, or bear upon any of the requests set forth herein.

None other than those attached in response to other requests made herein.

Respectfully Submitted:

THE SWAIN LAW FIRM, P.C.

By: /s/ Christopher A. Bradley
CHRISTOPHER A. BRADLEY, ESQUIRE
Attorney for Defendants

Dated: February 11, 2019

EXHIBIT H

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April 11, 2019

ABC Capital Investments LLC, ABC Capital Realty
LLC, and SAAT Investments LLC
c/o Andrew D. Swain, Esq., and Christopher A.
Bradley, Esq.
The Swain Law Firm, P.C.
2410 Bristol Road
Bensalem, PA 19020

Re: Defendants' Deficient Responses to Plaintiffs' Initial Discovery Requests in *Correa*
v. ABC Capital Investments LLC, PA Case No. 181101533

Dear Counsel:

I represent Plaintiffs Rosa Correa and Michael Hamilton in the above captioned action. I write regarding certain deficiencies in Defendants' responses ("Discovery Responses") to Plaintiffs' First Request for Production of Documents to Defendants ABC Capital Investments LLC and ABC Capital Realty LLC ("ABC Capital RFPs"), Plaintiffs' First Set of Written Interrogatories Directed to Defendants ABC Capital Investments LLC and ABC Capital Realty LLC ("ABC Capital Interrogatories"), Plaintiffs' First Request for Production of Documents to Defendant SAAT Investments LLC ("SAAT RFPs"), and Plaintiffs' First Set of Written Interrogatories Directed to Defendant SAAT Investments LLC ("SAAT Interrogatories") (collectively, "Discovery Requests"). This letter does not purport to raise every deficiency in the Discovery Responses, and Plaintiffs specifically reserve all rights to address additional deficiencies in the Discovery Responses at a later date.

Plaintiffs served the Discovery Requests on each of the defendants on December 17, 2018. Receiving no communication from you or your clients, let alone adequate responses, by the January 17, 2019 deadline, Plaintiffs filed a motion to compel which was granted as unopposed on January 30, 2019. Defendants' responses then were due, by court order, on February 11, 2019.

The responses we received on that date are incomplete. First, the Discovery Responses purportedly are made on behalf of only two of the defendants in this action—ABC Capital

Realty LLC and SAAT Investments LLC. Plaintiffs also requested responses from ABC Capital Investments LLC, whose failure to respond constitutes a violation of a court order.

Relatedly, Defendants submitted only two sets of responses to four sets of requests. In doing so, Defendants apparently conflated the information requested from ABC Capital Realty LLC and ABC Capital Investments LLC—upon information and belief, the Property¹ managers, *see* Compl. ¶¶ 16–17—with that requested from SAAT Investments LLC, the Property owner of record, *see* Compl. ¶ 14. This, of course, does not satisfy Defendants’ obligations under the Pennsylvania Rules of Procedure and court order to provide adequate and complete responses to Plaintiffs’ Discovery Requests.

Out of 81 requested categories of documents, Defendants provided six single documents, only two of which are not public record. Defendants answered only 13 out of 55 interrogatories. Even were Plaintiffs to accept each of Defendants’ responses as applicable to multiple requests directed to different parties—and they do not—the Discovery Responses are, in general, baldly lacking. Accordingly, Defendants are depriving Plaintiffs of information to which they are entitled under Pennsylvania law and that is necessary for litigating their claims.

Plaintiffs allege, *inter alia*, that: Defendants made misrepresentations to Plaintiffs concerning the condition of the Property, their intent to repair Property defects, and the eviction complaint filed against Plaintiffs; illegally collected rent from Plaintiffs; breached the implied and express contractual duties they owed to Plaintiffs; constructively evicted Plaintiffs from the Property by depriving Plaintiffs of the beneficial enjoyment of the Property during their tenancy; and/or were unjustly enriched at Plaintiffs’ expense through the receipt of property management fees. *See* Compl. ¶¶ 71–94. Because of Defendants’ misconduct, Plaintiffs seek damages, including punitive and restitution damages. *See* Wherefore clauses at Compl. pp. 12, 14.

The Discovery Requests were tailored and related to the subject matter of these allegations and were reasonably calculated to lead to the discovery of admissible evidence in support of Plaintiffs’ claims. *See* Pa. R.C.P. 4003.1(a). In particular, and by way of example, the allegations and defenses at issue in this litigation entitle Plaintiffs to information about:

- communications related to the Property, particularly communications between SAAT and ABC Capital concerning management of the Property and Plaintiffs’ tenancy at the Property, agreements between Defendants as

¹ The “Property” refers to the residential property located at 3853 North Sydenham Street, Philadelphia, PA 19140.

well as with other agents or commercial partners related to the ownership or management of the Property, and communications between Defendants (or their agents) and Plaintiffs, which are relevant at least to Plaintiffs' PAUTPCL, breach of contract, and unjust enrichment claims, *see, e.g.*, RFP² 2, 10, and Interrogatory 22;

- information about the condition of the Property and Defendants' response thereto, both before and during Plaintiffs' tenancy and as revealed by prior claims or administrative actions brought against Defendants, which is central to Plaintiffs' claims, *see, e.g.*, RFP 3, 27, 36, and Interrogatory 3, 4, 11, 17;
- information about Defendants' collection, receipt, and retention of fees and rent they unlawfully collected from Plaintiffs or management fees by which Defendants were unjustly enriched, *see, e.g.*, RFP 9, 21, and Interrogatory 12;
- information and communications related to Defendants' decision to and process for filing the meritless eviction complaint against Plaintiffs, including evidence on which Defendants relied in bringing the complaint, *see, e.g.*, Interrogatory 16, 18; and
- information concerning the ownership and financing of the Property (including any encumbrances on the Property), insurance policies covering the Property or Defendants, and Defendants' corporate structure, beneficial ownership, and business operations, which are directly relevant to, *inter alia*, Plaintiffs' ability to collect damages awarded to them in this litigation and to Plaintiffs' claims that Defendants are each alter egos of each other, *see, e.g.*, RFP 12, 13, 26, 29, 30, 31, 35, and Interrogatory 25.

Moreover, "[t]o be provided" is not an adequate response to Plaintiffs' request for documents that Defendants are required by law to have and maintain, *see* RFP 4, and Defendants' response to Plaintiffs' request for information about potential witnesses is

² Plaintiffs refer here to the Discovery Requests to which Defendants responded, which appear to be the ABC Capital RFPs and the SAAT Interrogatories. To reiterate, by identifying certain RFPs and Interrogatories in this letter, Plaintiffs do not concede that Defendants' other responses were sufficient, that it was appropriate or adequate for Defendants to respond to only two of the four sets of Discovery Requests, or that it was appropriate or adequate for Defendants to respond on behalf of only two of the three defendants in this action.

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deficient at least in part because Defendants failed to provide their named witnesses' contact information and job titles as well as the subject matter of their expected testimony, *see* Interrogatory 26.

These enumerated examples do not obviate the fact that the Discovery Responses are deficient, in general, and that Plaintiffs are entitled to much more information than what Defendants provided. It strains credulity to believe that Defendants do not possess more information about a Property they own, manage, and rent. Please remedy the discovery deficiencies by April 19, 2019, or Plaintiffs will be forced to file a subsequent motion to compel and to seek sanctions. We hope that will be unnecessary.

Please contact me with any questions.

Very truly yours,

Matthew A. White

MAW

cc: Dan Urevick-Ackelsberg
George A. Donnelly
Michael R. McDonald