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*ATTORNEYS FOR DEFENDANT A.W.A.R.E., INC.,
ON BEHALF OF CASTLE PINES GROUP HOME*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

AMBER J. WILLIAMS,)	
)	CV 20-00023-H-DLC-JTJ
Plaintiff,)	
)	
vs.)	DEFENDANT A.W.A.R.E.,
)	INC.'S BRIEF IN SUPPORT OF
CANDICE OSTERMAN, et al.,)	MOTION TO DISMISS
)	PURSUANT TO
Defendants.)	FED. R. CIV. P. 12(e)
)	

COMES NOW, Defendant Castle Pines Group Home, owned and operated by A.W.A.R.E., Inc. (collectively referred to as "AWARE"), and respectfully files this Brief in Support of its Motion to Dismiss pursuant to

Federal Rule of Civil Procedure 12(e).

On September 11, 2020, AWARE filed a Motion for More Definite Statement Pursuant to Fed. R. Civ. P. 12(e) and a Brief in Support. (Docs. 19-20.) The basis for the Motion, in part, was that the Complaint was unclear as to the claims or causes of action Plaintiff seeks to maintain and which specific causes of action are alleged against each specific Defendant. (Doc. 20.)

Plaintiff failed to timely respond to AWARE's Motion and, therefore, AWARE filed its reply brief on October 22, 2020, requesting that the Court grant its Motion for More Definite Statement. (Doc. 26.)

On November 2, 2020, the Court issued its Order, granting Defendant AWARE's and Defendants Acadia and Ms. Hedke's Motions for More Definite Statements. (Doc. 28.) The Court ordered Plaintiff to file an Amended Complaint on or before November 16, 2020. (Doc. 28 at 9.) The Court further ordered that the Amended Complaint "consist of short, plain statements telling the Court: (1) the rights Plaintiff believes were violated; (2) the name of the defendant(s) who allegedly violated the rights; (3) exactly what each defendant did or failed to do; (4) how the action or inaction of that defendant is connected to the violation of Plaintiff's rights; (5) when the alleged actions

took place; and (6) what injury Plaintiff suffered because of that defendant's conduct." (Doc. 28 at 2-3 (citation omitted).)

On November 13, 2020, Plaintiff filed a number of documents, none of which is an Amended Complaint. (See Docs. 31-35.) It has now been well over a week since the deadline has passed for Plaintiff to submit an Amended Complaint as ordered by the Court, yet Plaintiff has failed to comply.

In its Order, the Court warned: "Pursuant to Rule 12(e) of the Federal Rules of Civil Procedure, Plaintiff is advised that if she fails to timely comply with this Order, the Court will recommend that all claims against Defendants AWARE, Acadia Montana, and Ms. Hedke be dismissed." (Doc. 28 at 9.)

While AWARE appreciates that the Court offers leniency to *pro se* litigants, if Plaintiff simply chooses to ignore the rules of procedure and Orders from this Court, dismissal is appropriate. See, e.g., *Leischner v. Bank of Am. Corp.*, No. CV 17-49-BLG-TJC, 2017 U.S. Dist. LEXIS 195308, at *8 (D. Mont. Nov. 28, 2017); *Bear Don't Walk v. Charette*, No. CV 17-79-BLG-SPW-TJC, 2018 U.S. Dist. LEXIS 10842, at *8-9 (D. Mont. Jan. 4, 2018). Plaintiff was given ample time to respond to AWARE's motions and to comply with the Court's Orders offering her explicit instructions on how to maintain her case.

She has failed to accomplish any of the tasks necessary to pursue her case against AWARE.

Thus, pursuant to this Court's Orders and pursuant to Federal Rule of Civil Procedure 12(e), AWARE respectfully requests that the Court dismiss all claims against Defendant AWARE.

DATED this 25th day of November, 2020.

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CERTIFICATE OF SERVICE L.R. 5.2(b)

I HEREBY CERTIFY that, on this 25th day of November, 2020, a copy of the foregoing **BRIEF IN SUPPORT OF MOTION TO DISMISS** was served upon the following by their respective means:

<u>2</u>	CM/ECF
_____	Hand Delivery
<u>1</u>	Mail
_____	Overnight Delivery Service
_____	Fax
_____	E-Mail

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Jake Quinn

CERTIFICATE OF COMPLIANCE

This is to certify that the foregoing brief, excluding the caption, certificate of service, and certificate of compliance, contains approximately 558 words as calculated by the word-processing program used to prepare this brief.

DATED this 25th day of November, 2020.

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