

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

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VICE CHANCELLOR

New Castle County Court House
500 N. King Street, Suite 11400
Wilmington, Delaware 19801

Submitted: August 15, 2008
Decided: August 19, 2008

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***RE: Peter V. Young and Ellen Roberts Young v. Paul J. Klaassen, et al.
and Sunrise Senior Living, Inc.
C.A. No. 2770-VCL***

Dear Counsel:

I have reviewed and considered the jointly submitted motion for clarification. The motion is clear and concise, and I appreciate the effort made by everyone involved in submitting it. As you know, in my April 25, 2008 Order, I granted the plaintiffs a “limited procedural right” to access documents prepared in connection with the Sunrise Senior Living, Inc. special board committee’s findings concerning the matters alleged in the complaint. I did so after the defendants asked the court to rely on those findings in connection with a motion to dismiss. I did not allow the plaintiffs full blown discovery. In response, the defendants have produced, in a redacted form, a narrative outline prepared by the committee’s counsel from which counsel spoke when it delivered its oral report to the committee. There is no other written report. The redactions were made to remove irrelevant information and also to preserve the portions labeled “conclusions” that

reflect attorney-client privileged information. The defendants have also refused to produce copies of the witness interview summaries prepared by the committee's counsel. The motion for clarification asks whether the April 25 Order requires the defendants to produce either the sections of the narrative labeled "conclusions" or the witness summaries.

At the time of the April 25 Order, I considered whether or not to order the production of witness summaries and decided that step was not warranted as a response to the defendants' improper, but limited, injection of the committee's findings into the motion to dismiss. I see no reason to reach a different result now. By contrast, I was not aware of the existence of the so-called narrative outline or the form it took. In view of the assertedly privileged nature of the sections that have been redacted and the steps taken by the committee and its counsel to protect the privileged nature of those communications, I do not interpret the April 25 Order to require their production at this time. Moreover, because of the limited nature of the discovery permitted by the April 25 Order, it is premature to consider whether or not the plaintiffs may be entitled to gain access to that information in the future in connection with merits discovery.

For these reasons, the court rules in favor of the defendants on both issues presented in the motion for clarification. IT IS SO ORDERED.

/s/ Stephen P. Lamb
Vice Chancellor