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Subclasses

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION

STACIA STINER, et al., on behalf of themselves  
and similarly situated individuals,

Plaintiffs,

v.

BROOKDALE SENIOR LIVING, INC.;  
BROOKDALE SENIOR LIVING  
COMMUNITIES, INC., et al.,

Defendants.

Case No.: 4:17-cv-03962-HSG (LB)

**DECLARATION OF  
GUY B. WALLACE IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
REASONABLE ATTORNEYS' FEES,  
COSTS AND EXPENSES**

Judge: Hon. Haywood S. Gilliam, Jr.

Date: October 16, 2025

Time: 2:00 p.m.

Ctrm: 2, 4th Floor

1 I, Guy B. Wallace, declare as follows:

2 1. I am a senior partner at the law firm of Schneider Wallace Cottrell Kim LLP  
3 (“Schneider Wallace” or “SWCK”). I am a member in good standing of the bar of the State of  
4 California. I am counsel of record for Plaintiffs and the certified subclasses (collectively referred  
5 to as “Plaintiffs”). I have personal knowledge of the facts set forth in this Declaration and could  
6 and would testify competently to them.

7 2. I am co-counsel, along with Rosen Bien Galvan & Grunfeld LLP (“RBGG”),  
8 Stebner Gertler & Guadagni (“the Stebner firm”) and Marks, Balette, Young & Moss (“MBYM”),  
9 representing Plaintiffs and the certified subclasses herein.

10 3. I am submitting this Declaration in support of Plaintiffs’ Motion for Reasonable  
11 Attorneys’ Fees, Costs and Expenses.

12 4. This Declaration describes the nature of Plaintiffs’ claims and provides a procedural  
13 history of this case and the defense put on by Defendants. It also discusses the discovery that  
14 Plaintiffs undertook. This Declaration discusses the proposed settlement and explains why it  
15 provides substantial relief to the class members. Finally, this Declaration provides a summary of  
16 Plaintiffs’ application for reasonable attorneys’ fees, costs and expenses.

#### 17 **QUALIFICATIONS OF COUNSEL**

18 5. I graduated from Harvard Law School in 1993, where I was an editor on the  
19 *Harvard Civil Rights-Civil Liberties Law Review*. From 1993 to 1994, I was a Skadden Fellow at  
20 the Disability Rights Education and Defense Fund. From 1994 to 1998, I was a Skadden Fellow  
21 and then Staff Attorney at Disability Rights Advocates. Between March 1998 and June 2000, I  
22 was a Staff Attorney at the Legal Aid Society of San Francisco/ Employment Law Center and  
23 served as head of the disability rights practice. I became a partner in the firm now known as  
24 Schneider Wallace Cottrell Kim LLP in 2000.

25 6. During my over thirty (30) years of practice I have had extensive experience in class  
26 actions and other complex litigation. In particular, I have specialized in disability civil rights class  
27 actions as well as wage and hour, employment and other consumer class action matters including  
28 cases involving elder financial abuse. I have served as lead counsel, co-lead counsel, or class

counsel in more than thirty class actions, and have done so through trial and on appeal. These cases have included, among many others, the following:

- Kirola v. City and County of San Francisco, Case No. 4:07-cv-03685 AMO (N.D. Cal.): lead counsel in systemic, disability access class action involving claims under the Americans with Disabilities Act of 1990 (“ADA”). The case was tried, and following two appeals to the Ninth Circuit Court of Appeals, injunctive relief was issued to the Plaintiff class for various City facilities.
- Heredia v. Sunrise, Case No. 8:18-cv-1974-JLS (JDEx) (C.D. Cal.): co-lead counsel in statewide class action involving claims under the Consumer Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.*, the Unfair Competition Law, Cal. Bus. & Prof. Code §17200 *et seq.*, and the elder financial abuse statute, Cal. Welf. & Inst. Code § 15610.30. The case settled for more than \$18 million and injunctive relief.
- Lollock v. Oakmont Senior Living, LLC, Case No. RG17875110 (Alameda County, Sup. Ct.): co-lead counsel in statewide class action alleging violations of California’s Consumer Legal Remedies Act, California’s unfair competition statute, and the Financial Elder Abuse statute on behalf of assisted living facility residents. This case settled for \$9 million and changes in the defendant’s policies regarding staffing.
- Troy v. Aegis Senior Communities LLC, Case No. 16-cv-03991-JSW: co-lead counsel in statewide class action alleging violations of California’s Consumer Legal Remedies Act, California’s unfair competition statute, and the Financial Elder Abuse statute on behalf of assisted living facility residents. This case settled for \$16.25 million and changes in the defendant’s policies.
- Nevarez v. Forty Niners Football Co., LLC, Case No. 5:16-cv-07013-LHK (SVK): lead counsel in systemic, disability access class action involving claims under Title II and Title III of the Americans with Disabilities Act of 1990. This case settled for more than \$15 million in injunctive relief and \$24 million in class damages, the

largest class damages settlement regarding disability access to a public accommodation in United States history.

- Willits v. City of Los Angeles, Case No. 10-05782 CBM (RZx) (C.D. Cal.): lead counsel in systemic, disability access class action involving claims under Title II of the Americans with Disabilities Act of 1990. This case settled for \$1.37 billion in injunctive relief remedying physical access barriers to persons with mobility disabilities in the City's pedestrian rights of way, the largest systemic disability access settlement in United States history.
- Carnes v. Atria Senior Living, Inc., Case No. 3:14-cv-02727-VC (N.D. Cal.): co-lead counsel in statewide class action alleging violations of California's Consumer Legal Remedies Act, California's unfair competition statute, and the Financial Elder Abuse statute on behalf of assisted living facility residents. This case settled for \$6.3 million and changes in the defendant's policies.
- Winans v. Emeritus Corp., Case No. 3:13-cv-03962-SC (N.D. Cal.): co-lead counsel in statewide class action alleging violations of California's Consumer Legal Remedies Act, California's unfair competition statute, and the Financial Elder Abuse statute on behalf of assisting living facility residents. This case settled for \$13.5 million and significant changes in the defendant's policies.
- Shemaria v. County of Marin, Case No. CV 082718 (Marin County, Sup. Ct.): lead counsel in disability access class action involving claims under Title II of the Americans with Disabilities Act of 1990 and California Government Code § 11135, *et seq.* This case settled for \$15 million in injunctive relief remedying physical access barriers to persons with mobility disabilities in the County's Civic Center, parks, swimming pools, libraries and pedestrian right of way.
- Williams v. H&R Block, Case No. RG08366506 (Alameda County, Sup. Ct., Complex Cases Dept.): co-lead counsel in statewide wage and hour class action on behalf of managers at H&R Block alleging misclassification and failure to pay overtime hours and all hours worked. This case settled for \$6.4 million.

- 1 • Holloway v. Best Buy, Case No. C-05-5056 PJH (MEJ) (N.D. Cal.): class counsel  
2 in Title VII pattern or practice class action settlement regarding race and gender  
3 discrimination. This case settled for injunctive relief regarding the company's  
4 policies, procedures and practices regarding promotions and compensation.
- 5 • Rosa v. Morrison Homes, Case No. 373059 (Stanislaus County, Sup. Ct., Complex  
6 Cases Dept.): co-lead counsel in construction defect class action involving 400  
7 homes. This case settled for \$5.9 million including repairs to the subject homes.
- 8 • Wren v. RGIS, Case No. C-06-05778 JCS (N.D. Cal.): lead counsel in wage and  
9 hour national class action involving California, Washington, Oregon, Illinois and  
10 federal FLSA violations. This class included over 62,000 RGIS employees. This  
11 case settled for \$27 million in addition to injunctive relief regarding company  
12 policies and procedures regarding payment for all employee hours worked.
- 13 • Chau v. CVS, Case No. BC349224 (Los Angeles County, Sup. Ct., Complex Cases  
14 Dept.): co-lead counsel in wage and hour settlement on behalf of statewide class of  
15 pharmacists alleging meal and rest period violations as well as overtime pay  
16 violations. This case settled for \$19.75 million.
- 17 • Satchell v. FedEx Express, Inc., Case No. C-03-2659 SI (N.D. Cal.): co-lead  
18 counsel in Title VII pattern or practice class action regarding race discrimination.  
19 This case settled for over \$38 million and injunctive relief regarding the company's  
20 employment policies, procedures and practices.
- 21 • Cherry v. City College of San Francisco, Case No. C-04-4981 WHA (N.D. Cal.):  
22 lead counsel in class action regarding physical and programmatic access to the San  
23 Francisco Community College District on behalf of students with mobility  
24 disabilities. This case led to a Stipulated Judgment that resulted in the expenditure  
25 of over \$20 million in injunctive relief remedying physical access barriers to  
26 persons with mobility disabilities in numerous campuses of City College.
- 27 • Lopez v. San Francisco Unified School District, Case No. C-99-3260 SI (N.D.  
28 Cal.): lead counsel in class action regarding physical and programmatic access to

the San Francisco public schools on behalf of students and adults with mobility and/or vision disabilities. This case resulted in a Stipulated Judgment against the school district requiring over \$400 million in injunctive relief remedying physical access barriers to persons with mobility disabilities in 100 of the district's schools.

- Lenahan v. Sears, Roebuck & Co., Case No. 3-02-CV-000045 (SRC) (TJB) (D.N.J.): class counsel in wage and hour collective action challenging failure to pay employees for all hours worked as required by the Fair Labor Standards Act. This case settled for \$15 million.
- Singleton v. Regents of the University of California, Case No. 807233-1 (Alameda County, Sup. Ct., Complex Cases Dept.): class counsel in employment discrimination action against Lawrence Livermore National Laboratory for gender discrimination against women in promotion, compensation and other terms and conditions of employment. This case settled for \$10.6 million and injunctive relief regarding the Laboratory's employment policies, procedures, and practices.
- Bates v. United Parcel Service, Case No. C-99-02216 TEH, 204 F.R.D. 440 (N.D. Cal. 2001): class counsel on behalf of nationwide class of deaf and hard of hearing employees of UPS. This case settled for \$5.8 million.
- Siddiqi v. Regents of the University of California, Case No. C 99-0970 SI, 2000 WL 33190435, 81 F. Supp. 2d 972 (N.D. Cal. 1999): lead counsel in class action against two campuses of the University of California for failing to adopt and implement appropriate policies and procedures regarding auxiliary aids and services for students who are deaf or hard of hearing as required by the Americans with Disabilities Act. This case settled for injunctive relief including changes to the Universities' policies, procedures and practices for accommodating students who are deaf or hard of hearing, as well as the remediation of communications access barriers in University lecture halls and classrooms through the installation of assistive listening systems and other access equipment and features.

- 1 • Weissman v. Trustees of the California State University, Case No. Civ. 97-02326  
2 MMC (MEJ), 1998 U.S. Dist. LEXIS 22615, 1999 WL 1201809 (N.D. Cal.): co-  
3 lead counsel in class action on behalf of students and faculty members with  
4 mobility and/or visual impairments against the San Francisco State University for  
5 denial of programmatic access. This case settled for \$5 million in injunctive relief  
6 requiring the removal of physical access barriers to persons with mobility and/or  
7 visual impairments at San Francisco State University.
- 8 • Gustafson v. Regents of the University of California, Case No. C-97-4016 BZ  
9 (N.D. Cal.): co-lead counsel in class action on behalf of students with mobility  
10 and/or vision disabilities against the Regents of the University of California for  
11 denial of physical and programmatic access at the University of California at  
12 Berkeley campus.
- 13 • C.P. v. City and County of San Francisco, Case No. 976437 (San Francisco  
14 County, Sup. Ct.): lead counsel in class action challenge to policy cutting off child  
15 care benefits to foster children with disabilities. This case was resolved with the  
16 entry of a permanent injunction against the policy after the plaintiffs successfully  
17 sought a TRO from the superior court.
- 18 • Guckenberger v. Boston University, 974 F. Supp. 106 (D. Mass. 1997); 957 F.  
19 Supp. 306 (D. Mass. 1997): class counsel in action on behalf of students with  
20 learning disabilities against a private university for policies limiting access to  
21 reasonable accommodations. This case was tried with plaintiffs obtaining  
22 substantial changes in defendants' policies and damages for the named plaintiffs.
- 23 • Putnam v. Oakland Unified School District, Case No. Civ. 93-3772 CW, 1995 US  
24 Dist. LEXIS 22122, 1995 WL 873734 (N.D. Cal.): class counsel in class action  
25 against large urban school district under state and federal law for the District's  
26 failure to make its programs and facilities accessible to students with disabilities.  
27 Plaintiffs' motion for summary judgment was granted. The case was settled  
28 requiring the defendant to make at least 25 of its schools fully accessible.



1           7. I serve as a member of the Board of Directors of The San Francisco Trial Lawyers  
2 Association. I have served as a member of the Board of Directors of the Bar Association of San  
3 Francisco. I have also served on the Board of Directors of Disability Rights California, a section  
4 501(c)(3) organization committed to protecting the civil rights of persons with disabilities. I am a  
5 member of the bar of the Ninth Circuit Court of Appeals and of the United States Supreme Court.  
6 I have served as counsel in both of those courts on matters relating to employment and disability  
7 civil rights. I have been named a “Super Lawyer” in the area of civil rights by Northern California  
8 Super Lawyers magazine for more than ten years. I received the San Francisco Trial Lawyers  
9 Association’s Civil Justice Award in 2017.

10           8. The firm of Schneider Wallace Cottrell Kim LLP has an extensive practice in the  
11 areas of civil rights, wage and hour violations, disability civil rights (including both employment  
12 discrimination and access to public entities and public accommodations), and actions brought on  
13 behalf of consumers under both federal and state law. Class action and other complex litigation is  
14 the major focus of the firm. Todd Schneider founded the firm in 1993. Schneider Wallace  
15 employs approximately 50 attorneys and has acted or is acting as class counsel in many cases.  
16 The firm has represented plaintiffs at all levels including the federal and state trial courts, the  
17 California Courts of Appeal, the California Supreme Court, the Ninth Circuit Court of Appeals,  
18 and the United States Supreme Court.

19           9. Along with my co-counsel, I participated in four mandatory settlement conferences  
20 with Magistrate Judge Spero in the above-captioned matter, as well as direct communications with  
21 counsel for Defendants. As this Court is aware, the parties have conducted extensive discovery in  
22 this matter, and Class Counsel were very well-informed regarding the strengths and weaknesses of  
23 their case. The parties exchanged numerous drafts of the class and individual settlement  
24 agreements. The issue of reasonable attorneys’ fees and costs was only discussed and negotiated  
25 after all significant injunctive relief issues had been resolved, and after an agreement between the  
26 parties was reached regarding the individual claims of the named Plaintiffs. Magistrate Judge  
27 Spero supervised the parties’ discussions regarding reasonable attorneys’ fees and costs, and  
28 ensured that there were no trade-offs in that regard.



**HISTORY OF THE CASE, SETTLEMENT NEGOTIATIONS, AND OVERVIEW**  
**OF WORK PERFORMED BY THE SCHNEIDER WALLACE FIRM**

10. Class Counsel took reasonable and careful steps to coordinate their work on this matter and to minimize duplication of efforts insofar as feasible. Our joint efforts were coordinated through weekly zooms (with agendas) that allowed us to assign firms and attorneys who were primarily responsible for a given motion, aspect of discovery or task. With respect to major motions, such as class certification or summary judgment, one firm was assigned to take the lead. However, the scope of work in this large, difficult and complex matter often required that one or more of the other firms assist with the preparation of certain parts of the motion. With respect to Plaintiffs' claims pertaining to understaffing, issues regarding Defendants' staffing policies and procedures, class membership and numerosity, and the nature of the medical and non-medical services provided by Brookdale to its residents, the Stebner firm and MBYM were primarily responsible for discovery and motion practice, including but not limited to the preparation of Plaintiffs' staffing models and expert analysis showing that the facilities used by the named Plaintiffs were understaffed. *See* Declaration of Kathryn A. Stebner In Support of Plaintiffs' Motion for Reasonable Attorneys' Fees, Costs and Expenses, ¶¶ 11-12, 37-38, 40-42; Declaration of David T. Marks In Support of Plaintiffs' Motion for Reasonable Attorneys' Fees, Costs and Expenses, ¶ 9. I truly believe that every firm did its part and contributed in valuable ways to the successful resolution of this case that was ultimately achieved.

11. Schneider Wallace had an integral role in representing the Plaintiff classes in this matter, including the pleading stage, discovery, class certification, expert discovery, dispositive motions, trial preparation and settlement. Our firm either took the lead in preparing, or assisted the co-counsel firms in preparation of, all major motions. In addition, Schneider Wallace attorneys took or defended 33 out of the 61 days of depositions in this case, including 16 days of expert witnesses and 5 days of the 7 witnesses who were designated under Rule 30(b)(6). The experts included architects, physicians, staffing experts, statisticians, an expert in accessible transportation for persons with mobility disabilities, and an expert in emergency evacuation of persons with disabilities, among other specialized fields.

1           12. Schneider Wallace also played a critical role regarding document discovery,  
2 preparing and serving almost all of Plaintiffs' requests for production of documents to Defendants,  
3 as well as to third-party persons and entities who had relevant information about the claims and  
4 defenses herein.

5           13. SWCK created and maintained the 3.3-million-page document database that  
6 contained the various productions of documents that were made by Defendants and numerous  
7 third-party entities, and that was used by Class Counsel for purposes of deposition and trial  
8 preparation. Schneider Wallace reviewed and analyzed most of the 3,300,000 pages of documents  
9 that Class Counsel received from Defendants and third parties, with specific and assigned groups  
10 of documents being reviewed and analyzed by RBGG, the Stebner firm, and the Marks firm. In  
11 light of the volume of discovery, all four firms contributed significantly to the discovery efforts,  
12 but each was assigned different responsibilities to avoid duplication of effort.

13           14. Our firm also played an active role in the mediation process, including the drafting  
14 of the Settlement Agreement and the detailed remedial measures specified therein.

15 **Pre-Complaint Investigation**

16           15. The Schneider Wallace firm began work on this matter in January of 2017, after  
17 being contacted by Stacia Stiner and other prospective clients who resided at Brookdale's  
18 California assisted living facilities. From that date through the commencement of this action on  
19 July 13, 2017, my firm met with numerous witnesses and prospective clients, and conducted a  
20 thorough investigation into the potential disability rights law and consumer fraud and related legal  
21 claims of residents of Brookdale's California facilities. This included conducting legal research  
22 into potential claims and defenses; interviewing prospective clients and witnesses; analyzing  
23 Brookdale residency agreements, marketing materials and other publicly available documents; and  
24 gathering and analyzing evidence from prospective clients and witnesses (including letters, emails,  
25 and family and resident council meeting minutes).

26           16. During the pre-litigation period, the Schneider Wallace firm also met with  
27 prospective co-counsel and entered into a co-counseling agreement with the law firms now known  
28 as Rosen Bien Galvan & Grunfeld LLP and Stebner Gertler & Guadagni, who were also

investigating disability law and consumer fraud legal claims on behalf of residents of Brookdale's California Residential Care Facilities for the Elderly ("RCFEs"). From the outset and throughout the litigation, co-counsel worked to efficiently coordinate our work between firms and to avoid duplications of effort. Generally, primary responsibility was assigned to a single firm for each required task—for example, drafting a motion, taking a deposition, propounding a set of written discovery—in order to minimize the duplication of effort. This Declaration focuses on the reasonableness and necessity of the work performed by my law firm to advance the Plaintiffs' claims.

17. On March 3, 2017, I sent a pre-litigation demand letter to Chad C. White, General Counsel for Brookdale Senior Living Communities, Inc. Along with Kathryn Stebner, I subsequently met with Defendants' counsel to discuss the concerns outlined in the demand letter, but Defendants did not make any offer to resolve Plaintiffs' concerns.

#### **The Complaint(s) and Related Litigation**

18. This case was filed on July 13, 2017 on behalf of current or former residents with disabilities who live in RCFEs operated by Defendants Brookdale Senior Living, Inc. and Brookdale Senior Living Communities, Inc. (collectively, "Brookdale" or "Defendants"). ECF No. 1. The Schneider Wallace firm shared responsibility with co-counsel for the drafting of the original Complaint. The original Complaint listed four named Plaintiffs (Patricia Eidler, by and through her Guardian Ad Litem, Christopher Eidler; Stacia Stiner; Mary-Catherine Jones, by and through her Guardian Ad Litem, Kelly Clapper; and Helen Carlson, by and through her Guardian Ad Litem, Joan Carlson) and alleged violations of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*), the Unruh Civil Rights Act (Cal. Civ. Code §§ 51 *et seq.*), the Consumer Legal Remedies Act (Cal. Civ. Code §§ 1750 *et seq.*), the Elder Financial Abuse statute (Cal. Welf. & Inst. Code §§ 15610.30), and the Unfair Business Practices statute (Cal. Bus. & Prof. Code §§ 17200 *et seq.*). The legal claims remained the same throughout all subsequent iterations of the complaint.

19. The First Amended Complaint ("FAC") was filed on August 25, 2017. ECF No. 20. This complaint added two additional named Plaintiffs (Bonita Hager; and Lawrence Quinlan, by

1 and through his Guardian Ad Litem, Loresia Vallette) and their factual allegations regarding their  
2 experiences living in Brookdale assisted living facilities. No other substantive changes were made  
3 to the factual allegations, the legal allegations or the relief sought in the original Complaint.

4 20. Following the filing of the FAC, on September 28, 2017, Defendants filed a Motion  
5 to Compel Arbitration (ECF No. 23), a Motion to Dismiss and/or Strike Portions of Plaintiffs'  
6 First Amended Complaint (ECF No. 24), and a Motion to Strike Portions of First Amended  
7 Complaint (ECF No. 25). The Schneider Wallace firm drafted Plaintiffs' Opposition to  
8 Defendants' Motion to Strike (ECF No. 32) and Plaintiffs' Opposition to Defendants' Motion to  
9 Dismiss (ECF No. 33), which were both filed on November 9, 2017.

10 21. In the wake of briefing on Defendants' pending motions, Plaintiffs identified four  
11 additional named Plaintiffs who opted out of arbitration and who wished to serve as class  
12 representatives. Plaintiffs also determined that three of the Plaintiffs named in the FAC would no  
13 longer serve as class representatives, identified allegations that should be corrected or clarified in  
14 light of Brookdale's pending motions, conducted additional factual research regarding events that  
15 occurred since Plaintiffs filed their FAC, and discovered minor drafting errors that warranted  
16 correction.

17 22. Plaintiffs sought leave to file their Second Amended Complaint ("SAC") on  
18 February 15, 2018 (ECF No. 38), which this Court granted on March 16, 2018 (ECF No. 47).  
19 Plaintiffs filed their SAC on March 29, 2018 (ECF No. 52). Plaintiffs made the following  
20 changes, among others:

- 21 a. Plaintiffs added four named plaintiffs (Edward Boris, by and through his  
22 Guardian Ad Litem, Michele Lytle; Ralph Schmidt, by and through his  
23 Guardian Ad Litem, Heather Fisher; Patricia Lindstrom, as successor-in-  
24 interest to the Estate of Arthur Lindstrom; and Bernie Jestrabek-Hart) and  
25 their factual allegations regarding their experiences living in Brookdale  
26 facilities. From late December 2017 to early February 2018, Plaintiffs'  
27 counsel had worked diligently to identify and confirm these four new  
28 proposed named plaintiffs. Of the four new Plaintiffs, only one had been

identified as a potential plaintiff at the time the FAC was filed, and that person had not yet agreed to serve as a proposed class representative.

b. Plaintiffs removed three named Plaintiffs who would no longer serve as class representatives (Patricia Eidler, by and through her Guardian Ad Litem, Christopher Eidler; Mary-Catherine Jones, by and through her Guardian Ad Litem, Kelly Clapper; and Bonita Hager).

c. Plaintiffs addressed issues raised in Defendants' pending motions, including, but not limited to:

(1) Correcting mistaken allegations regarding power of attorney for Plaintiff Quinlan.

(2) Clarifying allegations regarding Plaintiff Stiner's payments to Brookdale.

(3) Adding allegations regarding the standardized nature of Brookdale's policies and practices.

d. Plaintiffs also added and updated allegations that occurred after the filing of the First Amended Complaint, including, but not limited to:

(1) Allegations regarding Plaintiff Carlson's new residency agreement with Brookdale, which post-dated the FAC.

(2) Allegations regarding Brookdale's alleged retaliation against those who chose to participate in a family counsel.

23. On April 19, 2018, Defendants filed a renewed motion to compel arbitration (ECF No. 59), a motion to dismiss and / or strike portions of the SAC (ECF No. 60), and a motion to strike portions of the SAC (ECF No. 61). Plaintiffs filed their respective oppositions on May 17, 2018. ECF Nos. 69 – 71. The Schneider Wallace firm had primary responsibility for drafting Plaintiffs' Oppositions to the Motion to Dismiss and/or Strike (ECF No. 70) and Plaintiffs' Opposition to Strike Class Allegations (ECF No. 71). Gay Grunfeld of RBGG and I argued the motions together at the hearing on July 12, 2018. ECF No. 78.

24. On January 25, 2019, the Court denied the second set of Defendants' motions to compel arbitration and strike Plaintiffs' allegations, and denied in major part Defendants' Motion to Dismiss, with leave to amend (ECF No. 85). On February 25, 2019, Defendants appealed the part of this Court's January 25, 2019 Order denying their motion to compel Plaintiffs Helen Carlson and Lawrence Quinlan to arbitrate their claims, and sought to stay the case and obtain permission to appeal the part of the Order regarding the applicability of the ADA to RCFEs. ECF Nos. 93, 94, 98, 99. The Schneider Wallace firm took primary responsibility for drafting Plaintiffs' Opposition to Defendants' Motion to Certify Order for Interlocutory Appeal (ECF No. 120). In an April 2020 memorandum disposition, the Ninth Circuit affirmed the majority of this Court's denial of Defendants' motion, finding that Ms. Carlson was not bound to arbitrate any of her claims and that Mr. Quinlan could litigate his ADA and Unruh Act claims but was required to arbitrate his claims under the CLRA, UCL, and Elder Financial Abuse Statute. *Stiner v. Brookdale Senior Living, Inc.*, 810 F. App'x 531 (9th Cir. 2020).

25. Plaintiffs filed their Third Amended Complaint ("TAC") on February 15, 2019 (ECF No. 90). This Complaint added Jeanette Algarme as a named Plaintiff. The allegations were updated to reflect Plaintiff Helen Carlson's death and power of attorney and guardian ad litem information for her daughter-in-law, Joan Carlson. The allegations were also updated to reflect Plaintiff Edward Boris's death and Michele Lytle's status as his successor-in-interest. The TAC also updated other allegations in response to Defendants' motions, such as removing allegations about Brookdale's retaliation against residents due to their participation in a family counsel and adding information about the number of persons in the class and their ability to be identified via Defendants' business records.

26. Following an August 24, 2023 case management conference (ECF No. 636), the Court directed the parties to meet and confer regarding the filing of a Fourth Amended Complaint ("4AC"). Plaintiffs filed the operative complaint, the Fourth Amended Complaint (ECF No. 647), on October 23, 2023. In doing so, Plaintiffs made the following changes, among others:

- a. On June 2, 2021, following the deaths of Helen Carlson, Lawrence Quinlan, and Edward Boris, the Court made substitutions as to their representatives for

1 purposes of continued prosecution (ECF No. 260). However, the 4AC  
2 incorporated these changes into the operative complaint.

- 3 b. The 4AC includes and incorporates Exhibit A, a list identifying all of the  
4 alleged physical access barriers for which Plaintiffs sought relief in this  
5 action.

6 27. The Schneider Wallace firm took primary responsibility for drafting the 4AC and  
7 Exhibit A.

8 **Discovery Prior to The Original Motion for Class Certification**

9 28. From the opening of discovery on March 14, 2019 (ECF No. 117) to the filing of  
10 their original motion for class certification, Plaintiffs pursued significant discovery. Most of  
11 Plaintiffs' discovery was relevant to both class certification and the merits. Plaintiffs sought  
12 discovery regarding Defendants' policies, procedures and practices regarding disability access,  
13 care services for residents, transportation and emergency evacuation. Because Defendants  
14 contended that they did not own, operate or control Brookdale's California facilities, Plaintiffs  
15 were required to conduct discovery regarding the structure of Brookdale and whether Defendants  
16 owned, operated and/or controlled the facilities at issue, including document discovery and  
17 depositions of relevant company officials. Plaintiffs also conducted extensive discovery regarding  
18 Defendants' staffing practices, including their care services and their task times for performing  
19 same. This discovery was necessary to show that Brookdale understaffed its facilities, an issue  
20 that was important to both class certification and the merits. Plaintiffs also conducted discovery  
21 regarding the nature of Brookdale's policies, procedures and practices with respect to accessible  
22 transportation (*i.e.*, the Fleet Safety Policy), and emergency evacuation. Again, this discovery was  
23 significant to both class certification and the merits because the parties hotly disputed whether  
24 Defendants' policies and practices in these areas complied with the requirements of the ADA and  
25 the Unruh Act.

26 29. As this Court is aware, the parties vigorously disputed the proper scope of discovery  
27 regarding the foregoing subject matters. Tremendous amounts of resources were spent over these  
28 discovery disputes, such as over the production of Brookdale's employee staffing and resident



1 assessment data; access to the memory care units at the facilities to conduct disability access site  
2 inspections; and whether the complete statewide database of residency agreements should be  
3 produced. Many more discovery disputes were resolved without the Court's assistance, through  
4 time-consuming negotiations that resulted in compromises between the parties. Almost all of this  
5 discovery was relevant to the merits of the Plaintiffs' individual claims, regardless of the outcome  
6 of Plaintiffs' class certification motion.

7 30. Prior to the filing of the first class certification motion, Plaintiffs conducted 16 days  
8 of depositions, including eight days of Rule 30(b)(6) depositions covering seven topics. The  
9 Schneider Wallace firm took nine of those depositions: the depositions of two Executive Directors  
10 of Brookdale RCFEs where Plaintiffs live or lived, Brookdale's District Director of Operations,  
11 Brookdale's Director of Operations, a former Brookdale Division Vice-President of Operations  
12 and four days of Rule 30(b)(6) depositions.

13 31. Schneider Wallace attorneys also participated in at least eleven day-long inspections  
14 of Brookdale's California assisted living facilities conducted by Plaintiffs' access experts in 2019  
15 and 2020.

16 32. Schneider Wallace attorneys conducted most of the interviews of putative class  
17 members and other witnesses and subsequently worked with these witnesses on declarations  
18 submitted in support of Plaintiffs' class certification motion. Schneider Wallace also prepared the  
19 document productions and interrogatory responses for named Plaintiff Stacia Stiner.

20 **Plaintiffs' Original Motion for Class Certification**

21 33. On August 18, 2021, Plaintiffs filed a motion for class certification seeking to  
22 certify three classes of current or former residents of Brookdale RCFEs to pursue claims for  
23 injunctive relief and damages under the ADA, Unruh Act, CLRA, UCL, and Elder Financial  
24 Abuse Statute. ECF No. 278. The Schneider Wallace firm took the lead in drafting the  
25 memorandum of points and authorities in support of the motion for class certification. The motion  
26 was supported by eight expert declarations, including declarations from Plaintiffs' two  
27 accessibility experts (Jeffrey Mastin and Gary Waters), which attached the inspection reports they  
28 prepared for each of the 52 facility inspections they conducted of Brookdale's California facilities

1 in 2019 and 2020. The Schneider Wallace firm worked with the experts to prepare their  
2 declarations regarding the motion for class certification, including the declarations of Mr. Waters,  
3 Mr. Mastin, Mr. Cross, Ms. Kailes, Dr. Patrick Kennedy, and Kevin Marquis. The motion was  
4 also supported by six attorney declarations, 8 named plaintiff declarations, and 82 declarations  
5 from putative class members and fact witnesses. The Schneider Wallace firm drafted the  
6 Declaration of Rachel Steyer and drafted the Declaration of Guy B. Wallace with substantial  
7 assistance from RBGG attorneys. My firm also worked with Plaintiff Stacia Stiner on her class  
8 certification declaration and prepared many other declarations by putative class members and fact  
9 witnesses that were filed in support of the class certification motion.

10 34. On February 4, 2022, Defendants filed Motions to Exclude the Declarations and  
11 Testimony of Plaintiffs' experts June Kailes (ECF No. 346), Douglas Cross (ECF No. 347),  
12 Jeffrey Mastin and Gary Waters (ECF No. 348), Cristina Flores (ECF No. 350), Dave Schroyer  
13 (ECF No. 353), and Patrick Kennedy (ECF No. 355). The Schneider Wallace firm drafted the  
14 oppositions to Defendants' motions regarding June Kailes (ECF No. 438), Douglas Cross (ECF  
15 No. 439), Jeffrey Mastin and Gary Waters (ECF No. 440), and Patrick Kennedy (ECF No. 442).  
16 All of these motions were denied by the Court.

17 35. Defendants filed their Opposition to the motion for class certification on March 3,  
18 2022, more than six (6) months after the filing of the motion for class certification. ECF No. 363.  
19 Defendants' opposition was extensive, and included a 40-page brief, more than 250 witness  
20 declarations from residents and company officials, three expert declarations, and multiple attorney  
21 declarations with exhibits, comprising approximately 12,653 pages, *see* ECF No. 529 at 5.  
22 Defendants' advanced a litany of arguments against class certification. In addition to challenging  
23 Plaintiffs' evidence on every element of Rule 23, Defendants' opposition substantially overlapped  
24 with the merits of Plaintiffs' claims. Defendants argued that they did not own, operate or manage  
25 the Brookdale assisted living facilities at issue. Further, Defendants argued, *inter alia*, that many  
26 class members had not encountered any access barriers, that their unlawful Fleet Safety Policy  
27 only impacted a small numbers of the residents, that Brookdale's emergency evacuation  
28

1 procedures were adequate, and that Brookdale's facilities had sufficient caregiver staffing. *See*  
 2 *generally* ECF No. 363.

3 36. On May 19, 2022, Plaintiffs filed their Reply in support of class certification. ECF  
 4 No. 506. The Schneider Wallace firm took primary responsibility for drafting the Reply brief.  
 5 The reply briefing included nine expert declarations, three attorney declarations, and 65  
 6 declarations from putative class members and fact witnesses. The Schneider Wallace firm drafted  
 7 the Reply Declaration of Rachel Steyer (ECF No. 506-5). We also worked with the experts to  
 8 prepare the Reply Declarations of Douglas Cross (ECF No. 506-9), June Kailes (ECF No. 506-  
 9 12), Dr. Patrick Kennedy (ECF No. 506-13), Jeffrey Mastin (ECF No. 14) and Gary Waters (ECF  
 10 No. 16), as well as all 65 of the declarations from putative class members and fact witnesses (ECF  
 11 No. 506-6).

12 37. The class certification motion, the motions to exclude expert declarations and  
 13 testimony, and all other pending motions were heard on July 8, 2022. I argued all motions at the  
 14 hearing.

15 38. From the class certification hearing on July 8, 2022, through March 10, 2023,  
 16 discovery remained open, but Defendants refused to respond to requests for supplemental  
 17 discovery going to the merits of Plaintiffs' claims. On September 30, 2022, Defendants filed a  
 18 Motion to Stay Discovery Pending the Court's Class Certification Ruling (ECF No. 569) and on  
 19 March 10, 2023, the Court granted the motion to stay discovery (ECF No. 590).

20 39. On March 30, 2023, the Court granted in part and denied in part Plaintiffs' original  
 21 motion for class certification, certifying a Rule 23(b)(2) subclass regarding the legality of the Fleet  
 22 Safety Policy, Brookdale's wheelchair and scooter user transportation policy (the "FSP  
 23 Subclass"). *See* ECF No. 593. Plaintiffs prevailed on all of Defendants' motions to exclude  
 24 and/or strike expert testimony. *Id.*

25 40. On April 13, 2023, Plaintiffs sought permission from the Ninth Circuit to appeal the  
 26 Court's March 30, 2023 class certification Order pursuant to Fed. R. Civ. Proc. 23(f), *see* ECF No.  
 27 600-1. This Court ordered that this litigation be paused while the Rule 23(f) petition was pending.  
 28

ECF Nos. 607, 628. The Ninth Circuit declined to allow the appeal. *Stiner v. Brookdale Senior Living, Inc.*, No. 23-80030, Dkt. No. 13 (9th Cir. May 31, 2023).

### **The Motion for Certification of Subclasses**

41. Plaintiffs filed a Motion for Leave to File a Motion for Certification of Subclasses on October 19, 2023, seeking leave to propose eight subclasses for certification. ECF No. 650. Plaintiffs proposed six subclasses pursuant to Rule 23(b)(2) regarding their claims for violations of the ADA and Unruh Act at the six current or former Brookdale facilities where the named Plaintiffs reside or resided and two more limited subclasses regarding their consumer fraud claims under the CLRA, UCL, and Elder Financial Abuse Statute. *See* ECF No. 650. The motion was supported by three attorney declarations, nine expert declarations, declarations from the eight named plaintiffs and/or their legal representatives, and declarations from 100 putative subclass members and fact witnesses. The Schneider Wallace firm took primary responsibility for drafting the brief (ECF No. 650), the Declaration of Rachel Steyer (ECF No. 650-5), and the Declaration of Stacia Stiner (ECF No. 650-30). We also worked with the experts to prepare the Declarations of Dr. Patrick Kennedy (ECF No. 650-14), Kevin Marquis (ECF No. 650-16), Jeffrey Mastin (ECF No. 650-22) and Gary Waters (ECF No. 650-17). In addition, Schneider Wallace compiled 100 putative subclass member and fact witness declarations from the 147 declarations submitted in total, nearly all of which were identified and prepared by our firm.

42. On October 23, 2023, Defendants filed a motion to strike the motion for leave (ECF No. 656) and filed a motion for sanctions against Plaintiffs (ECF No. 657). The Schneider Wallace firm drafted the opposition to the motion to strike, which was filed on November 6, 2023. ECF No. 671. Defendants' motions were denied on February 7, 2024. ECF No. 670.

43. Plaintiffs filed their Reply in Support of their Motion for Leave on November 20, 2023. ECF No. 678. The briefing included three attorney declarations, one expert declaration, and a supplemental declaration from Plaintiff Jeanette Algarme. The Schneider Wallace took the lead in drafting the Reply brief (ECF No. 678) and the Declaration of Guy Wallace (ECF No. 678-1).

44. On December 4, 2023, Defendants filed a Motion to Strike Improper Attorney Declarations Submitted in Support of Plaintiffs' Reply to their Motion for Leave (ECF No. 681)

1 and a motion for sanctions for same (ECF No. 682). Plaintiffs filed their oppositions to the motion  
2 to strike and the motion for sanctions on December 18, 2023 (ECF Nos. 685 & 686). The  
3 Schneider Wallace firm drafted the opposition to the motion to strike (ECF No. 685).

4 45. On December 8, 2023, Defendants filed a mostly duplicative Motion to Strike  
5 Improper Amended Declaration of Brian S. Umpierre submitted in support of our motion for leave.  
6 ECF No. 683. Plaintiffs filed their opposition on December 21, 2023, which was drafted by the  
7 Schneider Wallace firm ECF No. 693.

8 46. I argued Plaintiffs' motion for leave to file a motion for certification of subclasses to  
9 this Court on February 1, 2024. This Court granted the motion in part on February 7, 2024,  
10 permitting Plaintiffs leave to file a motion for certification of the six access barrier facility-based  
11 subclasses. ECF No. 733. The Court denied Defendants' motions to strike and for sanctions. *Id.*

12 47. Two days later, on February 9, 2024, Plaintiffs filed their motion to certify access  
13 barrier claims on behalf of subclasses of residents at the six current or former Brookdale RCFEs  
14 where the named Plaintiffs reside or resided. ECF No. 740. Plaintiffs' motion sought certification  
15 under Rule 23(b)(3) of subclasses seeking damages under the Unruh Act for physical access  
16 barriers at all six facilities, and certification under Rule 23(b)(2) of subclasses seeking injunctive  
17 relief at the three facilities—Scotts Valley, San Ramon, and Brookhurst—where the named  
18 Plaintiffs had standing to pursue such relief. *Id.* The filing included two attorney declarations,  
19 three expert declarations, including six facility reports from Plaintiffs' access experts' second  
20 round of inspections of the six facilities at issue in the motion, and at least 21 class member or fact  
21 witness declarations. The Schneider Wallace had primary responsibility for drafting the motion  
22 and its supporting materials.

23 48. On May 31, 2024, Defendants filed another motion for sanctions against Plaintiffs,  
24 seeking to disqualify Schneider Wallace attorney Mark Johnson and to exclude Plaintiffs'  
25 emergency evacuations expert based on a disagreement over whether Ms. Stiner was permitted to  
26 invite her counsel and expert to visit her resident room and certain common areas of the facility  
27 where she lived without serving a formal inspection request. ECF No. 798. Plaintiffs filed their  
28 opposition on June 14, 2024. ECF No. 811. The Schneider Wallace firm took the lead in drafting

the opposition brief (*id.*) and the Declarations of Schneider Wallace attorneys Mark Johnson (ECF No. 811-1) and Travis Close (ECF No. 811-2), the Declaration of Plaintiffs' expert June Kailes (ECF No. 811-3), and the Declaration of Plaintiff Stacia Stiner (ECF No. 811-4). The Court denied the motion without a hearing. ECF No. 825.

49. On June 4, 2024, Plaintiffs filed their Reply in Support of the Motion for Certification of Subclasses. ECF No. 805. The briefing included one attorney declaration, one class member declaration, and three expert declarations. The Schneider Wallace firm took the lead in drafting the Reply brief (*id.*) and worked with the experts to prepare the Declarations of Mr. Mastin (ECF No. 805-15), Mr. Waters (ECF No. 804-4) and Kevin Marquis (ECF No. 804-3).

50. The hearing on the motion to certify subclasses was held on June 27, 2024. ECF No. 814. I argued Plaintiffs' motion to this Court.

51. On July 22, 2024, the Court granted in part and denied in part Plaintiffs' motion for certification of the subclasses, certifying the three Rule 23(b)(2) subclasses at Brookdale Brookhurst, Scotts Valley, and San Ramon. ECF No. 820. The Court granted class certification with respect to new construction, and the named Plaintiffs' claims regarding alterations and readily achievable barrier removal proceeded on an individual basis. *Stiner v. Brookdale Senior Living, Inc.*, No. 4:17-cv-03962-HSG (LB), 2024 WL 3498492, at \*7-9 (N.D. Cal., July 22, 2024). The Court declined to certify all of Plaintiffs' proposed Rule 23(b)(3) subclasses. *Id.* at \*12.

52. While this Court declined to certify the six access barrier subclasses pursuant to Rule 23(b)(3) in its July 22, 2024 Order, the Court stated that it "would consider a request from the parties to certify" the question of the relationship between standing and Rule 23(b) predominance in Unruh Act cases "to the Ninth Circuit." *Stiner*, 2024 WL 3498492, at \*12, n.15. Thus, on August 15, 2024, Plaintiffs filed a motion to certify an order for interlocutory appeal on the issue of whether the Court applied the correct legal standard regarding standing, eligibility for damages, and predominance under Fed. R. Civ. Proc. 23(b) in cases involving disability access claims brought under the Unruh Act. ECF No. 841. The Schneider Wallace firm took the lead in drafting the motion.

53. Defendants filed a motion to decertify the Rule 23(b)(2) access barrier subclasses on August 8, 2024. ECF No. 834. Plaintiffs' filed their opposition on September 3, 2024. ECF No. 853. The Schneider Wallace firm took the lead on drafting the opposition brief. I argued both the opposition to the motion to decertify the subclasses and Plaintiffs' motion to certify order for interlocutory appeal to this Court on September 19, 2024. ECF No. 874. The Court denied Defendants' motion to decertify the subclasses on November 15, 2024. ECF No. 930. On March 18, 2025, the Court terminated Plaintiffs' motion to certify the order for interlocutory appeal as moot. ECF No. 1027.

### **Discovery**

54. Discovery in this case opened on March 14, 2019, after the Court referred the case to Magistrate Judge Laurel Beeler for discovery matters. ECF No. 117.

55. Over the course of the five years during which discovery was permitted in this case, Plaintiffs propounded a total of 233 individual document requests in 14 sets, seeking documents and data pertaining to all of the relevant facts and subject matters at issue in this case. These included such matters as the identities and contact information for class members and their representatives, the residency agreements signed by class members, the acuity levels and personal assessments of residents, the training and time records of care staff, the services provided to class members, the formulation and application of Brookdale's staffing model known as service alignment, relevant complaints made by residents and the system for tracking and responding to them, Brookdale's policies and procedures for complying with the ADA and the Unruh Act, the construction and alteration history of Brookdale's assisted living facilities in California, Brookdale's corporate structure and its operation of and control over those assisted living facilities, the history and enforcement of its Fleet Safety policy, the details and documentation of its emergency evacuation policies and procedures, and many other subject areas. Attorneys from the Schneider Wallace firm took the lead in drafting these discovery requests, preparing 13 of the 14 sets of requests containing all but 17 of the individual requests.

56. Schneider Wallace attorneys also took primary responsibility for obtaining documents from third parties through the service of document subpoenas. These included 14 sets



1 of subpoenas on the Department of Social Services regional offices seeking relevant complaint  
2 and investigation reports pertaining to Brookdale facilities from each of the offices having  
3 jurisdiction over those facilities. Schneider Wallace attorneys handled almost all aspects of the  
4 follow-up with and receipt of documents from these entities.

5 57. Plaintiffs served 13 sets of interrogatories on Defendants, comprising 150 individual  
6 interrogatories in total. These covered many of the same issues that were the subject of Plaintiffs'  
7 document requests and also followed up on facts learned from those documents and from  
8 deposition testimony. The formulation and drafting of these interrogatories was a collaborative  
9 effort among Plaintiffs' counsel.

10 58. Plaintiffs also responded to interrogatories served on each of the named Plaintiffs  
11 and/or their representatives in this case, which were similar in scope and content, but required  
12 individual responses based on the facts pertaining to each Plaintiff. Plaintiffs' counsel shared  
13 responsibility for preparing these responses. Schneider Wallace worked with lead Plaintiff Stacia  
14 Stiner and her mother and power of attorney, Rita Stiner, to prepare responses and supplemental  
15 responses to those interrogatories directed to Ms. Stiner.

16 59. The Schneider Wallace firm created and maintained the 3.3-million-page document  
17 database that contained the various productions of documents that were made by Defendants and  
18 numerous third-party entities, and that was used by Class Counsel for purposes of deposition and  
19 trial preparation. The database was maintained in Relativity, so that counsel were able to use term  
20 searches to identify documents that were relevant to Plaintiffs' claims. The Schneider Wallace  
21 firm conducted the bulk of Plaintiffs' analysis of the 3.3 million pages of documents that Class  
22 Counsel received from Defendants and third parties, with specific and assigned groups of  
23 documents being reviewed and analyzed by RBGG, the Stebner firm, and the Marks firm.

24 60. Counsel for the parties spent a substantial amount of time meeting and conferring  
25 over, and litigating, discovery disputes. During the discovery phase of the case, Plaintiffs  
26 researched and prepared portions of 44 letter briefs regarding discovery disputes, of which 25  
27 were resolved in whole or in part in favor of Plaintiffs, 10 in favor of Defendants, and the  
28 remainder of which were not resolved by the Court. The Schneider Wallace firm took primary

1 responsibility for most of the meet and confer sessions with Defendants regarding discovery issues  
2 and drafted Plaintiffs' portion of all but a small number of the numerous joint discovery letter  
3 briefs filed in this case. ECF Nos. 135, 172, 173, 189, 210, 212, 215, 233, 255 - 257, 269, 272,  
4 312, 318, 322 – 325, 340, 436, 481, 491, 563, 573, 691, 692, 705, 712 – 714, 717, 753 – 755, 759,  
5 760, 766, 809, 823.

6 61. Discovery was vigorously contested at nearly all stages of this case, requiring that  
7 tremendous resources be spent. Despite the exceptional difficulty in obtaining this discovery from  
8 Defendants, much of the documents and data that had to be compelled by court order proved to be  
9 crucial evidence underlying Plaintiffs' motions for class certification and summary judgment, as  
10 well as inputs for the analyses performed by Plaintiffs' experts. As the examples below confirm,  
11 Schneider Wallace led the effort to obtain this discovery.

12 62. The disputed discovery battles in this case included at least four (4) motions for  
13 reconsideration and motions for leave to file motions for reconsideration, two of which were  
14 brought by Plaintiffs and two by Defendants. *See* ECF Nos. 566, 729, 751, 791. Our firm briefed,  
15 and won, both of the motions for reconsideration brought by Plaintiffs. In the first motion for  
16 reconsideration, Plaintiffs obtained a favorable ruling from Magistrate Judge Beeler which led to  
17 the release of approximately 40,000 photographs taken by Defendants' expert Douglas Anderson  
18 and his team, as explained more thoroughly below. In the second, which involved whether  
19 additional depositions of Defendants' employees Kelly Rubin and Akindele Omole should  
20 proceed, we successfully argued that new evidence necessitated that the depositions be allowed to  
21 move forward.

22 63. Schneider Wallace successfully briefed, and won, an order by Magistrate Judge  
23 Beeler granting Plaintiffs an additional nineteen (19) depositions, including a key witness in the  
24 case, Brookdale's Fleet Manager Michael Johnson, who was responsible for nationwide oversight  
25 of the Fleet Safety Policy and whose testimony was critical for defending the certified Wheelchair  
26 and Scooter Subclass against a motion for summary judgment. ECF Nos. 714, 725. Brookdale  
27 replaced its prior offending FSP Policy just four days before the Michael Johnson deposition took  
28 place with the newer policy that remains in effect today. The other depositions granted in the

1 Order were for (a) class members at the Plaintiffs' facilities who submitted declarations in  
2 opposition to class certification; (b) Executive Directors and Health and Wellness Directors of the  
3 San Ramon and Scotts Valley facilities; and (c) Kelly Rubin, the Senior Director of Service  
4 Alignment.

5 64. To validate Plaintiffs' allegations of a companywide transportation policy that  
6 impacted residents who used wheelchairs, scooters, or other powered mobility devices, Schneider  
7 Wallace pursued all of Brookdale's local (facility-based) transportation policies in California,  
8 which required obtaining a Court Order. ECF Nos. 325, 326. After Brookdale's production was  
9 complete, it was evident that any written examples of "policies" produced were merely  
10 transportation schedules and sign-up sheets, while no written policies were produced that  
11 conflicted with the Fleet Safety Policy. This evidence was critical for showing at class certification  
12 that only minimal variation with the Fleet Safety Policy existed at the facility level, a fact relied  
13 upon by the Court in certifying the Wheelchair and Scooter Subclass. *See* ECF No. 594 at 45-47.

14 65. After Defendants refused to produce relevant ESI and other documents for the  
15 approximately three year time period prior to the trial date, Schneider Wallace obtained an Order  
16 requiring the supplementation of three main categories of information, including: (1) the  
17 implementation of the FSP and its impact on class members; (2) three subclasses sought for the  
18 plaintiffs' facilities; and (3) the individual claims of Plaintiffs Stiner and Jestrabek-Hart. ECF Nos.  
19 760, 778. The information obtained pursuant to this Order was important both to preparing for trial  
20 and defending against Defendants' motion for summary judgment.

21 66. To analyze claims that Brookdale's staffing was too low at the Brookdale facilities  
22 at issue, Plaintiffs' staffing experts needed access to the trove of data that existed in Brookdale's  
23 internal systems, including records of hours worked by Brookdale staff, the results of resident  
24 evaluations, and related training and technical materials. Schneider Wallace fought to obtain this  
25 data, which required several rounds of telephonic meet and confer sessions, written  
26 correspondence, and a joint letter brief. *See* ECF No. 172. After filing the joint letter brief,  
27 Defendants finally agreed to produce the information sought. This information proved crucial for  
28

1 the staffing shortfall analysis performed by the experts that became a primary source of evidence  
2 underlying the Plaintiffs' understaffing claims on the merits.

3 67. In addition to obtaining the staffing hours and resident evaluation data described  
4 above, over the course of two years, our firm SWCK fought to obtain, and finally did obtain, an  
5 Order compelling the source code of key software that helps determine the staffing at Brookdale's  
6 facilities. ECF Nos. 436, 692, 748, 759, 778. Plaintiffs, through their experts, used this  
7 information to test and verify the accuracy of their prior analyses regarding Brookdale's staffing,  
8 which formed the basis of the injunctive relief regarding staffing at the Plaintiffs' facilities that are  
9 subject to the proposed settlement.

10 68. In order to sufficiently prepare for defending the depositions of the eighty-two (82)  
11 putative class members and fact witnesses who submitted declarations in support of Plaintiffs'  
12 motion for class certification, Schneider Wallace was forced to move to compel their resident files,  
13 which the Court granted. ECF Nos. 323, 226. The information contained within these resident  
14 files bore directly on the testimony provided by the declarants, including their signed residency  
15 agreements, logs of services provided, medical evaluations, and incident reports. This information  
16 was valuable for potential deposition preparation and trial.

17 69. In this action, a primary theme underlying Plaintiffs' allegations was the centralized  
18 control exercised by Brookdale's corporate offices on nearly all aspects of the facilities'  
19 operations, including staffing allocations, staff training plans, resident admissions, maintenance,  
20 and capital improvements. To establish the nature of this control, SWCK sought the "plans of  
21 operation" for the Brookdale facilities at issue, which are required by the state licensing agency for  
22 each facility. After Defendants refused, our firm filed a joint letter brief on the issue, which was  
23 granted by the Court. ECF Nos. 481, 492.

24 70. As part of their expert discovery, Defendants contracted with an access expert, Mr.  
25 Anderson, to survey dozens of Brookdale's facilities in California. During their access surveys,  
26 Anderson and a team of assistants took over 40,000 photographs of the physical condition of the  
27 facilities. Schneider Wallace pursued these photographs as important evidence bearing on the  
28 condition of the facilities, especially with respect to photos depicting physical access barriers that

1 had not been repaired. To obtain access to the photographs, SWCK drafted multiple joint letter  
2 briefs on the issue and conducted oral argument at a hearing with Magistrate Judge Beeler, who  
3 compelled their production. *See* ECF Nos. 563, 573, 580-81.

4 71. The production of the photographs marked a turning point in the case with respect to  
5 the parties' disputes over the physical condition of the facilities. Mr. Anderson's assignment in  
6 the case had been to evaluate the sufficiency of the opinions of Plaintiffs' access experts, including  
7 the accuracy of their measurements of the physical conditions of Brookdale's facilities. The  
8 photographs taken by him and his team generally confirmed the same conditions that were  
9 observed by Plaintiffs' experts.

10 72. As discussed above, Plaintiffs took or defended a total of 61 days of depositions in  
11 this case. This included nine days of Rule 30(b)(6) depositions and 23 days of expert depositions.  
12 Attorneys from the Schneider Wallace firm handled 33 of these days of depositions, including five  
13 days of Rule 30(b)(6) depositions and 16 days of expert depositions.

14 73. The Schneider Wallace firm also took primary responsibility for the extensive  
15 outreach that Plaintiffs conducted to the putative class members and subclass members. Schneider  
16 Wallace attorneys conducted hundreds of interviews of residents and family members to  
17 investigate the access barriers, policies and practices at issue, and took primary responsibility for  
18 drafting most of the 150 class member declarations submitted to support the motions for class  
19 certification. The declarants served as the basis for evaluating and identifying potential trial  
20 witnesses, and additional outreach efforts were done in 2024 to identify additional witnesses to  
21 address the Fleet Safety Policy transportation claims.

## 22 **Expert Discovery**

23 74. The parties designated fourteen (14) experts in this matter. Plaintiffs designated  
24 experts in disability access (Mr. Waters and Mr. Mastin), emergency evacuation (Ms. Kailes),  
25 accessible transportation (Mr. Cross), staffing and discrete simulation (Dr. Flores, Mr. Schroyer  
26 and Dr. Belson), the safety risks associated with transfers and Defendants' Fleet Safety Policy (Dr.  
27 Barchuk) and damages (Dr. Kennedy). Defendants designated experts in disability access (Mr.  
28 Anderson), staffing (Mr. Allen, R.N. and Ms. Baird, R.N.), discrete event simulation (Dr.

1 Jacobson) and an expert statistician (Dr. Saad). Schneider Wallace had primary responsibility for  
2 working with Mssrs. Waters and Mastin, Ms. Kailes, Mr. Cross and Dr. Kennedy. The Stebner  
3 firm and MBGY were responsible for working with Dr. Flores, Mr. Schroyer and Dr. Belson.  
4 RBGG was responsible for working with Dr. Barchuk.

5 75. Plaintiffs conducted two days of disability access site inspections at each of  
6 Brookdale's San Ramon, Scotts Valley, Brookhurst, Hemet, Tracy and Fountaingrove facilities.  
7 The results of these inspection were set forth in six detailed expert facility reports and further  
8 addressed in six more rebuttal expert reports in support of Plaintiffs' claims. The Schneider  
9 Wallace firm took the lead on assisting with the drafting of the disability access expert reports.

10 76. Defendants filed six motions to exclude the opinions of the seven experts that  
11 submitted declarations in support of Plaintiffs' original motion for class certification. ECF Nos.  
12 346 (June Kailes), 347 (Douglas J. Cross), 348 (Jeffrey Mastin & Gary Waters), 350 (Cristina  
13 Flores), 353 (Dale Schroyer), 355 (Patrick Kennedy). The Schneider Wallace firm drafted  
14 Plaintiffs' oppositions to Defendants' motions pertaining to experts June Kailes (ECF No. 438),  
15 Douglas J. Cross (ECF No. 439), Jeffrey Mastin and Gary Waters (ECF No. 440), and Patrick  
16 Kennedy (ECF No. 442). Plaintiffs prevailed on all six motions. ECF No. 594.

17 77. Plaintiffs filed three motions to exclude three of Defendants' experts. ECF Nos.  
18 504 (Supplemental Declaration of Ali Saad), 510 (testimony of Douglas Anderson), 511  
19 (testimony of Sheldon Jacobson & Ali Saad). The Schneider Wallace firm drafted the motions  
20 related to Ali Saad (ECF No. 504) and the motion and reply briefs related to Douglas Anderson  
21 (ECF Nos. 510 & 534). The Court denied all three motions. ECF No. 594.

22 78. On May 1 and May 15, 2024, Plaintiffs disclosed Rule 26 expert reports. The  
23 Schneider Wallace firm, along with co-counsel, worked closely with Plaintiffs' experts to prepare  
24 their Rule 26 reports. The Schneider Wallace firm worked with Mr. Waters, Mr. Mastin, Ms.  
25 Kailes, Mr. Cross and Dr. Kennedy on their Rule 26 reports.

26 79. The Schneider Wallace attorneys played a primary role in expert discovery,  
27 defending the depositions of experts Waters, Mastin, Cross, Kailes and Kennedy and conducting  
28 the depositions of Defendants' experts Dr. Saad and Douglas Anderson.

**Cross Motions for Summary Judgment**

80. In September 2024, the parties filed cross motions for summary judgment. On September 5, 2024, Plaintiffs filed a motion for partial summary judgment on their claims that Brookdale's Brookhurst, Fountaingrove, Hemet, San Ramon, and Scotts Valley assisted living facilities - where the named Plaintiffs and the members of the certified facility-based subclasses reside or resided - contained at least 146 undisputed physical access barriers that deny full and equal access to residents with mobility disabilities under the ADA and /or Unruh Act and that Brookdale's Fleet Safety Policy denied full and equal access to Brookdale's transportation services to members of the Wheelchair and Scooter Users Subclass. ECF No. 856.

81. Brookdale filed a motion seeking summary judgment on all of Plaintiffs' claims (with the exception of their staffing claims as those were stayed at the time when Defendants filed their motion, ECF No. 861 at 11 n.1). ECF No. 861. Brookdale filed a motion seeking summary judgment on all of Plaintiffs' claims (other than Plaintiffs' staffing-related claims, which had been stayed and bifurcated for a separate trial by the Court). ECF No. 861.

82. On December 13, 2024, the Court granted in part Brookdale's motion for summary judgment, dismissing the Plaintiffs' and the certified subclasses' Unruh Act claims for alleged violations of the California Building Code, and denying summary judgment for Defendants as to all other claims. ECF No. 978. Although the Court denied in part Plaintiffs' motion for partial summary judgment, the Court made a number of findings that narrowed the remaining issues for trial in Plaintiffs' favor. In the Order, the Court reaffirmed that Brookdale's California RCFEs are places of public accommodation under Title III of the ADA, found that successor owners and operators like Brookdale may be found liable for disability discrimination when their newly constructed facilities do not comply with federal accessibility standards, rejected Defendants' arguments that the FSP subclass claims are moot, and found that Defendants could not establish a direct threat affirmative defense to the FSP subclass's claims as a matter of law.

83. In the December 13, 2024 Order, the Court also found that there was no factual or legal basis for denying plaintiffs' motion for partial summary judgment with respect to the existence of 146 physical access barriers included in the motion, but deferred on granting partial



1 summary judgment based on the Court's inability to determine from Plaintiffs' papers the  
2 substance and form of the relief sought. ECF No. 978 at 12. On December 26, 2024, the Court  
3 denied Plaintiffs' Motion for Summary Judgment as to the Brookhurst Subclass's access barrier  
4 claims, based on the dispute over Ms. Algarme's standing, and deferred ruling on the motion with  
5 respect to the individual access barrier claims for damages brought by plaintiffs who resided at  
6 Brookdale's Hemet and Fountaingrove facilities, which would not be tried until after the first trial  
7 on the certified subclasses' claims. ECF No. 988.

### 8 **Pretrial Preparation**

9           84. The first trial of three—on the claims of the Brookhurst Subclass seeking  
10 remediation of access barriers under the ADA and the FSP Subclass seeking injunctive relief to  
11 prevent Defendants from reinstating the illegal Fleet Safety Policy—was set to begin on January  
12 27, 2025 with jury selection to commence on January 24, 2025. ECF Nos. 789, 927. Plaintiffs  
13 diligently prepared two rounds of pretrial filings. The initial set was filed in late November and  
14 early December 2024 and a second, revised set filed after the Court's issuance of the summary  
15 judgment order in early January. *See* ECF Nos. 939-976; 995-1003. The parties attended the  
16 Final Pretrial Conference on January 14, 2025. ECF No. 1009.

17           85. The Schneider Wallace firm took the lead on drafting the initial witness list and trial  
18 time estimates (ECF No. 845), jury instructions (ECF No. 972), and the special verdict form (ECF  
19 No. 970). The Schneider Wallace firm also had primary responsibility for work on demonstratives  
20 for trial.

21           86. Plaintiffs filed five pre-trial motions in limine: No 1. Excluding Arguments or  
22 Evidence Regarding Public Accommodation (ECF No. 941), No. 2 Excluding Evidence and  
23 Argument of Class Member Conduct as Defense to Access Claims (ECF No. 942), No. 3  
24 Precluding Certain Arguments and Evidence of Lack of Intent to Discriminate (ECF No. 943), No.  
25 4 Excluding Arguments or Evidence Regarding Unpled or Irrelevant Affirmative Defenses (ECF  
26 No. 944) and No. 5 Excluding Arguments or Evidence On Safety Concerns Related to the Fleet  
27 Safety Policy (ECF No. 945). The Schneider Wallace firm drafted two of Plaintiffs' five motions  
28 (ECF Nos. 943 & 944).

87. Defendants filed Motions in Limine to exclude the opinions and testimony of Plaintiffs' experts Jeffrey Mastin, Gary Waters, Douglas Cross, Alex Barchuk and June Kailes. ECF No. 881) and Patrick Kennedy (ECF No. 900). The Schneider Wallace firm drafted both of Plaintiffs' opposition briefs. ECF Nos. 904 & 913. The motions were terminated as moot on March 18, 2025. ECF No. 1027.

88. Class Counsel also prepared for and conducted a full day mock jury focus group with the National Jury Project.

#### **Mediation and Settlement Negotiations**

89. In October 2019 and September 2021, the parties participated in two mediation sessions with Judge Edward A. Infante (Ret.) through JAMS, neither of which was successful.

90. Beginning in October 2024, the parties participated in five Mandatory Settlement Conference sessions with Magistrate Judge Joseph C. Spero. Judge Spero also facilitated additional settlement communications outside of the scheduled mediation sessions. The parties worked directly through several meet and confers and the exchange of many drafts to reach a final agreement in principle, culminating in a February 6, 2025 term sheet and then the final Class Action Agreement and an Individual Settlement resolving the individual claims of the eight named plaintiffs. Schneider Wallace took primary responsibility for preparing Plaintiffs' mediation briefs and settlement conference statements.

91. Class Counsel refused to discuss attorneys' fees and costs with Defendants until February 2025, after the issues of injunctive relief and damages were settled. As the last step in the settlement discussions, Defendants agreed to pay up to \$14,500,000.00 for fees and costs.

92. The payment of fees and costs will not diminish the injunctive relief or damages the Settlement guaranteed to the class.

93. On March 17, 2025, Plaintiffs filed an unopposed motion for preliminary approval of the class action settlement for injunctive relief, resolving the claims of the four subclasses. ECF No. 1026. On May 1, 2025, the Court held a hearing on the motion, and ordered the parties to file a supplemental brief on why the proposed class action settlement does not impermissibly confer preferential treatment on certain named class members; and a description of the parties'

1 proposed process for providing class notice of the settlement. ECF No. 1035. Plaintiffs filed an  
 2 unopposed supplemental statement in support of the motion for preliminary approval on May 22,  
 3 2025, and the parties' joint proposed class notice plan on May 29, 2025. ECF Nos. 1043, 1044.  
 4 On June 13, 2025, the Court entered an Order granting preliminary approval of the class  
 5 settlement for injunctive relief. ECF No. 1047.

## 6 **TERMS OF THE PROPOSED SETTLEMENT**

### 7 **Equitable Relief**

8 94. The Settlement Agreement requires that Brookdale bring the interior and exterior  
 9 common areas of Brookdale Brookhurst, Brookdale San Ramon, and Brookdale Scotts Valley into  
 10 compliance with the 2010 ADAS, the most recent federal accessibility standards. Agreement §§  
 11 4.1-4.3.

12 95. At Brookdale Brookhurst, Defendants have agreed to renovate an additional 3 studio  
 13 units, 4 one-bedroom units, 1 "large" one-bedroom unit, and 1 one-bedroom two-bath unit  
 14 pursuant to Section 233 of the 2010 ADAS, which allows for residential dwelling units to include  
 15 features that do not strictly comply with the ADAS requirements, as long as they can be easily  
 16 modified if necessary to provide compliant access to residents with mobility and/or vision  
 17 disabilities. Agreement § 4.1.

18 96. The Agreement prohibits Defendants from requiring any resident to pay for any of  
 19 the remediation Defendants have agreed to perform. Agreement § 4.4. In addition, the Agreement  
 20 provides that "Defendants will not require any resident at any Certified Brookdale RCFE who  
 21 needs a modification to their unit to accommodate his or her mobility and/or vision disability to  
 22 pay for such modifications." *Id.*

23 97. Defendants will also remediate all barriers identified as "readily achievable" by the  
 24 U.S. Department of Justice within two years of the final approval order, and they have agreed to  
 25 complete all of the access work within five years of final approval unless the work cannot be  
 26 completed within five years for reasons outside the Parties' control. Agreement §§ 4.6, 4.8.

27 98. The Parties have agreed to agree upon a certified/ licensed architect with a CASp  
 28 certification to oversee the improvements. Agreement § 4.9. If the Parties are unable to agree on

1 a CASp Architect, one will be appointed by the Court. *Id.* Plaintiffs' counsel and the CASp  
 2 Architect will have the opportunity to review the plans for the remediation work before Brookdale  
 3 submits them to the local building department for approval. *Id.* at § 4.10.

4 99. Class Counsel and the CASp Architect will have an opportunity to inspect the final  
 5 work performed. *Id.* If the CASp requires revisionary work thereafter, Brookdale has agreed to  
 6 complete it within a reasonable period of time. *Id.*

7 100. The Parties have agreed to a series of safeguards to ensure the access barrier  
 8 remediation required by the Agreement is completed even if Brookdale ceases operating one of the  
 9 three RCFEs. *Id.* §§ 4.13- 4.16.

#### 10 **Injunctive Relief for the FSP Subclass**

11 101. The Agreement requires Brookdale to maintain the operative "Transporting  
 12 Residents on Community Vehicles Policy," and not alter it as it pertains to "the provision  
 13 permitting residents to remain on wheelchairs, scooters, or other powered mobility aids while  
 14 being transported on a Brookdale RCFE vehicle..." Agreement § 5.

#### 15 **Additional Injunctive Relief**

16 102. As a settlement of the individual injunctive relief claims of Ms. Stiner and Ms.  
 17 Jestrabek-Hart regarding emergency evacuation procedures and Brookdale's allegedly false and  
 18 misleading statements and omissions regarding staffing, Brookdale has agreed to additional  
 19 injunctive relief that Plaintiffs believe will also confer substantial benefit on all resident of  
 20 Brookdale San Ramon and Scotts Valley. Stipulated Injunction ¶¶ 19-24.

#### 21 **Monitoring**

22 103. Prior to submitting plans to the local building department for approval, Defendants  
 23 shall submit such plans to Class Counsel and the agreed upon CASp. Class Counsel shall submit  
 24 any objections to the plans thirty (30) days thereafter. *Id.* § 4.10. Counsel for the Parties shall  
 25 meet and confer regarding any objections. Class Counsel, accompanied by Defendants' counsel  
 26 and the CASp Architect, may inspect the completion of the work. Any revisionary work required  
 27 by the CASp Architect will be completed within a reasonable amount of time, as determined by  
 28 the CASp Architect. *Id.*

**Dispute Resolution**

104. The Court shall retain continuing jurisdiction over this Agreement to ensure that it is fully implemented and to resolve any disputes between the Parties regarding the interpretation and implementation of the Agreement. *Id.* at § 9.8.

**The Release of Claims**

105. In exchange for the relief provided for by the Agreement, the Class Plaintiffs and the members of the Certified Subclasses release all Defendants “from all claims, liabilities, demands, causes of action, or lawsuits for declaratory and/ or injunctive relief, arising out of or relating in any way or manner to the claims and allegations asserted or that could have been asserted in the Lawsuit based on the facts alleged in the complaints filed therein...” *Id.* § 8.1. “This release explicitly includes any rights to appeal the decisions rendered by the Court in the Lawsuit, including as to both class certification and the merits, except for the Court’s order on the motion for attorneys’ fees, costs and expenses. *Id.* This release excludes: (1) individual claims for “personal injuries, wrongful death, bodily harm, or emotional distress resulting from said claims... and (2) claims based on a breach of this Agreement, the Individual Settlement Agreement or the Stipulation Injunction...” *Id.*

**Reasonable Attorneys’ Fees, Costs and Expenses**

106. The parties have agreed that Plaintiffs will seek no more than \$14,500,000 in attorneys’ fees, costs and expenses, and that Defendants will not oppose their motion for an award up to that amount. Agreement § 7. Plaintiffs’ request of \$14,500,000 is approximately one-third of the total amount Plaintiffs have incurred to date in attorney’s fees, costs and expenses.

**PLAINTIFFS’ APPLICATION FOR REASONABLE ATTORNEYS’  
FEES, COSTS AND LITIGATION EXPENSES**

107. Class Counsel seek an award of \$14,500,000 as reasonable attorneys’ fees, costs, and expenses. *See* Settlement Agreement § 7.1. The amount is reasonable considering the enormous expenditure of time and resources that this factually and legally complex matter required on a contingency basis over the course of eight years of hard-fought litigation.

**THE SCHNEIDER WALLACE FIRM IN THIS CASE**

**Minimization of Inefficiencies and Duplication of Efforts**

108. Class Counsel made reasonable efforts to litigate in an efficient manner. Although four firms were involved in the prosecution of this case, the resources devoted to the case from each firm were reasonable, and projects and tasks were divided among the firms in a manner designed to avoid duplication of effort or inefficiencies. I conferred regularly with Ms. Grunfeld, Ms. Yelin, Mr. Umpierre and Mssrs. Marks and Thornton regarding the broad range of work that this case required on a numerous different claims and subject matters. For example, as discussed above, motions were assigned to particular firms, and that firm would take the laboring on that motion with assistance from other firms with respect to particular tasks as appropriate. Experts were assigned to particular firms by subject area. Coordination between the firms was accomplished through periodic team meetings, scheduled as needed and usually conducted by telephone or video conferences, prior to which agendas and task lists were distributed. In this way, specific work assignments were made to each firm, and duplication of efforts was minimized.

109. Within the Schneider Wallace firm, work was performed in an efficient manner. I acted as the primary decision maker. Large projects and assignments were given to of counsel and senior associates, including Mark T. Johnson, Jennifer Bybee and Travis Close. The time-intensive process of contacting and interviewing class members, developing, reviewing and analyzing the voluminous factual record, and propounding and responding to discovery and meet and confer regarding same, was performed mostly by associates and paralegals. This internal allocation of work ensured that all litigation tasks were performed at an appropriate billing rate.

**Summary of Attorneys' Fees, Costs and Litigation Expenses**

**Rates**

110. Class Counsel have reviewed the rates sought for the attorneys and paralegals for whom compensation is sought in this Motion. Based on our experience and knowledge of the market, the rates sought are reasonable and fall within the market range for attorneys of comparable experience, expertise and reputation who provide similar services in the Northern District of California. Class Counsel make their application based on 2025 rates.

111. Plaintiffs also submit the Declaration of Richard M. Pearl, Esq., an expert and recognized authority on rates and attorneys' fees in California. Mr. Pearl has reviewed the 2025 rates sought by Class Counsel, and it is his expert opinion that those rates are reasonable and fall within the market range for attorneys of comparable experience, expertise and reputation who provide similar services in the Northern District of California.

112. Schneider Wallace's hourly rates are regularly approved by federal and state courts within the Bay Area. The 2025 rates requested herein for Schneider Wallace represent only a modest increase over the rates that were approved by other courts as being reasonable in 2024, 2023, 2021 and 2019. SWCK's 2024 partner and associate rates were approved in *Lopez v. Eurofins Scientific, Inc., et al.*, No. 3:21-cv-08652-LB (N.D. Cal. Feb. 15, 2024), Order Granting Plaintiff's Motion for Final Approval of Class Action and PAGA Representative Action Settlement (ECF 90) ("The Court finds the fee award is further supported by a lodestar crosscheck, whereby it finds that SWCK's hourly rates are reasonable, that the estimated hours expended are reasonable, and that the multiplier is reasonable in light of the above."). In particular, the Court in *Lopez* approved the rate of Ori Edelstein, a partner at SWCK who is a 2009 graduate of the Georgetown University Law Center. His 2024 rate was \$1,155 per hour.

113. SWCK's 2023 rates were approved in *Heredia v. Sunrise Senior Living, LLC*, No. 8:18-cv-01974-JLS-JDE, 2024 WL 5416919, at \*9-10 (C.D. Cal. Dec. 3, 2024) (approving SWCK's 2023 hourly rates, including \$1,188 for Guy Wallace, and finding that "[i]n light of its familiarity with the legal market, the unique challenges posed by this matter, Class Counsel's experience, and the skill and commitment with which they prosecuted the matter, the Court finds that the rates above are reasonable," citing Wallace Decl. ISO Final Approval, Doc. 631-15).

114. With respect to SWCK associates Travis Close and Rachel Steyer, their 2023 rates of \$888 and \$775 per hour, respectively, were approved by Judge Staton in *Heredia v. Sunrise Senior Living, Inc.* See *Heredia v. Sunrise Senior Living, Inc.*, No. 8:18-cv-01974-JLS-JDE, 2024 WL 5416919, at \*9-10 (C.D. Cal. Dec. 3, 2024); Declaration of Christopher J. Healy In Support Of Plaintiffs' Motion For Final Class Settlement Approval; Motion For Attorneys' Fees, Costs And Service Awards, ECF No. 631-2 at Paragraphs 126-30; ECF No. 631-7 (Exhibit 4) at 781.



1 The rates for Mr. Close and Ms. Steyer that were approved in *Heredia* are *higher* than the rates  
2 requested for them herein (\$850 per hour and \$750 per hour, respectively).

3 115. SWCK's 2023 rates were also approved by the Hon. Dale S. Fischer in *DeCarlo v.*  
4 *Watermark Retirement Communities, LLC*, No. 2:23-cv-01659-DSF-RAO, 2025 WL 2111437, at  
5 \*3 (C.D. Cal. July 23, 2025).

6 116. SWCK's 2021 rates were approved by the Hon. Jeffrey S. White in *Troy v. Aegis*  
7 *Senior Communities LLC*, No. 16-cv-03991-JSW, 2021 WL 6129106, at \*3 (Aug. 23, 2021)  
8 ("Accordingly, the Court finds the hourly rates requested by Class Counsel to be reasonable and in  
9 line with the market rates charged by skilled counsel in the Northern District in similar complex  
10 civil litigation.").

11 117. SWCK's 2019 hourly rates were approved by Judge Lucy H. Koh in *Nevarez v.*  
12 *Forty Niners Football Co., LLC*, 474 F.Supp.3d 1041, 1050 (N.D. Cal. 2020). In *Nevarez*, Judge  
13 Koh approved SWCK's 2019 hourly rates for Guy B. Wallace (\$925), Mark T. Johnson (\$875),  
14 Sarah Colby (\$840), and Travis C. Close (\$680).

15 118. Many firms increase their hourly rates by anywhere from five (5) to ten (10) percent  
16 per year. Courts have recognized that this is appropriate. For example, a ten percent (10%)  
17 increase in 2016 rates over 2015 rates was found reasonable in *Our Children's Earth Foundation*  
18 *v. National Marine Fisheries Service*, No. 14-cv-01130-WHO, 2017 WL 783490, at \*11 (N.D.  
19 Cal. Mar. 1, 2017) (absent "specific justification" supporting higher increase, plaintiff's attorneys  
20 entitled to 10 percent increase in 2016 rates over 2015 rates).

21 119. Further, it is generally understood that between 2020 and 2024 there was  
22 approximately 20% inflation with respect to many prices in our economy. Accordingly, I do not  
23 believe that the increases in my firm's rates with respect to some attorneys during the past few  
24 years are unreasonable.

### 25 **The Schneider Wallace Attorneys and Their Role**

26 The backgrounds and hourly rates of Plaintiffs' attorneys and staff who worked on this  
27 matter are as follows:  
28

120. As discussed above, I am a 1993 graduate of Harvard Law School and have been practicing law for thirty years. I am recognized as one of the best disability rights litigators in the nation, and courts have found that I have special expertise in disability rights and class action litigation. *See, e.g., Lopez v. S.F. Unified Sch. Dist.*, 385 F. Supp. 2d 981, 991 (N.D. Cal. 2005).

121. My work on this case included, *inter alia*, drafting the Complaint, preparing portions of Plaintiffs' oppositions to Defendants' motions on the pleadings, class certification (including the original motion, the subsequent motion for certification of subclasses and opposing Defendants' motion for decertification), taking and defending seven days of Rule 30(b)(6) and expert depositions, preparing Plaintiffs' mediation briefs and settlement conference statements, numerous pretrial submissions, as well as participating in settlement discussions and the drafting and revision of the Settlement Agreements.

122. The 2025 hourly rate that my firm seeks for my own services in this case is \$1,350. Having reviewed the market, my firm has determined that my rate is within the market range charged by attorneys of comparable experience, expertise, and reputation for similar services in the Northern District of California.

123. Mark Johnson is of counsel at SWCK. He received his J.D. from the University of California, Los Angeles in 1977 and his B.A. in political science from the University of California at Berkeley in 1974. He has extensive experience in representing plaintiffs in the areas of consumer protection, ERISA, employment and disability discrimination, and has specialized in class action litigation for more than 40 years. Before relocating to the Bay Area in 1999, Mr. Johnson was the Director of the Western Law Center for Disability Rights in Los Angeles and the disability rights clinical law program at Loyola Law School.

124. Mr. Johnson's work on this case included working with me and with co-counsel in developing the litigation strategy throughout most of the case, drafting or assisting with drafting a variety of motions, taking and defending depositions, including Rule 30(b)(6) and expert depositions, working with Plaintiffs' experts, drafting or overseeing the drafting of discovery requests, participating in mediation and settlement conferences and working on pre-trial filings and trial preparation. Mr. Johnson took the depositions of ten (10) of Brookdale's witnesses,

1 including two sessions of its Rule 30(b)(6) designee on staffing and service alignment, its Rule  
2 30(b)(6) designee on the Fleet Safety Policy, Defendants' sole expert on disability access issues  
3 and its primary expert challenging the opinions of Plaintiffs' staffing expert. He also defended the  
4 deposition of one of Plaintiffs' two disability access experts and the first round of depositions of  
5 Plaintiffs' experts on the Fleet Safety Policy and emergency evacuation procedures. Mr. Johnson  
6 also played an active role in the two mediation sessions in this case and all of the settlement  
7 conferences with Magistrate Judge Spero.

8 125. In addition to the above-described work, Mr. Johnson took the lead on Plaintiffs'  
9 discovery efforts and responding to Defendants' discovery. He drafted the majority of Plaintiffs'  
10 portion of the joint discovery letters submitted to Magistrate Judge Beeler and argued almost all of  
11 the motions where a hearing was conducted. Mr. Johnson's 2025 hourly rate is \$1,150.

12 126. Sarah Colby was a senior associate at SWCK. Ms. Colby received her J.D. from the  
13 University of California, Hastings in 1997 and her B.A. from Princeton University in 1990. She  
14 clerked for the Hon. Charles A. Legge (Ret.) of the Northern District of California from 1997-98.  
15 She was a Skadden Fellow at the Legal Aid Society of San Francisco—Employment Law Center  
16 from 1998-2000. Ms. Colby's practice at our firm focused on systemic disability access, elder  
17 abuse and consumer class actions.

18 127. Ms. Colby work on this case included, *inter alia*, the initial investigation of the  
19 Plaintiffs' claims. Ms. Colby was primarily responsible for drafting the initial Complaint. In  
20 addition, Ms. Colby prepared portions of the oppositions to Defendants' motion to dismiss and  
21 motion to strike class allegations. Ms. Colby's 2025 hourly rate is \$995.

22 128. Jennifer Bybee is of counsel at SWCK. Ms. Bybee received her J.D. from the New  
23 York University School of Law in 2009, where she served as an editor on the *Annual Survey of*  
24 *American Law* and as a research and teaching assistant to civil procedure Professor Arthur Miller.  
25 From 2009 through 2014, Ms. Bybee was a Staff Attorney at the Bronx Defenders. Ms. Bybee  
26 joined Schneider Wallace in 2014, where her practice has focused on systemic disability access  
27 and elder abuse class action litigation and appeals.  
28

1 129. Ms. Bybee's work on this case focused on briefing Plaintiffs' Rule 23(f) appeal of  
2 this Court's original class certification decision to the Ninth Circuit Court of Appeals, briefing the  
3 motion for leave to file renewed motion for class certification and the motion for certification of  
4 subclasses, briefing Plaintiffs' oppositions to Defendants' motions to strike and motion for  
5 sanctions, drafting the Mastin and Waters Rule 26 Reports, and trial preparation, including the  
6 creation of trial exhibits and demonstratives. Ms. Bybee's 2025 hourly rate is \$925.

7 130. Travis Close is a senior associate at SWCK. He received his J.D. from Northeastern  
8 University School of Law in 2015, where he was a member of the NUSL Law Journal. Mr.  
9 Close's practice focuses on systemic disability access, elder abuse and consumer class actions.

10 131. Mr. Close worked closely with Plaintiffs' experts June I. Kailes and Douglas J.  
11 Cross with respect to emergency evacuation and accessible transportation. He helped to  
12 prepare their Rule 26 Reports and was primarily responsible for opposing Defendants' motions to  
13 exclude their testimony. Mr. Close led the development of Plaintiffs' theory regarding the Fleet  
14 Safety Policy, under which a statewide class of Brookdale residents was certified, resulting in a  
15 nationwide policy change that will benefit thousands of Brookdale residents who rely on scooters  
16 and electric wheelchairs. He was also responsible for coordinating third-party discovery with over  
17 75 state and local government agencies. Mr. Close's 2025 hourly rate is \$850.

18 132. Rachel Steyer is an associate at SWCK. She received her J.D. from University of  
19 California College of the Law at San Francisco (formerly University of California, Hastings) in  
20 2019. Ms. Steyer's practice focuses on systemic disability access, elder abuse and consumer class  
21 action litigation.

22 133. Ms. Steyer oversaw the extensive class outreach efforts and communications with  
23 potential third-party non-class member witnesses over the course of the litigation. She trained and  
24 managed a team of SWCK paralegals and staff attorneys who participated in the class outreach  
25 efforts. Collectively, the team contacted thousands of putative class members and non-class  
26 members, conducted over 500 intake interviews, and prepared and filed approximately 150  
27 declarations from them. Ms. Steyer managed communications with all of the declarants, kept  
28 them abreast of the case's developments, and worked with the relevant witnesses identified in the

1 trial preparation stages. Additionally, she contributed to other aspects of the litigation, including  
2 assisting with preparations for depositions, document review and analysis, and legal research. Ms.  
3 Steyer's 2025 hourly rate is \$750.

4 134. I have reviewed various sources of information about the prevailing market rates in  
5 the Bay Area for the staff identified above. I am also familiar with case law regarding reasonable  
6 market rates in the Northern District of California. In my opinion, the rates that our firm seeks for  
7 the staff members identified above are within the market range for staff with similar qualifications  
8 and experience who do similar types of work in the Northern District of California.

9 **Method of Recording Time**

10 135. The practice of both myself and the attorneys at my firm is to record time in tenth of  
11 an hour increments, and to do so as contemporaneously as possible with the expenditure of the  
12 time by the attorney.

13 **Appropriate Billing Judgment Was Exercised**

14 136. In the exercise of billing judgment, Ms. Bybee and I have reviewed and revised the  
15 Schneider Wallace billing records on an entry-by-entry basis to eliminate inefficiencies and other  
16 billing entries that should not be claimed. The remaining time was all reasonable and necessary  
17 for the prosecution of this case.

18 137. To the extent that particular time entries by Schneider Wallace legal staff reflect  
19 arguably unproductive or duplicative hours, we have not requested fees based thereon. In this  
20 matter I made the following exercise of billing judgment in which I either excluded or reduced  
21 particular time entries.

22 138. First, I generally deleted all time expended on the matter by attorneys or paralegals  
23 who work in our firm's document analysis and outreach departments. Second, I have also  
24 excluded or reduced time entries in my own records that I concluded to be non-billable, or other  
25 entries that were excessive, clerical, erroneous or otherwise non-compensable. I followed the  
26 same process with the entries made by other attorneys and paralegals for whom we seek  
27 compensation. The following chart shows the billing judgment reductions that were made by my  
28 firm:

Timekeeper	Hourly Rate (\$)	Hours	Amount (\$)	Deleted Hours	Deleted Amount (\$)
Jennifer Bybee	\$925.00	826.4	\$764,420.00	-174.7	\$161,597.50
Mark Johnson	\$1,150.00	5,327.7	\$6,126,855.00	-314.7	\$361,905.00
Rachel Steyer	\$750.00	4,722.5	\$3,541,875.00	-1472.5	\$1,104,375.00
Sarah Colby	\$950.00	690.8	\$656,260.00	-45.4	\$43,130.00
Travis Close	\$850.00	6,706.8	\$5,700,780.00	-1148.6	\$976,310.00
Guy Wallace	\$1,350.00	5,971.2	\$8,061,120.00	-267.9	\$361,665.00
<b>Total</b>		<b>24,245.4</b>	<b>\$ 24,851,310.00</b>	<b>-3423.8</b>	<b>\$3,008,982.50</b>

139. The foregoing exercises of billing judgment eliminated \$3,008,982.50 from the Schneider Wallace lodestar in this matter, or 10.8%.

140. Despite the diligent efforts of counsel in reviewing these billing records, given the nature of this litigation and the number of time entries at issue, it is possible that the billing records still contain a very minor number of entries that Class Counsel intended to delete on the bases described above. True and correct copies of the Schneider Wallace billing records for this case up through July 15, 2025 and following the exercise of billing judgment are attached as Exhibit A to this Declaration.

141. In addition to the foregoing billing judgment reductions, my firm has also applied a 10% across-the-board reduction to further account for any time that might possibly be considered duplicative or excessive, and to account for any argument that Plaintiffs' overall success in this matter was "limited" notwithstanding the comprehensive injunctive relief achieved by the Settlement Agreement herein.

#### **Requested Fees**

142. Class Counsels' total lodestar in this matter is \$40,200,387.60. The total number of hours for which Class Counsel seek compensation is 49,483.60. Class Counsels' hours are reasonable given the scope of this litigation; Defendants' aggressive defense of this litigation; the

fundamental importance of the civil rights at stake; and the excellent results achieved by Class Counsel in vindicating those rights.

143. Class Counsel's lodestar is current through July 15, 2025. Our work on this matter, however, is ongoing.

144. Schneider Wallace has not received any compensation for its work on this case. To my knowledge, this is also true for my co-counsel firms.

**Schneider Wallace Cottrell Kim LLP**

145. Schneider Wallace submits the following application for fees, costs and expenses in this case:

<b>Schneider Wallace Cottrell Kim LLP</b>				
Attorney	Law School Graduation Date	Hourly Rate	Hours	Total Fees
Guy B. Wallace	1993	\$1,350	5,971.2	\$8,061,120.00
Mark T. Johnson	1977	\$1,150	5,327.7	\$6,126,855.00
Sarah Colby	1997	\$995	690.8	\$656,260.00
Jennifer Bybee	2009	\$925	826.5	\$764,420.00
Travis Close	2015	\$850	6,706.8	\$5,700,780.00
Rachel Steyer	2019	\$750	4,722.5	\$3,541,875.00
<b>Subtotal of Hours</b>			24,245.4	<b>24,851,310.00</b>
<b>10% Further Reduction to Fees</b>				<b>\$2,485,131.00</b>
<b>Total of Attorneys' Fees</b>				<b>\$22,366,179.00</b>
<b>Total of Costs and Litigation Expenses</b>				<b>\$2,728,295.03</b>
<b>Total</b>				<b>25,094,474.03</b>



**SUMMARY OF APPLICATION FOR FEES, COSTS AND EXPENSES**

146. The following chart summarizes the reasonable attorneys' fees, costs and expenses incurred by Class Counsel for their work.

<b>Total Fees, Costs, and Litigation Expenses for All Firms</b>		
<b>Schneider Wallace Cottrell Kim LLP</b>	<b>Attorneys' Fees</b>	<b>\$22,366,179.00</b>
	<b>Hours Billed</b>	<b>24,245.4</b>
	<b>Costs</b>	<b>\$2,728,295.03</b>
<b>Rosen Bien Galvan Grunfeld LLP</b>	<b>Attorneys' Fees</b>	<b>\$11,009,170.35</b>
	<b>Hours Billed</b>	<b>15,724.8</b>
	<b>Costs</b>	<b>\$1,116,924.97</b>
<b>Stebner Gertler &amp; Guadagni</b>	<b>Attorneys' Fees</b>	<b>\$2,931,159.00</b>
	<b>Hours Billed</b>	<b>3,055</b>
	<b>Costs</b>	<b>\$19,729.72</b>
<b>Marks Balette Young &amp; Moss, P.L.L.C.</b>	<b>Attorneys' Fees</b>	<b>\$3,893,879.25</b>
	<b>Hours Billed</b>	<b>6,458.4</b>
	<b>Costs</b>	<b>\$ 0.00</b>
<b>Total Attorneys' Fees</b>		<b>\$40,200,387.60</b>
<b>Total Number of Hours</b>		<b>49,483.60</b>
<b>Total of Costs and Litigation Expenses</b>		<b>\$3,864,949.72</b>
<b>Total</b>		<b>\$44,065,337.32</b>

147. The total amount of reasonable attorneys' fees incurred by Class Counsel for their work herein after the exercise of billing judgment is \$40,200,387.60.

**Plaintiffs' Requested Costs and Litigation Expenses in This Motion**

148. Plaintiffs submit an application for reimbursement of costs and litigation expenses in this matter in the amount of \$3,864,949.72. The following chart summarizes the costs and litigation expenses incurred by Class Counsel and for which reimbursement is sought:

<b>Total Costs and Litigation Expenses for All Firms</b>	
<b>Schneider Wallace Cottrell Kim LLP</b>	<b>\$2,728,295.03</b>
<b>Rosen Bien Galvan Grunfeld LLP</b>	<b>\$1,116,924.97</b>
<b>Stebner Gertler &amp; Guadagni</b>	<b>\$19,729.72</b>
<b>Marks Balette Young &amp; Moss, P.L.L.C.</b>	<b>\$0.00</b>
<b>Total Costs &amp; Litigation Expenses</b>	<b>\$3,864,949.72</b>

149. The Schneider Wallace firm submits an application for costs and litigation expenses incurred in the amount of \$2,728,295.03. As discussed in the accompanying Declaration of Jennifer Perez In Support of Plaintiffs' Motion for an Award of Reasonable Attorneys' Fees, Costs and Expenses ("Perez Decl."), the vast majority of these costs were for expert fees, deposition transcripts, document production, storage and copying costs, process servers, witness fees, and mediation. A true and correct copy of a detailed itemized list of our firm's costs and expenses, as well as the costs and expenses incurred by RBGG, the Stebner firm and MBGY, are set forth in the separate Appendix of Costs in support of this Motion. Also included in that Appendix are copies of all invoices, bills and statements reflecting those costs for which Plaintiffs are seeking reimbursement.

150. In the opinion of the undersigned, the foregoing costs and expenses were reasonably incurred by Class Counsel and were necessary to the successful prosecution of this litigation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this Declaration was executed on August 7, 2025, in Emeryville, California.

/s/ Guy B. Wallace

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Guy B. Wallace

Attorneys for Plaintiffs and the Certified Subclasses