

Guy B. Wallace – 176151
Mark T. Johnson – 76904
Jennifer U. Bybee – 302212
Travis C. Close – 308673
Rachel L. Steyer – 330064
**SCHNEIDER WALLACE
COTTRELL KIM LLP**
2000 Powell Street, Suite 1400
Emeryville, California 94608-1863
Telephone: (415) 421-7100
Facsimile: (415) 421-7105
Email: gwallace@schneiderwallace.com
mjohnson@schneiderwallace.com
juhrowczik@schneiderwallace.com
tclose@schneiderwallace.com
rsteyer@schneiderwallace.com

Kathryn A. Stebner – 121088
Brian S. Umpierre – 236399
**STEBNER GERTLER & GUADAGNI
A Professional Law Corporation**
870 Market Street, Suite 1285
San Francisco, California 94102-2918
Telephone: (415) 362-9800
Facsimile: (415) 362-9801
Email: kathryn@sggklaw.com
brian@sggklaw.com

Attorneys for Plaintiffs and the Certified
Subclasses

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

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

Plaintiffs,

vs.

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

Defendants.

Gay Crosthwait Grunfeld – 121944
Jenny S. Yelin – 273601
Adrienne Spiegel – 330482
Maya Campbell – 345180
**ROSEN BIEN
GALVAN & GRUNFELD LLP**
101 Mission Street, Sixth Floor
San Francisco, California 94105-1738
Telephone: (415) 433-6830
Facsimile: (415) 433-7104
Email: ggrunfeld@rbgg.com
jyelin@rbgg.com
aspiegel@rbgg.com
mcampbell@rbgg.com

David T. Marks – *pro hac vice*
**MARKS, BALETTE, GIESSEL
& YOUNG, P.L.L.C.**
7521 Westview Drive
Houston, Texas 77055
Telephone: (713) 681-3070
Facsimile: (713) 681-2811
Email: davidm@marksfirm.com

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

CLASS ACTION

**DECLARATION OF JENNIFER
PEREZ IN SUPPORT OF
PLAINTIFFS' MOTION FOR
REASONABLE ATTORNEYS' FEES,
COSTS AND EXPENSES**

1 I, Jennifer Perez, declare:

2 1. I am the operations manager of the law firm of Schneider Wallace Cottrell Kim
3 LLP (“SWCK”), formerly Schneider Wallace Cottrell Konecky LLP. My job duties include
4 oversight of the tracking and payment of invoices for the firm’s cases, including the above-
5 captioned matter. I make these statements based on personal knowledge of the firm’s accounting
6 records and would so testify if called as a witness.

7 2. This Declaration is submitted in support of Plaintiffs’ Motion for Reasonable
8 Attorneys’ Fees, Costs and Expenses. It is based on my review of the records in this case relating
9 to the costs and expenses incurred in connection with the litigation of this matter.

10 3. Our firm served as co-counsel for the Plaintiffs in this case with three other firms,
11 Rosen Bien Galvan & Grunfeld LLP (“RBGG”), Stebner Gertler & Guadagni (“SGG”), and
12 Marks, Balette, Young & Moss, PLLC (“MBYM”). To cover costs and expenses incurred in the
13 case, our firm and RBGG agreed to split the majority of the costs, either by dividing invoices
14 among the firms or by taking turns in paying such expenses as they were incurred. This approach
15 generally applied to deposition costs, expert fees, mediation fees and other litigation-related
16 expenses of significant amounts, some of which SGG also paid. Most other expenses, including
17 travel-related expenses, copying, printing, postage, messenger and overnight mailing services,
18 were paid by the firm that arranged for or incurred the cost of those services.

19 4. In connection with this motion, Plaintiffs have filed an Appendix of Cost
20 Information and Documentation in Support of Plaintiffs’ Motion for Reasonable Attorneys’ Fees
21 Costs and Expenses, which I will refer to in this Declaration as the “Cost Appendix”). The Cost
22 Appendix includes a summary of the litigation-related expenses incurred in this case, which
23 shows the total costs incurred and the amounts paid by each of the firms for each of thirteen (13)
24 categories of litigation expenses. The Appendix includes, in twelve separate exhibits
25 corresponding to the twelve categories of expenses in which this firm incurred litigation costs,
26 true and correct copies of the invoices, bills, statements and/or receipts documenting each of the
27 expenses in that category that were incurred by SWCK. Similar documentation for the litigation
28

1 costs incurred by co-counsel are provided in Exhibit Z to the Declaration of Gay Grunfeld in
2 Support of Plaintiffs Motion for Reasonable Attorneys' Fees, Costs and Expenses and in Exhibit
3 C to the Declaration of Kathryn A. Stebner in Support of Plaintiffs Motion for Reasonable
4 Attorneys' Fees, Costs and Expenses.

5 5. The Cost Appendix filed with this Motion was prepared by my office based on our
6 firm's accounting records and the total expenses by category provided by our co-counsel together
7 with the invoices, bills, statements and receipts provided by the various service providers,
8 experts, vendors and other professionals to whom our firm incurred expenses in litigating this
9 case. I have reviewed these records and materials and the Cost Appendix and, based on that
10 review, believe the summary and itemizations of expenses contained in the Cost Appendix to be
11 an accurate statement of the expenses reasonably incurred by Class Counsel in litigating this
12 case.

13 6. In compiling the Cost Appendix, certain litigation-related expense actually incurred
14 by SWCK as reflected in the firm's accounting records were omitted or deleted at the direction of
15 Class Counsel. These included some expenses for which documentation, such as an invoice or
16 receipt, could not be located or wasn't available. Other expenses, such as some consultant fees
17 and some travel-related expenses, were also omitted, in the exercise of Class Counsel's
18 discretion.

19 7. SWCK has actually expended at least \$2,728,295.03 in reasonable litigation costs
20 and expenses in this case for which it seeks reimbursement. The vast majority of these costs were
21 for document management and hosting, expert fees, deposition fees, printing and copying and
22 legal research expenses. These expenses are identified in the Cost Appendix filed with this
23 motion and summarized in the following paragraphs.

24 8. SWCK has incurred costs of at least \$22,868.37 for printing and copying
25 reasonably necessary for the prosecution of this action. Most of this amount is for in-house
26 copying and printing at a rate of \$0.25 per page. The number of copies made for a case is tracked
27 by our copiers and a software application using a unique code for each case. The computers
28

1 within our copiers generated the above number of total copies printed for discovery purposes or
 2 trial preparation in this case. The system can provide monthly totals by case but does not generate
 3 reports that would provide any detailed documentation for these expenditures. Our accounting
 4 system, however, tracks and permits the recording of these internal costs by case. In addition to
 5 this internal copying / printing costs, the firm incurred printing and copying costs that included
 6 charges for copying of third-party records and oversized documents, reimbursements of
 7 employee out-of-pocket expenses for case-related printing or copying documents off premises in
 8 the total amount of \$287.95, and the amount of \$532.03 paid to a third party vendor for printing
 9 and binding appellate court briefs and related documents. True and correct copies of documents
 10 supporting these costs are attached hereto as **Exhibit A**.

11 9. SWCK expended the amount of \$1,017.40 to Debra Pas, Diane Skillman, Ad Hoc
 12 Reporting, MK Litigation Solutions, Inc. (Maria Knox), Franklin Reporting and Echo Reporting,
 13 for transcripts of the proceedings conducted before the Court on various dates throughout the
 14 course of the litigation. True and correct copies of the invoice for those expenses are attached as
 15 **Exhibit B**.

16 10. SWCK paid invoices or portions of invoices in the amount of \$149,347.55 for
 17 deposition reporting services and transcripts of depositions that were reasonably taken in this case.
 18 These amounts were paid to the following court reporters or court reporting services: Esquire
 19 Deposition Solutions (\$4,589.92), Steno Agency, Inc. (\$26,056.57), U.S. Legal Support
 20 (\$71,552.31), and Veritext (\$47,148.75). Co-counsel paid additional amounts toward deposition
 21 and transcript fees as part of the above-referenced cost-sharing arrangement, as indicated in the
 22 Summary of Litigation Related Expenses in the Cost Appendix. True and correct copies of the
 23 invoices on which SWCK made payments for these services are included in **Exhibit C** of the Cost
 24 Appendix.

25 11. SWCK incurred the expense of \$1,311,422.72 to JND e-Discovery LLC for
 26 document management and hosting services necessary to the prosecution of this case. JND
 27 provided litigation support to Class Counsel by hosting the documents produced by defendants and
 28

1 third parties in this case, uploading them to its servers and providing access to them for document
2 review, coding and management thorough documents management software Relativity. This case
3 involved the production of over three million pages of documents that needed to be uploaded and
4 reviewed. The availability of such documents on a single platform accessible to all Plaintiffs'
5 counsel through Relativity was critical to counsel's understanding of the evidence in this case and
6 the identification of potential deposition and trial exhibits. JND charges for storing and making the
7 documents available on a monthly basis, with charges varying based on the volume of documents
8 stored and the activity that month, including the number of persons to whom access is provided,
9 the number and volume of uploads that month and any technical or advisory support provided. This
10 is reflected in the invoices, true and correct copies of which are included in **Exhibit D** of the Cost
11 Appendix. Although the amount billed for these services to SWCK was in excess of \$1.7 million
12 dollars, the firm successfully negotiated a reduction of \$400,000.00 in the total bill, and therefore
13 has incurred and seeks reimbursement of the sum of \$1,311,422.72.

14 12. SWCK paid invoices or portions of invoices in the amount of \$1,114,362.05 for
15 expert witness and consulting fees for services provided by most of the experts and consultants
16 used by Plaintiffs. These included Facility Access Consulting, Pacific Access Consulting LLC,
17 June Kailes, Douglass Cross, Stout Risius Ross and Torrey Partners, Dr. Cristina Flores, Chopra
18 Koonan, and Envision Litigation Services. The payments to Facility Access Consulting LLC and
19 Pacific Access Consulting were for the services of architects and Certified Access Specialists Jeff
20 Mastin and Gary Waters, including their multiple on-site inspections and evaluations of
21 Defendants' Assisted Living Facilities in California and the preparation of detailed written reports
22 on their findings and conclusions regarding the accessibility of those Facilities. Ms. Kailes and Mr.
23 Cross were retained as expert witnesses on Brookdale's Emergency Evacuation and Transportation
24 Policies and Procedures. Dr. Flores served as Plaintiffs' expert witness on Brookdale's staffing
25 policies and procedures. Payments to Stout Risius Ross and Torey Partners were for the services of
26 Patrick Kennedy, Plaintiffs' damages expert. And payments to Chopra Koonan and to Envision
27 Litigation Design were for litigation consulting services, including the development of trial
28

1 strategies and the design and preparation of trial demonstratives, respectively. Schneider Wallace
2 also made payments to their co-counsel MBGY to reimburse that firm for additional payments it
3 made to Dr. Flores and to ProModel / BigBear.AI Consulting in connection with the design and
4 implementation of the computerized staffing model for analyzing Brookdale's staffing of its
5 assisted living facilities. True and correct copies of these experts' invoices for which SWCK paid
6 all or a portion of the amount due are included in **Exhibit E** of the Cost Appendix.

7 13. SWCK incurred \$1,875.75 for investigative services necessary to locate potential
8 witnesses. True and correct copies of the invoices or other documentation of these expenses are
9 attached hereto as **Exhibit F**.

10 14. SWCK expended at least \$80,148.67 for legal and other research in this case,
11 including \$2,328.51 to Pacer, \$5,149.96 and \$72,670.20 to West Payment Center (Thomson
12 Reuters). Although these vendors do not issue case-specific bills or invoices, the monthly bills
13 they provide to the firm allow us to identify the charges related to this case based on a case code
14 that is entered by the user when accessing these online research systems. The above amounts have
15 been carefully calculated using the entries on those bills corresponding to the codes assigned for
16 this case. The documentation available from Lexis, Pacer and Westlaw, redacted to exclude
17 amounts due for other cases covered by each invoice, for the amounts paid on this case by SWCK
18 are included as part of **Exhibit G** to the Cost Appendix.

19 15. SWCK paid the amount of \$12,048.25 to JAMS for mediation services, including
20 50% of the \$7,500 fee for the October 10, 2019 mediation and \$8,298.25 for the mediation session
21 that was conducted on June 15, 2021. True and correct copy of the JAMS' invoices are attached as
22 **Exhibit H** to the Cost Appendix.

23 16. SWCK paid a total of \$6,693.38 to FedEx, One Legal, LLC, Western Messenger
24 and BK Attorney Service for messenger services involving the same day or overnight delivery of
25 documents and, in the case of BK Attorney Service, the preparation and delivery of
26 correspondence to potential class members. True and correct copies of the invoices for these
27 services are included as part of **Exhibit I** to the Cost Appendix.

1 17. SWCK paid the amount of \$15,772.36 to Titan Legal Services and to One Legal for
2 service of process and service of subpoenas on third parties in this case. All but \$79.90 of this
3 amount was to Titan Legal Services for the service of document subpoenas to dozens of
4 government entities throughout the state, including Department of Social Services regional offices
5 having jurisdiction over the Brookdale Assisted Living Facilities at issue in the case and City and
6 County building and safety and recorder's offices for records establishing construction and
7 alteration histories for those facilities. True and correct copies of the invoices for these services are
8 included in **Exhibit K** of the Cost Appendix.

9 18. SWCK expended at least \$25,000.00 in travel and transportation related expenses in
10 this case in connection with facility site inspections, depositions, deposition preparation sessions
11 and client meetings. For the purpose of SWCK's request for reimbursement of costs, however, we
12 seek recovery only for airfare and lodging for these activities, an amount which comes to
13 \$12,064.79. Thus, SWCK does not seek reimbursement for such ordinarily recoverable costs as
14 ground transportation at the destination, bridge tolls, public transportation, meals and other
15 miscellaneous travel-related expenses. True and correct copies of receipts and invoices for the
16 travel expenses for which SWCK seeks reimbursement are included in **Exhibit L** of the Cost
17 Appendix.

18 19. SWCK incurred the amount of \$673.74 for maintaining a toll-free telephone line for
19 class members to reach class counsel. The documentation for this amount resides within the firm's
20 monthly bill for telephone services, TPX Communications, which includes charges for many other
21 lines besides the dedicated toll-free number for this case and itemizes usage detail for each line.
22 Such documentation is, therefore, voluminous and its production would require the non-relevant
23 charges, which comprise most of each monthly bill, be redacted. During the nearly 5-year period
24 within which the firm had this dedicated toll-free line, it was charged a recurring charge of \$9.00
25 per month plus a small charge for each incoming call. In lieu of producing all of these monthly
26 bills, we are providing a sample of the monthly bill which shows these charges. A true and correct
27 copy of this sample documentation for this expense is attached as **Exhibit M** to the Cost Appendix.

