

Guy B. Wallace – 176151
Mark T. Johnson – 76904
Jennifer U. Bybee – 302212
Travis C. Close – 308673
Rachel L. Steyer – 330064
**SCHNEIDER WALLACE
COTTRELL KONECKY 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

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

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@sgg-lawfirm.com
brian@sgg-lawfirm.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

Attorneys for Plaintiffs and the Certified Subclasses

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

STACIA STINER; RALPH CARLSON, in his
capacity as Trustee of the Beverly E. Carlson and
Helen V. Carlson Joint Trust; LORESIA
VALLETTE, in her capacity as representative of
the Lawrence Quinlan Trust; MICHELE LYTLE,
in her capacity as Trustee of the Boris Family
Revocable Trust; RALPH SCHMIDT, by and
through his Guardian Ad Litem, HEATHER
FISHER; PATRICIA LINDSTROM, as successor-
in-interest to the Estate of ARTHUR
LINDSTROM; BERNIE JESTRABEK-HART;
and JEANETTE ALGARME; on their own
behalfes and on behalf of others similarly situated,

Plaintiffs,

v.

BROOKDALE SENIOR LIVING, INC.;
BROOKDALE SENIOR LIVING
COMMUNITIES, INC.; and DOES 1 through 100,
Defendants.

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

**DECLARATION OF GUY B.
WALLACE IN SUPPORT OF
PLAINTIFFS' UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT FOR INJUNCTIVE
RELIEF**

Judge: Hon. Haywood S. Gilliam, Jr.

Date: May 1, 2025

Time: 2:00 p.m.

Place: Courtroom 2, 4th Floor

1 I, Guy B. Wallace, declare:

2 1. I am an attorney duly admitted to practice before this Court. I am a partner in the
3 law firm of Schneider Wallace Cottrell Konecky LLP, counsel of record for Plaintiffs and the
4 Certified Subclasses. I have personal knowledge of the facts set forth herein, and if called as a
5 witness, I could competently so testify. I make this declaration in support of Plaintiffs'
6 Unopposed Motion for Preliminary Approval of Class Action Settlement for Injunctive Relief.

7 **BACKGROUND AND QUALIFICATIONS**

8 2. I graduated from Harvard Law School in 1993. From 1993 to 1994, I was a
9 Skadden Fellow at the Disability Rights Education and Defense Fund. From 1994 to 1998, I was a
10 Skadden Fellow and then Staff Attorney at Disability Rights Advocates. Between March 1998
11 and June 2000, I was a Staff Attorney at the Legal Aid Society of San Francisco / Employment
12 Law Center and served as head of the disability rights practice. I became a partner in the firm now
13 known as Schneider Wallace Cottrell Konecky LLP in 2000.

14 3. During my thirty (30) years of practice I have had extensive experience in class
15 actions and other complex litigation. In particular, I have specialized in disability civil rights class
16 actions as well as wage and hour, employment, and other consumer class action matters including
17 cases involving elder financial abuse. I have served as lead counsel, co-lead counsel, or class
18 counsel in more than thirty class actions, and have done so through trial and on appeal. These
19 cases have included, among many others, the following:

- 20 • Kirola v. City and County of San Francisco, Case No. 4:07-cv-03685 AMO (N.D.
21 Cal.): lead counsel in systemic, disability access class action involving claims under
22 the Americans with Disabilities Act. The case was tried, and following two appeals to
23 the Ninth Circuit Court of Appeals, injunctive relief was issued to the Plaintiff class for
24 various City facilities.
- 25 • Heredia v. Sunrise, Case No. 8:18-cv-1974-JLS (JDEx) (C.D. Cal.): co-lead counsel in
26 statewide class action involving claims under the Consumer Legal Remedies Act, Cal.
27 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

1 statute on behalf of assisted living facility residents. This case settled for \$6.3 million
 2 and changes in the defendant's policies.

- 3 • Winans v. Emeritus Corp., Case No. 3:13-cv-03962-SC (N.D. Cal.): co-lead counsel in
 4 statewide class action alleging violations of California's Consumer Legal Remedies
 5 Act, California's unfair competition statute, and the Financial Elder Abuse statute on
 6 behalf of assisted living facility residents. This case settled for \$13.5 million and
 7 significant changes in the defendant's policies.
- 8 • Shemaria v. County of Marin, Case No. CV 082718 (Marin County, Sup. Ct.): lead
 9 counsel in disability access class action involving claims under Title II of the
 10 Americans with Disabilities Act of 1990 and California Government Code § 11135, *et*
 11 *seq.* This case settled for \$15 million in injunctive relief remedying physical access
 12 barriers to persons with mobility disabilities in the County's Civic Center, parks,
 13 swimming pools, libraries, and pedestrian rights of way.
- 14 • Williams v. H&R Block, Case No. RG08366506 (Alameda County, Sup. Ct., Complex
 15 Cases Dept.): co-lead counsel in statewide wage and hour class action on behalf of
 16 managers at H&R Block alleging misclassification and failure to pay overtime hours
 17 and all hours worked. This case settled for \$6.4 million.
- 18 • Holloway v. Best Buy, Case No. C-05-5056 PJH (MEJ) (N.D. Cal.): class counsel in
 19 Title VII pattern or practice class action settlement regarding race and gender
 20 discrimination. This case settled for injunctive relief regarding the company's policies,
 21 procedures and practices regarding promotions and compensation.
- 22 • Rosa v. Morrison Homes, Case No. 373059 (Stanislaus County, Sup. Ct., Complex
 23 Cases Dept.): co-lead counsel in novel construction defect class action involving 400
 24 homes. This case settled for \$5.9 million including repairs to the subject homes.
- 25 • Wren v. RGIS, Case No. C-06-05778 JCS (N.D. Cal.): lead counsel in wage and hour
 26 national class action involving California, Washington, Oregon, Illinois and federal
 27 FLSA violations. This class included over 62,000 RGIS employees. This case settled
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for \$27 million in addition to injunctive relief regarding company policies and procedures regarding payment for all employee hours worked.

- Chau v. CVS, Case No. BC349224 (Los Angeles County, Sup. Ct., Complex Cases Dept.): co-lead counsel in wage and hour settlement on behalf of statewide class of pharmacists alleging meal and rest period violations as well as overtime pay violations. This case settled for \$19.75 million.
- Satchell v. FedEx Express, Inc., Case No. C-03-2659 SI (N.D. Cal.): co-lead counsel in Title VII pattern or practice class action regarding race discrimination. This case settled for over \$38 million and injunctive relief regarding the company's employment policies, procedures, and practices.
- Cherry v. City College of San Francisco, Case No. C-04-4981 WHA (N.D. Cal.): lead counsel in class action regarding physical and programmatic access to the San Francisco Community College District on behalf of students with mobility disabilities. This case led to a Stipulated Judgment against the College that resulted in the expenditure of over \$20 million in injunctive relief remedying physical access barriers to persons with mobility disabilities in numerous campuses of City College.
- Lopez v. San Francisco Unified School District, Case No. C-99-3260 SI (N.D. 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

1 action against Lawrence Livermore National Laboratory for gender discrimination
 2 against women in promotion, compensation and other terms and conditions of
 3 employment. This case settled for \$10.6 million and injunctive relief regarding the
 4 Laboratory's employment policies, procedures, and practices.

- 5 • Bates v. United Parcel Service, Case No. C-99-02216 TEH, 204 F.R.D. 440 (N.D. Cal.
 6 2001): class counsel on behalf of nationwide class of deaf and hard of hearing
 7 employees of UPS. This case settled for \$5.8 million.
- 8 • Siddiqi v. Regents of the University of California, Case No. C 99-0970 SI, 2000 WL
 9 33190435, 81 F. Supp. 2d 972 (N.D. Cal. 1999): lead counsel in class action against
 10 two campuses of the University of California for failing to adopt and implement
 11 appropriate policies and procedures regarding auxiliary aids and services for students
 12 who are deaf or hard of hearing as required by the Americans with Disabilities Act.
 13 This case settled for injunctive relief including changes to the Universities' policies,
 14 procedures and practices for accommodating students who are deaf or hard of hearing,
 15 as well as the remediation of communications access barriers in University lecture halls
 16 and classrooms through the installation of assistive listening systems and other access
 17 equipment and features.
- 18 • Weissman v. Trustees of the California State University, Case No. Civ. 97-02326
 19 MMC (MEJ), 1998 U.S. Dist. LEXIS 22615, 1999 WL 1201809 (N.D. Cal.): co-lead
 20 counsel in class action on behalf of students and faculty members with mobility and/or
 21 visual impairments against the San Francisco State University for denial of
 22 programmatic access. This case settled for \$5 million in injunctive relief requiring the
 23 removal of physical access barriers to persons with mobility and/or visual impairments
 24 at San Francisco State University.
- 25 • Gustafson v. Regents of the University of California, Case No. C-97-4016 BZ (N.D.
 26 Cal.): co-lead counsel in class action on behalf of students with mobility and/or vision
 27 disabilities against the Regents of the University of California for denial of physical
 28 and programmatic access at the University of California at Berkeley campus.

- 1 • C.P. v. City and County of San Francisco, Case No. 976437 (San Francisco County,
2 Sup. Ct.): lead counsel in class action challenge to policy cutting off childcare benefits
3 to foster children with disabilities. This case was resolved with the entry of a
4 permanent injunction against the policy after the plaintiffs successfully sought a TRO
5 from the superior court.
- 6 • Guckenberger v. Boston University, 974 F. Supp. 106 (D. Mass. 1997); 957 F. Supp.
7 306 (D. Mass. 1997): class counsel in class action on behalf of students with learning
8 disabilities against a private university for policies limiting access to reasonable
9 accommodations. This case was tried with plaintiffs obtaining substantial changes in
10 defendants' policies and damages for the named plaintiffs.
- 11 • Putnam v. Oakland Unified School District, Case No. Civ. 93-3772 CW, 1995 US Dist.
12 LEXIS 22122, 1995 WL 873734 (N.D. Cal.): class counsel in class action against large
13 urban school district under state and federal law for the District's failure to make its
14 programs and facilities accessible to students with disabilities. Plaintiffs' motion for
15 summary judgment was granted. The case was settled requiring the defendant to make
16 at least 25 of its schools fully accessible.

17 4. I serve as a member of the Board of Directors of the San Francisco Trial Lawyers
18 Association. I have served as a member of the Board of Directors of the Bar Association of San
19 Francisco. I have also served on the Board of Directors of Disability Rights California, a section
20 501(c)(3) organization committed to protecting the civil rights of persons with disabilities. I am a
21 member of the bar of the Ninth Circuit Court of Appeals and of the United States Supreme Court.
22 I have served as counsel in both of those courts on matters relating to employment and disability
23 civil rights. I have been named a "Super Lawyer" in the area of civil rights by Northern California
24 Super Lawyers magazine for more than ten years. I received the San Francisco Trial Lawyers
25 Association's Civil Justice Award in 2017.

26 5. The firm of Schneider Wallace Cottrell Konecky LLP has an extensive practice in
27 the areas of civil rights, wage and hour violations, disability civil rights (including both
28 employment discrimination and access to public entities and public accommodation), and actions

1 brought on behalf of consumers under both federal and state law. Class action and other complex
2 litigation is the major focus of the firm. Todd Schneider founded the firm in 1993. Schneider
3 Wallace employs approximately 50 attorneys and has acted or is acting as class counsel in many
4 cases. The firm has represented plaintiffs at all levels including the federal and state trial courts,
5 the California Courts of Appeal, the California Supreme Court, the Ninth Circuit Court of
6 Appeals, and the United States Supreme Court.

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

17 **THE PROPOSED SETTLEMENT AGREEMENT PROVIDES**
18 **EXCELLENT RELIEF TO THE SUBCLASSES**

19 7. As described more fully in the Declaration of Gay Crosthwait Grunfeld, this case
20 has been very heavily litigated, and involved many novel issues of law. Although we were
21 confident that our claims would prevail, in my opinion there was substantial risk to continuing
22 with the litigation given that we would have needed to complete three trials and then litigate
23 potential appeals. There was risk that the jury would not have sided with Plaintiffs in either or
24 both of the two claims that were set to go to trial in January 2025, or that the Court would have
25 determined that Plaintiffs lacked standing to pursue injunctive relief at Brookdale Brookhurst
26 given that Jeanette Algarme had moved out of the facility and would have had to testify that she
27 had a genuine intent to return to visit Brookdale Brookhurst for purposes of assessing whether
28 access barriers had been removed. In addition, we still had to complete significant additional

1 discovery to complete on the individual claims regarding false and misleading statements and
2 omissions about staffing, as well as likely summary judgment briefing on those claims. Moreover,
3 throughout the case, we had difficulty finding current residents willing to serve as witnesses or
4 class representatives.

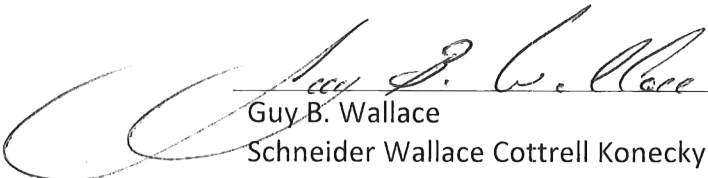
5 8. I strongly believe that the Settlement Agreement we reached with Brookdale
6 provides substantial, excellent relief to the four subclasses, and that it was beneficial to the
7 subclasses to agree to the settlement rather than continue with the litigation. In my view, the
8 members of the four subclasses will receive substantial benefits from the proposed class
9 settlement, and obtaining any additional relief would necessarily entail several years of litigation
10 in the trial court as well as appellate proceedings, thus resulting in significant litigation risks to the
11 class members. Under the terms of the proposed class settlement, the class members –most of
12 whom are elderly—will receive great benefit from the access improvements that will be made to
13 the facilities at issue. These improvements will remove literally hundreds of access barriers from
14 the common areas of their facilities, and will ensure that a significant number of residents units are
15 brought into full compliance with the requirements of the 2010 Americans with Disabilities Act
16 Standards for Accessible Design (“2010 ADAS”). As a result of these access improvements, the
17 class members will have equal access to their facilities, and they will be far more able to use these
18 facilities in an independent and safe manner.

19 9. Plaintiffs’ efforts have resulted in multiple orders holding that the ADA applies to
20 assisted living facilities and that Brookdale has agreed to renovate three of its facilities to comply
21 with the current accessibility standards. It is particularly notable that Brookdale agreed to
22 renovate the Scotts Valley and San Ramon facilities, even though the claims of those two
23 subclasses had been dismissed. Many hundreds of current and future residents of the three
24 facilities will benefit from the remediation of access barriers. It will also provide a tremendous
25 benefit to residents of Brookdale RCFEs throughout the State of California that Brookdale will not
26 reinstate a policy requiring people who use electric wheelchairs and scooters to transfer out of
27 their mobility devices to rides on the Brookdale transportation.

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1 10. The proposed class settlement agreement represents an excellent resolution of the
2 claims of the four certified subclasses. It will provide very substantial practical benefits to the
3 class members that they are certain to receive, and which will be provided to them on a far shorter
4 timeframe than continued litigation of their claims with all of the inherent uncertainty that such
5 litigation would entail. Further, the proposed resolution compares favorably with other disability
6 rights and class action settlements with which I am familiar, and it is fair, reasonable and adequate
7 within the meaning of applicable law. Accordingly, I respectfully recommend that this Court
8 approve the proposed settlement agreement.

9 I declare under penalty of perjury under the laws of the United States of America that the
10 foregoing is true and correct, and that this declaration is executed at El Cerrito, California this 16th
11 day of March, 2025.

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15 Guy B. Wallace
16 Schneider Wallace Cottrell Konecky LLP
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