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26 Attorneys for Plaintiffs and the Class

27 UNITED STATES DISTRICT COURT
28 CENTRAL DISTRICT OF CALIFORNIA

1 Audrey Heredia as successor-in-interest
2 to the Estate of Carlos Heredia; Amy
3 Fearn as successor-in-interest to the
4 Estate of Edith Zack; and Elise Ganz,
5 as successor-in-interest to the Estate of
6 Elise Ganz; on their own behalves and
7 on behalf of others similarly situated,

8 Plaintiffs,

9 vs.

10 Sunrise Senior Living, LLC; Sunrise
11 Senior Living Management, Inc.; and
12 Does 2 - 100,

13 Defendants.

CASE NO. 8:18-cv-1974-JLS (JDEx)

**REPLY DECLARATION OF
KATHRYN STEBNER IN
SUPPORT OF PLAINTIFFS'
MOTION FOR FINAL CLASS
SETTLEMENT APPROVAL**

Date: November 8, 2024
Time: 10:30 a.m.
Place: Ctrm. 8A, 8th Fl.
Judge: Hon. Josephine L. Staton

1 I, Kathryn Stebner, hereby declare,

2 1. I am an attorney duly licensed to practice before all the courts of the
3 State of California and am a member in good standing of the State Bar of
4 California. I am a partner in the law firm of Stebner Gertler & Guadagni (“Stebner
5 firm”) and am one of the Class Counsel in the above captioned matter (the
6 “Action”). I am submitting this Reply Declaration in support of Plaintiffs’ Motion
7 for Final Approval of Class Settlement. Unless otherwise indicated, I have personal
8 knowledge of the facts set forth herein. If called upon to testify, I could and would
9 do so competently.

10 2. As reflected in the stipulated Injunction, Sunrise is required to, among
11 other things, keep, maintain, and monitor call light request and response times
12 (“Call Light Request / Response Data”) for the duration of the Injunction plus an
13 additional six months. Dkt. 631-4, ¶ 9.

14 3. On a quarterly basis, Sunrise also is required to provide Class Counsel
15 with Call Light Request / Response Data for specific facilities for specific periods
16 of time. *Id.*, ¶¶ 11-12. To compensate for the differing technical capabilities of the
17 call light systems at issue, the Injunction sets forth two approaches for the
18 monitoring and production of Call Light Request / Response Data. Both approaches
19 reflected in the Injunction allow Class Counsel to monitor staff response times and
20 identify and flag wait times of aberrant duration which violate generally accepted
21 and reasonable care standards across all of Sunrise’s remaining facilities. Dkt. 614-
22 8, ¶ 15.

23 4. The purpose of the monitoring and reporting requirements is to ensure
24 compliance with the Stipulated Injunction and to enforce its staffing mandates.
25 Analyzing Call Light Request / Response Data as a means to identify potential
26 understaffing is innovative. Utilizing Sunrise’s existing data to ensure compliance
27 is specifically tailored to the unique needs of this case.

28

1 5. Plaintiffs’ staffing expert, Dr. Cristina Flores, agrees that “[c]all light
2 response time is an excellent indicator of staffing sufficiency.” Dkt. 614-8, ¶ 13. As
3 a general matter and by way of example, that is because long wait times for a call
4 light response is indicative of insufficient staffing numbers. *See id.* This “easy and
5 quick diagnostic measure” of detecting patterns in the call light data is the ‘canary
6 in the coalmine’ flagging possible instances of understaffing for further inquiry. *Id.*
7 It is borne of the patterns Class Counsel gleaned from real-world interviews
8 conducted in the course of Plaintiffs’ preparation for trial, which corroborate that
9 repeated instances of aberrant wait times may be indicative of understaffing.

10 6. I am aware that a Class Member, Lisa M. Gold, has filed an objection
11 to the terms of the Settlement.¹ As relevant here, I understand that Ms. Gold is
12 concerned that, based on her experience, the monitoring requirements “may not be
13 thorough enough to achieve a meaningful result.” For the reasons set forth below, I
14 have great confidence that the potential scenarios Ms. Gold describes will be
15 detected.

16 7. With our collective experience in elder abuse litigation, Class Counsel
17 are well-qualified to analyze the Call Light Request / Response Data in order to
18 identify patterns in the response times that may evidence understaffing.
19 Specifically, I am Class Counsel who will be primarily responsible for reviewing
20 the quartetly Call Light Request / Response Data that Sunrise will provide. With
21 nearly three decades prosecuting elder abuse cases, I feel confident that I have the
22 knowledge and skill to detect trends indicative of insufficient numbers of staff in
23 the data Sunrise is required to provide.

24 8. Having reviewed call light data and similar records in the past, I would
25 expect that the potential scenario that Ms. Gold raises would be detectable from the
26

27 ¹ I understand Ms. Gold to be the daughter of deceased Class Member Beverly Gold
28 and the executor of her estate. I understand Beverly Gold resided at Sunrise of
Huntington Beach from 2015 to 2017.

1 Call Light Request / Response Data that Sunrise will be producing under the
2 Injunction. In my experience, assisted living residents will make follow-up
3 requests if their initial request is not answered within a reasonable period of time.
4 Those follow-up requests will appear in the data as call light requests made within a
5 short duration of time. A pattern of a large number of short-duration response times
6 would be a red-flag warranting further inquiry. Under paragraph 14 of the
7 Injunction, Sunrise is required to respond to such inquiries.

8 9. As a condition to its agreement to the Injunction, Sunrise required that
9 resident-identifying information (including room numbers) will be redacted from
10 the quarterly Call Light Request / Response Data, due to resident privacy concerns.
11 The room number redaction will not, however, impact Class Counsel's ability to
12 undertake the above-described pattern analysis. As Sunrise is required to produce
13 the date and time of both the resident's call and the response by Sunrise personnel
14 (Injunction, ¶¶9, 11), that will provide the response time duration information
15 necessary for our analysis. Further, Sunrise is required to maintain an electronic
16 record of the room number associated with the resident call and Sunrise's
17 response. Injunction, ¶9. Thus, if needed, Class Counsel could obtain that
18 information under paragraph 14 of the Injunction.

19 I declare under penalty of perjury under the laws of the State of California
20 and the United States that the foregoing is true and correct.

21 Executed on October 30, 2024 at San Francisco, California.

22
23
24 /s/ Kathryn A. Stebner
Kathryn A. Stebner