

AEGIS LAW FIRM, PC

KASHIF HAQUE, State Bar No. 218672

SAMUEL A. WONG, State Bar No. 217104

JESSICA L. CAMPBELL, State Bar No. 280626

FAWN F. BEKAM, State Bar No. 307312

Email: fbekam@aegislawfirm.com

9811 Irvine Center Drive, Suite 100

Irvine, California 92618

Telephone: (949) 379-6250

Facsimile: (949) 379-6251

Attorneys for Plaintiff Teresa Jones,
individually, and on behalf of all others similarly situated.

[Additional counsel listed on following page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA**FOR THE COUNTY OF LOS ANGELES**

TERESA JONES, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

OPTIMAL HOSPICE CARE, INC.; OPTIMAL
HOSPICE, INC.; BRISTOL HOSPICE –
CALIFORNIA, L.L.C.; BRISTOL HOSPICE –
COACHELLA VALLEY, L.L.C.; BRISTOL
HOSPICE – INLAND EMPIRE, L.L.C.;
BRISTOL HOSPICE – SACRAMENTO, L.L.C.;
BRISTOL HOSPICE – SAN DIEGO, L.L.C.;
BRISTOL HOSPICE – SAN JOSE, L.L.C.;
BRISTOL HOSPICE – STOCKTON, L.L.C.; and
DOES 1 through 20, inclusive,

Defendants.

Case No. 20STCV23170

[Related to Case Nos. 21CV-00326 and 21CV-
00328 in the Merced Superior Court]

*Assigned for all purposes to:
Hon. Elihu M. Berle, Dept. 6*

JOINT STIPULATION OF SETTLEMENT

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiff Barbara Desoto

LEWIS BRISBOIS BISGAARD & SMITH LLP

MELISSA T. DAUGHERTY , SB# 227451

E-Mail: Melissa.Daughtery@lewisbrisbois.com

ANDREW J. SOKOLOWSKI, SB#226685

E-Mail: Andrew.Sokolowski@lewisbrisbois.com

633 West 5th Street, Suite 400

Los Angeles, CA 90071

Telephone: 213.250.1800

Facsimile: 213.250.7900

Attorneys for Defendants Optimal Hospice Care, Inc.,
Optimal Hospice, Inc., Bristol Hospice – California, L.L.C.,
Bristol Hospice Coachella Valley, L.L.C., Bristol Hospice –
Inland Empire, L.L.C., Bristol Hospice – Sacramento, L.L.C.,
Bristol Hospice – San Diego, L.L.C., Bristol Hospice – San Jose,
L.L.C., and Bristol Hospice – Stockton, L.L.C.

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Court, that the Settlement of these Actions shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named Plaintiffs Teresa Jones and Barbara Desoto
7 (“Named Plaintiffs”) and the Class Members, on the one hand, and Defendants Optimal Hospice
8 Care, Inc., Optimal Hospice, Inc., Bristol Hospice – California, L.L.C., Bristol Hospice Coachella
9 Valley, L.L.C., Bristol Hospice – Inland Empire, L.L.C., Bristol Hospice – Sacramento, L.L.C.,
10 Bristol Hospice – San Diego, L.L.C., Bristol Hospice – San Jose, L.L.C., and Bristol Hospice –
11 Stockton, L.L.C. (“Defendants”), on the other hand. Named Plaintiffs and Defendants collectively
12 are referred to in this Agreement as “the Parties.”

13 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
14 concluded by agreement of Defendants to pay the settlement amount of Four Million Dollars
15 (\$4,000,000.00) as provided in Section 3.06(a) below (“Gross Settlement Amount”) pursuant to the
16 terms and conditions of this Agreement and for the consideration set forth herein, including but not
17 limited to, a release of all claims by Named Plaintiffs and the Class Members as set forth herein.

18 ARTICLE I

19 DEFINITIONS

20 Unless otherwise defined herein, the following terms used in this Agreement shall have the
21 meanings ascribed to them as set forth below:

22 a. “Actions” means the three pending actions described as follows: (1) *Teresa Jones,*
23 *individually and on behalf of all others similarly situated v. Optimal Hospice Care, Inc., et al.; and*
24 *DOES 1 through 20, inclusive,*” Case No. 20STCV23170, commenced on June 18, 2020, in the
25 Superior Court of the State of California for the County of Los Angeles; (2) *Barbara Desoto, an*
26 *individual, on behalf of herself and behalf all persons similarly situated v. Bristol Hospice –*
27 *California, L.L.C., et al.; and DOES 1 through 50, inclusive,*” Case No. 21CV-00326, commenced
28 on January 29, 2021, in the Superior Court of the State of California for the County of Merced; and

(3) *Barbara Desoto, on behalf of the State of California, as a private attorney general, v. Bristol Hospice – California, L.L.C., et al.; and DOES 1 through 50, inclusive,*” Case No. 21CV-00328, commenced on January 29, 2021, in the Superior Court of the State of California for the County of Merced.

b. “Agreement” means this Joint Stipulation of Settlement, including the attached Exhibit(s).

c. “Class” means all current and former non-exempt employees who are or were employed by Defendants in California at any time during the Class Period.

d. “Class Counsel” means the attorneys for the Class and the Class Members, who are:

AEGIS LAW FIRM, PC
Kashif Haque
Samuel A. Wong
Jessica L. Campbell
Fawn F. Bekam
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
Norman B. Blumenthal
Kyle R. Nordrehaug
Aparajit Bhowmik
Nicholas J. De Blouw
2255 Calle Clara
La Jolla, CA 92037
Telephone: (858) 551-1223
Facsimile: (858) 551-1232

e. “Class List” means a list based on Defendants’ business records that identifies each Class Member’s name, last known home or mailing address, Social Security number or, as applicable, other taxpayer identification number, dates of employment, and the number of Qualifying Workweeks worked during the Class Period.

f. “Class Member(s)” means all members of the Class.

g. “Class Period” means August 26, 2016 through August 2, 2021.

h. “Court” means the California Superior Court for the County of Los Angeles, where the *Jones* Action is currently pending.

i. “Date of Finality” means the later of the following: (1) the date the Final Order is signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or other judicial review is taken from the Court’s overruling of objections to the settlement, ten (10) days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes final.

j. “Defendants” means Defendants Optimal Hospice Care, Inc., Optimal Hospice, Inc., Bristol Hospice – California, L.L.C., Bristol Hospice Coachella Valley, L.L.C., Bristol Hospice – Inland Empire, L.L.C., Bristol Hospice – Sacramento, L.L.C., Bristol Hospice – San Diego, L.L.C., Bristol Hospice – San Jose, L.L.C., and Bristol Hospice – Stockton, L.L.C.

k. “Defense Counsel” means counsel for Defendants:

LEWIS BRISBOIS BISGAARD & SMITH LLP
Melissa T. Daugherty
Andrew J. Sokolowski
633 West 5th Street, Suite 400
Los Angeles, CA 90071
Telephone: 213.250.1800
Facsimile: 213.250.7900

l. “Disposition” means the method by which the Court approves the terms of the Settlement and retains jurisdiction over its enforcement, implementation, construction, administration, and interpretation.

m. “Final Order Approving Settlement of Class Action” or “Final Order” means the final formal court order signed by the Court following the Final Fairness and Approval Hearing in accordance with the terms herein, approving this Agreement.

n. “Gross Settlement Amount” means Four Million Dollars and Zero Cents (\$4,000,000.00) to be paid by Defendants as provided by this Agreement to settle these Actions. All payments to the Class, administration costs, attorney’s fees and costs, and Incentive Award, pursuant to Section 3.07(a) below, shall be paid out of the Gross Settlement Amount. The employer’s share of payroll taxes arising from the payments made under this settlement shall be paid by Defendants separate from and in addition to the Gross Settlement Amount. The Gross Settlement Amount is

1 subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the Gross Settlement
2 Amount shall revert to Defendants.

3 o. "Incentive Award" means a monetary amount of up to Fifteen Thousand Dollars
4 (\$15,000.00) for each of the Named Plaintiffs (\$30,000.00 total), subject to Court approval, in
5 recognition of their effort and work in prosecuting the Actions on behalf of Class Members, and for
6 their general release of claims.

7 p. "Individual Settlement Payment(s)" means each Participating Class Member's
8 respective share of the Net Settlement Amount. Individual Settlement Payments will be determined
9 by the calculations provided in this Agreement.

10 q. "LWDA" means The State of California Labor and Workforce Development Agency.

11 r. "LWDA Payment" means 75% of the \$100,000 allocated to the settlement of PAGA
12 claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.07(e) of
13 this Agreement, as provided for below.

14 s. "Motion for Final Approval" means Plaintiffs' submission of a written motion,
15 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
16 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and
17 to enter a Final Order in these Actions.

18 t. "Motion for Preliminary Approval" means Plaintiffs' submission of a written motion,
19 including any evidence as may be required for the Court to grant preliminary approval of the
20 Settlement as required by Rule 3.769 of the California Rules of Court.

21 u. "Named Plaintiffs" means Teresa Jones and Barbara Desoto.

22 v. "Net Settlement Amount" means the Gross Settlement Amount less Court-approved
23 administration costs, Class Counsels' attorney's fees and costs, Incentive Award, and LWDA
24 Payment, pursuant to Section 3.07(a)-(f) below.

25 w. "Non-Participating Class Member(s)" means any Class Member(s) who submit to the
26 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
27 to Section 3.04(b) below.

28

x. “Notice Packet” means the Notice of Proposed Class Action Settlement in a form substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

y. “PAGA” means the Labor Code Private Attorneys General Act of 2004, which is codified in California Labor Code §§ 2698 *et seq.*

z. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount allocated to the resolution of PAGA Group Members’ claims arising under PAGA. The Parties have agreed that the PAGA Settlement Amount is One Hundred Thousand Dollars (\$100,000), subject to Court approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the remaining 25% will be added to the Net Settlement Amount and distributed to PAGA Group Members.

aa. “PAGA Group Members” means all Class Members employed by Defendants at any time between August 26, 2019 through August 2, 2021 (“PAGA Period”).

bb. “Participating Class Member(s)” is defined as a Class Member who does not timely exclude himself or herself from the Settlement and will therefore receive his or her share of the Net Settlement Amount automatically without the need to return a claim form. Each Participating Class Member will be paid his/her Individual Settlement Payment.

cc. “Preliminary Approval Date” means the date the Court preliminarily approves the Settlement embodied in this Agreement.

dd. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement Administrator for the benefit of Participating Class Members.

ee. “Qualifying Workweeks” means the number of weeks that Class Members worked for Defendants as non-exempt employees during the Class Period.

ff. “Released Parties” means Defendants any and all of Defendants’ past, present, and future representatives, directors, officers, employees, agents, attorneys, affiliates, members and shareholders, as well as all parent companies, affiliated companies, subsidiary companies, affiliates, insurers, and/or assigns and/or any other individual or entity which could be liable for the claims raised in the Named Plaintiffs’ Operative Complaint.

hh. “Settlement Administration Costs” means all costs incurred by the Settlement Administrator in administration of the Settlement, including, but not limited to, mailing of notice to the class, calculation of Individual Settlement Payments, generation of Individual Settlement Payment checks and related tax reporting forms, administration of unclaimed checks, and generation of checks to Class Counsel for attorneys’ fees and costs, to Named Plaintiffs for their Incentive Awards, and to the LWDA. The Settlement Administration Costs shall be paid from the Gross Settlement Amount.

5 ii. “Settlement Administrator” means Phoenix Settlement Administrators, which the
6 Parties have agreed will be responsible for the administration of the Individual Settlement Payments
7 to be made by Defendants from the Gross Settlement Amount and related matters under this
8 Agreement.

CONTINGENT NATURE OF THE AGREEMENT

Because the Parties have stipulated to the certification of the Class with respect to all causes of action alleged in these Actions for settlement purposes only, this Agreement requires preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification of the Class with respect to all causes of action alleged in the Actions. Defendants do

not consent to certification of the Class for any purpose other than to effectuate settlement of the Actions. If the Date of Finality does not occur, or if Disposition of these Actions are not effectuated, any certification of the Class as to Defendants will be vacated and Named Plaintiffs, Defendants, and the Class will be returned to their positions with respect to the Actions as if the Agreement had not been entered into. In the event that the Date of Finality does not occur: (a) any Court orders preliminarily or finally approving certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement, the fact that Defendants did not oppose the certification of a Class under this Agreement, or that the Court preliminarily approved the certification of the Class, shall not be used or cited thereafter by any person or entity, including in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. If the Date of Finality does not occur, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendants expressly reserve the right to challenge the propriety of class certification in the Actions for any purpose if the Date of Finality does not occur.

The Parties and their respective counsel shall take all steps that may be requested by the Court relating to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain Court approval and implement this Agreement. If the Court does not grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a resolution, the Parties agree to seek the assistance of mediator Jeffrey A. Ross to resolve the dispute.

ARTICLE III

PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT

The procedure for obtaining Court approval of and implementing this Agreement shall be as follows:

Section 3.01: Motion for Conditional Class Certification and Preliminary Approval

Named Plaintiffs will bring a motion before the Court for an order conditionally certifying the Class to include all claims pled in the Actions based on the preliminary approval of this

1 Agreement. The date that the Court grants preliminary approval of this Agreement will be the
2 “Preliminary Approval Date.”

3 **Section 3.02: The Settlement Administrator**

4 The Parties have chosen Phoenix Settlement Administrators to administer this Settlement and
5 to act as the Settlement Administrator, including but not limited to distributing and responding to
6 inquiries about the Notice Packet, determining the validity of exclusions/opt-outs, calculating the Net
7 Settlement Amount and the Individual Settlement Payments, issuing the Individual Settlement
8 Payment checks and distributing them to Participating Class Members, and PAGA Group Members,
9 establishing and maintaining the QSF, and issuing the payment to Class Counsel for attorneys’ fees
10 and costs, the Incentive Award checks to Named Plaintiffs, and the employer payroll taxes to the
11 appropriate taxing authorities. The Settlement Administrator shall expressly agree to all of the terms
12 and conditions of this Agreement.

13 All costs of administering the Settlement, including but not limited to all costs and fees
14 associated with preparing, issuing and mailing any and all notices to Class Members and/or
15 Participating Class Members, all costs and fees associated with computing, processing, reviewing,
16 and mailing the Individual Settlement Payments, all costs and fees associated with preparing any tax
17 returns and any other filings required by any governmental taxing authority or agency, all costs and
18 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the
19 course of administering disbursements from the Net Settlement Amount, and any other costs and fees
20 incurred and/or charged by the Settlement Administrator in connection with the execution of its
21 duties under this Agreement (“Settlement Administration Costs”), shall be paid to the Settlement
22 Administrator from the Gross Settlement Amount.

23 **Section 3.03: Notice to Class Members**

24 No later than five (5) business days after the Preliminary Approval Date, Defendants will
25 provide the Settlement Administrator with a “Class List” in electronic format based on its business
26 records, identifying the names of the Class Members, their last known home addresses, Social
27 Security numbers or, as applicable, other taxpayer identification number, their dates of employment
28 and weeks worked during the Class Period.

1 Within ten (10) business days of receiving a Class List from Defendants, the Settlement
2 Administrator will send Class Members, by first-class mail, at their last known address, the Court
3 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
4 Settlement Class. The Notice Packet will include a calculation of the Class Member's approximate
5 share of the Net Settlement Amount. Class Members will have forty-five (45) days from the date of
6 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the
7 Settlement Administrator will check all Class Member addresses against the National Change of
8 Address database and shall update any addresses before mailing. The Settlement Administrator will
9 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a
10 Notice Packet was undeliverable. If a Class Member's notice is re-mailed, the Class Member shall
11 have fifteen (15) calendar days from the re-mailing, or forty-five (45) calendar days from the date of
12 the initial mailing, whichever is later, in which to postmark objections or requests for exclusion.
13 Class Members shall not be required to submit claim forms in order to receive a proportional share
14 of the Net Settlement Amount.

15 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
16 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose
17 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
18 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
19 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
20 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
21 that reasonable means be used to locate Class Members and that the Settlement Administrator be
22 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
23 Individual Settlement Payments to all Participating Class Members.

24 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
25 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
26 status report provided to the Parties.

27 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
28 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class

Member's Individual Settlement Payment. The Settlement Administrator will hold the Class Member's Individual Settlement Payment during the check cashing period on behalf of the Class Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the procedures set forth in Section 3.07(g) below.

No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration attesting to completion of the notice process, including any attempts to obtain valid mailing addresses for and re-sending of any returned Notice Packets, as well as the number of valid requests for exclusion and objections that the Settlement Administrator received.

Section 3.04: Responses to Notice

a. Class Member Disputes

If any Class Member disagrees with Defendants' records as to his or her Qualifying Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period and submit such writing to the Settlement Administrator by the Response Deadline, along with any supporting documentation. The Notice will also provide a method for the Class Member to challenge the employment data on which his or her Individual Settlement Payment is based. The Settlement Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith to resolve it. If the Parties are unable to resolve the dispute, the Settlement Administrator will be the final arbiter of the Qualifying Workweeks for each Class Member during the Class Period based on the information provided to it.

b. Requests for Exclusion from Class

In order for any Class Member to validly exclude himself or herself from the Class and this Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class Member or his or her authorized representative, and must be sent to the Settlement Administrator, postmarked no later than the Response Deadline (or fifteen (15) days after the Settlement

1 Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall
2 contain instructions on how to validly exclude himself or herself from the Class and this Settlement
3 (i.e., opt out), including the language to be used in a request for exclusion. The date of the initial
4 mailing of the Notice Packet, and the date the signed request for exclusion was postmarked, shall be
5 conclusively determined according to the records of the Settlement Administrator. Any Class
6 Member who timely and validly requests exclusion from the Class and this Settlement will not be
7 entitled to any Individual Settlement Payment, will not be bound by the terms and conditions of this
8 Agreement, and will not have any right to object, appeal, or comment thereon.

9 However, PAGA Group Members may not opt out of the PAGA Settlement. PAGA Group
10 Members who opt out of the Class Settlement will still be bound by the PAGA Release and will still
11 receive a check for their portion of the PAGA Settlement.

12 Any Class Member who fails to timely submit a request for exclusion shall automatically be
13 deemed a Class Member whose rights and claims with respect to the issues raised in the Actions are
14 determined by the Court's Final Order Approving Settlement of Class Action, and by the other
15 rulings in the Actions. Thus, said Class Member's rights to pursue any claims covered by the Actions
16 and/or released in this Agreement will be extinguished.

17 **c. Objections to Settlement**

18 For any Class Member to object to this Agreement, or any term of it, the person making the
19 objection must not submit a request for exclusion (i.e., must not opt out), and should send to the
20 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)
21 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),
22 a written statement of the grounds of objection, signed by the objecting Class Member or his or her
23 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and
24 the date the signed objection was postmarked, shall be conclusively determined according to the
25 records of the Settlement Administrator. The Settlement Administrator shall send any objections it
26 receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class
27 Members may also appear at the final approval hearing to object. The Court retains final authority
28 with respect to the consideration and admissibility of any Class Member objections.

d. Encouragement of Class Members

The Parties to this Agreement and the counsel representing such Parties shall not, directly or indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from Class Members.

e. Right of Plaintiffs to Adjust Gross Settlement Amount

Defendants have estimated the number of Class Members as 1,711 and the number of workweeks to be 113,534. If the number of Class Members or number of workweeks increase by more than 5% (which is more than 1,796 Class Members or 119,210 workweeks) as of the end of the Class Period, there will be a pro rata adjustment to the Gross Settlement Amount equal to \$2,337.81 per additional class member or \$35.23 per additional workweek, whichever is greater.

Section 3.05: Final Fairness and Approval Hearing

On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement and determine whether the Court should give it final approval, and (2) consider any objections made and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a Proposed Final Order Approving Settlement of Class Action.

Section 3.06: Settlement Payment Procedures

a. Settlement Amount

In exchange for the Released Claims set forth in this Agreement, Defendants agree to pay the Gross Settlement Amount in the amount of Four Million Dollars (\$4,000,000.00), subject to a pro rata increase under the conditions set forth in Section 3.04(e). The Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class Members, all administration costs, Class Counsel's attorney's fees and costs, PAGA Settlement Amount, and the Incentive Payments.

Within ten (10) calendar days after the Court signs the Final Order, Defendants shall transfer the Gross Settlement Amount plus Defendants' share of employer-side payroll taxes, as set forth herein, into a QSF established by the Settlement Administrator either directly or by sending the funds

to the Settlement Administrator to be deposited and distributed. The Settlement Administrator will use these funds to fund payment of the Individual Settlement Payments to Participating Class Members, PAGA Group Member payments, Class Counsel's attorneys' fees and costs, the Incentive Award, the LWDA Payment, and the Settlement Administration Costs.

Within ten (10) court days after receiving Defendants' final payment, funding the Gross Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the Incentive Award, and employer and employee tax withholdings applicable to the Net Settlement Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct for any known or identifiable address changes.

b. Payment of Attorneys' Fees and Costs

Class Counsel shall submit an application for an award of attorneys' fees of up to one-third of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is One Million Three Hundred Thirty-Three Thousand Three Hundred and Thirty-Three Dollars and Thirty-Three Cents (\$1,333,333.33). Class Counsel shall submit an application for an award of costs not to exceed Thirty Thousand Dollars (\$30,000.00). Such application for attorneys' fees and costs shall be heard by the Court at the Final Fairness and Approval Hearing. Defendants shall not object to or oppose any such application in these amounts. Class Counsel shall serve Defendants with copies of all documents submitted in support of their application for an award of attorneys' fees and costs.

Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys' fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs, and expenses related to the investigation, prosecution, and settlement of the Actions incurred through the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees and/or costs that Class Counsel requests, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

c. Payment of Settlement Administration Costs

1 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
2 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed
3 Fifteen Thousand Dollars (\$15,000.00).

4 **d. Payment of Incentive Awards to Named Plaintiffs**

5 Subject to Court approval, the Named Plaintiffs shall each receive an Incentive Award of up
6 to Fifteen Thousand Dollars (\$15,000.00), the request for which Defendants will not object to or
7 oppose. The Incentive Award shall be paid out of the Gross Settlement Amount and shall not
8 constitute payment to any Participating Class Member(s) other than Named Plaintiffs. To the extent
9 that the Court approves less than the amount of incentive award that Class Counsel request, the
10 difference between the requested and awarded amounts will be reallocated to the Net Settlement
11 Amount.

12 Because it is the intent of the Parties that the Incentive Award represent payment to Named
13 Plaintiffs for their service to the Class Members, and not wages, the Settlement Administrator will
14 not withhold any taxes from the Incentive Award. The Incentive Award will be reported on a Form
15 1099, which the Settlement Administrator will provide to Named Plaintiffs and to the pertinent taxing
16 authorities as required by law.

17 **e. Payment to the Labor and Workforce Development Agency**

18 In consideration of claims made under PAGA, Class Counsel will request that the Court
19 approve allocation of One Hundred Thousand Dollars (\$100,000) of the Gross Settlement Amount
20 to these claims. Seventy-five percent (75%) of this payment will be paid to the California Labor and
21 Workforce Development Agency ("LWDA Payment"), and twenty-five percent (25%) will be paid
22 to the Net Settlement Amount for distribution to PAGA Group Members. The PAGA Group
23 Members' individual portions will be calculated in the same way that Class Member Individual
24 Settlement Payments are calculated as described below, except that the applicable workweeks will
25 only be those worked by PAGA Group Members during the PAGA Period. Defendants will not
26 oppose this request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement
27 Amount. The Court's adjustment, if any, of the amount allocated to Named Plaintiffs' PAGA claim
28 in the Actions, will not invalidate this Agreement.

f. Payment of Individual Settlement Payments to Participating Class Members

The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement Payments. The Parties agree that the Net Settlement Amount shall be divided between all Participating Class Members in proportion to the number of individual Qualifying Workweeks for each Class Member. To calculate the minimum amount each Class Member will receive based on their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total number of Qualifying Workweeks by all Class Members during the Class Period and then allocated on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class Member's approximate Individual Settlement Payment amount will be included in his or her Notice Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to Participating Class Members (those who did not exclude themselves) on a pro rata basis based on the individual Qualifying Workweeks worked during the Class Period by each Participating Class Member.

Each Individual Settlement Payment will represent wages and penalties allocated using the following formula: 60% allocated to wages; 10% allocated to interest, and 30% allocated to penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The employer-side taxes will be paid separate from and in addition to the Gross Settlement Amount. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms.

No later than ten (10) business days after receiving the Gross Settlement Amount from Defendants, the Settlement Administrator shall prepare and mail the checks for the Individual Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the Net Settlement Amount allocated to wages will be reduced by applicable employer and employee tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the extent required by law for the interest and penalty portions of the Individual Settlement Payments.

Participating Class Members shall have 180 days from the date their Individual Settlement Payment checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or a mass search on LexisNexis or a comparable databases based on set criteria and, if another address is identified, the Settlement Administrator shall mail the check to the newly identified address. If the Settlement Administrator is unable to obtain a valid mailing address through this process, the Settlement Administrator will tender the funds from the undeliverable checks to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

g. Default on Payment.

Defendants' failure to fund the Gross Settlement Amount within ten (10) calendar days after the date that the Court grants final approval of the Settlement shall be considered a default. In the event Defendants fail to timely fund the Gross Settlement Amount, the Settlement Administrator will provide notice to Class Counsel and Defendants' counsel within three (3) business days of the missed payment. Thereafter, Defendants will have seven (7) days to cure the default and tender payment to the Settlement Administrator. In the event Defendants fail to cure the default within the times set forth herein, Named Plaintiffs may elect to enter judgment against Defendants, on an ex parte basis, for the balance of the unpaid Gross Settlement Amount to date, and Named Plaintiffs will be entitled to recover interest at ten percent (10%) per year from the due date for such payment and reasonable attorneys' fees and costs.

h. No Credit Toward Benefit Plans.

The Individual Settlement Payments made to Participating Class Members under this Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'

intention that this Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

ARTICLE IV

LIMITATIONS ON USE OF THIS SETTLEMENT

Section 4.01: No Admission

Defendants dispute the allegations in the Actions and contend that, but for this Settlement, a Class should not have been certified in the Actions. This Agreement is entered into solely for the purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be construed as an admission of liability or wrongdoing by Defendants.

Section 4.02: Non-Evidentiary Use

Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendants or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Actions, except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendants to establish that a Class Member has resolved any of his or her claims released through this Agreement.

Section 4.03: Nullification

The Parties have agreed to the certification of the Class encompassing all claims alleged in the Actions for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the Actions in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had

1 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to
2 stipulate to class certification of all causes of action pled in the Actions as part of the Settlement will
3 have no bearing on, and will not be admissible in connection with, the issue of whether the Class
4 should be certified by the Court in a non-settlement context in these Actions or any other action, and
5 in any of those events, Defendants expressly reserve the right to oppose certification of the Class.

6 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the
7 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

8 **ARTICLE V**

9 **RELEASES**

10 **Section 5.01: Released Claims by Class Members**

11 Upon the date Defendants transfer the Gross Settlement Amount, Named Plaintiffs and
12 Participating Class Members who do not opt out of the Settlement, release the Released Parties from
13 any and all claims alleged in Named Plaintiffs' Operative Complaint, during the Class Period,
14 including but not limited to; (1) failure to pay minimum wages; (2) failure to pay overtime wages;
15 (3) failure to provide meal periods; (4) failure to authorize or permit rest periods; (5) failure to furnish
16 accurate itemized wage statements wage statement violations; (6) failure to timely pay all wages due
17 during employment; (7) failure to pay wages upon separation of employment and within the required
18 time (8) violation of California Business and Professions Code §§17200, *et seq.*, based on the
19 preceding claims ("Released Claims").

20 **Section 5.02: Released Claims by PAGA Group Members**

21 Upon the date of funding the GSA, the State of California and PAGA Group Members release
22 the Released Parties from all claims exhausted in Plaintiffs' notice(s) sent to the LWDA and alleged
23 in the operative complaint, which arose during the PAGA Period, regardless of whether PAGA Group
24 Members opt out of the Class Settlement.

25 **Section 5.03: Named Plaintiffs' Release of Unknown Claims**

26 Upon the date of funding the GSA, Named Plaintiffs, waive, release, acquit, and forever
27 discharge the Released Parties from any and all claims, actions, charges, complaints, grievances, and
28

causes of action, of any nature arising from Named Plaintiffs' employment with Defendants, whether known or unknown, which exist or may exist as of the Parties' execution of this Agreement.

Section 1542 of the California Civil Code provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

Plaintiffs' general release provided herein is made with an express waiver and relinquishment of any claim, right, or benefit under California Civil Code § 1542.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01: Amendments or Modification

The terms and provisions of this Agreement may be amended or modified only by an express written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel.

Section 6.02: Assignment

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

Section 6.03: Governing Law

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, without regard to conflicts of laws.

Section 6.04: Entire Agreement

This Agreement, including the Exhibits referred to herein, which form an integral part hereof, contains the entire understanding of the Parties with respect to the subject matter contained herein. In case of any conflict between text contained in Articles I through VI of this Agreement and text

1 contained in the Exhibits to this Agreement, the former (i.e., Articles I through VI) shall be
2 controlling, unless the Exhibits are changed by or in response to a Court order. There are no
3 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
4 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement
5 supersedes all prior agreements and understandings among the Parties with respect to the settlement
6 of the Actions, including correspondence between Class Counsel and Defense Counsel and drafts of
7 prior agreements or proposals.

8 **Section 6.05: Waiver of Compliance**

9 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
10 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
11 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
12 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
13 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
14 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

15 **Section 6.06: Counterparts and Fax/PDF Signatures**

16 This Agreement, and any amendments hereto, may be executed in any number of counterparts
17 and any Party and/or their respective counsel may execute any such counterpart, each of which when
18 executed and delivered shall be deemed to be an original. All counterparts taken together shall
19 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
20 signature.

21 **Section 6.07: Meet and Confer Regarding Disputes**

22 Should any dispute arise among the Parties or their respective counsel regarding the
23 implementation or interpretation of this Agreement, a representative of Class Counsel and a
24 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior
25 to submitting such disputes to the Court.

26 **Section 6.08: Agreement Binding on Successors**

27 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
28 of each of the Parties.

1 **Section 6.09: Cooperation in Drafting**

2 The Parties have cooperated in the negotiation and preparation of this Agreement. This
3 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
4 was the drafter or participated in the drafting of this Agreement.

5 **Section 6.10: Fair and Reasonable Settlement**

6 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
7 the Actions and have arrived at this Agreement through arm's-length negotiation and in the context
8 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
9 further believe that the Settlement is and is consistent with public policy, and fully complies with
10 applicable law.

11 **Section 6.11: Headings**

12 The descriptive heading of any section or paragraph of this Agreement is inserted for
13 convenience of reference only and does not constitute a part of this Agreement and shall not be
14 considered in interpreting this Agreement.

15 **Section 6.12: Notice**

16 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
17 communications under this Agreement must be in writing and addressed as follows:

18 *To Named Plaintiffs and the Class:*

19 Kashif Haque
20 Samuel A. Wong
21 Jessica L. Campbell
22 Fawn F. Bekam
23 AEGIS LAW FIRM, PC
24 9811 Irvine Center Drive, Suite 100
25 Irvine, California 92618
26 Telephone: (949) 379-6250
27 Facsimile: (949) 379-6251

28 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
29 Norman B. Blumenthal
30 Kyle R. Nordrehaug
31 Aparajit Bhowmik
32 Nicholas J. De Blouw
33 2255 Calle Clara

La Jolla, CA 92037
Telephone: (858)551-1223
Facsimile: (858) 551-1232

And

To Defendants:

LEWIS BRISBOIS BISGAARD & SMITH LLP
Melissa T. Daugherty
Andrew J. Sokolowski
633 West 5th Street, Suite 400
Los Angeles, CA 90071
Telephone: 213.250.1800
Facsimile: 213.250.7900

Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction

To the extent consistent with class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Actions or the liability of the Parties resulting from the allegations of the Actions. Its sole purpose is to adopt the terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall retain continuing jurisdiction over these Actions and over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

Section 6.14: Mutual Full Cooperation

The Parties agree fully to cooperate with each other to accomplish the terms of this Agreement, including but not limited to the execution of such documents, and the taking of such other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its terms. In the event the Parties are unable to reach agreement on the form or content of any document

needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

Section 6.15: Authorization to Act

Class Counsel warrants and represents that they are authorized by Named Plaintiffs, and Defense Counsel warrants that they are authorized by Defendants, to take all appropriate action required to effectuate the terms of this Agreement, except for signing documents, including but not limited to this Agreement, that are required to be signed by the Parties themselves. Defendants represents and warrants that the individual executing this Agreement on its behalf has the full right, power, and authority to enter into this Agreement and to carry out the transactions contemplated herein.

Section 6.16: No Reliance on Representations

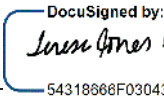
The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of entering into and executing this Agreement, or with respect to any other matters. No representations, warranties, or inducements, except as expressly set forth herein, have been made to any party concerning this Agreement.

EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 9/2/2021

TERESA JONES

By:  54318868F030433...
Named Plaintiff

Dated: _____

BARBARA DESOTO

By: _____
Named Plaintiff

1 power, and authority to enter into this Agreement and to carry out the transactions contemplated
2 herein.

3 **Section 6.16: No Reliance on Representations**

4 The Parties have made such investigation of the facts and the law pertaining to the matters
5 described herein and to this Agreement as they deem necessary, and have not relied, and do not
6 rely, on any statement, promise, or representation of fact or law, made by any of the other parties,
7 or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or
8 asserted rights, or with regard to the advisability of entering into and executing this Agreement, or
9 with respect to any other matters. No representations, warranties, or inducements, except as
10 expressly set forth herein, have been made to any party concerning this Agreement.

11 **EXECUTION BY PARTIES AND COUNSEL**

12 The Parties and their counsel hereby execute this Agreement.

13
14 Dated: _____ TERESA JONES

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16 By: _____
Named Plaintiff

17 Dated: Sep 2, 2021
18 _____ BARBARA DESOTO

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20 By: [barbara desoto \(Sep 2, 2021 11:47 PDT\)](#)
Named Plaintiff

21 Dated: _____ OPTIMAL HOSPICE CARE, INC.

22
23 By: _____
(Signature)

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Hyrum Kirton

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OPTIMAL HOSPICE CARE, INC.

By: _____
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 (Title)

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OPTIMAL HOSPICE, INC.

By: _____
 (Signature)

 Hyrum Kirton

 (Title)

Dated: _____

BRISTOL HOSPICE – CALIFORNIA, L.L.C.

By: _____
 (Signature)

 Hyrum Kirton

 (Title)

Dated: _____

BRISTOL HOSPICE COACHELLA VALLEY,
L.L.C.

By: _____
 (Signature)

 Hyrum Kirton

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BRISTOL HOSPICE – INLAND EMPIRE,
L.L.C.

By: _____
(Signature)

Hyrum Kirton

(Title)

BRISTOL HOSPICE – SACRAMENTO, L.L.C.

By: _____
(Signature)

Hyrum Kirton

(Title)

BRISTOL HOSPICE – SAN DIEGO, L.L.C.

By: _____
(Signature)

Hyrum Kirton

(Title)

BRISTOL HOSPICE – SAN JOSE, L.L.C.

By: _____
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Hyrum Kirton

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Dated: _____

BRISTOL HOSPICE – STOCKTON, L.L.C.

By: _____
(Signature)

Hyrum Kirton

(Title)

APPROVED AS TO FORM ONLY:

Dated: September 6, 2021

AEGIS LAW FIRM, PC

By: 

Kashif Haque
Jessica L. Campbell
Fawn F. Bekam

Attorneys for Named Plaintiff Teresa Jones

Dated: _____

**BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP**

By: _____
Norman B. Blumenthal
Kyle R. Nordrehaug
Aparajit Bhowmik
Nicholas J. De Blouw

Attorneys for Named Plaintiff Barbara Desoto

Dated: _____

**LEWIS BRISBOIS BISGAARD & SMITH
LLP**

By: _____
Melissa T. Daugherty

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Dated: _____

BRISTOL HOSPICE – STOCKTON, L.L.C.

By: _____
(Signature)

Hyrum Kirton

(Title)

APPROVED AS TO FORM ONLY:

Dated: _____

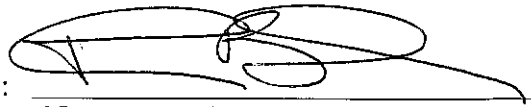
AEGIS LAW FIRM, PC

By: _____
Kashif Haque
Jessica L. Campbell
Fawn F. Bekam

Attorneys for Named Plaintiff Teresa Jones

Dated: 9/2/21

**BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP**

By:  _____
Norman B. Blumenthal
Kyle R. Nordrehaug
Aparajit Bhowmik
Nicholas J. De Blouw

Attorneys for Named Plaintiff Barbara Desoto

Dated: _____

**LEWIS BRISBOIS BISGAARD & SMITH
LLP**

By: _____
Melissa T. Daugherty

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Andrew J. Sokolowski
Attorneys for Defendants